

Improving Action Against Solicitation

G20 ACWG Note prepared by the OECD

At its meeting held in London 28-29 February 2012, the G20 Anti-Corruption Working Group (G20 ACWG) recognised that action is needed to tackle the 'difficult' issue of bribe solicitation. To this end, the G20 ACWG asked the OECD to prepare a note focusing on practical mechanisms to address the issue of solicitation. A first draft of this note was discussed at the G20 AWG meeting in Puerto Vallarta, in April 2012. The OECD was then asked to build on this discussion, revise the note and prepare draft guiding principles on solicitation. This note and the draft principles were submitted at the G20 ACWG meeting in October, where, due to lack of time, no discussion was held on this topic. In the new 2013-2014 Anticorruption Action Plan, G20 countries commit to "review and consider possible mechanisms for tackling solicitation".

Following the Moscow meeting of the G20 AWG in February 2013, comments to the paper were received by several countries of the Group. This note has been revised accordingly and is provided as background to support the consideration of a set of draft principles at the Ottawa June meeting, which is provided as a separate document.

I. Note on Practical Methods for Improving Action against Solicitation

Background

1. Bribe solicitation by public officials poses constant challenges for transnational firms. Solicitation imposes a variety of costs on firms, including transaction costs. Solicitation also reduces the incentives for firms to do business in countries where bribe demands are frequent. It also discourages attempts by citizens to achieve higher levels of economic, social and environmental welfare and hinders efforts to reduce poverty.
2. At its meeting held in London 28-29 February 2012, the G20 Anti-Corruption Working Group (G20 ACWG) recognized that action was needed to tackle the issue of bribe solicitation. To this end, the G20 ACWG asked the OECD to prepare a note focusing on practical mechanisms on how to address the issue of solicitation. At the April 2012 meeting in Puerto Vallarta, the G20 ACWG requested the OECD to develop its previous note on solicitation with examples of how countries have tried to confront the challenge of bribe solicitation and actionable recommendations to help fight against solicitation.
3. At the B20 Summit held in Cannes in November 2011, the B20 urged G20 governments to promote international recognition of, and effective prosecution of, intentional solicitation through national anti-corruption laws, and propose actionable recommendations to help businesses resist solicitation. Equally, at the previous Los Cabos Summit, the B20 recommended that "G20 governments should agree (at Los Cabos) to develop a

compendium of best practices in the fight against solicitation, establish appropriate high-level reporting mechanisms to address allegations of solicitation of bribes by public officials (by mid-2014), and endorse the setting up of a pilot project in a country willing to test such mechanisms (by November 2012)”.

4. This note provides updated information regarding policies and tools used by G20 countries and other countries to tackle the issue of bribe solicitation. Particular attention is placed on legislative and regulatory efforts aimed at prohibiting and imposing sanctions on public officials who solicit bribes, as well as initiatives to help firms resist bribe demands.

Progress in reform

5. Governments have turned to different methods to alleviate some of the challenges that result from widespread bribe demands. One has been to criminalize all forms of bribe payments to domestic public officials, including bribe solicitation. Another strategy has been to expand the scope of the legislation on passive bribery to include foreign public officials as well. Other ways to target the demand-side origins of corruption abroad have involved the initiation of confiscation, disgorgement or forfeiture proceedings to recover property derived from corruption¹; the implementation of anti-money laundering measures to improve detection of criminal activity by law enforcement, regulatory authorities and financial institutions; and the engagement of tax authorities in identifying illicit assets.
6. Often criminalisation goes hand in hand with initiatives to strengthen the integrity of public service as an additional tool to reduce bribe solicitation. Setting principles and standards of conduct for public officials through a code of conduct has been one way in which this is carried out. A government-wide conflict of interest regulation which includes ethic rules that prohibit the improper solicitation or acceptance of gifts and other benefits by public employees has also been used to enhance the integrity framework and reduce the space for bribe solicitation. Further, requiring financial asset disclosure for certain categories of public officials, with related penalties for falsification, has proved to be – subject to enforcement of dissuasive penalties - an effective deterrent.
7. Governments have also increasingly turned to designing programs to help companies resist solicitation. So far, in most cases, these methods have involved establishing reporting channels and guidelines for companies operating abroad through embassies and overseas diplomatic missions and via agencies providing export credit or administering official development assistance. In fewer cases, countries have turned to establishing public-private partnerships or launching collective actions to reduce bribe solicitation by their own public officials. These approaches are presented into more detail below.

