



2017 OECD GLOBAL **ANTI-CORRUPTION & INTEGRITY FORUM**

Is This Payment Reportable?

Global Standard for Payment Disclosure

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The need for globally applicable transparency and anti-corruption legislation gained momentum after the global credit crisis of 2007/2008 that was tied to losses from opaque leveraged mortgage-backed securities, which were hidden in tax havens. It wreaked havoc in the world economy, by threatening the collapse of the world's largest financial institutions, and was cured by the bailout of banks by national governments. The credit crisis played a significant role in the decline in consumer wealth, wide spread real estate foreclosures, evictions, bankruptcy of businesses, prolonged unemployment and a worldwide downturn in economic activity. The ensuing large increases in government debt have produced several sovereign debt crises that lead to government agencies increasingly using public private partnerships (PPP) with multinational enterprises (MNE) from all industries to fund public procurement projects. At the same time, the continuous and voluminous press leaks with the aid of whistle-blowers shed light on the numerous offshore accounts, offshore entities belonging to top-level politicians, signalling the influence of narrow interests on public decision making for their own profit. These conditions necessitated national austerity measures with world regulators increasingly cooperating with one another to clamp down on corruption and tax evasion and were the driving force behind the global legislative initiatives to promote transparency and accountability.

This article provides an overview of the anti-corruption and transparency reporting requirements that have been adopted around the world since the credit crisis that are complimentary to the functioning of UNCAC. This article also proposes to establish a streamlined global standard for payment disclosure to foreign governments, as a part of the Country-by-Country Report (BEPS 13) for MNE's involved in all industries (CbCR-Payment).

Key words: Transparency, corruption, country-by-country report

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This paper was submitted as part of a competitive call for papers on integrity, anti-corruption and inclusive growth in the context of the 2017 OECD Global Anti-Corruption & Integrity Forum.

1. INTRODUCTION

The need for globally applicable transparency and anti-corruption legislation gained momentum after the global credit crisis of 2007/2008 that was tied to losses from opaque leveraged mortgage-backed securities, hidden in tax havens. It wreaked havoc in the world economy, by threatening the collapse of the world's largest financial institutions, and was cured by the bailout of banks by national governments. The credit crisis played a significant role in the decline in consumer wealth, wide spread real estate foreclosures, evictions, bankruptcy of businesses, prolonged unemployment and a worldwide economic downturn.

Eight years later, world treasury departments continue to face funding deficits with no simple resolution in sight and the ensuing large increases in government debt have produced several sovereign debt crises that reduced public funding used for a nation's economic growth. At the same time, the continuous and voluminous press leaks with the aid of whistle-blowers has shed light on the numerous offshore accounts, offshore entities belonging to top-level politicians, signalling the influence of narrow interests on public decision making for their own profit. These conditions necessitated national austerity measures with world regulators increasingly cooperating with one another to clamp down on corruption and tax evasion and were the driving force behind the global legislative initiatives to promote transparency and accountability.

The two major anti corruption and transparency initiatives in the United States (U.S.) include: (1) the Cardin-Lugar anti-corruption rule (Cardin-Lugar Rule) requiring publicly listed multinational enterprises (MNE) in the extractive industry to disclose how much they pay to foreign governments; and (2) the Foreign Account Tax Compliance Act (FATCA) requiring 113 countries and hundreds of thousands of foreign financial institutions to report American account-holders to the IRS.

The OECD, on the other hand, worked through the Global Forum to implement (1) the 15-point Base Erosion and Profit Shifting" (BEPS) Reform Agenda; and (2) the Global Standard on Automatic Exchange of Information (AEOI), which is based on FATCA. By 2016, OECD's transparency guidelines were adopted into the legislation of various countries around the world with immediate compliance obligations in full force and effect.ⁱ

These anti-corruption and transparency initiatives, as detailed in Table 1, were complimentary to the functioning of the United Nations Convention against Corruption

(UNCAC), which is recognized as the standard-bearer of transnational anti-corruption efforts around the world. Signatory countries are committed to transparency in management of public funds, and generally recognize that international bribery is illegal and undesirable, and that long-lasting bribery-based relationships between elite networks and governments cannot be eliminated merely by regulations, since these are limited by national borders. When politicians are paid bribes by foreign interests, the illicit activity does not come to light unless there is self-disclosure or intervention by a multitude of regulators in various countries. Such payments to politicians can influence policies and regulations to benefit agendas of foreign interests that may be counter to national interests and contribute to the erosion of the already alarming low trust levels in government and public institutions. For these reasons, President Donald Trump during his first week in office, issued an executive order requiring his officials to agree to a lifetime ban on working on behalf of foreign governments or foreign political parties as lobbyists by taking payments from foreign governments or foreign political parties.ⁱⁱ Such corruption cannot only risk jeopardizing the capacity of countries to attract foreign direct investments; it can create wealth imbalances, with governments falling. It can cost bribe-paying MNEs amply in fines, penalties, loss of stock valuations, including penalties for its executives who remain subject to blackmail or extortion. All of these are costly outcomes for countries and MNEs that can be minimized with transparency. Thus, the Cardin-Lugar Rule based on the Extractive Industries Transparency Initiative (EITI) sparked a global movement toward greater payment disclosure in extractive industries, including new mandatory payment reporting requirements in 35 countries.

