Transparency International’s recommended criteria for G20 Anti-Corruption Action Plan Progress Report

Generally, the G20 progress report on anti-corruption should

- apply consistent and objective criteria to all countries in all action areas
- include a forward-looking action plan with clear benchmarks and a time frame for implementation of commitments which have not yet been met as well as any corresponding capacity-building needs to accelerate implementation of commitments
- be published at least 2 weeks in advance of the Summit in order to grant civil society an opportunity for reaction
- include opportunities for civil society and private sector consultation in the process of its design

1. Ratification and Implementation of UN Convention Against Corruption (UNCAC)

a) Recommended criteria to evaluate:

- Has your government ratified the UN Convention Against Corruption (UNCAC)?
- Describe how your government has implemented Chapter III and provide data on investigation and prosecution of offenses covered by chapter III of the Convention.
- Has your government published case details (including convictions and other dispositions) about prosecutions or civil actions covered by chapter III of the Convention?
- With respect to individual reviews
  - Does your government support country visits of the UNCAC review teams?
  - Has your government agreed to the publication of the full review report (as opposed to just a summary)?
  - Will your government support civil society participation in the review process?
  - If your government has filled in a self-assessment checklist already, has it published its response?
- Are there any deficiencies in your government's enforcement of the Convention that still have to be addressed?

b) TI's recommendations

- Include country visits of the review teams and full and open civil society participation (UNCAC Article 13) as part of the country review process and promptly make the full review reports publicly available online (according to national access to information legislation and UNCAC Article 10) in order to set an example and establish best practice. The government self-assessments should also be promptly published. These measures are currently voluntary under the Terms of Reference for the review mechanism.
- Provide technical assistance to developing countries to implement UNCAC.

2. Adoption and enforcement of international anti-bribery measures

a) Recommended criteria to evaluate:

- Describe your government’s law criminalizing foreign bribery and how it is enforced. Does your government have any intention of acceding to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions?
- For OECD members, how have recommendations from Country Reviews carried out by the OECD Working Group on Bribery been implemented?
• How has foreign bribery legislation been enforced?
  o How many foreign bribery investigations and prosecutions (including convictions and other dispositions) since the Convention entered into force? List the foreign bribery investigations and prosecutions (including convictions and other dispositions) for the past 3 years.
• How has awareness of the foreign bribery offense been raised in the private sector?
  o What steps have been taken to encourage companies, including small and medium sized enterprises, to develop and implement effective anti-bribery programmes?
• How have the 2006 OECD Council Recommendation on Bribery and Officially Supported Export Credits and the 2010 Good Practice Guidance on Internal Controls, Ethics, and Compliance been implemented?

b) TI’s recommendations
• Implement and enforce laws criminalising foreign bribery by 1st January 2012 in accordance with the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the UNCAC, including prohibiting off-book accounts and with no allowances or exceptions for facilitation payments.
• Ensure that such laws properly cover company subsidiaries and the activities of intermediaries.
• Ensure that adequate deterrents to bribery are provided and enforced including fines and other sanctions on companies and fines and sentences on directors, officials and employees.
• Ensure sufficient resources are provided to investigators and prosecutors.
• Provide legislative and other protection for whistleblowers.
• Ensure that export credit agencies implement and enforce rules forbidding bribery, fraud or collusion.
• Encourage companies to adopt sound anti-corruption programmes and report on them according to the UN Global Compact – Transparency International Reporting Guidance.
• Ensure that beneficiaries of government rescue packages, economic stimulus funds and multilateral lending facilities publicly report on their use and their implementation of anti-corruption programmes.
• Relevant countries sign up to and implement the Extractive Industries Transparency Initiative (EITI).

3. Anti Money Laundering

a) Recommended criteria to evaluate:
• List the steps that have been taken to adopt stronger transparency rules to effectively prevent the abuse of legal mechanisms or financial institutions to hide illicit cross-border transfers of funds.
• Is tax evasion through offshore accounts presently a predicate criminal offense under your country’s domestic anti-money laundering (AML) laws or do you have plans to make it an offense?
• Has the government adopted and applied Financial Action Task Force (FATF) anti-money laundering requirements and if so, has it published information on assessments of compliance with these standards?
• What measures are in place in your country to enforce enhanced due diligence by banks and other institutions on Politically Exposed Persons (PEPs) as well as their family members and associates?

b) TI’s recommendations
• Oblige banks and other institutions in major financial centres to undertake enhanced due diligence (in accordance with FATF Recommendations) on customers who are Politically Exposed Persons (PEPs), as well as their family members and associates. Oblige financial institutions to publicly disclose their subsidiaries and branches registered in offshore financial centres.
• Oblige banks to have a senior level committee carry out an annual review of their PEP customers, in addition to on-going enhanced due diligence.
• Implement global mandatory national-level public registers of the beneficial owner of companies. Implement global mandatory national-level registers of trusts, to include the settlor, the trustees and the beneficiaries, and copies of the trust deed and letter of wishes. Trustees should be required to provide information to the relevant authorities relating to all capital and income disbursements made to beneficiaries of trusts for which they are responsible for the purposes of...
tax information exchange with the national authorities of the countries where those beneficiaries are ordinarily resident for tax purposes.

