Compilation of Members’ Reports on Sharing of Knowledge Acquired During the 12th Regional Seminar on Whistleblower Protection and Strengthening Anti-Corruption Agencies
(24-25 July 2013, Timor-Leste)

The Strategic Principles and Operating Activities of the Initiative provide that members should report on how the knowledge acquired during the seminar has been disseminated and applied, and what was the outcome. As discussed at the 18th Steering Group Meeting in Timor-Leste last July 2013, it is important for the Initiative to measure the impact of its activities, and thus, the Secretariat will solicit feedback from members on how they have used and disseminated the knowledge acquired in the Initiative's events.

To this end, members were requested to provide a report to the Secretariat. Below is the compilation of the reports submitted by members.
Contents

Bhutan ............................................................................................................................................. 3
Cambodia .......................................................................................................................................... 4
Hong Kong, China ............................................................................................................................. 5
India .................................................................................................................................................. 6
Indonesia .......................................................................................................................................... 7
Korea ............................................................................................................................................... 10
Malaysia .......................................................................................................................................... 11
Mongolia ......................................................................................................................................... 15
Pakistan ........................................................................................................................................... 16
Philippines ....................................................................................................................................... 18
Thailand .......................................................................................................................................... 19
Bhutan

The 12th Regional Seminar provided opportunities to discuss and exchange knowledge and expertise through plenary sessions focusing on the two important themes. In terms of disseminating knowledge acquired in the seminar, the Anti-Corruption Commission of Bhutan (ACC) will be informing and educating the general mass through the ACC Annual Report for 2013 on its importance and international best practices.

The seminar confirmed that ACC’s effort in insulating the independence of the ACC from undue political influence and setting procedures for financial and human resources management independence is in line with international best practices. The report on “Study on measures to safeguard the Constitutional Role of the Anti-Corruption Commission of Bhutan” has been presented to the Legislative and Good Governance Committees of the National Assembly on 8 January 2014. The proposal of ACC to ensure its independence will be discussed in the 2nd session of the 2nd Parliament.

On the whistleblowing and whistleblower protection, the Anti-Corruption Act 2011 is covered in Chapter 7 “Protection of witness and informers”. In addition, ACC has developed “Guidelines on protection of and incentives to complainant, informer, witness and person who assist the commission” and it is yet to be adopted.
Cambodia

An 11-page Summary Report on the 12th Regional Seminar in Khmer version was submitted to H.E. Senior Minister, the President of Anti-Corruption of Cambodia after the Regional Seminar.

The results of the Regional Seminar were also shared verbally in a weekly meeting of the General Department of the Anti-Corruption Unit with the presence of 15 participants from departments concerned held on 2 August 2013.

Mr. Nhem Bora, Deputy Director of Department of the Anti-Corruption Unit of Cambodia, who attended the 12th Regional Seminar also conducted a presentation to share the knowledge and information acquired at the 21st Meeting of the Anti-Corruption Research Team (21st ART Meeting) conducted on 8 August 2013 presided by H.E Senior Minister, the President of ACU and 30 members of the ART. The key messages presented in the presentation include:

- To promote the effectiveness of Anti-Corruption Agencies (ACAs) by ensuring their independence through clear mandate and proper procedures for appointment and removal of heads of ACAs, functional immunity, adequate human and financial resources, reporting mechanism, the participation from stakeholders, the investigation and prevention (necessary education and the revision of the strategy of the legal and regulatory framework).

- To provide clear and accessible channels for reporting corruption and to protect whistleblowers by promoting the participation from both the public and private sectors, providing incentives, ensuring the safety and the anonymity for the whistleblowers by providing additional training and awareness raising related to this field. The best practice and lessons learned from Japan, Korea, and Malaysia reveal that these countries have been successful because they have in place, the Law on Whistleblower Protection, together with the provision of incentives to the whistleblowers based on the amount of money recovered from the offenses through the fine.
Hong Kong, China

The 12th Regional Seminar provided a useful forum for Members to share their best practices and experience on the topics. In November 2013, a briefing on the Seminar was conducted for officers of the Independent Commission Against Corruption (ICAC), Hong Kong, China to share with them knowledge acquired from the Seminar. ICAC will continue its efforts in strengthening the two areas covered in the Seminar.
India

