

Annex I

State Measures for Strengthening Business Integrity

The secretariat is seeking information from States parties to the United Nations Convention against corruption on good practices, practical examples and lessons learned from engaging the private sector and using sanctions and incentives to strengthen business integrity in the last decade. This is in line with relevant resolutions of the Conference of the States Parties to the United Nations Convention against Corruption, including, resolutions 5/6, 6/5, 9/6 and 9/8, as well as the commitments made by Member States in the political declaration entitled “Our common commitment to effectively addressing challenges and implementing measures to prevent and combat corruption and strengthen international cooperation”, adopted by the General Assembly at its special session against corruption held in 2021. The answers provided by States parties will be used to update the 2013 UNODC publication “A Resource Guide on State Measures for Strengthening Corporate Integrity” ([English](#) - [Spanish](#) - [Russian](#)) with contributions from relevant international organizations and to develop an e-learning tool that will further support States parties’ efforts to strengthen business integrity.

The Resource Guide provides a catalogue of measures that States parties can adopt to promote business integrity and the reporting of corruption involving the private sector. The Resource Guide features three chapters: i) The United Nations Convention against Corruption and the private sector, which describes the articles of the Convention that frame State interaction with the private sector; ii) Engaging the private sector, which outlines the business case for countering corruption with emphasis on governance and other factors that can drive business integrity; and iii) Using sanctions and incentives, which describes the range of sanctions and incentives that have been developed to prevent and address corruption involving the private sector.

The secretariat invites States parties to disseminate this questionnaire among relevant stakeholders, with a view to identifying internal measures adopted by private sector entities to prevent and counter corruption. Respondents may choose to answer the whole questionnaire or only sections that are applicable and relevant to a State party. The secretariat would especially welcome the provision of illustrative examples.

Respondents’ contact details will be kept confidential. The secretariat may contact a respondent to seek additional information. Unless a State party requests otherwise when providing the relevant information, the secretariat may make the submissions publicly available, including through the [UNODC Business Integrity Portal](#).

The Government may wish to provide relevant information by completing the [online questionnaire](#) or by submitting its answers to the questionnaire (attached) to the secretariat by email to uncac@un.org at its earliest convenience but no later than **19 May 2023**.

Questionnaire

Chapter 1 – The United Nations Convention against Corruption (UNCAC) and the private sector

Background: It is important that States' legislative and other measures contain sufficient detail to inform the private sector of their requirements and scope of application. In line with the principle of legal certainty, it is important to have clear provisions outlining prohibited conducts and consequences to the private sector.

1(a) Please describe (cite or summarize) good practices and/or examples of measures taken by your country to promote business integrity and/or reporting of corruption in the private sector in line with the United Nations Convention against Corruption.

France has significantly reinforced its anticorruption framework in the last 10 years, with measures specifically targeting the private sector to foster business integrity.

Law no. 2016-1691 dated 9 December 2016 and Law no. 2013-907 dated 11 October 2013 have imposed measures related to the prevention, detection, and reporting of corruption to private actors in order to promote business integrity.

The French legislator, through the law of December 9, 2016 on transparency, the fight against corruption and the modernization of economic life, known as the "**Sapin 2 Law**" ("*Loi Sapin 2*"), has required companies, groups of companies and public establishments having their registered office in France, 100 million and employing more than 500 employees to adopt **the measures and procedures** listed in Article 17 of the law, aimed at **preventing and detecting the commission, in France or abroad, of acts of corruption or trading in influence** (influence peddling). This obligation is imposed on both the legal entity and its executives.

These companies are required to **implement eight specific measures** that ultimately constitute an **anti-corruption compliance program**. All of these measures are presented in more detail in question 2(a). Briefly, these 8 measures are

- 1° A code of conduct
- 2° An internal alert system
- 3° A risk map
- 4° Procedures for assessing the situation of third parties
- 5° Accounting control procedures
- 6° A training system for managers and staff most exposed to the risks of corruption and influence peddling;
- 7° A disciplinary system
- 8° A system for internal control and evaluation of the measures implemented.

Thus, in combination, all of these measures are intended to **promote the development of standards and procedures** aimed at preserving the integrity of companies and ensure that companies **have sufficient auditing and internal controls** to contribute to the prevention and detection of acts of corruption.

Regarding the promotion of **cooperation between the justice system and private entities**, the Sapin 2 law has created a new alternative to criminal prosecution, provided for in articles 41-1-2 and 180-2 of the code of criminal procedure, the judicial agreement of public interest (CJIP – *Convention Judiciaire d'Intérêt Public*).

It enables the public prosecutor to propose to a legal entity accused of corruption, influence peddling or laundering of these offences, in particular of foreign public officials, to **enter into an agreement** imposing various obligations (fine; adoption of a compliance program under the supervision of the French Anticorruption Agency - AFA). These obligations and the implementation of this procedure are discussed in more detail in question 3(d) concerning incentives. This agreement, accepted by the legal

person, is subject to validation by the president of the court. It does **not result in a conviction of the legal person** and, if properly executed at the end of the time limit, it **results in the termination of the prosecution**.

With respect to reports of corruption, the Sapin 2 Law, in Articles 6 to 16, establishes a framework for the protection of whistleblowers as well as a graduated whistleblowing procedure at three levels (Article 8).

Article 8 of the Sapin 2 Law requires legal entities under private law with at least fifty employees to establish appropriate procedures for the collection of whistleblowing reports made by members of their staff or by external and occasional collaborators. Level 1 provides that:

- The report of an alert shall be brought to the attention of the employer's direct or indirect superior or of a referent designated by the employer.
- If the alert has not been dealt with internally within a reasonable period of time, it is sent to the judicial authority (prosecutor, judge) or administrative authority (prefect, inspectorate, French anticorruption Agency, etc.) or the competent professional association (bar association, medical association, accountants, notaries, etc.)
- If the alert has not been dealt with within 3 months, the alert has not been dealt with within 3 months, the alert may be made public (media, associations, NGOs or trade unions).

