



## **G20 Anti-Corruption Working Group Issue Note**



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## **G20 Anti-Corruption Working Group 2024 Issue Note**

### **1 - Introduction/background**

The Anti-Corruption Working Group (ACWG) is one of the main instances of international dialogue and coordination on anti-corruption issues, promoting the exchange of experiences and good practices and developing principles to guide the actions of G20 countries and the international community in their efforts to prevent and combat corruption. Since its creation, the ACWG has sought to “lead by example”, formulating anti-corruption principles and standards that strengthen the implementation of the main international instruments on the matter, in particular the United Nations Convention against Corruption.

The Brazilian presidency will build on the strong foundation of the ACWG’s work throughout the past 13 years, including the numerous high-level documents, studies and reports produced by the Group. It will seek to bring to the agenda topics that are relevant to the anticorruption efforts of the international community and in which the G20’s leadership can provide significant contributions. It will also seek to lay out the base for the activities of the ACWG in the next few years, by elaborating the 2025-2027 Action Plan.

“Building a just world and a sustainable planet”, the motto of the Brazilian G20 presidency, will serve as general guidance to the work of the ACWG in 2024. The priority issues will be:

- 1) contributing to a just world and a sustainable planet through anticorruption and integrity promotion;
- 2) incentives for the private sector to adopt comprehensive and convergent integrity measures to prevent and combat corruption;
- 3) designing and improving structural organization of public administration to strengthen public integrity; and
- 4) making use of all available tools for asset recovery: exploring direct measures in foreign jurisdiction and ensuring national coordination for effective asset recovery.

As described further in this issue note, the advancement of justice, the reduction of inequalities and the promotion of sustainable development at all levels are crosscutting values of the thematic priorities of the Working Group. In particular, the first priority issue will be an opportunity to address the relationships between sustainable development and the promotion of integrity and anticorruption policies and programs. This issue would also serve as focus area for the declaration to be adopted at the ministerial level meeting.

As listed in the plan of work in this issue note, in 2024, the ACWG will maintain the already traditional structure of holding three technical level meetings and one ministerial level meeting. In terms of outcomes, aside from the aforementioned ministerial declaration, expected outcomes of the ACWG's work through 2024 include one high-level principles document, one accountability report, one background paper and one issues report, as well as side events. The elaboration of the 2025-2027 Action Plan will also be an important result of the Brazilian presidency.

## 2 - Thematic priorities of the Brazilian presidency

### **1- Contributing to a just world and a sustainable planet through anticorruption and integrity promotion**

Corruption hinders the enjoyment of economic and social rights, as the misappropriation of resources reinforces inequalities and negatively impacts public policies and services in essential sectors, such as health, education, sanitation, public security, and housing. Integrity in the relationship between the public and private sectors is therefore essential for the sustainable development of countries, in its environmental, economic, and social pillars. Combining anticorruption efforts with the promotion of development is a central issue for the Brazilian presidency and is in line with the motto "Building a fair world and a sustainable planet."

The international community has recognized the detrimental impacts of corruption on economic growth and development on several occasions. The first G20 Anti-Corruption Action Plan, from 2010, underlines that "corruption is a severe impediment to economic growth." The United Nations Rio+20 Conference, in 2012, included the fight against corruption as one of the global goals for sustainable development and referred to corruption as a "a serious barrier to effective resource mobilization and allocation, diverting resources away from activities vital for poverty eradication, the fight against hunger, and sustainable development."

The recognition of this relationship has resulted in the inclusion of corruption in the 2030 Agenda for Sustainable Development, which has also acknowledged that corruption is a factor that gives rise to "violence, insecurity, and injustice". That is why the substantial reduction of corruption was set as one of the targets of Sustainable Development Goal 16, which aims to promote peaceful and inclusive societies for sustainable development, provide access to justice for all, and build effective and inclusive institutions at all levels.