The 12th Regional Seminar provided opportunities to discuss and exchange knowledge and expertise through plenary sessions focusing on two important themes – “Whistleblower Protection” and “Strengthening Anti-Corruption Agencies”. In India, some major developments have happened which are in line with these themes. The Whistle Blower Bill has been passed by the Indian Parliament in February 2014. The new law intends to protect the whistleblowers, facilitate the disclosure of information and uncover corruption and deceptive practices that exist in government organizations. As an effort towards strengthening Anti-Corruption Agency in India, certain measures have been taken to provide greater autonomy to the Central Bureau of Investigation (CBI). In addition, in December 2013, the Lokpal and Lokayukta Act 2013 was enacted in India. It provides for an Ombudsman Authority to deal with matters of Corruption at both central and state levels. It puts in place an institutional arrangement which will go a long way in combating corruption in India.

India has reviewed Vanuatu for UNCAC compliance and India itself as part of the review mechanism has submitted its self-assessment report for UNCAC Compliance. The knowledge sharing during the 18th Steering Group meeting and 12th Regional Seminar has been very useful in better understanding the various provisions of UNCAC and accomplishing these milestones.
Indonesia

1. Protection of Whistleblowers

- A comprehensive regulation on protection and reward for whistleblowers is important (Korea, Japan, Timor-Leste)
- Inclusion of Reward and Award Mechanisms (Korea)
- Financial incentives for whistleblowers were included in the ACRC act as another effective way to protect whistleblowers.
  - If a disclosure directly contributed to recovering or increasing revenues or reducing costs of public organization, the whistleblower shall be paid 4 to 20 percent of the recovered money as reward money. The maximum amount of reward money is 2 million US dollars.
  - The ACRC can award up to 100,000 US dollars, even if direct revenue to a public organization is not generated, if a disclosure contributed to institutional improvement, disciplinary action against the person who committed corruption, and other public interest. Unlike reward money, it's not a whistleblowers' right to receive award money.
  - Reward for whistleblowers-If appropriate within the national context, whistleblowers may receive a portion of any funds recovered or fines levied as a result of their disclosure. (Transparency International)
  - The importance of coordination mechanisms amongst lead agencies (Malaysia)
  - The importance of confidentiality of information (information, identity, address, identity, occupation) (Malaysia)

2. Strengthening Anti-Corruption Agencies

- Jakarta Statement on Principles for Anti-Corruption Agencies. ACAs shall have clear mandates to tackle corruption through prevention, education, awareness raising, investigation and prosecution, either through one agency or multiple coordinated agencies (Indonesia)
- Independence of ACAs is a quintessential and non-negotiable prerequisite for their effective functioning (Bhutan)
Measures undertaken to implement the knowledge acquired (whistleblower protection and strengthening ACAs) since the 12th Regional Seminar (24-25 July 2013)

- Based on the seminar, Indonesia believes that coordination among agencies responsible for whistleblower protection is crucial for the effectiveness of whistleblower protection. Therefore, KPK and the Witness and Victim Protection Agency (Lembaga Perlindungan Saksi dan Korban - LPSK) signed a technical cooperation agreement on whistleblower protection in September 2013. This agreement is important since both KPK and LPSK have the authority to provide protection to whistleblowers. Effective coordination between these two agencies will prevent overlap between KPK and LPSK duties in protecting whistleblowers.

- Another step to strengthen lead agencies coordination is by conducting a national workshop on whistleblower and justice collaborator protection to coordinate and find solution on challenges faced by agencies responsible for whistleblower protection in carrying out their duties [KPK, LPSK, BNN (National Narcotics Agency), Kepolisian (National Police), Kejaksaan (Attorney General Office)] in November 2013. An expert from Service Central De Prévention De La Corruption has also been invited to share his experience and knowledge about whistleblower protection in France.

- With regard to the confidentiality of information, KPK has created a secure online system to report corruption case, namely KPK whistleblower system (KWS). In November 2013, KPK organize national Seminar to promote this system to all government inspectorates. It is expected that every government inspectorate can develop similar secure system to protect whistleblower. In 2014, based on KPK’s recommendation, the President has agreed to give instruction to all ministries to create online whistleblower systems in 47 Ministries.

