



Joint AfDB/OECD Initiative to Support Business Integrity and Anti-Bribery Efforts in Africa

The Anti-Bribery and Business Integrity Course of Action for Africa

This document has been prepared as a background document for the 5th NEPAD-OECD Ministerial Conference on 26-27 April 2011 in Dakar, Senegal.

The Anti-Bribery and Business Integrity Course of Action for Africa was adopted by the members of the Joint AfDB/OECD Initiative to Support Business Integrity and Anti-Bribery Efforts in Africa, at their first Regional Meeting on 14 January 2011 in Lilongwe, Malawi.

This is a non-legally binding document that contains a number of principles and standards towards law and policy reform which countries of the region are committed to implement.



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Governance, Economic and
Financial Management
Department
African Development Bank
Group

Anti-Corruption Division
Organisation for Economic
Co-operation and
Development

Anti-Bribery and Business Integrity Course of Action for Africa¹

Adopted 14 January 2011, Lilongwe, Malawi

WE, the participants of the Joint AfDB/OECD Initiative to Support Business Integrity and Anti-Bribery Efforts in Africa, building on the objectives identified at the 2005 African Union Summit to combat all forms of corruption, and recalling the commitments made at the 2010 G8 Summit to support African-led efforts to build a more stable, democratic and prosperous Africa, to advance economic and social development, and to promote the rule of law;

CONVINCED that bribery and corruption is a widespread phenomenon which undermines good governance, erodes the rule of law, distorts competitive markets, and hampers economic growth and efforts for poverty eradication;

RECOGNISING that good corporate integrity and accountability is central to the enabling environment for economic development, and that the bribery of domestic and foreign public officials in business transactions undermines investment and sustainable economic growth, good governance and public trust in government;

ACKNOWLEDGING that regional and international cooperation is critical to the effective fight against bribery and corruption, and that this cooperation would serve the overall objective of supporting national and regional efforts to level the playing field for domestic and international business in Africa by strengthening and supporting on-going anti-bribery and business integrity efforts;

RECOGNISING that national anti-corruption measures can benefit from relevant regional and international conventions, instruments and good practices such as those developed by governments and countries in the region, the African Development Bank (AfDB), the African Union (AU), the African Peer Review Mechanism (APRM), the East African Community (EAC), the Economic Community of Central African States (CEMAC), the Economic Community of West African States (ECOWAS), the Eastern and Southern African Anti-Money Laundering Group (ESAAMLG), the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA), the Financial Action Task Force (FATF), the Organisation for Economic Cooperation and Development (OECD), the Southern African Development Community (SADC), the United Nations (UN), and the West African Economic and Monetary Union (UEMOA);

RECOGNISING the efforts of civil society and the business sector to promote integrity in business and to support the countries in the region in their anti-corruption efforts;

CONCUR in taking concrete and meaningful priority steps to support business integrity and deter, prevent and combat the bribery of public officials in business transactions;

WELCOME, the efforts of the AfDB and the OECD in establishing a Joint Initiative to support countries of the region in their efforts to promote business integrity and combat bribery of public officials;

WELCOME, the efforts of other international organisations and donor countries from outside and within the region to support countries of the region in their efforts to promote business integrity and combat bribery of public officials;

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WELCOME, the efforts of the governments of the region to combat corruption and promote integrity in business.

In order to meet the above objectives, participating countries in the region endeavour to take concrete steps under the following Course of Action with the support, as appropriate, of the AfDB, OECD and other development partners, and the participation of, and by working with, civil society.

COURSE OF ACTION

Course of Action 1: Combating Bribery of Domestic and Foreign Public Officials in Business Transactions

Undertake measures for the effective prevention and detection of bribery of public officials in business transactions, through:

- Ensuring the existence of legislation with dissuasive sanctions that effectively criminalise and combat both active and passive domestic and foreign bribery of public officials, including the offering and solicitation of bribe payments;
- Strengthening preventive measures by raising awareness within both the public and private sectors of bribery;
- Implementing effective means to facilitate the detection of bribery, including through public and private sector reporting mechanisms, and the enactment of whistleblower protection laws.

Undertake measures for the effective investigation and prosecution of bribery of public officials in business transactions, through:

- Establishing and enforcing rules to ensure that bribery offences are thoroughly investigated and prosecuted by competent and independent authorities;
- Strengthening investigative and prosecutorial capacities by establishing specialised anti-corruption authorities, fostering inter-agency cooperation and ensuring that the investigation and prosecution of bribery offences are free from improper influence;
- Strengthening the ability for law enforcement authorities to gather evidence, including through the use of special investigative techniques and witness protection; by providing adequate financial resources and training, and by ensuring such authorities are empowered to order that bank, financial or commercial records be made available or be seized, that bank secrecy be lifted and that access to tax information be made available;
- Strengthening mutual legal assistance and bilateral and multilateral cooperation in investigations and other legal proceedings by developing systems which, in accordance with domestic legislation, enhance (i) effective exchange of information and evidence, (ii) extradition, and (iii) cooperation in the recovery and return of proceeds of bribery and corruption.