In particular with regards to the environment pillar of sustainable development, it is known that crimes that impact the environment are also particularly facilitated by corruption, through bribery, lack of integrity, as well as by the diversion of public funds allocated for environmental programs. The G20 Anti-Corruption Working Group has addressed this issue by developing specific High-level Principles on Combating



Corruption related to Illegal Trade in Wildlife, as well as in other relevant documents, such as the G20 Targeted Approaches to Addressing Corruption in the Extractives Sector. The Conference of the States Parties to the United Nations Against Corruption, in its Resolution 8/12, also acknowledged the role that corruption can play in crimes that impact the environment, which may constitute a growing source of profits for various criminal activities.

While the negative effects of corruption on society are evident, fostering anticorruption and integrity policies and programs, in the public and private sectors, can also contribute to a more efficient management and allocation of resources. Such policies and programs can therefore also be utilized as important tools for improving governance, reducing inequalities and promoting development. In this context, the G20 ACWG will discuss the effects of corruption on sustainable development and inequalities, as well as explore how integrity and anticorruption measures can be better used to contribute to sound social, economic, and environmental development.

Expected outcomes:

1. A background paper on the issue of corruption and its connections with sustainable development.
2. A side event with specialists on the subject.
3. A thematic Ministerial Declaration.

**2 - Incentives for the Private Sector to Adopt Comprehensive and Convergent Integrity Measures to Prevent and Combat Corruption**

The private sector is a crucial partner of governments in the fight against corruption and plays an integral role in achieving the G20 anti-corruption goals. The G20 ACWG Action Plan for 2022-2024 has identified private sector transparency, integrity, and accountability as a substantive priority, and recognized the importance of promoting good practices in business ethics and compliance programs. This priority is enshrined in previous G20 commitments, and resolutions adopted by the Conference of the States Parties to the UNCAC, as well as by the Political Declaration of the 2021 United Nations General Assembly Special Session against Corruption. Building on these, the Brazilian presidency of the G20 ACWG aims to explore how governments can develop effective frameworks to incentivize the private sector to adopt measures to prevent and combat corruption, promoting ethical conduct and transparency in its relations with the national and foreign public sectors, implementing robust governance and risk management systems, and adopting effective mechanisms for preventing and detecting illicit activities.

Governments can offer incentives in the context of enforcement actions, including non-trial resolutions, by evaluating compliance programs as a mitigating or exonerating factor when sanctioning corruption. In addition, governments may also consider integrity



measures when evaluating companies' access to subsidies, licenses, procurement contracts, official development assistance, and export credits. Public acknowledgement of robust integrity programs through contests and prizes may also foster the adoption of compliance measures by firms.

All these incentives can also result in tangible benefits to the private sector, by improving their reputational image, offering public recognition of their integrity efforts, mitigating the potential impact of sanctions, reducing the costs of doing business, and increasing private investment opportunities.

In order to operationalize this incentives framework, States can use various mechanisms, such as developing a methodology to adequately evaluate compliance programs; adopting rules for determining mitigating and exonerating factors when sanctioning corruption; enacting regulations that establish integrity requirements to access public benefits; establishing public-private partnerships to promote specific integrity agendas, including in targeted sectors, industries or geographic areas; and awarding certificates or seals to publicly recognize private sector actors that adopt integrity.

Despite the various tools available to States, significant challenges and conceptual gaps remain. There are no widely accepted international standards on how to assess the effectiveness of compliance programs. Governments still struggle to promote the participation of multiple stakeholders and take into account their inputs when devising policies and procedures to promote private integrity. Another major issue is the challenge of establishing comprehensive and convergent integrity systems that consider not only corruption, but also other relevant risks, such as environmental, social, and economic impacts of business activities. Both anticorruption and ESG efforts undertaken by private parties are instrumental to inclusive and sustainable development – even more if they walk hand-in-hand. There are synergies and complementarities among these sets of measures that can be fostered through incentives to private integrity. In tackling this challenge, the effectiveness of a comprehensive and convergent integrity system should be aligned with development goals and a conducive business environment, which demands taking into account the specific characteristics of businesses in different countries, sectors, sizes, industries, and financial capacities.