- The need of reinforcing integrity and independence of Anti-Corruption Agencies (referred to Jakarta Statement on Principles for Anti-Corruption Agencies) was one of the main issues delivered in the general debate of Indonesia in the general discussion session of the 5th COSP-UNCAC and the 7th Annual Conference and General Meeting of IAACA in November 2013. As a result, the IAACA adopted the “Principles for Anti-Corruption Agencies” to Panama Declaration and invited anti-corruption authorities to consider taking into account these principles in order to promote and strengthen the independence and effectiveness of anti-corruption agencies.
Measures being planned to strengthen whistleblower protection based on the knowledge acquired during the 12th Regional Seminar

- From the ADB OECD Initiative seminar, Indonesia perceives that Korea whistleblower protection act is one of the most comprehensive systems. As an implementation of the MoU between KPK and ACRC Korea, KPK will propose to send officials (secondment program) to ACRC Korea to learn more about the policy and implementation of whistleblowers protection act.

- Indonesia current regulation on whistleblower protection does not stipulate a comprehensive mechanism on reward and award systems for whistleblowers. The Indonesian government regulation no. 71/2000 on Procedures for Implementation of Community Participation and Reward Mechanism in Preventing Corruption only regulates that a whistleblower can be awarded 0.2 percent from the returned state loss. To make this regulation more comprehensive, KPK will make some suggestion and recommendation to LPSK to consider Korea’s method in regulating reward and award for whistleblowers. KPK official's secondment program is expected to improve KPK knowledge to assist LPSK in sharing Korea’s experience in whistleblower protection.

- Independence of the ACAs remains a problem for Indonesia. The amendment made to the Criminal Code Procedures and Criminal Code act whose draft was submitted to the House of Representatives in January has the potential to reduce KPK’s power in investigating and prosecuting corruption cases. It limits the KPK’s power, restricting the commission’s authority to wiretap suspects or conduct preliminary investigations. Mounting protests came from various NGOs and activists which claimed that the planned amendment was the latest attempt by the government (undue influence) to weaken and reduce KPK independence. In response to this problem, KPK has requested the Parliament to suspend the deliberation of the bill. KPK together with academics will conduct a study on the bill and provide inputs to the Parliament. The experience from Bhutan, the ADB and other member countries about the importance of ACAs independence can be used as good resources to support KPK’s input to the Parliament. At the same time, NGOs and media also assist KPK to monitor the amendment process in the Parliament.
Korea

The Anti-Corruption and Civil Rights Commission of Korea shared the outcome of and major discussions made during the 18th Steering Group meeting and the 12th Regional Seminar, which were held in Dili in July 2013, with relevant agencies and the general public as well as its staff by posting the mission report on the intranet and the governmental website on overseas mission reports (bits.mospa.go.kr).
Malaysia

Recognizing corruption as a global threat, graft busters in this country are taking the fight against this crime to a different level and approach. Since its inception as a Commission in 2009, the national anti-graft body has been actively engaging with like-minded groups worldwide to exchange views and ideas on ways to stem corruption.

As the member country of this initiative, MACC reports regularly on the trend of Malaysia’s anti-corruption strategies and recent anti-corruption efforts. Formed in 1999, this initiative developed the ‘Anti-Corruption Action Plan for Asia Pacific’ in 2001 which sets out the goals and standards for sustainable safeguards against corruption as well as underlining support members’ efforts to implement it through fostering policy dialogue, providing policy analysis and capacity building.

Apart from this, Malaysia also works alongside the INTERPOL, Asia Pacific Group on Money Laundering (APG), United Nations Convention Against Corruption (UNCAC), APEC Anti-Corruption Task Force and International Association of Anti-Corruption Authorities (IAACA).

Cultivating rapport and strengthening ties with foreign anti-corruption entities is crucial for the country’s longstanding battle against corruption due to its open economy policy. Efforts like these provide the avenue for graft fighters to express opinion and garner support to effectively weed out corruption through technical co-operation programmes. In a nutshell, all initiatives carry the same mandates which include criminalising all forms of corruption, sharing best practices and information as well as compelling every nation to form specific entity to nip corruption in the bud.