¹ The joint OECD WGB / World Bank-UNODC Stolen Asset Recovery Initiative (StAR) analysis, [Identification and Quantification of the Proceeds of Bribery](#) (March 2012) defines confiscation as “the permanent deprivation of assets by order of a court or other competent authority. In some jurisdictions, it is called “forfeiture”. Disgorgement is defined as “a civil remedy to require the repayment of ill-gotten gains. Unlike confiscation, this remedy is not derived from statute but from the courts’ equitable power to correct unjust inequality. It is not meant to be punitive.” (See pages 16-20.)

International legal framework related to solicitation

8. Several international anti-corruption instruments prohibit the request for or receipt of a bribe by a domestic public official under their provisions on “passive bribery”. For example, the UN Convention Against Corruption (UNCAC) defines “passive bribery” as “the solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties”. Most other international anti-bribery instruments follow a similar approach. For example, the Criminal Law Convention on Corruption of the Council of Europe defines “passive bribery” as the “request or receipt [by any public official], directly or indirectly, of any undue advantage, for himself or herself or for anyone else, or the acceptance of an offer or a promise of such an advantage, to act or refrain from acting in the exercise of his or her functions”.
9. Like the UN and Council of Europe’s Conventions, the Inter-American Convention Against Corruption also applies to the “solicitation or acceptance, directly or indirectly, by a government official or a person who performs public functions, of any article of monetary value, or other benefit, such as a gift, favor, promise or advantage for himself or for another person or entity, in exchange for any act or omission in the performance of his public functions”. Similarly, Article 4.1 of the African Union Convention on Preventing and Combating Corruption applies to “the solicitation or acceptance, directly or indirectly, by a public official or any other person, of any goods of monetary value, or other benefit... for himself or for another person, in exchange for any act or omission in the performance of his or her public functions.”

Framework for prohibiting bribe demands by domestic officials

10. Nearly all G20 countries have domestic laws explicitly prohibiting bribe solicitation by their government officials. For example, the Canadian Criminal Code states that: “...everyone commits an offense who being an official or employee of the government, directly or indirectly demands, accepts or offers or agrees to accept from a person who has dealings with the government a commission, reward, advantage or benefit of any kind for themselves or another person...” (section 121 (1) (c)). In China, Article 385 of the Criminal Law also makes it a crime for a state official to use her/his position to use influence of her/his position to solicit or accept a bribe. In Saudi Arabia, under the Law on Combating Bribery Law (CBL) (Royal Decree No. M/36, dated 29/12/1412AH corresponding to 30 June 1992), a public official is prohibited from accepting, receiving or soliciting a bribe, for himself or a third party, to perform any duty of his function (or claimed to fall within his function), even where the act is lawful. In the United States, the federal bribery statute prohibits *inter alia* public officials from soliciting or accepting a bribe with the intent to be influenced in the performance of an official act (18 USC section 201(b)(2)(A)). In other countries, such as Argentina, the legislation only expressly punishes the receipt of the bribe, not the request for it (Article 256 of Argentina’s Criminal Code).

