

# Endnotes

<sup>1</sup> “Sanctions” in this text refers to both criminal and non-criminal measures that consider the gravity of an offence and the behaviour they seek to punish. Sanctions may serve remedial, compensatory or punitive purposes and are meant to be effective, proportionate and dissuasive. Sanctions may include, inter alia, monetary fines, imprisonment, confiscation of proceeds, contract remedies, suspension and debarment from public procurement, reputational harm, and others.

<sup>2</sup> United Nations Convention against Corruption, <https://www.unodc.org/corruption/en/uncac/learn-about-uncac.html>

<sup>3</sup> Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, <https://www.oecd.org/en/topics/fighting-foreign-bribery.html>

<sup>4</sup> For ease of reference, this Guide uses the terms “OECD anti-bribery standards” when referring to both the OECD Anti-Bribery Convention and the OECD Anti-Bribery Recommendation.

<sup>5</sup> Resolution 10/12 Providing incentives for the private sector to adopt integrity measures to prevent and combat corruption. CAC/COSP/2023/L.17/Rev.1, [https://www.unodc.org/documents/treaties/UNCAC/COSP/session10/resolutions/L-documents/2325251E\\_L.17\\_Rev.1.pdf](https://www.unodc.org/documents/treaties/UNCAC/COSP/session10/resolutions/L-documents/2325251E_L.17_Rev.1.pdf)

<sup>6</sup> United Nations Global Compact, “The Ten Principles of the UN Global Compact – Principle Ten: Anti-Corruption”, <https://unglobalcompact.org/what-is-gc/mission/principles/principle-10>

<sup>7</sup> United Nations Office on Drugs and Crime, Business Hub. <https://businessintegrity.unodc.org/bip/en/business-hub.html>. See also United Nations Global Compact, “The Ten Principles of the UN GLOBAL COMPACT”, <https://unglobalcompact.org/what-is-gc/mission/principles>. See also UNODC (2013), “An Anti-Corruption Ethics and Compliance Programme for Business: A Practical Guide”, available at: [https://www.unodc.org/documents/corruption/Publications/2013/13-84498\\_Ebook.pdf](https://www.unodc.org/documents/corruption/Publications/2013/13-84498_Ebook.pdf). See also 2021 OECD Anti-Bribery Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions, Annex II: Good Practice Guidance on Internal Controls, Ethics and Compliance. OECD/LEGAL/0378, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0378>

<sup>8</sup> Matthew Jenkins, “The effectiveness of integrity led anti-corruption interventions”, U4, 4 November 2022, <https://www.u4.no/publications/the-effectiveness-of-integrity-led-anti-corruption-interventions>

<sup>9</sup> “Good practice incentives” refers to the credit or reward an organization may receive for investing in an

effective anti-corruption programme or for other forms of cooperation with States in combating corruption.<sup>10</sup> Incentives may be in the form of a credit against sanctions when violations occur, commonly referred to as “penalty mitigation,” or a reward that is independent of a violation or enforcement action such as a procurement preference for having invested in an effective anti-corruption programme. Both are incentives designed to encourage voluntary good practice, as are enforcement sanctions in a negative sense.

<sup>10</sup> African Union Convention on Preventing and Combatting Corruption, Maputo, 2003, <https://au.int/en/treaties/african-union-convention-preventing-and-combating-corruption>

<sup>11</sup> Organization of American States, Inter-American Convention Against Corruption, Caracas 1996, [https://www.oas.org/juridico/english/corr\\_bg.htm](https://www.oas.org/juridico/english/corr_bg.htm)

<sup>12</sup> Council of Europe, Group of States Against Corruption, <https://www.coe.int/en/web/greco>

<sup>13</sup> For additional information on GRECO, <https://www.coe.int/en/web/greco/about-greco/what-is-greco>

<sup>14</sup> For European Union anti- corruption framework, [https://home-affairs.ec.europa.eu/policies/internal-security/corruption/eu-legislation-anti-corruption\\_en](https://home-affairs.ec.europa.eu/policies/internal-security/corruption/eu-legislation-anti-corruption_en)

<sup>15</sup> For additional information on ratification status of UNCAC, <https://www.unodc.org/unodc/en/corruption/ratification-status.html>

<sup>16</sup> UNGASS A/S-32/L.1, “Our common commitment to effectively addressing challenges and implementing measures to prevent and combat corruption and strengthen international cooperation”, 28 May 2021, <https://digitallibrary.un.org/record/3928751?v=pdf>

<sup>17</sup> Resolution 10/12 Providing incentives for the private sector to adopt integrity measures to prevent and combat corruption. CAC/COSP/2023/L.17/Rev, [https://www.unodc.org/documents/treaties/UNCAC/COSP/session10/resolutions/L-documents/2325251E\\_L.17\\_Rev.1.pdf](https://www.unodc.org/documents/treaties/UNCAC/COSP/session10/resolutions/L-documents/2325251E_L.17_Rev.1.pdf)

<sup>18</sup> On 9 June 2023.