The Asian Development Bank (ADB) and Organisation for Economic Co-operation and Development (OECD) Initiative adheres by three main pillars to curb graft to counter its negative effects on political stability, welfare, economic development, international trade and investment.

The first pillar of action is developing effective and transparent systems for public service to ensure integrity, accountability and transparency. The second pillar involves strengthening anti-bribery action and promoting integrity in business operations whereby effective prevention, investigation and prosecution measures are actively taken to combat bribery. Steps are also taken to promote corporate responsibility and accountability in both the public and private sector. Supporting active public involvement in the discussion of corruption and encouraging freedom of information is the third pillar to ensure nationwide participation in campaigns, programmes and activities to eradicate all forms of corruption culture.

Participating countries will endeavour to abide by these 3 pillars and take concrete steps to voluntarily implement policy reforms. Since the country is the Initiative’s Steering Group member, the MACC is obliged to report on specific developments in the country’s anti-corruption efforts.
The 12th Regional Seminar gave opportunities for the MACC who was represented by its Officers to discuss and exchange knowledge and expertise through plenary sessions focusing on the theme.

The MACC Officer who took part in the seminar discussed in depth on the progress made in the implementation of the Whistleblower Protection Act 2010 in Malaysia. Details and experiences were discussed to further furnish the other Member Countries who too attended the Seminar. Whistle blowing is an act of disclosing information of corruption and malpractices within an organisation or a workplace.

In most cases, information can be sensitive, leading to potential harm to the whistleblower. Hence, the whistleblower protection has been established by many governments to encourage informants to come out and help combat the scourge of corruption. The Malaysian Parliament passed the Whistleblower Protection Act 2010 in May 2010 and the Act came into force on Dec 15 the same year, in a major initiative under the Corruption National Key Results Area (NKRA) of the Government Transformation Plan (GTP). It is aimed at providing protection to whistleblowers who gave information of corrupt practices in the public and private sectors.

In order to receive protection, it has to be ensured that the complaint is made to an officer of an enforcement agency. The five key enforcement agencies are the Royal Malaysian Police Force, Royal Malaysian Customs Department, Road Transport Department, Malaysian Anti-Corruption Commission and the Immigration Department of Malaysia. Other agencies include institutions such as the Securities Commission, Bursa Malaysia and the Companies Commission of Malaysia, which are of particular significance to whistleblowers from the corporate sector. Whistleblower protection cannot be given if a complaint is made to a government agency that is not defined as an “enforcement agency”. If a complaint is made to a proper agency, the receiving officer is obliged to take down the report in writing and provide the informant with a case reference number.

The complainant must also be made identifiable as whistleblower protection cannot be given to an anonymous source. There is no central management or authority that governs the implementation of the Whistleblower Protection Act 2010. This is to ensure greater flexibility for all enforcement agencies in implementing the whistleblower framework within their existing governance structures. Furthermore, a decentralised model helps increase the likelihood of successful protection and secrecy as well as prevents reprisals.

The key enforcement agencies will work together to ensure the implementation of the policy is effective. However, the terms of the Act are specific. Protection can only be given when the information is received by an officer of an enforcement agency confidentially. The whistleblower will not be granted protection and will be putting themselves in a precarious position if they choose to inform others of their decision to make a complaint.

Since the inception of the Act is still considered as recent development/initiative, the MACC till up to date is continuously working to promote the integral part of the whistle blowing. Such
promotion includes the dissemination of brochures, pamphlets and other related materials which may be perceived as relevant information tool.
ADB/OECD Anti-Corruption Initiative for Asia and the Pacific and Kingdom of Cambodia

**Actions considered as CORRUPTION offences**

- **SOURCE or RECEIVING BIRE**
  - Any person SOLICITING or RECEIVING BORES as an inducement or reward in an official transaction.

- **OFFER or GIVE BORES**
  - Any person OFFERING or GIVING BORES to public or private sector officials in an official transaction.

- **FALSE CLAIM**
  - Any person SUBMITTING FALSE CLAIMS in payment requisitions.