The G20 ACWG will develop high-level principles to guide the discussion on how governments can establish robust frameworks to effectively incentivize corporate compliance and integrity efforts, promote the development of tailored anti-corruption programs, including in specific vulnerable areas, while supporting economic activity, sustainable development, and addressing social and economic inequalities.

Expected outcomes:

High-Level Principles on Incentives for the Private Sector to Adopt Integrity Measures to Prevent and Combat Corruption



### **3 – Designing and improving structural organization of public administration to Strengthen Public Integrity**

Public integrity is a fundamental pillar of any anti-corruption strategy. It involves a range of elements to promote ethics and assure primacy of public over private interests and to prevent and create resilience to risks of corruption. Integrity is key to strengthening trust in government and public institutions.

G20 leaders have reiterated their commitment to improve the transparency and accountability of the public and private sectors, including in the 2022 Bali Leader’s Declaration. The G20 Anti-Corruption Action Plan 2017-2018, for instance, identifies public sector integrity and transparency including organizing against corruption as a priority. In this sense, under the German G20 presidency of 2017, co-chaired by Brazil, the ACWG approved the G20 High-Level Principles on Organizing Against Corruption.

That document aligns with other G20 standards on public integrity as well as with the OECD Recommendation on Public Integrity. It called States to design and improve the structural organization of public administration in order to prevent and fight corruption. The principles emphasize key aspects, such as administrative procedures, human resources management and awareness-raising amongst public officials.

Furthermore, they highlight the importance of monitoring the implementation of corruption prevention rules and the performance of corruption prevention programs. Finally, it also recalls the relevance of promoting transparency of public data and invites States members to consider developing anti-corruption policies based on the open government concept.

The way countries structure their public institutions affects their ability to detect and prevent corruption. The G20 ACWG will consider the advances in the implementation of the high-level principles agreed in 2017, through the elaboration of an Accountability Report focused on public integrity and organizing against corruption, considering the high-level principles on the matter. This topic is in line with the G20 Anti-Corruption Action Plan 2022-2024.

#### Expected outcomes:

Accountability Report on G20 High-Level Principles on Organizing Against Corruption.

### **4 – Making use of all available tools for asset recovery: exploring direct measures in foreign jurisdiction and ensuring national coordination for effective asset recovery.**

The recovery of assets is a fundamental principle of the United Nations Convention against Corruption and a global priority, as recognized by numerous political declarations and multilateral agreements, in particular past G20 High Level Principles and



Anticorruption Ministerial Communiqués. The fight against corruption is only complete if we achieve the full recovery of its proceeds and return them to the society. Unfortunately, most large transnational corruption cases pose major challenges in asset recovery, especially when traditional international cooperation mechanisms cannot fulfill this task.

The international community has acknowledged that the efforts to combat corruption should be pursued through all tools available in the respective jurisdictions - criminal and non-criminal. In that sense, criminal prosecution and international cooperation related to the criminal proceedings, although widely used and implemented around the globe, is not the only track to guarantee the return of the assets to harmed parties of the offense of corruption.

Over the years, studies, relevant documents, and declarations have explored alternatives to guarantee the recovery of assets without the use of a criminal proceeding or conviction. Within the G-20 Anticorruption Working Group this debate dates back to 2011 (principle 4 of the “Nine Key Principles on Asset Recovery”) which lead to the G20 study on “Requesting International Cooperation in civil and administrative proceedings relating to corruption” from 2017.

Nevertheless, besides exploring and innovating on tools such as non-conviction based confiscation/forfeiture or civil and administrative proceedings to combat corruption, the United Nations Convention Against Corruption, in its article 53, also demanded State Parties to, in accordance with its domestic law, authorize a foreign country to recover assets related to a corruption offense in a proceeding within its own jurisdiction, whether acting as a civil party in a domestic proceeding or as a claimant for a legitimate ownership on property derived from corruption, or yet in order to demand payment of compensation and damages derived from the act of corruption.

