B20 ANTI-CORRUPTION WORKING GROUP REPORT TO THE B20 OFFICE AND TASKFORCE CHAIRS

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Working group constitution and process

The Australian Prime Minister appointed more than thirty Australian CEOs to guide the work of the B20 Australia in 2014 under the leadership of Richard Goyder AO, CEO of Wesfarmers, and B20 Sherpa Robert Milliner. B20 Australia continued four of the seven priority areas pursued under the Russian presidency of 2013 to reflect the Australian G20 presidency's focus on boosting economic growth and creating jobs: Finance, Human Capital, Infrastructure & Investment, and Trade. The Anti-Corruption Working Group (ACWG) was established to focus on corruption and transparency issues across the four taskforces.

Leadership

The ACWG was established under the leadership of coordinating chair Michael Andrew, Former Global Chair of KPMG, and his co-chair Giuseppe Recchi, Chairman of Telecom Italia. Brook Horowitz, CEO of IBLF Global, chaired the ACWG Expert Group. Project support was provided by Shey Newitt, Associate Director at KPMG, and others at KPMG.

Membership

The ACWG has two sub-groups, the Core Group and the Expert Group. The Core Group consists of members of the four B20 taskforces. Their task was to champion anti-corruption and transparency issues within the work of the four taskforces, which are focussed on making recommendations for G20 governments in 2014. The Expert Group consists of anti-corruption experts who are not members of the four B20 taskforces. Their primary task was to develop recommendations for the G20 Anti-Corruption Working Group Action Plan 2015-2016. They also provided expert advice to the Core Group members in relation to B20 taskforce recommendations.

Policy development

The policy recommendations for the B20 taskforces in this report were made by the ACWG Core Group with input from the ACWG Expert Group. The policy development process began with a scoping exercise to develop themes for investigation. Each theme was then debated within the ACWG to generate draft recommendations. The draft recommendations were refined in an iterative process before being finalised and submitted to the taskforce coordinating chairs and the B20 Office. The ACWG Core Group met four times before the B20 Summit and exchanged ideas and material between meetings. See page 15 for details.

Introduction

The Anti-Corruption Working Group (ACWG) has considered corruption risk issues across the four B20 taskforces: financing growth, trade, infrastructure & investment, and human capital. The group has developed recommendations that address each of the taskforce areas of focus, and has also put forward separate overall recommendations that cut across each of the taskforces and impact the global economy as a whole.

We request that the B20 Office and taskforces take into consideration the following eight recommendations when drafting their final reports to G20 Leaders.

Corruption and business

If corruption were an industry, it would be the world's third largest, worth more than $3 trillion and 5 percent of global GDP. According to the OECD, corruption is a major obstacle to sustainable economic, political and social development as it:

- increases the cost of doing business;
- decreases cross border investment and trade facilitation;
- generates waste and inefficiency in the use of public resources;
- excludes the poor from public services and perpetuates poverty; and
- corrodes public trust, undermines the rule of law and ultimately delegitimizes the state.

Corruption is a problem for developed and emerging economies alike. Many countries expected to drive future global economic growth score poorly in Transparency International's Corruption Perceptions Index.

For business, entering new markets, and even entering into routine cross-border business dealings, can be fraught with regulatory and compliance risk. With a changing regulatory landscape, even the most well intentioned companies struggle to comply with the sheer volume of regulation and complexity across and within jurisdictions.

Just as there are differences in the way that regulators and enforcement agencies deal with corruption, businesses vary in their approach to eradicating corruption from their culture and supply chains. Acknowledging and incentivising business to act responsibly is important to reduce the supply of corruption. At the same time, business wants to see a concerted effort to enforce existing laws that reduce the demand for corruption, building capacity for integrity and penalising corruption in public office.

B20 continuity of focus

The issues highlighted in this report are not new. Consecutive B20 groups have identified the problem of corruption and its impact on the global economy, and presented strong and thoughtful recommendations.

Recurring themes, at least during the previous presidencies, Russia, and Mexico, include collective action, public procurement, corruption in the supply chain, anti-bribery, training and capacity building, self-reporting, and beneficial ownership transparency. The ACWG has attempted to refocus efforts in these areas and bring about action primarily through the recommendations of the B20 taskforces, and recommends G20 governments adopt a robust monitoring and evaluation process to measure the success of implementation.

Working with the G20 ACWG

Many of the issues raised in this document require long term action, on the part of both business and government. The B20 ACWG has worked closely with the G20 ACWG on these issues and has contributed a business perspective to the G20 ACWG Action Plan for the coming two years. Business has asked the G20 ACWG to take a particular focus on beneficial ownership, public procurement, voluntary self reporting, and capacity building in public office.

Overall recommendations

The business community is united in its view that combating corruption, both supply and demand, requires a coordinated effort across governments to harmonise regulation, incentivise corporate responsibility, and enable consistent enforcement.