This article provides an overview of the anti-corruption and transparency reporting requirements that have been adopted around the world since the credit crisis that are complimentary to the functioning of UNCAC. This article also proposes the establishment of a streamlined global standard for payment disclosure to foreign governments, as a part of the Country-by-Country Report (BEPS 13) for MNE's involved in all industries, particularly those with "disruptive, foundational technologies that are building the infrastructure for tomorrow" (CbCR-Payment).ⁱⁱⁱ

2. Global Transnational Anti-Corruption Standards

Laws penalizing bribery and fraud and requiring transparency in trade transactions date back to the laws of Hammurabi, which were carved and chiseled into stone tablets, written in cuneiform around 1754 BC. But the first step to establish a global transnational anti-

corruption standard in 1977 AD took 3,731 more years. Sadly, global transnational corruption laws have not kept up with the new era of global technological, and scientific developments ushered in with the space age when the Soviet Space Agency (ROSMOCOS) launched the first satellite into space, Sputnik 1 in 1957. During the next 60 years the International Telecommunications Satellite Organization (INTELSAT) installed a global communications satellite constellation in space in 1964 to allow 500 million people from around the world to watch on TV images of NASA astronaut Neil Armstrong's first steps on the moon in 1969; the Chinese Space Agency (CSA) shot down a satellite from earth in an anti-satellite missile test in 2007; the Japan Space Agency (JAXA) transmitted condensed solar power from satellites to earth via wireless power reception antennas in 2016; and the Indian Space Agency (ISRO) sent 104 satellites into space in one launch in 2017. However, a global standard for payment disclosure still is not in place and as a result corruption continues to drain \$2 trillion out of \$9.5 trillion of public funds annually.

2.1 The Foreign Corrupt Practices Act (FCPA)

The U.S. established the first transnational anti bribery legislation for the criminalization of bribery with the Foreign Corrupt Practices Act (FCPA) in 1977, on the heels of the Watergate scandal.^{iv}

In response to these revelations, Congress enacted the FCPA, which criminalized the bribery of foreign officials by U.S. companies and individuals pursuing business in other countries and required publicly held MNEs to create and maintain proper accounting controls and accurate records of their financial dealings. At the time, Secretary of State Elliot Richardson's Task Force emphasized that "the ultimate legal basis for adequately addressing the questionable payments problem must be an international treaty to assure that all nations, and the competing firms of differing nations, are treated on the same basis."^v

In 1988, while in the process of amending the FCPA, it was agreed "the U.S. President should pursue the negotiation of an international agreement, among the members of the Organization of Economic Cooperation and Development (OECD) to create a level playing field for U.S. firms in international business transactions."^{vi}

2.2 OECD's Anti Bribery Convention (OECD-Convention)

FCPA was amended by the International Anti-Bribery and Fair Competition Act of 1998 to achieve symmetry with the OECD Convention on Combating Bribery of Foreign Officials in International Business Transactions (OECD-Convention). This expanded the FCPA's reach worldwide to within the OECD-Convention's network countries of 41, subjecting violators of the FCPA to civil and criminal penalties and the risk of losing the benefits of doing business with a U.S. government agency. It also banned tax deductibility of bribes.^{vii}

2.3 The United Nations Convention Against Corruption (UNCAC)

Following the OECD-Convention, the United Nations (UN) pursued the negotiation of the United Nations Convention Against Corruption (UNCAC), which is the only legally binding international anti-corruption agreement. It entered into force on December 14, 2005.^{viii}

Stapled to the convention, is the fundamental principle of strengthening international law enforcement^{ix}, criminalization requirements^x; accountability and transparency^{xi}; judicial cooperation^{xii} between countries by providing effective legal mechanisms for international asset recovery^{xiii}, as it pertains to anti-corruption performance at both the public and private sector level. Its 71 articles --compared to the OECD-Convention's 17 articles-- are organized in eight chapters.^{xiv}

There are 181 parties to UNCAC, which include 41 signators of the OECD-Convention that have adopted the FCPA.^{xv} While UNCAC's effectiveness and impact depends on national implementation and enforcement, the international cooperation provisions of UNCAC provides an immediate boost to prosecutors seeking to obtain evidence abroad, including asset recovery or the extradition of accused persons.