<sup>19</sup> United Nations Global Compact (2023), Engage Locally, <https://unglobalcompact.org/engage-locally>

<sup>20</sup> The 46 Parties include all 38 OECD countries and 8 non-OECD countries – Argentina, Brazil, Bulgaria, Croatia, Peru, Romania, the Russian Federation, and South Africa. For more on the achievements of the Convention and OECD Working Group on Bribery see Annex A.

<sup>21</sup> Other related subject-specific recommendations include: the Recommendation of the Council on Tax Measures for Further Combating Bribery of Foreign Public Officials in International Business Transactions (2009), the Recommendation of the Council on Bribery and Officially Supported Export Credits (2019) and the Recommendation of the Council for Development Co-operation Actors on Managing the Risk of Corruption (2016).

<sup>22</sup> Agence Française Anticorruption (2023), “Presentation of various regulatory frameworks for promoting business integrity across the world”. Available at: [https://www.agence-francaise-anticorruption.gouv.fr/files/2023-05/AFA%27s%20Presentation%20FR%20UK%20US%20WBG%20Standards\\_May%202023\\_English%20](https://www.agence-francaise-anticorruption.gouv.fr/files/2023-05/AFA%27s%20Presentation%20FR%20UK%20US%20WBG%20Standards_May%202023_English%20)

<sup>23</sup> The OECD Stocktaking Report on the Liability of Legal Persons for Foreign Bribery (2016) presents a chronology and a “mapping” of the features of the systems for liability of legal persons found in the Parties to the OECD Anti-Bribery Convention at the time of publication.

<sup>24</sup> For more information on the global status of commitments to Beneficial Ownership Transparency see, <https://www.openownership.org/en/map/>

<sup>25</sup> The Financial Action Task Force defines a Beneficial Owner as “natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement”, see <https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/Guidance-transparency-beneficial-ownership.pdf.coredownload.pdf>

<sup>26</sup> Open Ownership, “What is Beneficial Ownership?” <https://www.openownership.org/en/about/what-is-beneficial-ownership-transparency/> .

<sup>27</sup> Law on Liability of Legal Persons No. 27.401, Argentina <https://servicios.infoleg.gob.ar/infolegInternet/anexos/295000-299999/296846/norma.htm>

<sup>28</sup> Annex II, para. 1, of the OECD Anti-Bribery Recommendation emphasizes as a good practice “strong, explicit and visible support and commitment from the board of directors or equivalent governing body and senior management to the company’s internal controls, ethics and compliance programmes or measures for preventing and detecting foreign bribery with a view to implementing a culture of ethics and compliance”. See also: Corporate governance standards are established by national law. For a useful compilation of good practices, see “OECD Principles of Good Governance”, available at <http://www.oecd.org/corporate/oecdprinciplesofcorporategovernance.htm>.

<sup>29</sup> OECD (2023), OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, OECD Publishing, Paris, <https://doi.org/10.1787/81f92357-en>.

<sup>30</sup> ICC Rules on Combating Corruption, <https://iccwbo.org/news-publications/policies-reports/icc-rules-on-combating-corruption/>

<sup>31</sup> OECD (2022), “Anti-corruption compliance in times of crisis: Building resilience and seizing opportunities”, OECD Business and Finance Policy Papers, No. 19, OECD Publishing, Paris, available at, <https://doi.org/10.1787/467cf791-en>; OECD (2020), Corporate Anti-Corruption Compliance Drivers, Mechanisms, and Ideas for Change, <https://www.oecd.org/daf/anti-bribery/Corporate-anti-corruption-compliance-drivers-mechanisms-and-ideas-for-change.pdf>

<sup>32</sup> OECD (2020), Corporate Anti-Corruption Compliance Drivers, Mechanisms, and Ideas for Change, pp. 23-24, <https://www.oecd.org/daf/anti-bribery/Corporate-anti-corruption-compliance-drivers-mechanisms-and-ideas-for-change.pdf>

<sup>33</sup> United Nations Global Compact (2016), Fighting Corruption in the Supply Chain: A Guide for Customers and Suppliers, <https://unglobalcompact.org/library/153>

<sup>34</sup> The Global Anticorruption Blog, “Norway Divests Shares in Telecom Giant ZTE over Gross Corruption: Will Others Follow?”, <https://globalanticorruptionblog.com/2016/01/13/norway-divests-shares-in-telecom-giant-zte-over-gross-corruption-will-others-follow/>

<sup>35</sup> The Communication on Progress, <https://unglobalcompact.org/participation/report/cop>

<sup>36</sup> Pierson, B. (2018, January 3). Petrobras to pay \$2.95 billion to settle U.S. corruption lawsuit. *Reuters*. <https://www.reuters.com/article/us-petrobras-classaction-idUSKBN1ES0L2/>