Harmonise regulation and incentivise responsible business

Corporate responsibility plays a major role in tackling the supply side of corruption. There are many examples of companies that genuinely strive to comply with the law and best practice. There are contrasting approaches between governments when it comes to acknowledging organisations with robust compliance programs, however, and more can be done to incentivise them to embed the right behaviours. The business community welcomes the opportunity to cooperate with regulators to design effective incentives that align mutual interests.

Self-reporting of corruption has the potential to make a significant impact. Businesses, and public offices, need to be prepared to report violations to the authorities and work with them on resolution rather than wait to be detected, and should be encouraged to do so, for example by reduced penalties. This will encourage a more productive partnership between governments and business.

1. *G20 Governments agree to harmonise laws related to anti-corruption that incentivise companies to build best practice compliance programs and self-report compliance breaches; and:*

    a. *form a working group consisting of business and enforcement agencies to map jurisdictional differences, propose regulatory change that recognises anti-corruption programs and self reporting, and monitor progress.*

Take a global approach to beneficial ownership transparency regulation

Beneficial ownership transparency is an issue that has received recent attention and governments are currently developing their regulatory response. Business sees this as an opportunity to take a globally consistent approach to generate harmonised regulation at the outset, instead of multiple different national laws.

2. *G20 Governments endorse the G8 core principles around transparency of ownership and control of companies and legal arrangements.*

Enforce regulation

As signatories to the UN Convention against Corruption and the OECD Anti-bribery Convention, G20 countries already have in place the framework to combat corruption, and numerous best practice guidelines exist. Enforcement remains a challenge, with multiple and inconsistent actions and penalties across jurisdictions, and different action taken against the public officials who take bribes and the companies that pay them. This creates a disincentive for business to self report, and can lead to complex and costly proceedings. Multi-lateral enforcement globally requires better cooperation among law enforcement agencies.

High Level Reporting Mechanisms (HLRMs)[1] have been found to be effective in enforcing of anti-corruption law and acting as a deterrent. Institutional arrangements will vary and HLRMs can take many forms, for instance an independent anti-corruption agency or business ombudsman. Or in some cases it may be a matter of building capacity and establishing a transparent reporting chain within existing institutions.

1 High Level Reporting Mechanisms provide a channel for companies to report bribery solicitation to a dedicated and high level institution that has the authority and capacity to respond promptly and without prolonged delays (High Level Reporting Mechanism – Concept Brief, Basil Institute on Governance and OECD, 2013).

3. *G20 governments to commit to enforcing the existing OECD Anti-Bribery Convention and the UN Convention against Corruption, and:*

    a. *take steps to install and/or build capacity for high level reporting mechanisms in at-risk public offices where any party can report violations of anti-bribery and anti-corruption laws;*

    b. *strengthen cooperation between law enforcement agencies and national HLRMs and appoint a lead agency where multiple jurisdictions are involved; and*

    c. *make information on enforcement procedures and actions publicly available.*

Trade taskforce recommendations

Combat corruption at the border

The trade taskforce recognises the enormous potential for global growth with the immediate implementation of the Bali package agreement on trade facilitation. Corruption remains a significant barrier to trade, particularly where border and customs facilities are hindered by red tape, pervasive corruption, inadequate infrastructure and low levels of security.

Business calls on G20 leaders to remove supply chain barriers through targeted infrastructure build, streamlined border administration, including reduction of corruption in customs clearance, and domestic regulatory reform.

4. *G20 governments to commit to begin immediate implementation the trade facilitation agreement, with priority given to:*

    a. *transparency of fees, charges, procedures, timeframes and regulations; and*

    b. *implementation of one-stop and automated customs procedures.*

Capacity building is critical to tackle the demand side of corruption at the border. The B20 commits to working with the G20 in its 2015-16 Action Plan to develop training programs for public officials, sharing corporate best practice training and culture change programs.

Address corruption in trade negotiations

Preferential Trade Agreements must provide greater benefits for business. Harmonisation of anti-corruption approaches is one of the top requests of governments by the B20, and trade negotiations can provide an opportunity to support this. A number of trade agreements already contain anti-corruption clauses, particularly relating to public procurement.

