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ANTI-CORRUPTION ACTION PLAN FOR ASIA AND THE PACIFIC¹

¹ Endorsed on 30 November 2001 in Tokyo, Japan by Bangladesh, Cook Islands, Fiji Islands, India, Indonesia, Japan, Republic of Korea, Kyrgyz Republic, Malaysia, Mongolia, Nepal, Pakistan, Papua New Guinea, Philippines, Samoa, Singapore, and Vanuatu. Kazakhstan endorsed the Action Plan on 22 May 2002. Other ADB member countries from Asia and the Pacific are invited to endorse the Action Plan. Other language versions of the Action Plan can be downloaded at: <http://www.oecd.org/daf/ASIAcom/ActionPlan.htm>

Preamble²

WE, governments of the Asia-Pacific region, building on objectives identified at the Manila Conference in October 1999 and subsequently at the Seoul Conference in December 2000;

CONVINCED that corruption is a widespread phenomenon which undermines good governance, erodes the rule of law, hampers economic growth and efforts for poverty reduction and distorts competitive conditions in business transactions;

ACKNOWLEDGING that corruption raises serious moral and political concerns and that fighting corruption is a complex undertaking and requires the involvement of all elements of society;

CONSIDERING that regional cooperation is critical to the effective fight against corruption;

RECOGNIZING that national anti-corruption measures can benefit from existing relevant regional and international instruments and good practices such as those developed by the countries in the region, the Asian Development Bank (ADB), the Asia-Pacific Economic Cooperation (APEC), the Financial Action Task Force on Money Laundering (FATF), the Organisation for Economic Co-operation and Development (OECD), the Pacific Basin Economic Council (PBEC), the United Nations and the World Trade Organization (WTO)³.

² The Action Plan, together with its implementation plan, is a legally non-binding document which contains a number of principles and standards towards policy reform which interested governments of the region politically commit to implement on a voluntary basis.

³ In particular: the 40 Recommendations of the FATF as supported by the Asia/Pacific Group on Money Laundering, the Anti-Corruption Policy of the ADB, the APEC Public Procurement Principles, the Basel Capital Accord of the Basel Committee on Banking

CONCUR, as governments of the region, in taking concrete and meaningful priority steps to deter, prevent and combat corruption at all levels, without prejudice to existing international commitments and in accordance with our jurisdictional and other basic legal principles;

WELCOME the pledge of representatives of the civil society and the business sector to promote integrity in business and in civil society activities and to support the governments of the region in their anti-corruption effort;

WELCOME the pledge made by donor countries and international organizations from outside and within the region to support the countries of the region in their fight against corruption through technical cooperation programmes.

Supervision, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the Revised Recommendation, the OECD Council Recommendation on Improving Ethical Conduct in the Public Service, the OECD Principles on Corporate Governance, the PBEC Charter on Standards for Transactions between Business and Government, the United Nations Convention on Transnational Organized Crime and the WTO Agreement on Government Procurement.

Pillars of Action

In order to meet the above objectives, participating governments in the region endeavour to take concrete steps under the following three pillars of action with the support, as appropriate, of ADB, OECD and other donor organizations and countries:

PILLAR 1—DEVELOPING EFFECTIVE AND TRANSPARENT SYSTEMS FOR PUBLIC SERVICE

Integrity in Public Service

Establish systems of government hiring of public officials that assure openness, equity and efficiency and promote hiring of individuals of the highest levels of competence and integrity through:

- Development of systems for compensation adequate to sustain appropriate livelihood and according to the level of the economy of the country in question;
- Development of systems for transparent hiring and promotion to help avoid abuses of patronage, nepotism and favoritism, help foster the creation of an independent civil service, and help promote a proper balance between political and career appointments;
- Development of systems to provide appropriate oversight of discretionary decisions and of personnel with authority to make discretionary decisions; and
- Development of personnel systems that include regular and timely rotation of assignments to reduce insularity that would foster corruption.

Establish ethical and administrative codes of conduct that proscribe conflicts of interest, ensure the proper use of public resources, and promote the highest levels of professionalism and integrity through:

- Prohibitions or restrictions governing conflicts of interest;

- Systems to promote transparency through disclosure and/or monitoring of, for example, personal assets and liabilities;
- Sound administration systems which ensure that contacts between government officials and business services users, notably in the area of taxation, customs and other corruption-prone areas, are free from undue and improper influence.
- Promotion of codes of conduct taking due account of the existing relevant international standards as well as each country's traditional cultural standards, and regular education, training and supervision of officials to ensure proper understanding of their responsibilities; and
- Measures which ensure that officials report acts of corruption and which protect the safety and professional status of those who do.