The law also indicates that “in case of serious and imminent danger or in the presence of a risk of irreversible damage”, the whistleblower can immediately refer the matter to the regulator (level 2) or to civil society (level 3).

Moreover, Article 17, II, 2° reinforces this obligation by also providing for the implementation of an internal whistleblowing system relating to the existence of conduct or situations contrary to the company's code of conduct. In its recommendations, the French Anticorruption Agency (AFA) recommends that this internal whistleblowing system be implemented in any organization exposed to the risk of corruption, whether or not it falls within the scope of Article 17 above. Insofar as there are several professional whistleblowing mechanisms provided for in the texts and for the sake of readability, the AFA recommends that organizations subject to Article 17 set up a single technical mechanism for the collection of reports, with appropriate processing.

Finally, the protection of whistleblowers in France was recently reinforced by the Wasserman Act of March 21, 2022, which transposed the European Directive of October 23, 2019 (broadening the definition of whistleblowers, creating a new status for the entourage of whistleblowers, simplifying reporting channels, reinforcing protection measures).

Extensive public communication has been developed to raise awareness of the existence of these reporting possibilities. A guide on the orientation and protection of whistleblowers was published by the French Ombudsman (*Défenseur des Droits*) in July 2017. Presented in the form of fact sheets, this guide is intended for people who wish to make a report for facts of which they have personal knowledge. Its objective is to propose methods of intervention that protect the whistleblower's interests. Thus, it aims to explain to non-lawyers the rules applicable to whistleblowing and to define a *modus operandi* that will allow whistleblowers to take as few risks as possible. The guide is also available in English.

The characteristics of an effective internal whistleblowing system are specified by the AFA recommendations. In particular, it is recommended that the internal whistleblowing system be adapted to the nature of the organization's risks and enable the author of the whistleblowing to report in good faith, as well as guaranteeing his protection. The management of this system may be carried out within the organization or outsourced to a third party, provided that the third party has the necessary skills to handle alerts properly and the means to preserve confidentiality.

The whistleblowing system may provide for one or more reporting channels, ranging from a simple dedicated e-mail address to management software or, for some organizations, a specific ethics platform.

The whistleblowing system specifies the role of the line manager, who must be able to direct the person reporting and advise him or her, unless he or she is the perpetrator of the behavior in question. Whatever channels are set up, they must be easily accessible to the organization's employees, whether or not they are permanent, as well as to third parties with whom the organization is in contact.

The alert system should be secure and access rights limited to those authorized to receive or process alerts. Alerts can be launched anonymously. The system must allow for further exchanges with the whistleblower while maintaining anonymity. The organization defines the procedures for handling the alerts it receives, in particular

- the contact person functionally designated to receive the alerts within the organization and, if different, the contact person in charge of processing them
- the measures taken to guarantee the confidentiality of the identity of the author of the alert, of the facts which are the subject of the alert and of the persons referred to in it, including when verifications or when the processing of the alert requires communication with third parties
- the terms and conditions under which the author of the alert provides, where appropriate, information or documents in support of his alert;
- in the event of an internal investigation, the professional information and documents likely to be used in this context
- the measures taken to inform the author of the alert of the receipt and, where applicable, the admissibility of the alert, as well as the time required to process it and the action to be taken;
- if no action has been taken on the alert, the measures taken to destroy, within two months of the closure of the checks, the elements in the file that make it possible to identify the author of the alert and the persons implicated;
- if automated processing of alerts is implemented, the measures taken to ensure compliance with data protection standards.

Indicators are set up to assess the quality and effectiveness of the alert system (in particular: number of alerts received, closed or processed, processing times, and issues raised). These indicators are transmitted to the governing body, along with the most sensitive alerts.

The effectiveness in practice of the internal whistleblowing systems implemented by public and economic players is subject to AFA controls.

In addition, the AFA's recommendations emphasize that reports concerning breaches of the duty of probity and indicating a failure of the compliance system **may be sent directly to the Agency**. Depending on the nature and precision of the facts reported, these reports will lead to the opening of an administrative control or the communication of information to the administration or to the public prosecutor's office competent to deal with them, or to the filing of no further action in the absence of substantiated and coherent elements. In practice, individuals report to the AFA, by postal or electronic mail, situations that they consider to constitute a breach of probity or of the anti-corruption compliance obligation provided for in Articles 3 and 17 of the Law of December 9, 2016. These reports give rise to a response from the AFA to its author, whenever he or she is identifiable.

Thus, while the French Criminal Code already repressed corruption and influence peddling, both private and public, national and transnational, and active and passive, the Sapin 2 Law has **strengthened the responsibility of legal entities and the legislative framework punishing corruption and influence peddling** through the implementation of new obligations for private actors and the creation of new legal proceedings. Although the French Penal Code does not sanction **conflicts of interest** in the private sector (the offence of illegal taking of interest is punishable under Article 432-12 of the Penal Code for the public sector), the AFA has nevertheless specified in these recommendations that this subject should be addressed and integrated into the company's code of conduct. The guide "Preventing conflicts of interest in the private sector" has also been drafted to help companies deal with the subject. In addition, in accordance with Article 12. e) UNCAC which requires "*the prevention of conflicts of interest by imposing, as appropriate and for a reasonable period of time, restrictions on the exercise of*

professional activities by former public officials or on the employment by the private sector of public officials after their resignation or retirement...", Article 432-13 of the Penal Code penalizes the offence of "*pantouflage*" (revolving door), which consists of public officials joining a private company over which they have had supervision or control as part of their duties. A period of three years following the termination of public functions must be respected. Such a move from the public to the private sector, unless approved by the High Authority for the Transparency of Public Life, is punishable by three years' imprisonment and a fine of €200,000, which may be increased to twice the amount of the proceeds of the offense.

Furthermore, the **High Authority for Transparency in Public Life** (*Haute Autorité pour la Transparence de la Vie Publique* – HATVP) regulates lobbying in France. To this end, the institution has managed **an online register of interest representatives since 2017**, promoting integrity in the conduct of **private sector's interest representation** towards public decision-makers.