5. *G20 governments ensure that all new trade agreements include specific anti-corruption clauses, requiring signatories to uphold the UN Convention against Corruption and OECD Anti-Bribery Convention, and install High Level Reporting Mechanisms (3.a).*

Human capital taskforce recommendations

Build capacity for ethical behaviour in the public and private sectors

The fight against corruption is ultimately an effort to change culture and behaviour on both the supply and demand side of corruption. Employers; both business and government, have an obligation to

implement training and compliance programs that build capacity and recognise ethical behaviour within their workforce. Responsible employers are already doing this, but inconsistent regulation and enforcement create a disincentive for business. Recommendation 1 is particularly relevant to the human capital taskforce:

1. *G20 Governments agree to harmonise laws related to anti-corruption that incentivise companies to build best practice compliance programs and self-report compliance breaches; and*

    a. *form a working group consisting of business and enforcement agencies to map jurisdictional differences, propose regulatory change that recognises anti-corruption programs and self reporting, and monitor progress.*

Infrastructure & investment taskforce recommendations

Best practice public procurement

Creating a level playing field for major infrastructure projects creates confidence in the public procurement process and attracts private investment. It requires governments to demonstrate transparency and integrity, and insist on the same for participating businesses.

Established best practice procurement guidelines have been developed by organisations such as World Bank, UNODC and OECD, but there is no unified view specifically for public infrastructure procurement and project execution. The B20 has requested that the G20 ACWG address this need in its 2015-2016 Action Plan.

6. *G20 governments apply best practice procurement processes in all large and/or publicly significant infrastructure projects:*
    a. *projects must comply with recognised best practice, either those developed through the G20 ACWG, or one of the World Bank, UNODC or OECD guidelines; and*
    b. *High Level Reporting Mechanisms should be installed or developed in relation to procurement and execution of public infrastructure projects (3.a).*

Incentivise responsible business

It is important to create strong incentives for businesses involved in infrastructure projects to also comply with anti-corruption best practice.

7. *G20 governments incentivise companies bidding for large and/or publicly significant infrastructure projects that have in place best practice anti-corruption compliance programs. Companies that can demonstrate this capacity should receive awarded bonus points and positive recognition in the bidding process. Governments should also:*
    a. *support verification of the quality of these compliance programs by recognised professional bodies or accredited experts;*
    b. *consider entering into integrity pacts[2] and/or independent monitoring over the life of the project; and*
    c. *encourage knowledge sharing and capacity building initiatives amongst businesses to develop compliance programs throughout their supply chain.*

2 An integrity pact is a tool aimed at prevention corruption in public contracting. It is a legally binding agreement between a government or government department and all bidders for a public contract. It stipulates rights and obligations to act with integrity, and commit to independent monitoring over the life of the project (Transparency International, 2014)

Minimise corruption to attract foreign investment

Environments where corruption flourishes are less attractive destinations for investment, and governments and business have a mutual interest in opening up those markets. Governments should be rewarded for a positive anti-corruption track record with greater levels of foreign direct investment, and the B20 will encourage investors and businesses to recognise this.

The infrastructure & investment taskforce recommend developing a non-binding International Model Investment Treaty (IMIT) to provide the standards for a predictable and stable climate for investment.

8. *IMITs should require signatories to enforce their anti-corruption and transparency obligations, undertake capacity building for public officials, and install high level reporting mechanisms to govern the treaty.*

Financing growth taskforce recommendations

Harmonise beneficial ownership transparency regulation

Complex and inconsistent regulation can unintentionally lead to financial exclusion. The financing growth taskforce recognises this concern in relation to anti money laundering and business conduct rules, and recommends implementation of global regulation in a harmonised manner.

The ACWG considers the issue to be broader than this, and should include a range of anti-corruption and financial crime legislation, including in particular beneficial ownership transparency. Recommendation 2 is thus applicable to the financing growth taskforce.

2. *G20 governments endorse the G8 core principles around transparency of ownership and control of companies and legal arrangements.*

The financial sector has a key role to play in tackling the broader aspects of corruption, for example through due diligence processes that consider beneficial ownership, and notes that closer cooperation between the financial sector and governments is needed to align mutual interests.

Create a level playing field to attract infrastructure finance

Infrastructure financing requires a favourable investment environment characterised by a "level playing field" and confidence in the procurement process. To this end recommendations 6 and 7 are also applicable to this taskforce.

Taskforce schedule and distribution of members

Schedule of Core Group meetings

#	Date	Location	Theme
1	9/10 April 2014	Teleconference	Preliminary scoping of issues
2	30 April 2014	Teleconference	Recommendation development
3	6 May 2014	Paris	Refinement of recommendations
4	28 May 2014	Teleconference	Finalisation of recommendations and report
5	17 - 18 Jul 2014	Sydney	B20 SUMMIT