Criminalisation of bribe demands by foreign public officials

11. In order to further confront the demand-side origins of corruption, some G20 countries have expanded the scope of their legislation on bribery by criminalizing bribe demands abroad. Examples of G20 countries that recently adopted legislation explicitly prohibiting

bribe solicitation by foreign public officials are France and the UK. In France, under Article 435-1 of the Criminal Code, "Persons exercising public authority, performing public duties or holding elective public office in a foreign state (...) who unlawfully request or agree to, at any time, directly or indirectly, benefits, promises, donations, gifts or other advantage, for themselves or others, to induce them to perform or refrain from performing actions in accordance with or facilitated by their duties, functions or office shall be punishable by ten years' imprisonment and a fine of € 150 000." Similarly, the UK Bribery Act, which came into force in July 2011, also prohibits passive bribery by foreign public officials. In Germany and Italy, the prohibition also exists, although it is somewhat narrower as it focuses on the request for or a receipt of bribe by officials belonging to the European Union (EU) and officials from EU Member States.

12. Outside the G20 group, an increasing number of countries have followed a similar approach. Most of these countries are State Parties to the Council of Europe's Criminal Convention on Corruption. The Council of Europe's Convention is indeed one of the few international instruments which prohibit both active and passive bribery of foreign public officials. The only other exception is the UNCAC, which includes an optional provision that encourages signatories to adopt legislation prohibiting passive bribery and solicitation of foreign public officials. All other major international instruments do not address bribe solicitation abroad. Their exclusive focus is on active bribery of foreign public officials, like the 1997 Organisation for Economic Cooperation and Development's Convention on Combating Bribery of Foreign Public Officials in International Business Transactions which focuses on the supply side of transnational bribery: the Convention does not require signatories to criminalise bribe demands abroad. Among State Parties to the Council of Europe's Convention which have extended their legislation's reach to passive bribery of foreign public officials are countries such as Belgium, Denmark, Finland, Ireland, Luxembourg, the Netherlands, Norway, Poland, Portugal, Sweden, and Switzerland.

Other criminal policies addressing bribe solicitation abroad

13. Other methods targeting corrupt foreign officials for soliciting bribes have been implemented. In the US for instance, one strategy involves the use of forfeiture/confiscation proceedings. In one recent example, the US authorities recovered USD 1.58 million in bribes that were received by a foreign public official and laundered in the United States. In another example, the DOJ initiated forfeiture/confiscation proceedings against accounts containing the proceeds of foreign bribery held by a foreign official in a Singapore bank account; these accounts were subject to forfeiture because they contained money that had been transmitted through US banks to facilitate bribe payment to foreign public officials in a developing country. Overall, the US authorities have forfeited and repatriated millions of dollars derived from foreign corruption offenses, including bribery.
14. Another example of a country which takes a proactive approach when it comes to confiscation is Switzerland. Between 2008 and June 2011, sums totalling over USD 140 million were confiscated by the Federal Office of the Attorney General in connection with foreign bribery. These confiscations have involved the advantages received by the officials (cash, transfers of funds or gifts) as well as the proceeds obtained through the bribe (or their equivalent). Monetary amounts can be confiscated even without a conviction because Swiss law allows judges to order confiscation of the instruments and proceeds of crimes even if no specific person can be held liable, "if such objects compromise ... morals or the

public order" (articles 69-71 Swiss Criminal Code). These provisions allow Swiss law enforcement authorities to circumvent a foreign State's refusal to respond to a request for MLA from Switzerland, and often constitute an alternative strategy to prosecution of those responsible for bribery abroad in the absence of cooperation by the foreign authorities.

Strengthening the integrity of public service

15. In addition to laws against bribe demands by public officials, strengthening the integrity of the public service has also been seen as critical to reduce sustainably solicitation. Although this can be achieved through the combination of numerous coordinated initiatives, three key strategies have been predominantly used in response to the challenge of solicitation: (i) developing and nurturing a culture of integrity among public officials through the provision of standards of conduct and guidance; (ii) regulating the acceptance of gifts by public officials; and (iii) introducing risk mitigation measures in public procurement because of the risks involved. Some countries have turned to other elements of the integrity framework that also contribute to reducing bribe solicitation, such as integrity risks management and internal control mechanisms.