Undertake measures to prevent bribery and promote integrity in public procurement, particularly with regard to infrastructure and natural resources management procurement processes, through:

- Ensuring that transparent procedures are in place at all stages of a public procurement process, including the tendering process and the award of the contract, and that risk assessments are undertaken at each stage of a procurement process;
- Ensuring accountability and control in public procurement through the maintenance of accurate records, internal controls, external audit, risk-based approaches and the establishment of complaint and recourse mechanisms;
- Establishing adequate sanctions for breaches of public procurement processes, and the review of laws and regulations governing public procurement contracts to allow authorities to suspend, to an appropriate degree, from competition enterprises determined to have bribed public officials;
- Introducing the use of innovative preventive measures and monitoring procedures, such as integrity pacts in public procurement and thereby open up operations of both public bodies and private companies to public scrutiny.

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Course of Action 2: Strengthening Private Sector Transparency and Promoting Integrity in Business Operations

Undertake effective measures to promote corporate integrity and accountability on the basis of existing relevant national and international standards, through:

- The promotion of good corporate integrity, which would provide for adequate internal company controls, codes of ethics and compliance programmes;
- The existence and thorough implementation of legislation requiring transparent company accounts and providing for effective, proportionate and dissuasive penalties for omissions or falsifications for the purpose of bribing a public official, or hiding such bribery, in respect of books, records, accounts and financial statements of companies;
- Working in partnership with business organisations and professional associations, who can play an essential role in assisting companies, in particular Small and Medium Enterprises (SMEs), in the development of effective internal controls, ethics and compliance programmes or measures for the purposes of promoting business integrity and preventing and detecting bribery in business transactions;
- Encouraging business organisations to demonstrate their commitment to fighting corruption and bribery by publicly reporting to their shareholders on measures they have undertaken in this regard.

Undertake effective measures to deter, prevent and detect bribery of public officials in business transactions, through:

- The existence and effective enforcement of legislation to eliminate any indirect support of bribery, such as the tax deductibility of bribe payments;
- The establishment and promotion of easily accessible channels for public and private sector employees to report suspicions of bribery and other unlawful activities, and the implementation of measures, including through the enactment of whistleblower protection laws, to protect from discriminatory or disciplinary actions employees who make such reports in good faith and on reasonable grounds to competent authorities;
- Introducing the use of innovative preventive measures and monitoring procedures, such as integrity pacts in public procurement and thereby open up operations of both public bodies and private companies to public scrutiny.

Monitoring of the Anti-Bribery and Business Integrity Course of Action

The monitoring of the Course of Action will be based upon two core principles: i) establishing a mechanism by which overall progress can be promoted; ii) providing specific and practical assistance to governments of participating countries on key reform issues. The implementation of the Course of Action will thus aim at offering participating countries regional and country-specific policy and institution-building support. This strategy will be tailored to policy priorities identified by participating countries and provide means by which participating countries and partners can assess progress. The Course of Action will remain in force until it is decided to be reviewed by the participants of the Joint Initiative.

The Initiative will be supported by **the Anti-Bribery and Business Integrity Task Force for Africa**, composed of government representatives and national experts on technical issues; and **a Secretariat**, provided by the AfDB and the OECD.

- **The Anti-Bribery and Business Integrity Task Force for Africa** will drive and monitor the implementation of the Initiative and serve three main purposes: (i) to discuss progress achieved in enforcing policies and law; (ii) to serve as a regional forum for the exchange of experience and for addressing cross-regional issues that arise in connection with the implementation of the policy objectives laid out in the regional course of action, and (iii) to promote a dialogue with representatives of the international community, the business sector and civil society in order to enlarge support for anti-bribery and business integrity efforts and mobilize technical assistance.
- The Task Force will meet at least once a year and will be composed of delegates from the participating countries and experts from the private sector and civil society. African States that subscribe to the Course of Action will constitute the founding members of the Task Force; other African countries will be encouraged to join the Task Force, provided they subscribe to the principles and strategy of the Course of Action.
- **The Secretariat**, composed of staff members of the AfDB and the OECD, and supported by technical experts, as needed, will carry out the day-to-day management and administration of the Initiative. The role of the Secretariat will also include, inter alia, facilitating the participation of practitioners from the AfDB and OECD member countries.