<sup>37</sup> United Nations Office on Drugs and Crime (UNODC). (2013). An anti-corruption ethics and compliance programme for business: A practical guide, [https://www.unodc.org/documents/corruption/Publications/2013/13-84498\\_Ebook.pdf](https://www.unodc.org/documents/corruption/Publications/2013/13-84498_Ebook.pdf)

<sup>38</sup> 2021 OECD Anti-Bribery Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions, Annex II: Good Practice Guidance on Internal Controls, Ethics and Compliance. <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0378>

<sup>39</sup> See UNODC Business Integrity Portal, Business Hub, <https://businessintegrity.unodc.org/bip/en/business-hub.html>. See also Annex II of the OECD Anti-Bribery Recommendation (Good Practice Guidance on Internal Controls, Ethics and Compliance), <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0378>. See also for more detailed guidance on programme practices, UNODC (2013) An Anti-Corruption Ethics and Compliance Programme for Business: A Practical Guide, [https://www.unodc.org/documents/corruption/Publications/2013/13-84498\\_Ebook.pdf](https://www.unodc.org/documents/corruption/Publications/2013/13-84498_Ebook.pdf). See also United States Department of Justice (2020), A Resource Guide to the US Foreign Corrupt Practices Act, Second Edition, <https://www.justice.gov/criminal-fraud/file/1292051/download>; UK Ministry of Justice, Bribery Act 2010 Guidance (2012), <https://assets.publishing.service.gov.uk/media/5d80cfc3ed915d51e9aff85a/bribery-act-2010-guidance.pdf>

<sup>40</sup> The World Bank, Small and Medium Enterprises (SMEs) Finance. <https://www.worldbank.org/en/topic/smefinance>

<sup>41</sup> OECD (2022), Toolkit for raising awareness and preventing corruption in SMEs, OECD Business and Finance Policy Papers, OECD Publishing, Paris, <https://doi.org/10.1787/19e99855-en>.

<sup>42</sup> UN Global Compact Network UK (2020), Debating Disclosure: The Pros and Cons of Corporate Transparency. Available at: <https://www.unglobalcompact.org.uk/wp->



<sup>43</sup> UN Global Compact (2023), Communication on Progress Guidebook.  
<https://unglobalcompact.org/library/6107>

<sup>44</sup> UN Global Compact's Reporting Framework.  
<https://unglobalcompact.org/participation/report>

<sup>45</sup> UN Global Compact (2023), Communication on Progress Questionnaire.  
<https://unglobalcompact.org/library/6106>

<sup>46</sup> European Commission (2023), "COMMISSION DELEGATED REGULATION (EU) .../... of 31.7.2023. supplementing Directive 2013/34/EU of the European Parliament and of the Council as regards sustainability reporting standards".  
[https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=PI\\_COM%3AC%282023%295303](https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=PI_COM%3AC%282023%295303)

<sup>47</sup> Basel Institute on Governance, Private Sector and Collective Action, FAQs,  
<https://baselgovernance.org/private-sector>

<sup>48</sup> Both the 2021 UNGASS political declaration and the 2021 OECD Anti-Bribery Recommendation explicitly recognize collective action. 2021 OECD Anti-Bribery Recommendation, Section XII(iv) recommends that States consider fostering, facilitating, engaging, or participating in anti-bribery collective action initiatives with private and public sector representatives, as well as civil society organizations. Specifically, raising awareness of foreign bribery among the private sector (Section IV.ii), Addressing the Demand Side (Section XII.iv), Actions by Business Organizations and Professional Associations (Good Practice Guidance on Internal Controls, Ethics and Compliance (Annex II).B.4))

<sup>49</sup> United Nations Global Compact (2021), Uniting against Corruption: A Playbook on Anti-Corruption Collective Action, available at: [https://ungc-communications-assets.s3.amazonaws.com/docs/publications/2021\\_Anti-Corruption\\_Collective.pdf](https://ungc-communications-assets.s3.amazonaws.com/docs/publications/2021_Anti-Corruption_Collective.pdf)

<sup>50</sup> United Nations Global Compact (2021), Uniting Against Corruption: A Playbook on Anti-Corruption Collective Action, [https://ungc-communications-assets.s3.amazonaws.com/docs/publications/2021\\_Anti-Corruption\\_Collective.pdf](https://ungc-communications-assets.s3.amazonaws.com/docs/publications/2021_Anti-Corruption_Collective.pdf)

<sup>51</sup> 2023 Southern Africa Anti-Corruption Collective Action Award, <https://collective-action.com/get-involved/events/southern-africa-anti-corruption-collective-action-forum-2023/awards>

<sup>52</sup> UNODC (2015), National Anti-Corruption Strategies: A Practical Guide for Development and Implementation, [https://www.unodc.org/documents/corruption/Publications/2015/National\\_Anti-Corruption\\_Strategies\\_-](https://www.unodc.org/documents/corruption/Publications/2015/National_Anti-Corruption_Strategies_-)



<sup>53</sup> Mark Pieth, “Collective Action and Corruption”, Collective Action: Innovative Strategies to Prevent Corruption. Zurich/St.Gall: Dike, 2012. 3–22, [https://baselgovernance.org/sites/default/files/2019-06/190613\\_WP\\_13.pdf](https://baselgovernance.org/sites/default/files/2019-06/190613_WP_13.pdf).