Despite the fact that such provision has been in force since 2003, few publications, political declarations or resolutions/decisions from international anticorruption bodies have produced knowledge and guidance on the use of such an important tool for the State Parties to fully address the issue of asset recovery in transnational cases of corruption. Among them, Resolution 6/4 of the UNCAC Conference of the State Parties, the publication “Public Wrongs and Private Actions”, from the World Bank and UNODC.

Stolen Asset Recovery Initiative, as well as the Civil Law Convention on Corruption from the Council of Europe. All such publications, conventions or resolutions deal with common issues: transnational cases of corruption often involve parties who are not directly connected to the harmed country; sometimes the case in question may not fall under the jurisdiction of a given country, or that jurisdiction may not be the best option to conduct the proceedings (forum non convenient principle); and, finally, the element of connection with the foreign jurisdiction may be so strong that makes it more effective if the proceedings are filed in the foreign court.



The idea behind article 53 of UNCAC is simple: the States' efforts to combat corruption should be pursued wherever the criminals and their assets are. If criminals move their assets outside our national jurisdiction, countries must also be able to act also before foreign courts, if necessary.

Some countries have used direct asset recovery proceedings before foreign courts in transnational cases of corruption. Although some cases proved to be effective, there remain immense challenges when using this tool in foreign jurisdictions. The diverse national regulations in terms of asset recovery; the absence of legal and common standards for a foreign country to participate within a judicial proceeding, whether civil or criminal, in a foreign jurisdiction; and the lack of common understanding on basic concepts regarding corruption offenses are among the most prominent difficulties.

Another important mechanism to enhance asset recovery is national coordination. The regulatory and administrative structures, as well as the communication flows among domestic authorities play a crucial role in the asset recovery system. Countries need to develop the necessary conditions to go through the stages of the entire asset recovery flow: identification, seizure, management, forfeiture and destination. This will not only enable the recovery of assets from illicit activities that have taken place inside its territory, it will also enable it to cooperate internationally in assets recovery cases.

A significant challenge that often arises is that of integrating the efforts of the various domestic authorities, whether at national or local level, so that their actions are not carried out in isolation, but instead follow a logic of public policy and prioritization of asset recovery.

Dialogue and coordinated action between the multiple public bodies involved in this issue and a vision of complementarity between their legal competencies are prerequisites for asset recovery to be prioritized and appropriately executed. The exchange of experiences, training, work methodologies, information, databases and technological tools are essential aspects to achieve the goal of depriving corrupt individuals and organizations of the proceeds of their crimes.

The G20 ACWG will therefore exchange experiences and good practices regarding the contribution of national coordination mechanisms to foster more effective asset recovery; as well as the use of direct asset recovery proceedings before foreign courts. It will also collect information on the application of article 53 of the UNCAC, in order to elaborate a report on the issue.

Expected outcomes:

In partnership with STAR, a questionnaire and opt-in virtual meetings with practitioners on the application of article 53 of the UNCAC, followed by a report on the information provided by the countries throughout the year.



Two side events with experts to discuss (i) the use of direct measures in foreign jurisdictions to combat corruption and foster asset recovery; and (ii) to exchange experiences and good practices regarding experiences related to domestic coordination for advancing asset recovery.

### 3 - Draft program of work

**13/12/2023:** G20 ACWG 2024 Presentation meeting, at the margins of the 10<sup>th</sup> session of the Conference of the States Parties of the United Nations Convention against Corruption (Atlanta, United States);

**February-March:** Circulation of the first draft of high-level principles and accountability report questionnaire;

**24-26 March 2024:** First Technical Meeting of the ACWG (Brasília, Brazil);

**April-May:** Circulation of the first draft of ministerial declaration and 2025-2027 plan of action;

**June-July:** Circulation of the first draft of accountability report;

**25-27 June 2024:** Second Technical Meeting of the ACWG (Paris, France);

**September:** virtual intersessional consultations on draft documents, if needed;

**22-23 October 2024:** Third Technical Meeting of the ACWG (Salvador, Brazil);

**24 October 2024:** Ministerial Meeting of the ACWG (Salvador, Brazil).