Distribution of Core Group members by taskforce

Title	Given Names	Family Name	Taskforce
Mr	Nick	Allen	Trade
Mr	Stephen	Almond	Financing Growth
Mr	Michael	Andrew	Infrastructure & Investment
Ms	Danielle	Cannata	Trade
Mr	Geoff	Culbert	Human Capital
Mr	Phil	Edmands	Infrastructure & Investment
Mr	Gary	Gill	Financing Growth
Mr	Jeffrey	Hardy	Financing Growth, Human Capital, Infrastructure & Investment, Trade
Mrs	Hale	Hatipoglu	Financing Growth, Infrastructure & Investment, Trade
Mr	Chang Soo	Huh	Human Capital
Mr	Massimo	Mantovani	Infrastructure & Investment
Mr	Robert	Milliner	Financing Growth, Human Capital, Infrastructure & Investment, Trade
Mrs	Futhi	Mtoba	Human Capital
Mr	Giuseppe	Recchi	Infrastructure & Investment
Mr	Pasquale	Salzano	Infrastructure & Investment
Mr	Lee	Tashjian	Infrastructure & Investment
Mr	Bernhard	Welschke	Human Capital, Trade
Ms	Sabine	Zindera	Infrastructure & Investment

ACWG Core Group members

Title	Given Names	Family Name	Position	Organisation
Mr	Nick	Allen	Vice President Compliance	BHP Billiton
Mr	Stephen	Almond	Global Chairman	Deloitte
Mr	Michael	Andrew	Former Global Chairman	KPMG
Ms	Danielle	Cannata	Senior Counsel, International Trade	Saudi Basic Industries Corporation
Mr	Geoff	Culbert	President & CEO	General Electric Company
Mr	Phil	Edmands	Managing Director, Rio Tinto Australia	Rio Tinto
Mr	Gary	Gill	Partner in Charge, Forensic	KPMG
Mr	Jeffrey	Hardy	Director	ICC G20 CEO Advisory Group
Mrs	Hale	Hatipoglu	Deputy Secretary General	Turkish Industry & Business Association - TUSIAD
Mr	Chang Soo	Huh	Chairman	Federation of Korean Industries
Mr	Massimo	Mantovani	Legal Counsel	Eni spa
Mr	Robert	Milliner	B20 Australia 2014	Australia B20 Sherpa
Mrs	Futhi	Mtoba	Past Chairman of Board Southern Africa	Deloitte
Ms	Shey	Newitt	Associate Director	KPMG
Mr	Giuseppe	Recchi	Chairman	Telecom Itallia
Mr	Pasquale	Salzano	Vice President International Public Affairs	Eni Spa
Mr	Lee	Tashjian	Special Assistant to the CEO	Fluor Corporation
Ms	Chantel	Verkooy	Senior Manager, KPMG Forensic	KPMG
Mr	Bernhard	Welschke	Secretary General	Business and Industry Advisory Committee to the OECD
Ms	Sabine	Zindera	Vice President	Siemens AG

ACWG Expert Group members

Title	Given Names	Family Name	Position	Organisation
Ms	Gemma	Aiolfi	Head, Corporate Governance, Compliance & Collective Action	Basel Institute on Governance
Mr	Nicola	Bonucci	Director for Legal Affairs	OECD
Mr	Andrei	Bougrov	Vice President	Interros Company
Ms	Melda	Cele	Deputy Secretary General	Turkish Industry & Business Association - TUSIAD
Dr	Jan Victor	Dauman	Chairman	IBLF Global
Ms	Elaine	Dezenski	Head of Partnering Against Corruption Initiative	World Economic Forum
Mr	John	Fast	Joint Managing Director	Dragoman
Mrs	Gretta	Fenner	Managing Director	Basel Institute on Governance
Mr	Gonenc	Gurkaynak	Managing Partner	ELIG, Attorneys-at-Law
Mr	Brook	Horowitz	CEO, IBLF Global	IBLF
Mr	Georg	Kell	Executive Director	UN Global Compact
Dr	Huguette	Labelle	Chair of the Board	Transparency International
Mr	Dominique	Lamoureux	Vice President, Ethics and Corporate Responsibility	Thales
Dr	Olajobi	Makinwa	Head Transparency and Anti-Corruption	UN Global Compact
Mr	Sandy	Merber	Executive Counsel, International Trade Regulation	General Electric Company
Ms	Enery	Quinones	Chief Compliance Officer	EBRD
Ms	Hanni	Rosenbaum	Senior Policy Manager	Business and Industry Advisory Committee to the OECD
Ms	Nejla	Saula	Legal Counsel	OECD
Ms	Viviane	Schiavi	Senior Policy Manager, Corporate Responsibility	International Chamber of Commerce
Mr	Sushanta	Sen	Principal Advisor	Confederation of India
Ms	Cansen	Symes	Member of TÜSİAD Board	TÜSİAD
Mr	Dimitri	Vlassis	Chief, Corruption & Economic Crime Branch	UNODC
Ms	Justine	Walker	Director, Financial Crime (Sanctions and Bribery)	British Bankers Association
Ms	Susan	Wright	Head of Financial Crime	HSBC
Mr	Muhammet	Yilmaz	Deputy Head of Office	Confederation of Businessman and Industrialists of Turkiye

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