- Implement sanctions against non-co-operative financial centres.
- For any G20 state that does not have a criminal offence of tax evasion, consider creating one, and call on FATF to make the criminal offence of tax evasion a predicate offense for money laundering.
- Call on FATF to develop a new methodology for its mutual evaluations that focuses more attention on the effective implementation and enforcement of laws and regulations, not just that they are in place.

4. Denial of entry of corrupt officials into G20 countries

a) Recommended criteria to evaluate:
   - List the procedures that are in place to deny entry and safe haven to officials guilty of public corruption and their assets and how they have been implemented.

b) TI recommendations:
   - Deny entry and safe haven to corrupt officials for example in cases where the individual has been convicted of corruption offences or where there is credible evidence to believe that they are involved in corruption, subject to a fair and accessible appeals system for any excluded individual.
   - Those who knowingly facilitate corrupt officials, such as those who pay bribes, or lawyers, agents and financial experts who knowingly facilitate the movement of illicit flows or broker corrupt deals should also face appropriate sanctions imposed following due process.
   - Ensure that effective communication systems and sufficient resourcing is in place within governments to enable the timely sharing of pertinent information on corrupt officials and those who corrupt them.
   - The G20 Working Group on Corruption should examine the feasibility of freezing the assets of corrupt officials in G20 countries, as well as the possibility of prohibiting G20 nationals and companies from doing business with corrupt officials.

5. International cooperation on anti-corruption and bribery

a) Recommended criteria to evaluate:
   - Describe how the government has implemented provisions related to extradition, mutual legal assistance and asset recovery into law and how they have been applied in practice.
   - Has the government utilized and deployed Accelerated Response Teams to deal with mutual legal assistance (MLA) requests for repatriation of assets to requesting states?

b) TI's recommendations:
   - Assist with requests based on foreign non-conviction-based confiscation orders, in certain circumstances (such as death, flight, or absence of the perpetrator), and where the order is issued pursuant to a transparent, fair and credible process for establishing that the subject of the order is proceeds of corruption.
   - Facilitate the sharing of information between law enforcement agencies with respect for relevant privacy and data protection laws and due process procedures.
   - Publish annual information on the number of requests for cross-border legal assistance received from each jurisdiction, including preliminary enquiries, and the proportion fulfilled.

6. Recovering the proceeds of corruption

a) Recommended criteria to evaluate:
   - Have you designated an appropriate authority responsible for mutual legal assistance requests relating to corruption and asset recovery? If yes, please provide details.
   - How does your government support the World Bank and UNODC Stolen Assets Recovery Initiative?
   - List the laws your government has in place that enable identification as well as immediate freezing of suspicious assets.
- What is the amount of allegedly stolen assets that have been frozen in your country in the last 3 years? How much of it has been repatriated?

b) TI's recommendations
- Take concrete steps to facilitate the success of the World Bank and UNODC Stolen Assets Recovery Initiative, including full financial and other support of all bona fide and credible legal actions aimed at recovering stolen assets, including assets transferred to trusts and assets owned or used by political leaders still in office.
- Create escrow accounts managed by the World Bank and/or Regional Development Banks for frozen assets and ensure the swift transfer of all frozen assets to these accounts.
- Create a fund to assist developing countries in their asset recovery efforts.
- Put in place legal frameworks that would enable victims of corruption and civil society to take asset recovery cases to court, both in the countries from where the assets have been stolen and in the countries where the assets are deposited.
- Enact and implement new laws or regulation that require identification of suspicious assets and make it easier to freeze those funds where there is limited capacity in the requesting country to make an appropriate request. One possible example is the "Duvalier law" recently passed in Switzerland.

7. Protection of whistleblowers

a) Recommended criteria to evaluate:
- What protection is afforded to public and private sector whistleblowers in your country (provide relevant laws and regulations)?
- Do appropriate, safe and reliable reporting channels exist for whistleblowers in your country?

b) TI's recommendations
- Assess existing whistleblower protection legislation in all G20 countries against best practice principles, such as those developed by international experts and published by Transparency International in 2009.
- Enact and implement whistleblowing legislation and enforcement mechanisms that comply with best practice by the end of 2012. Such legislation should cover the public and private sector, protect whistleblowers against reprisals and ensure a fair compensation for damage, support the establishment of appropriate and reliable reporting channels and provide for an independent review.
- Promote whistleblowing as an effective tool against corruption and malpractice by lending support to public information campaigns and collecting and publishing data about the public benefit of whistleblowing
- Ensure that if a whistleblower faces a real risk of imminent harm or persecution for exposing corruption, and his home country is unable or unwilling to provide adequate protection, that he or she has access to effective asylum procedures.