Under the **French law on transparency in public life of October 11th 2013**, interest representatives have to register and to provide information on their entity (identity of the interest representatives, clients, and contacts), the subject and the type of interest representation actions and the means dedicated to them, as well as the type of public decision-maker targeted. The declaration is made on a yearly basis. At the end of 2021, 2 391 entities were registered and declared 10 780 interest representation actions.

The High Authority conducts several types of controls regarding interest representatives. It can look for entities that are not registered and which should be, it can control the quality of the declarations, and it can control whether interest representatives comply with their ethical obligations. These include, for example, abstaining from giving gifts to public decision-makers, remunerating them to participate in conferences, or getting information through fraudulent means. The High Authority has a power of investigation and can ask for documents and conduct on-site verifications. Interest representatives who fail to comply with their reporting obligations can be punished by a one-year criminal sentence of prison and a 15 000-euros fine.

In 2021, the High Authority conducted 108 controls of non-registered interest representatives, 73% of which resulted in registration in the directory. It also conducted 118 controls of annual declarations, which all led to amendments, and two controls of the respect of ethical obligations. All these measures have contributed to promoting business integrity. An additional step would be to provide the High Authority with a power of administrative sanction to ensure interest representatives are registered and that they declare their actions. This would reinforce the promotion of business integrity.

Furthermore, the High Authority **controls French officials' career transitions between the public and private sectors** ("revolving-doors"), in order to prevent conflicts of interest and avoid ethical or criminal risks. The High Authority issues binding opinions of compatibility, compatibility with reservations, or incompatibility of the project of career transition. In 2021, the High Authority issued 307 opinions on planned revolving-door movements, two-third of which were opinions of compatibility with reservations and 9.2% were opinions of incompatibility.

The High Authority examines whether the public official's career plan is likely to compromise the functioning, independence and neutrality of the public service, to disregard its principles of dignity, impartiality, integrity and probity or to place the person concerned at risk of illicit taking of interests. By doing so, it also promotes the integrity of the business sector, making sure that no public official joins the private sector with a risk of conflict of interest.

Guidance on 1(a) and 1(b): Measures could, for example, include policies and/or laws and regulations designed to achieve the following:

- Prevent bribery of national public officials, bribery of foreign public officials and officials of public international organizations, and bribery in the private sector
- Promote private sector transparency
- Promote cooperation between law enforcement agencies and private entities
- Promote cooperation between national authorities and private entities
- Prevent trading in influence
- Prevent conflicts of interest
- Prevent embezzlement of property in the private sector
- Promote the development of standards and procedures to safeguard the integrity of companies
- Ensure that companies have sufficient internal auditing and controls to assist in preventing and detecting acts of corruption
- Introduce or strengthen the liability of legal persons
- Promote public-private communication, cooperation and partnership (e.g., with business associations, networks, individual companies, small and medium-sized enterprises)

1(b) What challenges (if any) did you encounter in developing and/or enforcing such measures?

With regard to the application of these measures, one of the conclusions drawn by the AFA from its activity is that there is a heterogeneity in the way economic actors **take up** the challenges of anti-corruption on the one hand, and on the other, in the **deployment** of their anti-corruption measures. However, these two aspects are tending to improve.

This observation has been confirmed by the results of the survey conducted by the AFA in 2020, accessible in English, among companies and relating to the level of maturity of their anti-corruption system. Both companies subject to the Sapin 2 law and companies not subject to the law participated. The survey revealed that while 70% of the companies surveyed had put in place an anti-corruption system, nearly half of them (48%) had done so less than 3 years ago, which corresponds to the date of entry into force of the Sapin 2 law. This survey also revealed that at that date, **anti-corruption measures were still deficient** with respect to the mandatory measures required by the Sapin 2 law. While the majority of companies had a code of conduct or an ethics charter (85%), few had an internal alert system (61%), internal controls (56%), training and prevention actions (56%), risk mapping (53%), a compliance officer (48%) or a third party assessment procedure (39%). Incomplete awareness of the various levels of the hierarchy was also noted, with nearly 50% of companies not making all of their hierarchical levels aware of the risk of corruption.

A new survey of companies was **conducted in September 2022**. This survey is currently only available in French on the AFA website. While the results of this survey show that companies have made real progress in understanding and implementing anti-corruption measures, it must be noted that **some measures have not yet been implemented**, in particular because of the difficulty that some companies have in **adapting them to their risk profile**.

Contrary to the survey conducted in 2020, 92% of responding companies declare that they have implemented measures to prevent and detect corruption and influence peddling, compared to 70% in 2020, an increase of 20 points over the last two years. This increase can be observed among companies subject to the law (98%, +8 points) and, even more so, among companies not subject to the law (82%, +26 points). For companies that have not adopted anti-corruption measures, the main reason cited is the lack of means and resources within the organization (57%).

The new survey provides information about the **difficulties companies face** in implementing anti-corruption measures. A majority of respondents consider that **the assessment of third party integrity is the most difficult measure to implement** (59%). This is followed by the mapping of corruption and influence peddling risks (42%) and anti-corruption accounting controls (30%). Among the difficulties mentioned by some of the companies responding:

- Implementing third-party integrity assessments is perceived as potentially requiring **significant human and financial resources**, particularly due to the large volume of third parties or transactions to be assessed. Some companies also point to the risk that these assessments may cause difficulties in their relationships with their third parties;
- With regard to the mapping of corruption and influence peddling risks, companies emphasize their difficulties in drawing up an exhaustive mapping with regard to the company's processes and activities, in identifying risk situations and in linking this mapping with other measures of the anti-corruption system;

- With regard to anti-corruption accounting controls, companies have indicated their difficulties in determining the scope of the controls to be carried out depending on the size of the company, in determining the relevant control points to be implemented and in linking these controls with other existing accounting controls.

Moreover, one of the main challenges regarding lobbying regulation in France, relates to the legal framework of the register. Although the system opens up promising prospects, it remains weakened by a legislative and regulatory framework that is overly complex, particularly for the interest representatives themselves.