<sup>54</sup>As outlined in article 13 of UNCAC, States parties are required, within their means and in accordance with their domestic law, “to promote the active participation of individuals and groups outside the public sector” in the fight against corruption through enhanced transparency, outreach, and opportunities to participate in decision-making processes, and to report acts of corruption. For UNCAC purposes, civil society ordinarily will include, in addition to individual citizens, non-governmental and community-based organizations, business associations, labour unions, religious institutions, academia and the media. Civil society organizations and other non-governmental participants with anti-corruption expertise are systematically invited to participate in the OECD’s Working Group on Bribery country monitoring system under Article 12 of the OECD Anti-Bribery Convention. Civil society organizations are invited to provide written submissions on the evaluated country’s successes and challenges in implementing its obligations under that Convention and participate in the discussions about the level of implementation in practice during the on-site visits.

<sup>55</sup> OECD (2017), The Detection of Foreign Bribery. <https://www.oecd.org/corruption/anti-bribery/The-Detection-of-Foreign-Bribery-ENG.pdf>

<sup>56</sup>For example, the Organized Crime and Corruption Reporting Project (OCCRP) and the International Consortium of Investigative Journalists (ICIJ) have published details of many corruption schemes around the world. <https://www.occrp.org/en/investigations> ; <https://www.icij.org/investigations/>

<sup>57</sup>UNCAC, Art. 13(d).

<sup>58</sup>UNODC University Module Series: Anti-Corruption; Module 10 Citizen Participation in Anti-Corruption Efforts, <https://grace.unodc.org/grace/en/academia/module-series-on-anti-corruption.html>

<sup>59</sup>Ibid, 52

<sup>60</sup>For example, France’s main employer’s federation, MEDEF, supported the introduction of the SAPIN II law in 2016 and was a key supporter of amendments to introduce Public Interest Judicial Conventions. See 2021 Interview, <https://www.afje.org/actualite/interview-g-roux-de-bezieux-president-du-medef--255>

<sup>61</sup>See Annex II of the 2021 OECD Anti-Bribery Recommendation for further information.

<sup>62</sup>OECD, Corporate Anti-Corruption Compliance, <https://www.oecd.org/en/about/projects/promoting-corporate-anti-corruption-compliance-through-government-incentives-and-assessment.html>

<sup>63</sup>OECD, Galvanizing the Private Sector, <https://www.oecd.org/en/networks/galvanizing-the-private-sector-as-partners-in-combatting-corruption.html>

<sup>64</sup>OECD, Getting Influence Right, <https://www.oecd.org/en/about/projects/getting-influence-right.html>

<sup>65</sup>OECD, Compliance without Borders, <https://www.oecd.org/en/about/projects/compliance-without-borders.html>

<sup>66</sup>OECD, Business Integrity and Supply Chains, <https://www.oecd.org/en/about/projects/business-integrity-and-supply-chains.html>

<sup>67</sup> Section VII of the OECD Anti-Bribery Recommendation asks Member countries to provide adequate resources to law enforcement authorities so as to permit effective investigation and prosecution of foreign bribery.

<sup>68</sup> OECD (2019), Resolving Foreign Bribery Cases with Non-Trial Resolutions: Settlements and Non-Trial Agreements by Parties to the Anti-Bribery Convention, see, [https://www.oecd.org/en/publications/resolving-foreign-bribery-cases-with-non-trial-resolutions\\_e647b9d1-en.html](https://www.oecd.org/en/publications/resolving-foreign-bribery-cases-with-non-trial-resolutions_e647b9d1-en.html)

<sup>69</sup> See Sections XVII and XVIII of the 2021 OECD Anti-Bribery Recommendation.

<sup>70</sup> UNODC (2021), Alternative legal mechanisms and non-trial resolutions, including settlements, that have proceeds of crime for confiscation and return, [https://www.unodc.org/documents/treaties/UNCAC/COSP/session9/CAC-COSP-2021-14/V2107439\\_E.pdf](https://www.unodc.org/documents/treaties/UNCAC/COSP/session9/CAC-COSP-2021-14/V2107439_E.pdf)

<sup>71</sup> Non-trial resolutions often require special tools to have been enacted in law before they can be utilized. These may include, for example, deferred prosecution agreements in the U.S and U.K., Remediation Agreements in Canada, or Convention judiciaire d'intérêt public in France.