Integrity standards of conduct and guidance

16. Public officials need to know the fundamental values/principles of the public service and the standards of conduct they are expected to apply to their daily work, including where the boundaries for acceptable behavior lie. In particular, a concise statement of standards of conduct expected of public officials, for example in the form of a code of conduct, helps create a common understanding within the government and the wider public. Many G20 countries have established such codes as one key element of their integrity framework.
17. For example, in Canada, an updated code came into force in April 2012 to extend the scope of application to all federal institutions thereby replacing the older code which had a narrower application. In the People's Republic of China, public officials are required to conform to the Provisional Regulations on Civil Servants which include "to maintain close ties with the people, listen attentively to their opinions, accept their supervision and strive to serve the people... and interests of the state... and be fair and honest and work selflessly in the public interest". In France, the "code de déontologie" sets broad rules on ethical conduct in the public service. In the Russian Federation, a model code of conduct was developed at the federal level in 2010, and the principles are applied at both the national and sub-national levels and adapted to each governmental agency. In the U.K., the 1996 Civil Service Code focuses on the constitutional status of civil servants, with values centred on integrity, honesty, objectivity and impartiality.

Regulating the acceptance of gifts by public officials

18. Nearly all, if not all, G20 countries also have rules of conduct which prohibit the acceptance of, or request for, gifts by public employees, or require their disclosure. Sometimes this prohibition is accompanied by information on values and ethics distributed to public employees.
19. For example in the People's Republic of China, the Civil Servant Law contains broad language prohibiting accepting bribes, corrupt conduct and abuse of position to seek

personal benefits. The Regulations Regarding Offer and Acceptance of Gifts in Foreign-Related Activities issued by the State Council in 1993 set forth further requirements for state officials. Certain regulations applicable to members of the Communist Party are also relevant. In India, in addition to the Prevention Corruption Act (PCA) which criminalises the solicitation and receipt of illegal gratification by public servants (chapter III), most government officials are bound during the tenure of their service by service rules related to their conduct and discipline which, inter alia, prohibit government officials from receiving gifts or other pecuniary advantages. A violation of these Service Rules may result in the initiation of disciplinary action which may extend to the termination of service of the concerned official. Such departmental disciplinary proceedings are independent of prosecutions initiated under the PCA. In Saudi Arabia, rules for officials of the public administration are primarily set out in the Civil Service Law, which prohibits a public official from accepting any gift. In Korea, under the Code of Conduct for Public Officials, which is a Presidential Decree, not only public officials but also public-service related organization employees are strictly banned from receiving any gift from duty-related parties.

Introducing risk mitigation measures in public procurement

20. G20 countries have also increasingly taken measures to address the specific risk of bribery in public procurement because of the heightened risks at this major interface between the public and private sectors. These risk mitigation measures targeted at public officials have taken different forms, such as specific standards of conduct, financial disclosure, or rotation mechanisms for procurement officials.
21. For instance, with the view of promoting high standards of conduct to procurement-related situations, countries such as Canada, Italy and the Republic of Korea have developed a specific code of conduct for procurement officials. In India, a Code of Integrity for the procuring entity and the bidders was introduced together with the Public Procurement Bill in May 2012 to promote integrity, transparency, efficiency and competitiveness in the procurement process. To prevent conflict of interest in procurement, an increasing number of countries are also requiring procurement officials to disclose their financial assets. For example in Mexico, procurement officials are required to disclose their financial assets to the public to enhance public scrutiny and reinforce public trust. Restrictions for receipt of gifts are often more stringent than for other public officials because of the risks involved.

Initiatives that help business resist bribe demands

22. In addition to measures directly targeting domestic and foreign officials who solicit and receive bribes, governments have increasingly turned to designing programs to help companies resist solicitation.

Reporting channels and guidelines for companies operating abroad

23. A growing number of countries have turned to establishing relationships with firms to help companies deal with bribe solicitation by foreign officials. Such strategy involves providing assistance to firms operating abroad and channels of communication for firms to report instances of solicitation to their own public officials, such as commercial attaches.