Under the current rules, one can be qualified as an interest representative pending three conditions:

- to be a legal or physical person: this includes consultancy, law firms, trade unions, NGOs.
- to initiate a contact with a public official to try to influence a public decision; and
- to conduct actions of interest representation as a principal or regular activity: more than half of the working time on a six-months period or more than 10 actions of interest representation during the last 12 months.

These last two conditions are too restrictive to seize the diversity of stakeholders in lobbying. They tend to complexify the controls of the High Authority and to create an unfair treatment of actors who have less resources to conduct their interest representation. Additionally, public decisions targeted by interest representation actions are not precise enough. The type of information declared by the registrants could also be further improved in order to provide a satisfactory legislative footprint.

When it comes to the control of career transitions to the private sector, the High Authority stresses the need to extend the scope of public officials subject to its control, especially at the local level.

1(c) Please describe the steps you took to overcome such challenges (if any).

In accordance with Article 1 of the Sapin 2 law, the French Anticorruption Agency's (AFA) mission is to help the competent authorities and those who are confronted with it to prevent and detect acts of corruption and influence peddling. To this end, **awareness-raising, support and advice** are provided to companies to enable them to better understand the phenomenon of corruption and to publicize the anti-corruption framework, in particular **by centralizing and disseminating relevant information**.

In light of the findings of the survey conducted in 2020 on the maturity of anti-corruption measures within companies, the AFA has decided to consider anti-corruption compliance as a lever for competitiveness and, on this basis, to implement a support **offer differentiated according to the needs of French companies** to deploy their compliance programs.

In addition, in January 2020, the French government published a multi-year anti-corruption plan proposed by the AFA as part of its mission under the Sapin 2 Act. Among the measures in this plan, one is directly aimed at companies, in this case axis 3-4 "Support companies in their efforts to appropriate the French anti-corruption standard and encourage them to make anti-corruption compliance a lever for competitiveness."

As part of this plan, the AFA involved the professional federations in the two national diagnostics it launched in 2020 and 2022 on the knowledge of corruption facts and the deployment of the anti-

corruption system within companies in France: this survey was distributed to companies via the professional federations.

In this context, the AFA's support offer was disseminated in October 2018 in the form of a **Support Charter for economic actors**¹: this charter formalizes the different types of actions implemented by the AFA to meet the needs of companies that are deploying or strengthening their corruption prevention and detection program. Three types of actions are proposed:

- Generic support - which consists of the development and dissemination of the French anti-corruption reference framework (recommendations, guides, technical sheets)
- Specific support - which involves the organization of workshops and events;
- Individual support - which takes the form of referrals or individual coaching of an economic actor;

Regarding **generic support**, the first AFA recommendations² were published in the French Official Journal on December 22, 2017. These recommendations have the particularity of having been, at the draft stage, open to public consultation. In light of feedback from the Agency's control and advisory missions as well as the two decisions of the Enforcement Committee, these recommendations have been updated with a **new version** (also available in English) published in the JORF of January 12, 2021 after a public consultation. These recommendations specify the methods for implementing an effective prevention and detection system adapted to the organization's risk profile.

As the professional federations are privileged interlocutors both because of their ability to disseminate information to their members and because of their vocation to speak on behalf of their members and to synthesize the issues of the sector of activity they represent, the AFA laid the groundwork for the first operational contacts with these professional federations as early as 2017, during the public consultation on **its draft recommendations**. The development of contacts with federations has also resulted in the co-production of **thematic sheets** (e.g. on corruption risk mapping) as well as regular consultations prior to the publication of guides.

Contact with professional federations and individual company support have prompted the AFA to focus the priority support needs of economic actors on key issues and to publish various **practical guides**, for example on the anti-corruption compliance function, anti-corruption audits carried out in the context of mergers and acquisitions, the management of gifts and invitations, the management of conflicts of interest, points of vigilance in the area of internal investigations, anti-corruption accounting controls in companies, etc. To date (October 2022), four guides have been published in English (the anti-bribery compliance function; anti-bribery checks in the context of mergers and acquisitions; the gifts and entertainment policy; preventing conflicts of interest in the company). All of them are available on the AFA website.

As for specific support, the AFA has begun organizing technical workshops with professional federations to help their members adopt the French anti-corruption guidelines. In total, nearly 40 professional federations were approached. The AFA systematically contacted representative

¹ The Support Charter for Economic Actors is available on the French anticorruption Agency's website, following this link: https://www.agence-francaise-anticorruption.gouv.fr/files/files/2018-09_-_Charte_dappui_aux_acteurs_eco_0.pdf

² These recommendations deal with: the scope of these recommendations; the involvement of management in the prevention and detection of corruption; the anti-corruption code of conduct; the internal whistleblowing; the mapping of corruption risks; procedures for evaluating third parties; accounting control procedures; the corruption risk training system; the internal control and evaluation system; and details for public players.

organizations after the publication of practical guides or recommendations in order to propose a presentation to their members. This approach has led to the realization of **numerous technical workshops** dedicated to the presentation of new recommendations. These awareness-raising activities are adapted to the needs of the audience concerned and can range from a general presentation of the French anti-corruption guidelines to technical workshops organized for professionals and focused on a particular theme.

These initiatives have resulted in the following **39 awareness-raising actions** being carried out in 2021:

- 24 technical workshops, organized jointly with professional federations or associations for the benefit of their members
- 7 interventions in conferences or seminars;
- 6 interventions in the framework of events organized by consulting firms or service providers;
- 2 interventions in the regions, in conjunction with a chamber of commerce and industry and a regional directorate for the economy, employment, labor and solidarity

Each of these awareness-raising actions reached between **10 and 50 companies**.

Regarding individual support, all companies and all industrial and commercial public establishments, of **any size and in any sector**, can request **support from the AFA**. Through this support, the AFA provides a response in the form of **legal or methodological expertise** to questions asked by economic (or public) actors, but also by any citizen, concerning breaches of probity and the mechanisms for preventing and detecting such breaches.