<sup>72</sup> The OECD Anti-Bribery Recommendation recommends that Member countries provide adequate resources to authorities in charge of mutual legal assistance procedures (Section XIX(A)(viii)).

<sup>73</sup> As encouraged by Section XIX(c)(v) of the OECD Anti-Bribery Recommendation.

<sup>74</sup> Humboldt-Viadrina School of Governance (2012), “Motivating Business to Counter Corruption – A Global Survey on Anti-corruption Incentives and Sanctions”, [https://www.globalcompact.de/migrated\\_files/wAssets/docs/Korruptionspraevention/Publikationen/motivating\\_business\\_to\\_counter\\_corruption.pdf](https://www.globalcompact.de/migrated_files/wAssets/docs/Korruptionspraevention/Publikationen/motivating_business_to_counter_corruption.pdf).

<sup>75</sup> See Section XV of the 2021 OECD Anti-Bribery Recommendation.

<sup>76</sup> United States Sentencing Commission (2021), Guidelines Manual 2021 chapter 8, part C., available at <https://www.ussc.gov/guidelines/2021-guidelines-manual-annotated>,

<sup>77</sup> For a definition of “judicial public interest agreements” and guidance regarding their implementation, see

Agence Française Anticorruption (2023), Guidelines on the implementation of the judicial public interest agreement (CJIP). [https://www.tribunal-de-paris.justice.fr/sites/default/files/2023-03/Guidelines%20on%20the%20implementation%20of%20the%20CJIP\\_PNF\\_January%2016%202023%20VD.pdf](https://www.tribunal-de-paris.justice.fr/sites/default/files/2023-03/Guidelines%20on%20the%20implementation%20of%20the%20CJIP_PNF_January%2016%202023%20VD.pdf)

<sup>78</sup>First issued in 2009, the U.S. prosecutorial guidelines provide for the appointment of an independent monitor: <http://www.justice.gov/dag/morford-useofmonitorsmemo-03072008.pdf>.

<sup>79</sup>See Section XVI of the 2021 OECD Anti-Bribery Recommendation.

<sup>80</sup>OECD (2018), Confiscation of instrumentalities and proceeds of corruption crimes in Eastern Europe and Central Asia. [https://www.oecd.org/content/dam/oecd/en/publications/reports/2018/01/confiscation-of-instrumentalities-and-proceeds-of-corruption-crimes-in-eastern-europe-and-central-asia\\_5fbf82bf/78637cac-en.pdf](https://www.oecd.org/content/dam/oecd/en/publications/reports/2018/01/confiscation-of-instrumentalities-and-proceeds-of-corruption-crimes-in-eastern-europe-and-central-asia_5fbf82bf/78637cac-en.pdf)

<sup>81</sup> World Bank Press Release No. 2009/001, <https://www.worldbank.org/en/news/press-release/2009/07/02/siemens-pay-million-fight-fraud-corruption-part-world-bank-group-settlement>

describing \$ 100 million fund established pursuant to Siemens settlement agreement. See also: Siemens Integrity Initiative, <https://www.siemens.com/global/en/company/about/compliance/collective-action.html>

<sup>82</sup> OECD (2016), “Is foreign bribery an attractive investment in some countries” in OECD Business and Financial Outlook (Chap. 7). [https://www.oecd-ilibrary.org/is-foreign-bribery-an-attractive-investment-in-some-countries\\_5jlwvzl1cs5d.pdf?itemId=%2Fcontent%2Fcomponent%2F9789264257573-12-en&mimeType=pdf](https://www.oecd-ilibrary.org/is-foreign-bribery-an-attractive-investment-in-some-countries_5jlwvzl1cs5d.pdf?itemId=%2Fcontent%2Fcomponent%2F9789264257573-12-en&mimeType=pdf)

<sup>83</sup> OECD/The World Bank (2012), Identification and Quantification of the Proceeds of Bribery: Revised edition, OECD Publishing. <http://dx.doi.org/10.1787/9789264174801-en>. In addition to describing calculation methods, the analysis provides a number of case examples.

<sup>84</sup> StAR (2021), Asset Recovery Handbook: A guide for practitioners, Second edition. <https://star.worldbank.org/publications/asset-recovery-handbook-guide-practitioners-second-edition>. The guide contains information on securing evidence, strategic considerations, securing and managing assets, and guidance on international cooperation.

<sup>85</sup> Article 35 requires States parties to take measures to ensure that entities and persons who have suffered damage as a result of an act of corruption have the right to initiate legal proceedings against those responsible for that damage in order to obtain compensation. Additionally, article 53(b) calls on States parties to take measures to permit their courts to order those who have committed corruption offences to pay compensation or damages to another State party that has been harmed by such offences. Further, article 57 (3(c)) on return and disposal of assets further emphasizes the importance of returning confiscated property, inter alia, to its prior legitimate owners or of compensating the victims of the crime. See also, UNODC “Good Practices in Identifying the Victims of Corruption and Parameters for their Compensation”. <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/workinggroup2/2016-August-25-26/V1604993e.pdf>

<sup>86</sup> Allen & Overy (2016), Enforceability of contract procured by corruption. <https://www.allenoverly.com/en-gb/global/news-and-insights/publications/enforceability-of-contract-procured-by-corruption>. Describes situation in the United Kingdom where contract may be voidable at option of innocent party.