- **ABUSE OF OFFICE or POSITION** by a public official in making decisions or purposes of self-interest.

**PENALTY**

- **Section 25 of MACC Act 2009**
  - **IMPRISONMENT** up to 20 years
  - **FINE**
    - > RM10,000.00 or 5 times the bribe amount, whichever is higher.

**Information needed in a REPORT**

Your complaint and the following information is valuable and basis to MACC’s investigation:

- Details of person(s) involved.
- Date, time and location of the incident.
- Reasons for the transaction.
- Transaction amount and type.
- Identity of other witnesses (at the scene or having information), if any.
- Any documents, information or physical evidences relating to the report.

**You are Protected!**

You need not be afraid in reporting corruption. The law provides protection by ensuring confidentiality of the information and the identity of the WHISTLEBLOWER.

WHISTLEBLOWERS are protected under MACC Act 2009 Section 65 and Whistleblower Protection Act 2010.
Mongolia

- The issue related to strengthening Anti-Corruption Agencies in order for them to implement their duties effectively was one of the main topics that was discussed among the participants during the 12th ADB/OECD Regional Seminar, which was held from 24 to 25 July 2013 in Dili, Timor-Leste. During the Regional Seminar, Indonesian delegates shared with us about their good experience and achievement of high conviction rate. With these good practices from the Regional Seminar in mind, the Independent Authority Against Corruption of Mongolia (IAAC) is considering to propose and cooperate with relevant legislative body in order to develop and adopt regulation which will serve as a prerequisite for establishing specialized anti-corruption prosecution unit or for having anti-corruption prosecutors. IAAC evaluates the current legal condition of the country as an ideal timing for initiation of such structural and operational rearrangement in corruption case handling process. As the recently implemented reform in legal system of the country allowed IAAC to strengthen its capacity for fighting corruption crime through integrating the Investigation Unit under its authority which was previously administered under the General Prosecutor of Mongolia.

- As a result of the legal reform in Mongolia, the money laundering crime was included under the jurisdiction of IAAC. The newly amended Paragraph 27.3 of Article 27 of Criminal Procedure Code of Mongolia read “The investigator of IAAC shall conduct investigation on … and crimes stated in Article 166 /Money Laundering/ of Criminal Code, which were detected by investigators themselves.”

- Even though honesty and integrity of public officials are important points for eradicating corruption, IAAC considers the level of anti-corruption education of citizens as vital part of combatting corruption, thus directs its big share of efforts to awareness raising and educational activities targeted for general public. In order to reach citizens effectively, IAAC divided the general public into target categories. One of the target groups is students and young people aged between 17 and 25. In order to attract their attention to this grievous issue and listen to their opinions regarding the fight against corruption, IAAC initiated and implemented in association with International organizations and NGOs, a youth campaign entitled, “Hand in Hand for Fair Society”, which comprises of a series of promotional activities, such as: Parliamentary Debate Competition, Poster Competition, in-class lecture on “Fair Behavior”, Academic Conference, “Parade for Fairness”, official song and video, and anti-corruption message dissemination through media and social media. The campaign with all its activities will be organized every year and will become the tradition of IAAC.
Pakistan

The strategic principles and operating activities of the ADB/OECD Anti-Corruption Initiative for Asia and Pacific provide that members should report about the knowledge acquired during the seminar disseminated/applied, with the outcome. The information and knowledge learnt in the said seminar have been utilized as under:

1. Prevention:

   In Section 33C of the National Accountability Ordinance (NAO) 1999, the Chairman NAB shall, from time to time as he deems fit, constitute committees comprising officers of the NAB or other persons or organization from the private or public sectors. In addition to Prevention Committees working in Regional NABs, different Prevention Committees have been constituted covering different areas like Health, Capital Development Authority, Ministry of Religious Affairs and Civil Services Reforms. Final recommendations of these committees are sent to client departments and the regulators / Ministry answerable for the implementation. These committees are required to look into those areas where corruption can be stopped before happening. The following activities with reference to prevention were performed by the NAB:

   - Scrutiny of various projects to ensure implementation of PPRA Rules.
   - Establishment of Prevention Committees to suggest doable recommendations with coordination of institutions concerned.
   - Prevention through briefing by officers of departments on the observations noted by NAB regarding procurement procedure.