24. For example, in Argentina, since 2007, embassies, consulates and trade offices have been encouraged to provide advice, assistance and information to Argentine companies on foreign bribery issues. Specific instructions have been issued in this regard. In Canada, the export credit agency, Export Development Canada (EDC), provides customers with access to online tools to help them recognise bribery and to assist them in determining what to do if faced with bribe solicitation.
25. In France, the heads of economic units at French embassies were recently asked (in January 2012) to organise meetings with a significant number of businesses in their geographic zone in order to make them aware of French criminal law and the OECD Good Practice Guidance on Internal Controls, Ethics and Compliance, adopted by the OECD in 2009 and which is addressed to companies for establishing and ensuring the effectiveness of internal controls, ethics, and compliance programmes or measures for preventing the bribery of foreign public officials in their international business transactions. In addition to this, since 2009 the General Directorate of the Treasury has each year hosted four awareness raising sessions in France for French enterprises. These sessions have been targeted at large French firms primarily, but also at medium-sized firms in all sectors, through the intermediary of an international consulting firm and in partnership with the employers' federation (Mouvement des entreprises de France, MEDEF).
26. In Germany, the Federal Foreign Office has tasked Embassies and General Consulates to play a crucial role in guiding companies which operate abroad. They make these companies aware of German criminal law and the OECD Good Practice Guidance on Internal Controls, Ethics and Compliance, adopted by the OECD in 2010. Thus they participate in the establishment of a framework for the effectiveness of their internal controls, ethics and compliance programmes or measures for preventing the bribery of foreign public officials in their international business transactions. Furthermore, German Embassies and General Consulates closely cooperate with the relevant German chambers of commerce in order to assist German companies operating abroad. Finally, all missions are asked to report to the Federal Foreign Office about compliance cases if they come to the mission's attention.
27. In Korea, the Ministry of Foreign Affairs and Trade (MOFAT) distributes information and guidelines to its embassies on the Anti-Bribery Convention and the Korean Foreign Bribery Prevention Act (FBPA), in which companies are advised to contact the economic counsellor at the relevant Korean embassy when faced with bribe solicitation. In addition, if Korean companies confront difficulties concerning bribe solicitations abroad while implementing a project funded by the Korea International Cooperation Agency (KOICA), they may report to KOICA's overseas offices or headquarters for assistance.
28. In the UK, the Foreign and Commonwealth Office (FCO) has tasked its overseas missions to provide information to businesses on the UK Bribery Act and to support companies dealing with bribe solicitations and corruption risks. The UK Serious Fraud Office (SFO) has also prepared a letter that companies can provide to foreign officials to discourage them from soliciting facilitation payments.
29. Among non-G20 countries, Switzerland has developed a similar approach. Its overseas missions (including the OSEC business network) have been tasked with supporting Swiss companies by informing them of Swiss anticorruption legislation and local practices. Any

person joining the diplomatic and consular service receives specific training in transnational corruption, including a discussion of the behaviour to adopt when there are suspicions of bribery or when a Swiss firm believes itself the victim of solicitation by a foreign official.

High Level Reporting Mechanisms

30. In practice, the services provided by overseas missions and other public agencies are rarely used. Firms may sometimes be reluctant to communicate the nature of a particular solicitation with their embassies and trade offices out of fear that it will expose them to a greater level of scrutiny and potential investigations down the road. This is why, in response to business concerns about the risk of reporting cases of requests for bribes to their government's representatives, the idea of providing companies with a direct line of communication with an independent public authority at a high level, such as an ombudsman, to whom domestic and foreign companies could present allegations of solicitation of bribes, has emerged.
31. The objective of such high level reporting mechanism would be to resolve concerns about bribe solicitation in a speedy manner, so that contracts can proceed without prolonged delays. The idea was born originally in a group of general counsels of the largest heavy industries groups of the world facilitated by the Basel Institute on Governance, and then picked-up by the B20, both in the summits of Cannes in 2011 and of Los Cabos in 2012. This concept has now been developed jointly by the OECD and the Basel Institute. Colombia recently announced its intention to become a pilot country for its introduction. This project is part of a broader one which receives financial support from UK's Foreign and Commonwealth Office through its Prosperity Fund programme.
32. However, as such mechanisms may carry risk, it must be carefully considered in country context.