<sup>87</sup> States parties are directed in article 9 to take necessary steps to “establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption.” These systems will generally include measures that discourage inconsistent private sector conduct, including through rescission of bribe-tainted contracts or other appropriate remediation.

<sup>88</sup> A mandatory approach to debarment may present risks to other important UNCAC objectives, in particular encouraging self-reporting and cooperation by individuals or organizations who will have little incentive to raise violations that may cut them off from essential future business. In practice, this harsh consequence and disincentive to private sector cooperation has been mitigated by avoiding threshold

determinations of the violation. However, avoidance can have other unintended consequences, such as making it more difficult to administer confiscation or other remedial measures or to secure compensatory relief for victims.

<sup>89</sup>Anti-corruption training for agency personnel is part of a State's UNCAC implementation responsibility, described earlier. Mandatory reporting of legal violations by government contractors is among the common regulatory and contract measures outlined in the preceding section on contract remedies. The Anti-Bribery

Recommendation XXIV also asks countries to “provide guidance and training to relevant government agencies on suspension and debarment measures applicable to companies determined to have bribed foreign public officials and on remedial measures which may be adopted by companies, including internal controls, ethics and compliance programmes or measures, which may be taken into consideration” (Section XXIV(iv)) and to “raise awareness through regular training and other means about the foreign bribery offence and reporting obligations to officials in government agencies” (Section XXI(vi)).

<sup>90</sup>Agreement for Mutual Enforcement of Debarment Decisions (2006), African Development Bank Group, Asian Development Group, European Bank for Reconstruction and Development, Inter-American Development Bank, World Bank Group. [https://www.adb.org/sites/default/files/institutional-document/32774/cross-debarment-agreement\\_0.pdf](https://www.adb.org/sites/default/files/institutional-document/32774/cross-debarment-agreement_0.pdf)

<sup>91</sup>World Bank (2023), MDB General Principles for Business Integrity Programmes. <https://thedocs.worldbank.org/en/doc/528f96bfd7a3991fba23747e20ed6dc0-0530012023/mdb-general-principles-for-business-integrity-programmes>

<sup>92</sup>For an overview of MDB efforts to counter corruption, see: Basel Institute on Governance (2023), Business integrity programmes: multilateral development banks harmonize their guidance. <https://baselgovernance.org/blog/business-integrity->

<sup>93</sup>Article XXV of the 2021 OECD Anti-Bribery Recommendation makes specific reference to officially supported export credits and refers to the 2019 Recommendation on Export Credit Agency Practices which recommends that countries take appropriate measures to deter bribery in the export transactions that they support. OECD/LEGAL/0447 (2019), Recommendation of the Council on Bribery and Officially Supported Export Credits. <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0447#backgroundInformation>

<sup>94</sup>Penalty mitigation factors and other incentive mechanisms, such as immunity from prosecution, are addressed in article 37 of UNCAC on fostering cooperation with law enforcement authorities as well as in the OECD Anti-Bribery Recommendation, in particular sections XVIII on non-trial resolutions and XXIII(D)(iii) on compliance efforts.

<sup>95</sup>OECD (2017), The Detection of Foreign Bribery. [https://www.oecd.org/en/publications/the-detection-of-foreign-bribery\\_8ab65bd4-en.html](https://www.oecd.org/en/publications/the-detection-of-foreign-bribery_8ab65bd4-en.html)

<sup>96</sup>These factors are detailed at greater length on the UNODC Business Integrity Portal, <https://businessintegrity.unodc.org/bip/en/index.html>. Also, Annex II of the 2021 OECD Anti-Bribery Recommendation recommends that an effective anti-corruption compliance programme “be developed on the basis of a risk assessment addressing the individual circumstances of a company, in particular the foreign bribery risks facing the company (such as its geographical and industrial sector of operation, and

regulatory environment, potential clients and business partners, transactions with foreign governments, and use of third parties)". The size, type, and legal structure of the company should be also taken into account.