   Under Section 33C(a), NAB is responsible to educate and advise the public authorities, holders of public office and the community at large on measures to combat corruption and corrupt practices. The experience shared during Seminar with other participants was useful in meeting this legal requirement.

   Whistleblowing was one of other topics discussed in the Seminar in Timor-Leste. The speeches and materials on the subject helped the undersigned to use this tool in the tasks of elimination of corruption.

2. Awareness

   Awareness is aimed at correcting ill habits of society through Education and Character Building Societies so as to develop public opinion for will to eradicate corruption and corrupt practices. The major object of awareness is to transform the social attitude from indifference to abhorrence against corruption. The experience shared with other countries with reference to awareness regarding corruption and rule of civil society and media in this regard was
really benefiting to utilize it in my organization. The following activities are being conducted by the NAB:

1. Seminar on the eve of International Anti-Corruption Day on 9 December every year.
2. Awareness advertisement for the public at large in print and electronic media.
3. Printing of special supplement in newspapers on 9 December on Anti-Corruption Day.
4. Lectures and presentations in various institutions to create awareness against corruption.
5. Live Radio Programme of one hour duration.
6. Character Building Societies in schools, colleges and universities.
7. Walks on 9 December to observe the Anti-Corruption Day attended by the families along with students, scouts and people from different walks of life.
8. Essay writing competition.
9. Posters painting competition.
Philippines

The Office of the Ombudsman has transmitted the materials, handouts and reports from the 12th Regional Seminar to our Office’s Bureau of the Resident Ombudsman (BRO). The BRO is active in coordinating with external government agencies and the private sector in monitoring the continued implementation of the UNCAC and Philippines’ compliance therewith.

The knowledge and materials culled from the 12th Regional Seminar were conveyed to the BRO for its information, reference, safekeeping, and, accordingly, dissemination to the proper government agencies and the private sector. The materials would prove useful when the Office of the Ombudsman and the Philippines take stock of our ongoing efforts to comply with the UNCAC (e.g. pending legislation on Whistleblower Protection), as they offer a point of reference and comparison for possible applicability (and hopefully, duplication) of our fellow members' success stories to our own jurisdiction.
Thailand

The summary report on the 12th Regional Seminar on Whistleblower Protection and Strengthening Anti-Corruption Agencies was submitted to the NACC Commissioners. NACC Commissioners support and agree to disseminate the useful knowledge which was acquired during the meeting. The documents are being translated into Thai and will be disseminated to the relevant agencies, such as, Ministry of Justice, Attorney General and Royal Thai Police. In accordance with the Whistleblower Protection, the NACC Organic Act (2009), amended (2011) provides the Commission with greater authority to undertake special measures to provide effective protection for whistleblowers, witnesses and victims of corruption from intimidation or reprisal. These measures are in line with Articles 32 and 33 of the UNCAC. Moreover, our new act also gives the Commission the discretion to enter into ‘non-prosecution or cooperative agreements’ with an alleged culprit in exchange for his or her role as a cooperative witness in identifying and providing incriminating evidence leading to the prosecution of the real mastermind or the ‘big fish’ behind the corruption offence. Moreover, the NACC has signed the MOU on Whistleblower Protection with Royal Thai Police on 10 July 2013. This MOU will help both agencies to enhance the implementation on Whistleblower Protection to be more efficient.

In regard to the topic of Strengthening Anti-Corruption Agencies, the Jakarta Statement on Principles for Anti-Corruption Agencies was submitted to International Affairs Sub-Commission and NACC Commissioners. In addition, NACC Thailand is a Constitutional Independent Organ, has its own principles to ensure the independence and effectiveness of anti-corruption agency, for example, the NACC Organic Act (2009), amended (2011) as the clear mandates to tackle corruption. Furthermore, the NACC has new tool to improve the anti-corruption strategies and to enhance the officer’s performance to operate effectively. Its 2nd National Anti-Corruption Strategy has just been launched. The new medium-term plan for the period 2013 - 2017 will be posted on the NACC website soon.