Collective actions

33. During the past years, an entire spectrum of local, regional and global collective actions focusing on bribe solicitation has emerged. If most of them have been concluded by private operators, some, occasionally, have involved public players. One concrete form of such public-private partnership has been the so-called integrity pacts. Other examples include Colombia and Vietnam, where the authorities and the private sector have been working together to develop new tools to reduce solicitation for bribes across procurement processes and in the customs area, respectively.

Integrity pacts

- The NGO Transparency International (TI) has pioneered concrete forms of collective action aimed at responding to business calls for effective tools to address the demand side of bribery. These initiatives - the so-called islands of integrity - are closely related to a concrete contract and are typically monitored by civil society members. Since its original conception, this TI-developed tool has been used in more than 14 countries worldwide, including G-20 countries such as Argentina, Germany, India, Indonesia and Mexico, as well as non-G20 countries such as Bulgaria, Colombia, Ecuador, Pakistan, Paraguay, and Peru.

- For example, in Germany, in the framework of the expansion of Berlin-Schönefeld Airport (FBS), TI Germany and FBS joined forces to introduce a non-bribes Integrity Pact for tendering procedures for selecting suppliers, construction companies, planning, engineering and consulting companies. The monitoring activities have been performed by two independent monitors who contracted with FBS for that purpose.
- In Mexico, in 2005, the Ministry of Transport invited Transparency Mexico to integrate an Integrity Pact into the contest for the provision of a Suburban Train to the Metropolitan Zone in the Valley of Mexico. The Pact required the Ministry of Transportation and the bidders to pledge to refrain from engaging in corruption throughout the procurement process. An independent monitor was nominated by Transparency Mexico. The monitor had the following functions to fulfil: being present at all events related to the bidding; writing a public report on what was witnessed; observing every stage and act of the bidding process; and ensuring that rules and norms were respected.

Sector-specific initiatives

- In addition to integrity pacts, some countries and the business sector have turned to other innovative tools to address the demand side of bribery. For example, in Colombia, with the view of limiting corruption opportunities in procurement processes, the Colombian Confederation of Chambers of Commerce (Confecamaras) began to work with local mayors and the national Colombian Government in 2005 to reform procurement practices across Colombia. Specifically, Confecamaras was a leading advocate for the reform of Colombia's Procurement Law No. 80, adopted in 2008, and promoted guidelines that enhanced competitiveness and transparency in public procurement. It also led to the implementation of "Transparency Pacts" aimed to solidify public commitment to transparency, which, by 2008, had been adopted by over 75 mayors and governors. The concept was facilitated by the Center for International Private Enterprise.
- In Paraguay, since 2005, the Business Ethics Pact (PactoEticoComercial Paraguay - PEC) has developed evaluation and certification to reduce corruption in business transactions. In particular, PEC signed agreements with member companies with the commerce ministry on implementation of anti-corruption standards. The coalition also made an arrangement with Paraguayan customs that certified PEC customers will receive "green light" status when clearing their goods. In 2011, some 150 companies (most major business organizations registered and operating in Paraguay) had signed the pact.
- In Vietnam, with the view of stopping demand and supplies of facilitation payments at border crossings, the General Department of Vietnam Customs decided to cooperate with multinational companies, especially with express carriers, and the World Customs Organization (WCO) to modernize customs, notably by introducing electronic customs procedures. This process is expected to result in new customs procedures, supported by the industry, which seek to eliminate the risk of rent seeking in Vietnam's customs. The concept, which has been facilitated by two non-state actors, the World Economic Forum Partnering Against Corruption Initiative (PACI) and the Basel Institute on Governance,

has been developed as country-specific pilot with the potential to be replicated in other countries.