Accountability and Transparency

Safeguard accountability of public service through effective legal frameworks, management practices and auditing procedures through:

- Measures and systems to promote fiscal transparency;
- Adoption of existing relevant international standards and practices for regulation and supervision of financial institutions;
- Appropriate auditing procedures applicable to public administration and the public sector, and measures and systems to provide timely public reporting on performance and decision making;
- Appropriate transparent procedures for public procurement that promote fair competition and deter corrupt activity, and adequate simplified administration procedures;
- Enhancing institutions for public scrutiny and oversight;
- Systems for information availability including on issues such as application processing procedures, funding of political parties and electoral campaigns and expenditure; and
- Simplification of the regulatory environment by abolishing overlapping, ambiguous or excessive regulations that burden business.

PILLAR 2— STRENGTHENING ANTI-BRIBERY ACTIONS AND PROMOTING INTEGRITY IN BUSINESS OPERATIONS

Effective Prevention, Investigation and Prosecution

Take effective measures to actively combat bribery by:

- Ensuring the existence of legislation with dissuasive sanctions which effectively and actively combat the offence of bribery of public officials;
- Ensuring the existence and effective enforcement of anti-money laundering legislation that provide for substantial criminal penalties for the laundering of the proceeds of corruption and crime consistent with the law of each country;
- Ensuring the existence and enforcement of rules to ensure that bribery offences are thoroughly investigated and prosecuted by competent authorities; these authorities should be empowered to order that bank, financial or commercial records be made available or be seized and that bank secrecy be lifted;
- Strengthening of investigative and prosecutorial capacities by fostering inter-agency cooperation, by ensuring that investigation and prosecution are free from improper influence and have effective means for gathering evidence, by protecting those persons helping the authorities in combating corruption, and by providing appropriate training and financial resources; and
- Strengthening bi- 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 where expedient, and (iii) cooperation in searching and discovering of forfeitable assets as well as prompt international seizure and repatriation of these forfeitable assets.

Corporate Responsibility and Accountability

Take effective measures to promote corporate responsibility and accountability on the basis of existing relevant international standards through:

- Promotion of good corporate governance which would provide for adequate internal company controls such as codes of conduct, the establishment of channels for communication, the protection of employees reporting corruption, and staff training;
- The existence and the effective enforcement of legislation to eliminate any indirect support of bribery such as tax deductibility of bribes;

- The existence and thorough implementation of legislation requiring transparent company accounts and providing for effective, proportionate and dissuasive penalties for omissions and falsifications for the purpose of bribing a public official, or hiding such bribery, in respect of the books, records, accounts and financial statements of companies; and
- Review of laws and regulations governing public licenses, government procurement contracts or other public undertakings, so that access to public sector contracts could be denied as a sanction for bribery of public officials.

PILLAR 3 – SUPPORTING ACTIVE PUBLIC INVOLVEMENT

Public Discussion of Corruption

Take effective measures to encourage public discussion of the issue of corruption through:

- Initiation of public awareness campaigns at different levels;
- Support of nongovernmental organizations that promote integrity and combat corruption by, for example, raising awareness of corruption and its costs, mobilizing citizen support for clean government, and documenting and reporting cases of corruption; and
- Preparation and/or implementation of education programs aimed at creating an anti-corruption culture.

Access to Information

Ensure that the general public and the media have freedom to receive and impart public information and in particular information on corruption matters in accordance with domestic law and in a manner that would not compromise the operational effectiveness of the administration or, in any other way, be detrimental to the interest of governmental agencies and individuals, through:

- Establishment of public reporting requirements for justice and other governmental agencies that include disclosure about efforts to promote integrity and accountability and combat corruption; and
- Implementation of measures providing for a meaningful public right of access to appropriate information.

Public Participation

Encourage public participation in anticorruption activities, in particular through:

- Cooperative relationships with civil society groups such as chambers of commerce, professional associations, nongovernment organizations (NGOs), labor unions, housing associations, the media, and other organizations;
- Protection of whistleblowers; and
- Involvement of NGOs in monitoring of public sector programmes and activities.

Implementation

In order to implement these three pillars of action, participating governments of the region concur with the attached Implementation Plan and will endeavour to comply with its terms.

Participating governments of the region further commit to widely publicize the Action Plan throughout government agencies and the media and, in the framework of the Steering Group Meetings, to meet and to assess progress in the implementation of the actions contained in the Action Plan.

Implementation Plan

Introduction

The Action Plan contains legally non-binding principles and standards towards policy reform which participating governments of the Asia-Pacific region (hereinafter: participating governments) voluntarily commit to implement in order to combat corruption and bribery in a coordinated and comprehensive manner and thus contribute to development, economic growth and social stability. Although the Action Plan describes policy objectives that are currently relevant to the fight against corruption in Asia and the Pacific, it remains open to ideas and partners. Updates of the Action Plan will be the responsibility of the Steering Group.