With regard to "**referrals**" (*saisines*, which are a form of individual support), AFA answers all questions sent to it by mail or e-mail. In 2021, AFA received about 200 referrals, of which 120 were legal questions and 79 concerned economic actors. For information purposes, 16.5% of the questions concerned the evaluation of third parties, 13.9% the scope of application of Article 17 of the Sapin 2 Law and 11.4% internal alerts. As far as economic actors are concerned, these referrals were mainly addressed by companies (44%) and consulting firms (36%), the other applicants being individuals, students, professional federations or universities.

The **modalities of the individual coaching** of economic actors are based on a prior definition of the methodological needs and the scope of the coaching **in collaboration with the coached entity**. The support is free and of limited duration, from a few months to one year. The AFA supports the reflection and the process undertaken on all or part of an anti-corruption program during its creation or updating. In the framework of this support, AFA has accompanied **21 economic actors** of different sizes and sectors of activity since 2018.

More specifically, support for small businesses is an objective for the AFA, which is striving to increase the number of support actions for their benefit. This need was identified in particular through the results of the above-mentioned 2020 national diagnosis. Since they are less familiar with the anti-corruption system, smaller companies find it difficult to adapt it to their constraints, particularly in terms of budget and staff. Aware that SMEs and SMIs do not always have the human and financial resources or the expertise to implement effective anti-corruption measures, the AFA has therefore undertaken to develop specific actions for this group of companies in 2019.

For example, the AFA:

- met with general federations covering SMEs- mid-cap companies (e.g. in France, METI for mid-cap companies, CGPME for SMEs) and defined joint action projects with them;

- developed a "flyer" for SMEs on anti-corruption issues, sent to several professional federations
- developed the "Practical anti-corruption guide for SMEs and small businesses" (only available in French);
- participates in regional meetings to reach more small businesses (Caen and Rennes in 2019, Lyon in 2020);
- organized and chaired, with the World Bank, an event at the OECD on October 2, 2019, "Trust and anti-bribery: how to encourage compliance by SMEs and mid-cap companies? »;
- participates in round-table discussions or publications on the subject (e.g., Revue Compliance, issue 8, June 2020 "*La compliance dans les PME-ETI*" – "Compliance in SMEs and mid-cap companies").

These preventive actions against transnational corruption are implemented at the local level for **French companies operating abroad**. Several regional economic services (SER) attached to the Treasury Department have recently carried out awareness-raising activities on their own initiative. For example:

- The SER in Nairobi, for example, developed a White Paper in 2019, including specific recommendations for SMEs. A presentation took place on November 6, 2019 at the French Embassy in Kenya, with 17 CAC 40 companies and SMEs (Thales East Africa LTD, Imany Energy, Olea Kenya, Havas Media, Colas East Africa etc.). An exchange between the companies followed where they were keen to share best practices, particularly on the preventive aspect (internal implementation of the 8 compliance measures of the Sapin 2 law);
- In association with the Young Chamber of Commerce and Industry France Azerbaijan, a specific seminar on corruption was organized in January 2019 under the impetus of the SE of Baku. An AZ auditing and consulting firm (Ekvita) was associated to propose a specialist on the issue as the main speaker. Moreover, the High Authority for Transparency in Public Life (HATVP) attaches great importance to raising awareness and providing support to all its audiences subject to ethical and reporting obligations, in close collaboration with other integrity stakeholders. It publishes ethical guides for administrations, ethics officers, civil servants and public officials, setting out its expertise and doctrine on the risks of conflicts of interest in an educational manner. It also carries out several targeted information actions for public officials, prior to filing campaigns.

In addition, the High Authority continues its efforts to make interest representatives aware of their obligations and launched a digital platform dedicated to lobbying (<https://www.hatvp.fr/lobbying/>), intended for both citizens and interest representatives. Overall, compliance rates have significantly increased over the years.

Chapter 2: Engaging the private sector

Background: Anti-corruption programmes, commonly referred to as compliance programmes, are a primary tool used by companies to advance ethical business practices. They provide a framework for articulating the values, policies and procedures used by a company to educate its employees and to prevent, detect and counter corruption in its business operations.

2(a) Please describe (cite or summarize) good practices and/or examples of measures taken by your country to promote integrity through anti-corruption programmes in the private sector.

As mentioned in question 1(a), **the Sapin 2 law requires** that companies, groups of companies and public institutions with their registered office in France, with a (consolidated) turnover of more than 100 million euros and **more than 500 employees have an anti-corruption compliance program** covering **8 measures** listed in article 17 of the law. This obligation is imposed on both the legal entity and its managers and thus makes it possible to promote integrity through anti-corruption programs in the private sector.

The companies subject to the Act are thus required to implement the following measures:

- 1° A code of conduct defining and illustrating the different types of behavior to be proscribed as being likely to characterize acts of corruption or influence peddling. This code of conduct is integrated into the company's internal regulations and is subject, as such, to the consultation procedure with employee representatives provided for in Article L. 1321-4 of the French Labor Code;
- 2° An internal alert system designed to enable the collection of reports from employees concerning the existence of conduct or situations contrary to the company's code of conduct;
- 3° A risk map in the form of regularly updated documentation designed to identify, analyze and prioritize the risks of exposure of the company to external solicitations for the purpose of corruption, in particular according to the sectors of activity and geographical areas in which the company operates;
- 4° Procedures for assessing the situation of customers, first-tier suppliers and intermediaries with regard to risk mapping;
- 5° Internal or external accounting control procedures designed to ensure that books, records and accounts are not used to conceal corruption or influence peddling. These controls may be carried out either by the company's own accounting and financial control departments, or by having recourse to an external auditor when carrying out the audits for the certification of accounts provided for in Article L. 823-9 of the French Commercial Code;
- 6° A training system for managers and staff most exposed to the risks of corruption and influence peddling;
- 7° A disciplinary system allowing the company's employees to be sanctioned in the event of a violation of the company's code of conduct;
- 8° An internal control and evaluation system for the measures implemented.