8. Effective functioning of anti-corruption bodies and enforcement authorities

a) Recommended criteria to evaluate:
- Describe the resources available to your government’s enforcement and anti-corruption agencies.
- Describe the legal framework as well as appropriate powers and authority to ensure freedom from undue influence and to carry out investigations if they have an investigative function.

b) TI's recommendations
- Provide appropriate levels of financial resources for the enforcement functions of anti-corruption agencies and ethics commissions to enable them to investigate and prosecute corruption, fraud, mismanagement and violations of conflict of interest laws by government employees and officials.
- Ensure that anti-corruption agencies have the necessary supportive legal framework to operate effectively granting the appropriate powers and authority to carry out investigations, if they have an investigative function.
• Ensure that anti-corruption agencies are independent from the Executive and have the ability to investigate a country’s government and leadership without interference or undue pressure or influence.

9. Preventing corruption in the public sector

a) Recommended criteria to evaluate:
• List the steps you have taken to adopt UNCAC Article 9 on procurement and budget.
• How has the government required its companies to publish payments to governments on a country-by-country basis?
• As a donor government, have you become a signatory to IATI?
• As a donor government, have you disclosed your aid data using the IATI standard?
• As a donor government, does your aid agency have an anti-corruption policy?
• Does your government use a governance risk assessment to determine which institutions are in need of support?
• What is the share of funding dedicated to anti-corruption and governance projects?
• Does the government’s procurement policy include anti-corruption clauses?
• Has the government endorsed the Istanbul Principles for CSO Development Effectiveness (http://www.cso-effectiveness.org/-8-istanbul-development,067-.html?lang=en)?
• Does your government have legislation in place in the following areas, if so provide details:
  - access to information
  - whistle blower protection
  - codes of conduct for public servants
  - asset disclosure for public office holders and senior public servants.
• Does your government have legislation and a system for merit based public service appointment and promotions?

b) TI’s recommendations
• Follow the U.S. example and introduce a requirement for companies listed on their stock exchanges and operating in the extractive sector to publish all payments they make to foreign governments. This should be complemented by a global accounting standard requiring multinational corporations in all sectors and geographical regions to report profits, taxes and other financial details on a country-by-country basis.
• Improve the transparency of aid flows by publishing comprehensive, comparable, timely, understandable and forward-looking information. The International Aid Transparency Initiative (IATI) meets these requirements and all G20 countries should endorse it.
• Ensure aid allocations benefit countries that have shown a clear and continued commitment to transparency and anti-corruption measures and make a percentage of aid available for transparency, civil society participation, supervisory and audit programs (this applies to donors and recipients). Multilateral organisations should grant or lend funds to support the same principles.
• All G20 members (donor and recipients) should adopt UNCAC Article 9 on procurement and budget transparency and endorse aid programmes that provide funding to increase budget transparency, disclosure of natural resource revenues, and the coverage of the UNCAC (country signature, ratification and implementation).

10. Governance of international organizations

a) Recommended criteria to evaluate:
• Does your government advocate that international organisations have the following:
  - access to information policy
  - anti-corruption policy
  - code of conduct/ethics for staff
  - code of conduct/ethics for third party vendors (suppliers and contractors)
  - internal audit/oversight institution
  - channels for whistleblowers to file complaints (staff and third-parties)
  - protection policies for whistleblowers (staff and third-parties).
  - investigations unit that can sanction wrongdoing
- list of minimum sanctions for offences
- Does your government support international organisations to
  - make publicly available all debarred firms
  - publish information on related policies on the organisation’s website

b) TI’s recommendations
- Encourage international organisations to adopt, revise and implement internal anticorruption strategies and access to information standards that ensure the highest levels of transparency, accountability and integrity in their processes and programmes, for example by implementing the Global Transparency Initiative’s Transparency Charter.
- Rigorously implement the G20’s previous commitment to merit-based, fair selection procedures for senior management of International Finance Institutions.

11. Public/private partnerships, including sector specific projects

a) Recommended criteria to evaluate:
- How does the government participate in the EITI?
- Does the government publish payments received by companies related to extractive revenues?
- Does your government support civil society monitoring of EITI implementation? If so, how?

b) TI’s recommendations
- Drawing on the experience of sectoral multi-stakeholder initiatives, such as the Extractive Industries Transparency Initiative (EITI) the G20 Working Group on Corruption should explore options for improving accountability and transparency throughout the supply chain of companies. This should include support for the expansion of the Construction Sector Transparency Initiative (CoST) to promote transparency and accountability in infrastructure investment as well as examining the possibility of an EITI-style multi-stakeholder initiative to cover the allocation of natural resource concessions, to ensure transparency and fairness in the access to natural resources, as well as stability in host countries.