This section describes the implementation of the Action Plan. Taking into account national conditions, implementation will draw upon existing instruments and good practices developed by countries of the region and international organizations such as the Asian Development Bank (ADB), the Asia-Pacific Economic Cooperation (APEC), the Organisation for Economic Co-operation and Development (OECD) and the United Nations.

Core principles of Implementation

The implementation of the Action Plan will be based upon two core principles: i) establishing a mechanism by which overall reform progress can be promoted and assessed; ii) providing specific and practical assistance to governments of participating countries on key reform issues.

The implementation of the Action Plan 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 and measure the achieved results.

Identifying Country Priorities

While the Action Plan recalls the need to fight corruption and lays out overall policy objectives, it acknowledges that the situation in each country of the region may be specific.

To address these differences and target country-specific technical assistance, each participating country will endeavour, in consultation with the Secretariat of the Initiative, to identify priority reform areas which would fall under any of the three pillars, and aim to implement these in a workable timeframe.

The first consultation on these priorities will take place in the framework of the Tokyo Conference, immediately after the formal endorsement of the Action Plan. Subsequent identification of target areas will be done in the framework of the periodical meetings of the Steering Group that will be set up to review progress in the implementation of the Action Plan's three pillars.

Reviewing Progress in the Reform Process

Real progress will primarily come from the efforts of the governments of each participating country supported by the business sector and civil society. In order to promote emulation, increase country responsibilities and target bilateral and international technical assistance, a mechanism will be established by which overall progress can be promoted and reviewed.

The review process will focus on the priority reform areas selected by participating countries. In addition, there will be a thematic discussion dealing with issues of specific, cross-regional importance as identified by the Steering Group.

Review of progress will be based on self-assessment reports by participating countries. The review process will use a procedure of plenary review by the Steering Group to take stock of each country's implementation progress.

Providing Assistance to the Reform Process

While governments of participating countries have primary responsibility for addressing corruption related problems, the regional and international community as well as civil society and the business sector have a key role to play in supporting countries' reform efforts.

Donor countries and other assistance providers supporting the Action Plan will endeavour to provide the assistance required to enhance the capacity

of participating countries to achieve progress in the priority areas and to meet the overall policy objectives of the Action Plan.

Participating governments of the region will endeavour, in consultation with the Initiative's Secretariat, to make known their specific assistance requirements in each of the selected priority areas and will cooperate with the assistance providers in the elaboration, organization and implementation of programmes.

Providers of technical assistance will support participating governments' anti-corruption efforts by building upon programmes and initiatives already in place, avoiding duplications and facilitating, whenever possible, joint ventures. The Secretariat will continue to support this process through the Initiative's web site (www.oecd.org/daf/ASIAcom) which provides information on existing and planned assistance programmes and initiatives.

Mechanisms

Country Representatives

To facilitate the implementation of the Action Plan, each participating government in the region will designate a contact person. This government representative will have sufficient authority as well as adequate staff support and resources to oversee the fulfillment of the policy objectives of the Action Plan on behalf of his/her government.

Regional Steering Group

A Steering Group will be established and meet back-to-back with the Initiative's annual conferences to review progress achieved by participating countries in implementing the Action Plan. It will be composed of the government representatives and national experts on the technical issues discussed during the respective meeting as well as representatives of the Initiative's Secretariat and Advisory Group (see below).

The Steering Group will meet on an annual basis and serve three main purposes: (i) to review progress achieved in implementing each country's priorities; (ii) to serve as a 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 Action Plan; and (iii) to promote a dialogue with representatives of the international community, civil society and the business sector in order to mobilize donor support.

Consultations in the Steering Group will take place on the day preceding the Initiative's annual meeting. This shall allow the Steering Group to report on progress achieved in the implementation of the policy objectives laid out in the Action Plan, present regional good practices and enlarge support for anti-corruption efforts among ADB regional member countries.

Secretariat

The ADB and the OECD will act as the Secretariat of the Initiative and, as such, carry out day-to-day management. The role of the Secretariat also includes providing assistance to participating governments in preparing their self-review reports. For this purpose, in-country missions by the Secretariat will be organized when necessary.

Advisory Group

The Secretariat will be assisted by an informal Advisory Group whose responsibility will be to help mobilize resources for technical assistance programmes and advise on priorities for the implementation of the Action Plan. The Group will be composed of donor countries and international donor organizations as well as representatives of civil society and the business sector, such as the Pacific Basin Economic Council (PBEC) and Transparency International (TI), actively involved in the implementation of the Action Plan.

Funding

Technical assistance programmes and policy advice in support of government reforms as well as capacity building in the business sector and civil society aiming at implementing the Action Plan will be financially supported by international organizations, governments and other parties from inside and outside the region actively supporting the Action Plan.