These various obligations lead the entities subject to the law to deploy an anti-corruption system based on three inseparable principles/levels presented in the AFA's 2021 recommendations:

- First principle: the **commitment of the governing body/management** to ensure that the organization's missions, competencies or activities are carried out without any breach of probity, which implies that it :
 - o to behave in an exemplary manner, both in word and deed, with regard to integrity and probity ;
 - o promoting the anti-corruption system through personal communication
 - o implement sufficient resources to ensure the effectiveness and efficiency of the system
 - o be responsible for the proper management of this system
 - o to comply with it when taking decisions for which it is responsible;
 - o ensure that appropriate and proportionate sanctions are imposed in the event of behavior contrary to the code of conduct or likely to be qualified as a breach of probity.

- Second level: knowledge of the risks of breaches of probity to which the entity is exposed, through the development of **a map of its risks** (risk-mapping);
- Third level: **management of these risks**, through the implementation of effective measures and procedures for their prevention, the detection of any behavior or situations contrary to the code of conduct or likely to constitute breaches of probity and the sanctioning of such breaches. This management also includes monitoring and evaluating the effectiveness of these measures and procedures.

In addition, the AFA is responsible for carrying out two types of controls provided for in 3° and 4° of Article 3 and in III of Article 17 of the Act:

- The "**initiative controls**" carried out at the initiative of the AFA director and which concern, in particular, the companies mentioned in article 17:
- The "**enforcement controls**" which aim to control the execution of administrative sanctions and judicial measures imposing the implementation of a compliance program (these sanctions are detailed in question 3(a)).

The audit consists of ensuring and verifying, on documents and on the spot, the existence, quality and effectiveness of the anti-corruption measures deployed by the entities audited, i.e. the measures and procedures designed to prevent and detect breaches of probity. The main purpose of AFA's audits is to ensure that the risk of exposure or transgression in the entities concerned is as low as possible. The audit covers not only the existence of the anti-corruption system, but also its relevance and its effective and efficient implementation.

The AFA assesses the effectiveness of the system through

- Conducting interviews to assess the level of knowledge of the various actors in charge of or associated with the operation of the anti-corruption system;
- Analyzing the quality of the vigilance measures deployed through a sampling of files (client, supplier and intermediary evaluation files, public contracts, etc.) or accounting entries;
- Analysis of the functioning of alert systems.

The conduct of the control procedures is detailed in the Charter of rights and duties of the parties involved in the controls provided for in 3° of Article 3 and III of Article 17 of the Sapin 2 Law.

In 2021, the AFA initiated 34 new controls and screenings, including 6 enforcement controls and 28 own-initiative controls (18 on economic actors). More details can be found in AFA's 2021 Activity Report.

Whether AFA first conducts a documentary inspection prior to the on-site inspection, or an on-site inspection followed by a documentary inspection, in both cases, these operations are followed by the sending of an inspection report containing AFA's observations concerning the existence, quality and effectiveness of the audited entity's anti-corruption system. It contains, if necessary, recommendations for improving existing procedures.

In the event of a failure to comply with the obligation provided for in Article 17 of the Sapin 2 Act, the AFA Director shall give the audited entity formal notice, by registered letter with acknowledgement of receipt, to submit its written observations within two months of the date appearing on the notice of receipt. In other cases, the AFA Director sends the audited entity observations with any recommendations for improving procedures. The audited entity may submit any observations within two months.

In the event of non-compliance, the Director of AFA may decide, among other things

- To issue a warning by registered letter with acknowledgement of receipt;
- To refer the matter to the Sanctions Committee. The manager(s) will be informed by registered letter with acknowledgement of receipt.

More information on the Sanction Commission and the possible sanctions is given in question 3(a).

It should be noted that inspections carried out pursuant to Article 3(3) (inspection of public law entities) of the Act of December 9, 2016 cannot be referred to the Enforcement Committee.

As a reminder, the recommendations issued by the AFA, which constitute one of the pillars of the French anti-corruption framework, are regularly communicated by the AFA in the form of presentations or technical and educational workshops aimed at both corporate and public organization audiences. This set of awareness-raising actions also promotes integrity through anti-corruption programs in the private sector. More details on these efforts are provided in the next question, 2(b).

2(b) Please describe (cite or summarize) good practices and/or examples of measures you have used to encourage transparency, public reporting and/or public participation through your anti-corruption programmes (both for the public and private sectors).

Public disclosure and public participation in the implementation of the Sapin 2 law takes place through numerous actions of various formats:

- Awareness and training actions for private sector professionals explained in question 1(c), such as technical workshops;
- The organization of a symposium in partnership with various actors;
- The organization of training days in universities;
- The use of new media: MOOCs, podcasts and serious games;
- Promoting access to relevant information on corruption by the general public (AFA website and corruption risk mapping project);

- Training actions for public actors

In order to encourage public participation, the AFA organized a symposium on June 1, 2022 with the support of and on the premises of the Institut des Hautes Etudes de la Défense Nationale (IHEDN), devoted to: "Anti-corruption compliance, an instrument of national sovereignty". This conference was an opportunity to take stock of the implementation of innovative measures resulting from the Sapin 2 law (obligation for companies and EPICs over a certain threshold to deploy an anti-corruption system, creation of the AFA and the CJIP) in a current international context marked by the reinforcement of anti-corruption strategies, notably in China and in the Anglo-Saxon countries. This day was organized around four round tables bringing together institutional representatives, including the General Secretariat for Defense and National Security, the General Directorate for Enterprises, the National Agency for Information Systems Security, the National Financial Prosecutor's Office, as well as representatives of companies, lawyers, consulting firms and local authorities. The event was open to all and was a great success with about 500 participants present.

As part of its training missions, the AFA also works with universities and professional schools, combining distance and classroom formats. In 2021, some 40 training sessions (twice as many as in 2020) were conducted with public and economic actors. The main sessions were organized in partnership with training organizations: schools in the network of public service schools (RESP), civil service training institutes, universities and specialized schools, including

- the National School of Magistrature (*Ecole Nationale de la Magistrature*) with the organization of a five-day training session entitled "National and international corruption: prevention, detection, repression", for foreign magistrates and civil servants;
- the Institute of Public Management and Economic Development (IGPDE) with three training sessions, one of which will last one day in person in November 2021;
- the French Bar School and the Cercle Montesquieu (organization of legal managers) with the organization of a "corruption prevention" training session;
- the Institute for High Studies on National Defence (*Institut des Hautes Études de Défense Nationale*) with 5 training sessions, notably during the "Economic and Strategic Intelligence" Cycles.