<sup>97</sup>United Kingdom Ministry of Justice, The Bribery Act 2010 – Guidance about procedures which relevant commercial organizations can put into place to prevent persons associated with them from bribing (Section 9 of the Bribery Act 2010)pp.20-31. <https://assets.publishing.service.gov.uk/media/5d80cfc3ed915d51e9aff85a/bribery-act-2010-guidance.pdf>

<sup>98</sup> UNODC (2013), Guidebook on anti-corruption in public procurement and the management of public finances, [https://www.unodc.org/documents/corruption/Publications/2013/Guidebook\\_on\\_anti-corruption\\_in\\_public\\_procurement\\_and\\_the\\_management\\_of\\_public\\_finances.pdf](https://www.unodc.org/documents/corruption/Publications/2013/Guidebook_on_anti-corruption_in_public_procurement_and_the_management_of_public_finances.pdf)

<sup>99</sup>OECD (2020), Corporate Anti-Corruption Compliance Drivers, Mechanisms, and Ideas for Change, [https://www.oecd.org/content/dam/oecd/en/publications/reports/2020/09/corporate-anti-corruption-compliance-drivers-mechanisms-and-ideas-for-change\\_1a9c17f8/4245d0fc-en.pdf](https://www.oecd.org/content/dam/oecd/en/publications/reports/2020/09/corporate-anti-corruption-compliance-drivers-mechanisms-and-ideas-for-change_1a9c17f8/4245d0fc-en.pdf)

<sup>100</sup> See, for example: Ontario Securities Commission (2018), Settlement Agreement: In the Matter of Katanga Mining Limited, et al.," paras.35, [https://www.osc.ca/sites/default/files/pdfs/proceedings/set\\_20181214\\_katanga-mining.pdf](https://www.osc.ca/sites/default/files/pdfs/proceedings/set_20181214_katanga-mining.pdf).



<sup>101</sup> OECD (2021), Middle East and North Africa Investment Policy Perspectives, Chapter 11, OECD Publishing, Paris, <https://doi.org/10.1787/6d84ee94-en>

<sup>102</sup> Ibid.

<sup>103</sup> Sovereign Wealth Funds Global (2022), 2022 Annual Report: State-Owned Investors 3.0. <https://globalswf.com/reports/2022annual#executive-summary-1>. The \$ 10.5 trillion includes both sovereign wealth funds and quasi-sovereign wealth funds, the latter of which have at least partial government ownership.

<sup>104</sup> While measures described in this Resource Guide focus primarily on business integrity, there is also a “demand” side to corruption that must be addressed under UNCAC and the 2021 OECD Anti-Bribery Recommendation. Articles 7 and 8 of UNCAC contain detailed recommendations for strengthening public sector integrity through better systems for recruiting, retaining and compensating civil servants and additional measures that emphasize integrity, honesty and fairness in the performance of official duties. Article 9 of UNCAC details further measures for promoting transparency, competition and accountability in public procurement and the management of public finances. Article 10 of UNCAC requires States to take measures to enhance transparency in its public administration and to seek to simplify administrative procedures. Furthermore, Section XII of the 2021 OECD Anti-Bribery Recommendation encourages countries to raise awareness and provide training to relevant public officials on bribe solicitation risks and how to assist enterprises confronted with bribe solicitation. The OECD Recommendation on Public Integrity also broadly requires countries to “provide sufficient information, training, guidance and timely advice for public officials to apply public integrity standards in the workplace”. For guidance on specific measures under these articles, see UNCAC Legislative Guide, [https://www.unodc.org/pdf/corruption/CoC\\_LegislativeGuide.pdf](https://www.unodc.org/pdf/corruption/CoC_LegislativeGuide.pdf) pp. 25-33; UNCAC Technical Guide, [https://www.unodc.org/documents/treaties/UNCAC/Publications/TechnicalGuide/09-84395\\_Ebook.pdf](https://www.unodc.org/documents/treaties/UNCAC/Publications/TechnicalGuide/09-84395_Ebook.pdf) pp.13-46.

<sup>105</sup> In December 2023, the United States passed the Foreign Extortion Prevention Act (FEPA) which makes it a crime for a foreign official –including any employee of a foreign government or any current or former senior official of a foreign government’s executive, legislative, judicial, or military branches or any immediate family member or close associate thereof – to demand or accept a bribe from a U.S. citizen or U.S. company, or from any person while in the territory of the United States, in connection with obtaining or retaining business. FEPA aims to address the demand side of corruption. See: <https://www.congress.gov/bill/118th-congress/house-bill/2670/text>

<sup>106</sup> Open Contracting Partnership, “Transforming public contracting through open data and smarter engagement”. <https://www.open-contracting.org/what-is-open-contracting/> (

<sup>107</sup> <https://grace.unodc.org/>

<sup>108</sup> See, for example: Barinato, S. (2021), “Banks with more women on their boards commit less fraud”, Harvard Business Review, available at, <https://hbr.org/2021/05/banks-with-more-women-on-their-boards-commit-less-fraud> ; McElhaney, K. A. & Mobasser, S. (2012), “Women create a sustainable future”, UC Berkeley Haas School of Business, Center for Responsible Business, [https://www.eticanews.it/wp-content/uploads/2012/11/Report-Women\\_Create\\_Sustainable\\_Value.pdf](https://www.eticanews.it/wp-content/uploads/2012/11/Report-Women_Create_Sustainable_Value.pdf)