Global collective action initiatives

- In addition to the initiatives described above, policy bodies, both in the public sector and in the non-governmental sector, are currently promoting the creation of networks to collect and offer exchanges on good practices in combating bribe solicitation.
- The World Bank Institute has published in 2008 a guide for business on fighting corruption through collective action in parallel with the setting-up of a web portal containing case summaries of collective actions. The case summaries are organized by country, sector and initiative type. In addition, the Basel Institute on Governance is currently in the process of establishing the International Centre on Collective Action (ICCA), a knowledge hub bringing together private sector companies and international and non-state organisations active on collective action and in anti-bribery work. Relying on its member basis, the ICCA aims at facilitating information sharing on collective action and promoting research on industry and public-private partnerships. It will further provide IT tools to strengthen the capacity of businesses to reduce bribe solicitation through collective action. Finally, the ICCA provides assistance in setting up concrete collective actions, as it has been the case with Vietnam.

34. The above examples demonstrate that collective actions are introduced successfully worldwide. If so far many initiatives of this kind have primarily involved large companies, small and medium-sized companies can also benefit from and participate in collective actions. SMEs often lack the resources to establish the necessary systems to prevent and resist to solicitation. As such collective action can be a way for SMEs to leverage influence and power to reduce bribe solicitation. And in this endeavour, business associations representing SMEs in various risk sectors can help SMEs to engage against solicitation collectively. With the aim of being even more efficient, existing and new initiatives shall try to find synergies to avoid duplications.

II. Draft Guiding Principles on Solicitation

The guiding principles build on the practice developed by countries in confronting the challenge of bribes solicitation and identify mechanisms that may be useful for effectively preventing and combating solicitation by public officials and supporting companies' efforts to resist solicitation.

These guiding principles provide a reference to countries wishing to step up their actions against solicitation, encouraging in particular actions in partnership with the private sector or collective action by G20 countries. Taking into account the diversity of legal and administrative systems among G20 countries, they are broadly framed and would offer flexibility to enable countries to use them within their institutional and legal constraints. The principles are intended as guidance to enhance and complement existing anti-corruption commitments and not weaken or replace them.

General legal, regulatory and integrity framework

1. As already agreed upon in UNCAC, a robust legislative framework should provide for i) a clear and explicit passive domestic bribery offence which reflect the key elements of the internationally agreed definition, i.e. solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties; and ii) the availability of dissuasive sanctions and other measures to deter public officials from demanding bribes further. Passive bribery offences should also be explicitly included as predicate offences for money laundering offenses.
2. The integrity of public officials should be promoted through the development and nurturing of a strong culture of integrity in public service with clear standards of conduct, reinforced by disciplinary measures where such standards are breached. To this end, training for public officials should be provided on a regular and continuous basis.
3. The imposition of strict disciplinary, administrative, civil and/or criminal measures on those who fail to comply with the administrative and integrity standards which prohibit officials from receiving or mandate disclosing gifts or other undue advantages should be put in place. Indeed, investigations and prosecutions of the passive bribery offence are a necessary complement to the legal framework.

Reporting channels

4. Easily accessible channels for companies and individuals that have been solicited to report to public authorities should be provided. Although the choice of the mechanism should be left to each government, examples of such channels could take the form of contact points established in embassies, consulates or other diplomatic missions abroad or of governmental help lines to which companies could turn. Domestic reporting systems should also be readily available and publicized. Confidentiality throughout the reporting process should be ensured to enhance confidence of business in the system. We will identify best practices to encourage businesses to self-report voluntarily suspected breaches of bribery laws, bearing in mind that reporting to in-country authorities where solicitation has taken place may pose risks in some circumstances.

Collective actions

Particular efforts to engage with the private sector in the fight against solicitation should be made, in particular through the following measures:

5. Countries should consider promoting collective action initiatives in which active participation by companies could be encouraged.
6. Adequate support towards initiatives aimed at reducing solicitation at public-private sector interface should be provided.

Continued support should be provided to existing groups, including those initiated by non-state actors such as private sector companies and associations, non-governmental policy bodies and civil society, which may play an essential role in assisting companies in developing effective tools to resist bribe solicitation and setting up concrete collective actions.