Continuing to take advantage of new technologies, the AFA has developed new online teaching tools. For example, in 2021, the AFA has renewed two new sessions of its free online seminar (MOOC) dedicated to the prevention of corruption in local public management, with a large audience (over 25,000 participants since its creation in 2018). The quiz on integrity violations has allowed more than 7,000 participants since its creation to test their knowledge. In 2022, a serious digital game was created, entitled "In search of integrity", for public agents.

This serious game for training public officials in the prevention of corruption is divided into seven chapters and exposes the various offenses against probity (corruption, influence peddling, misappropriation of public funds, illegal taking of interest, favoritism and bribery). It thus aims, by using a textual adventure with a two-dimensional graphical animation, to help public officials identify risky situations and adopt the right behaviors to prevent these offenses by using educational, fun and interactive methods. The scenario, based on a project to set up a new regional branch of a public institution, allows the player, playing the role of a project manager in charge of the operation, to overcome various difficulties (logistical, financial, related to human resources) associated with different risks of breaches of probity. Each chapter offers help and advice on how to identify and prevent corruption risks, and ends with a complementary quiz to check knowledge acquisition. Each chapter lasts about 10 minutes, and playing a full session of the game takes about an hour. The game, entirely

translated into English, has been freely accessible since February 21, 2022 on the AFA website, but is also available, with registration, on two e-learning platforms for government employees:

- Mentor, intended for public employees and piloted by the General Directorate of Administration and the Civil Service (DGAFF) ;
- And the Institute of Public Management and Economic Development (IGPDE) of the Ministry of Economy, Finance and Recovery.

As regards the accessibility of the general public to information on the fight against corruption in France, the AFA regularly updates its website, relaying not only its news (publication of new recommendations, new guides, international cooperation actions, etc.), but also more general information. For example, it is also possible to find the list of CJIP (judicial agreement of public interest) relating to offences against probity.

In addition, the governmental commitments of the multi-year national anti-corruption plan for the years 2020 to 2022, published on January 9, 2020, are based on several axes, including axis 1 "to better understand and detect corruption by optimizing the use of data", under which it is planned to "reinforce the collection and opening of data relating to the phenomenon of corruption and to reinforce the use of this data by making the most of data mining". Thus, in order to better understand the phenomenon of corruption and to better understand its characteristics, AFA has undertaken a project to map the risks of corruption nationally, which in fine, is intended to be accessible to all on the AFA website. A pragmatic approach has been adopted, mobilizing various sets of data:

- At the heart of the project is the analysis of court decisions rendered on the basis of offenses against probity by the courts of first instance, starting with those with which AFA has signed a cooperation protocol;
- In addition, and in particular in order to have knowledge of more recent events, data from the statistical resources of the judicial police activity of the police and gendarmerie services, via collaboration with the ministerial statistical service of internal security;
- data from disciplinary procedures (General Directorate of Administration and Civil Service - disciplinary sanctions imposed on government employees);
- And, finally, data from the AFA's control activities, in particular the alerts that it is required to process.

The core of the project is therefore the collection and processing of court decisions (convictions and acquittals) from four partner prosecutor's offices (Paris, PNF, Nanterre, Bastia), before being extended in 2022 to all judicial courts. The approach adopted to date has therefore consisted of collecting and analyzing court decisions rendered since 2014 in matters of probity violations within the jurisdiction of these judicial courts. The AFA has already collected and analyzed more than one hundred decisions, which will be the subject of statistical and qualitative analyses, in order to better understand the characteristics of the corruption cases judged and their judicial treatment.

In addition, the mapping project also includes the exploitation of police and gendarmerie procedures. Data from the ministerial statistical service of internal security (SSMSI) can contribute to enriching analyses of the corrupt phenomenon. Indeed, even if these investigations have not yet been the subject of a judicial orientation and even less of a decision by a court of law, the facts they deal with are more contemporary and make it possible to study the upstream part of the judicial chain.

The AFA will eventually be able to provide the services in charge of fighting corruption and, more broadly, all citizens with a certain number of analysis and reporting tools. This will include in particular:

- Graphic reports illustrating the characteristics of the corruptive phenomenon, an effective means of depicting the phenomenon and communicating it to a wide audience, not necessarily legally expert; to develop such reports and dashboards, the AFA relies on the skills and technical support of Bercy Hub, the digital support and innovation department of the General Secretariat of the Ministry of the Economy, Finance and Recovery;
- Analysis and synthesis notes using and enhancing data on themes that it has identified or on which it has been asked.

These actions fall within the scope of Article 3, paragraph 1 of the Sapin 2 law, as the AFA is responsible for participating in administrative coordination and for centralizing and disseminating information to help prevent and detect breaches of probity. Through them, transparency, communication of information and public participation are encouraged.

2(c) What was the impact of the measures described above (2a and 2b)?

As stated in the AFA's 2021 Activity Report, which is available in English on its website, there is a growing adherence to compliance issues by private actors.

Indeed, the AFA notes a growing compliance with the obligations set forth in Article 17 (compliance program presented in question 2(a)). While failures to comply or failures to deploy measures and procedures effectively and efficiently are still noted, failures to comply due to the simple absence of a mandatory measure or procedure are tending to disappear.

Thus, among the 34 own-initiative controls on economic actors completed in 2021 :

- Only 2 controls resulted in a finding of non-compliance relating to the non-existence of a corruption risk map;
- No closed audit resulted in a finding of non-compliance relating to the non-existence of a code of conduct (moreover, 60% of the audits closed in 2021 ended without a finding of non-compliance relating to this measure);
- Only 1 audit resulted in a finding of non-compliance relating to the lack of a training program for the most exposed managers and staff;
- Only 6 inspections resulted in a finding of non-compliance relating to the lack of a third party evaluation system;
- No audit resulted in a finding of non-compliance relating to the non-existence of an internal alert system;
- No audit has resulted in a finding of non-compliance relating to the absence of a disciplinary system.