<sup>109</sup> International Labour Organization (2020), “Improving gender diversity in company boards”, [https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed\\_dialogue/@act\\_emp/documents/briefingnote/wcms\\_754631.pdf](https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_dialogue/@act_emp/documents/briefingnote/wcms_754631.pdf)

<sup>110</sup> UN Women (2023), “Legal frameworks for gender-responsive procurement”.  
<https://www.unwomen.org/sites/default/files/2023-02/Legal-frameworks-for-gender-responsive-procurement-en.pdf>

<sup>111</sup> See UNODC (2020), “The Time is Now: Addressing the Gender Dimensions of Corruption”.  
[https://www.unodc.org/documents/corruption/Publications/2020/THE\\_TIME\\_IS\\_NOW\\_2020\\_12\\_08.pdf](https://www.unodc.org/documents/corruption/Publications/2020/THE_TIME_IS_NOW_2020_12_08.pdf),  
 pp. 72-73.

<sup>112</sup> UN Global Compact, “Endorse the Women’s Empowerment Principles”.  
<https://unglobalcompact.org/take-action/action/womens-principles/>

<sup>113</sup> The OECD Due Diligence Guidance for Responsible Business Conduct provides practical support to enterprises on the implementation of the OECD Guidelines for Multinational Enterprises by providing explanations of its due diligence recommendations and associated provisions. Implementing these recommendations can help enterprises avoid and address adverse impacts related to workers, human rights, the environment, bribery, consumers and corporate governance that may be associated with their operations, supply chains and other business relationships.

<sup>114</sup> Council of the European Union, Document ST\_6145\_2024\_INIT. Available at:  
[https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CONSIL%3AST\\_6145\\_2024\\_INIT&qid=1710771430112](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CONSIL%3AST_6145_2024_INIT&qid=1710771430112)

<sup>115</sup> United Nations Human Rights Office of the High Commissioner,  
[https://www.ohchr.org/sites/default/files/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

<sup>116</sup> Please refer to Section XXII of the 2021 OECD Anti-Bribery Recommendation.

<sup>117</sup> United States Department of Justice (2023), “False Claims Act Settlements and Judgments Exceed \$2 Billion in Fiscal Year 2022”, <https://www.justice.gov/opa/pr/false-claims-act-settlements-and-judgments-exceed-2-billion-fiscal-year-2022>

<sup>118</sup> Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Pub. Law No. 111:203 (2011). Criteria for issuance of a whistle-blower award are detailed in final rules published by the US Securities and Exchange Commission, “Implementation of the Whistleblower Provisions of Section 21F of the Securities Exchange Act of 1934”, Release No. 34-64545 (12 August 2011), <http://www.sec.gov/rules/final/2011/34-64545.pdf>. See also: <https://www.sec.gov/whistleblower>

<sup>119</sup> OECD (2019), Guidelines on Anti-corruption and Integrity in State-Owned Enterprises.

[https://www.oecd.org/en/publications/2019/04/guidelines-on-anti-corruption-and-integrity-in-state-owned-enterprises\\_f84daaec.html](https://www.oecd.org/en/publications/2019/04/guidelines-on-anti-corruption-and-integrity-in-state-owned-enterprises_f84daaec.html)

<sup>120</sup> See Responses to the 2019 Working Group on Bribery's written consultation made by Joseph Murphy.

<sup>121</sup> Rorie, M. & Rooij, V. B. (2021). "Measuring Compliance: The Challenges in Assessing and Understanding the Interaction between Law and Organisational Misconduct." In Measuring Compliance: Assessing Corporate Crime and Misconduct Prevention, 2021, Amsterdam Law School Research Paper No. 2022-30, Center for Law & Behavior Research Paper No. 2022-02. SSRN: <https://ssrn.com/abstract=3853764> or <http://dx.doi.org/10.2139/ssrn.3853764>

<sup>122</sup> See for example the United States Strategy on Countering Corruption (2021). <https://www.state.gov/wp-content/uploads/2023/09/U.S.-Strategy-on-Countering-Corruption-Implementation-Plan-9.5.2023-FINAL.pdf>

<sup>123</sup> OECD (2020), Corporate Anti-Corruption Compliance Drivers, Mechanisms, and Ideas for Change, p.81. <https://www.oecd.org/daf/anti-bribery/Corporate-anti-corruption-compliance-drivers-mechanisms-and-ideas-for-change.pdf>

<sup>124</sup> Ibid.

<sup>125</sup> Ibid.

# A Resource Guide on State Measures for Strengthening Business Integrity

Where anti-corruption efforts were previously the domain of governments, the private sector has increasingly become an essential actor, representing a significant paradigm shift from the early days of anti-corruption policy development. This Resource Guide provides States with a framework for identifying and implementing an appropriate mix of sanctions and incentives for encouraging business integrity. It reflects the latest developments in the global anti-corruption landscape and contains case studies that serve to share information and practices and provide inspiration to States and the private sector.



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