However, the audits completed in 2021 showed that there is still room for improvement in the quality and effectiveness of measures and procedures:

- 85% of the audits revealed a failure relating to the quality of risk mapping, in particular due to shortcomings in the identification of risks;

- 67% of the controls revealed a failure relating to the non-compliance of the process for identifying the most exposed managers and staff or the content of anti-corruption training;
- 91% of the audits revealed a failure relating to the quality of the third party evaluation system;
- 100% of the audits resulted in a finding of non-compliance with the measure relating to anti-corruption accounting controls;
- 92% of the audits resulted in a finding of non-compliance with the measure relating to the monitoring and evaluation of the anti-corruption system.

Companies that received a warning from the AFA Director after the initial audit have a clear propensity to comply with the recommendations addressed to them, and thus to bring themselves into compliance, as shown by the so-called "warning" audits that were carried out. The first warning audits have made it possible to measure the impact of these warnings. These audits revealed that the audited entities had endeavored to implement the AFA's recommendations, thus removing, for the vast majority of them, the shortcomings noted during the initial audit and demonstrating the capacity of the warnings issued to convince the audited entities to comply. Thus, the results show that of the 29 recommendations issued after an initial audit, 66% have been implemented and 34% are in the process of being implemented. In any case, as of December 31, 2021, the 8 completed warning audits have not been followed up, as no deficiencies have been identified.

In addition, as stated in question 1(b), the diagnostic on the level of maturity of companies' anti-corruption systems carried out in 2022 shows a real improvement in the assessment of respondents' level of knowledge of corruption and influence peddling offences, but also in the implementation of measures to prevent and detect these offences. Contrary to the survey conducted in 2020, 92% of responding companies declare that they have implemented measures to prevent and detect corruption and influence peddling, compared to 70% in 2020, i.e. an increase of 20 points over the last two years.

2(d) What challenges (if any) did you encounter in implementing the measures above (2a and 2b)?

Regarding the difficulties encountered in implementing the measures discussed above, please consult the answers to question 1(b).

Guidance on 2(a) and 2(b): Measures and good practices could, for example, include those designed to:

- Raise awareness of business integrity
- Encourage the private sector to establish anti-corruption policies, procedures and/or programmes
- Promote training and education on anti-corruption in the private sector
- Provide trainings or guidance, or develop model anti-corruption programmes or policies for companies to use and adapt
- Provide appropriate reporting channels
- Encourage public reporting of efforts to prevent and counter corruption in the private sector

Chapter 3: Using sanctions and incentives

Background: While effective sanctions for corruption offences are required under the United Nations Convention against Corruption, the Convention also recognizes the essential role of incentives that encourage and reward corporate self-reporting and preventive efforts.

Part A - Sanctions

3(a) Please describe (cite or summarize) good practices and/or examples of sanctions used to strengthen business integrity and/or reduce corruption in the private sector in your country.

3(b) What were the main challenges (if any) your country faced in enforcing these sanctions?

3(c) What steps did you take to overcome those challenges (if any)?

Guidance on 3(a): Sanctions could, for example, include any of the following:

- Monetary sanctions for legal persons (companies) liable for the participation in an offence of corruption
- Incarceration or other criminal sanction of natural persons (individuals) who have committed an offence of corruption acting on behalf of a company
- Confiscation of proceeds of corruption for both companies and individuals who acted on their behalf
- Contract remedies and other means to communicate and enforce anti-corruption contractual provisions
- Suspension and/or debarment of contractual partners from government processes
- Denial of government benefits (fiscal or otherwise)
- Liability for damages and compensation of victims of corruption
- Reputational damages to hold wrongdoers publicly accountable
- Any other type of sanctions not listed above

Part B - Incentives

3(d) Please describe (cite or summarize) good practices and/or examples of incentives used to strengthen business integrity and/or reduce corruption in the private sector in your country.

3(e) What is the main impact of such incentives?

Guidance on 3(d): Incentives could, for example, include any of the following:

- Penalty mitigation – encourages self-reporting of offences, credits companies' preventive efforts
- Procurement preference – rewards good practice through procurement preference
- Preferential access to benefits – rewards good practice with preferential access to government benefits and/or services
- Reputational benefits – encourages good practice through public recognition
- Whistle-blower protection and awards – encourages reporting of potential violations by individuals
- Any other types of incentives not listed above

Part C - Additional measures

3(f) Please describe (cite or summarize) good practices and/or examples of any other additional measures used to strengthen business integrity and/or reduce corruption in the private sector in your country.

Guidance on 3(f): Additional measures could, for example, include any of the following:

- Integrity pacts – written agreements between government agencies and companies to strengthen integrity in public procurement, usually overseen by an independent monitor
- Collective action – collaborative initiatives that bring companies and other relevant stakeholders together to prevent and counter corruption and raise standards of business integrity
- Public sector reform – civil service and/or regulatory reforms that reduce the opportunities for corruption
- Public education – activities that raise public awareness of corruption and its harmful effects

A few months after the entry into force of the Sapin II Law, the French Anti-Corruption Agency (AFA) immediately released official guidelines in order to help the private sector to implement the eight key elements (risk mapping, code of conduct, anti-corruption training, third-party due diligence, internal whistleblowing system, accounting controls, disciplinary regime, internal control system) defined in the Law. AFA updated its guidelines in 2021 based on the feedback of its audit and advisory missions.

AFA also publishes regularly practical guides on specific processes (public procurement...) or sectors (corruption in sport...). These guides are the result of a collaborative process involving the private sector and public consultation. In addition, the AFA raises awareness about these different elements through conferences and workshops jointly organised with business federations and associations. Surveys about the implementation of the Sapin II law are also regularly addressed to the private sector and the results are published on its website.

This type of collective action builds trust and facilitates ownership of the anti-corruption compliance programmes that companies implement. It also strengthens these programmes' effectiveness by helping companies to adapt national and international standards to their operational specificities.

Additional information

Is there any other information that you wish to share which has not been addressed by the previous questions?