Since UNCAC's implementation, there is increased multi-jurisdictional FCPA enforcement, with rising cooperation among prosecutors around the world.^{xvi} The Department of Justice ("DOJ") has been working more closely and much more frequently with foreign counterparts through multiple units, and is using the latest technology -- commercial imagery satellites, drones, data analytics, smartphones, social media, and more—to gather evidence about activities that only intelligence agencies could observe in the past. While DOJ's FCPA unit

focuses on the conduct of the bribe-payor, DOJ's Kleptocracy Asset Recovery Initiative freezes, forfeits, recoveries and repatriates the proceeds of corruption by foreign officials -- the bribe-receiver.^{xvii} "The DOJ follows the evidence. It does not target certain industries or conduct industry sweeps. The DOJ relies on all sources of information when deciding whether to open a FCPA investigation, including press reports, whistleblowers, cooperating companies or individuals, suspicious activity reports from financial institutions, referrals from other domestic authorities and from foreign authorities, as well as any other sources".^{xviii} Corruption can be notoriously hard to detect, as parties deliberately conceal key evidence: bribes paid from slush funds or illicit dealings disguised by parties using alias's, contracts buried underneath a complex layers of offshore, companies with undisclosed ownership. "The DOJ supports greater transparency on beneficial ownership. FCPA investigations often involve the transfer of illicit payments through offshore bank accounts. Thus, in conducting FCPA investigations, the DOJ relies on financial information obtained from domestic and foreign financial institutions, as well as financial reports pursuant to laws and regulations".^{xix} Consequently, multi-jurisdictional FCPA investigations are complex as well as costly. One third of corruption cases come to the attention of regulators through self-disclosure.^{xx} Therefore, during 2016 the DOJ introduced a "pilot program" which "provides clear guidance to MNEs and FCPA Unit prosecutors about (1) what the DOJ will treat as fulsome cooperation and remediation; (2) what the DOJ will treat as voluntary self-disclosures; and (3) the benefits that flow from voluntarily self-disclosing misconduct and fully cooperating and remediating".^{xxi}

3. Payment Transparency Disclosure Initiatives Around the World

According to a study conducted by the OECD, one in five cases of transnational bribery occurs in the extractive sector.^{xxii} Following the credit crisis, 35 countries have implemented payment disclosure laws for the extractive industry, which is based on the Extractive Industries Transparency Initiative (EITI).

3.1 The Extractive Industries Transparency Initiative (EITI)

The Extractive Industries Transparency Initiative (EITI) is a global standard to promote the open and accountable management of extractive resources. It seeks to address the key governance issues in the oil, gas and mining sectors by increasing transparency over contracts, payments and revenues in the extractive sector and has succeeded in raising awareness of the importance of transparency of payments made by companies to governments.

EITI Standard is voluntarily implemented by 51 member countries around the world, for \$2.3 trillion in contracts and licenses, production, revenue collection, revenue allocation, and social and economic spending. According to a 2015 EITI report: 23 member countries produce EITI reports, of which seven member countries have adopted legislation requiring full disclosure of contracts.^{xxiii} Mr Eddie Rich, Deputy Head of the EITI explained that, “joining the EITI as an implementing country is voluntary. However, once joined, all companies who are found to make material contributions are required to disclose; and the governments are required to disclose: how much it receives in taxes; how licenses are registered and allocated; whether contracts are published; beneficial ownership of the companies; state-ownership and involvement in the sector; legal and fiscal arrangements; production volumes; where the money goes to and how much is spent at the local level and on social projects; artisanal and small-scale mining; employment in the sector and other contributions to the whole economy. Some countries adopted the EITI contract disclosure requirements into national legislation and others voluntarily make EITI disclosure without legislation.” EITI does not provide a standardized contract disclosure method.

During 2014, the US became the first G8 country, and is among six of the top 20 oil producers accepted as a member of EITI.^{xxiv} On Mar 9, 2017, a Department of the Interior official confirmed in a phone call that the U.S. is withdrawing its efforts to be validated under the EITI Standard.²

3.2 The Cardin-Lugar Anti-Corruption Rule for Extractive Industry

The post credit crisis transparency initiatives in the U.S. paved the way for the enactment of

²https://www.earthworksaction.org/media/detail/administration_sounds_death_knell_for_transparency_initiative#.WNE8eBQcWu4

the Cardin-Lugar anti-corruption rule (Cardin-Lugar Rule).^{xxv} It required MNEs in the extractive industry that are listed in the U.S. to publish their payments to governments wherever they operate in the world, to advance international efforts to curb corruption. Recently, Congress repealed the rule, but not the Cardin-Lugar Amendment itself, which means that the Securities Exchange Commission (SEC) within a year will have to come up with a new disclosure rule that isn't "substantially similar" to the rule that was voided.^{xxvi}

U.S. Senator Ben Cardin (D-Md.), the Ranking Member of the Senate Foreign Relations Committee, pointed out that "it should be lost on no one that in less than 48 hours the Republican-controlled Senate has confirmed the former head of ExxonMobil to serve as our Secretary of State, and repealed a key anti-corruption rule that ExxonMobil and the American Petroleum Institute have erroneously fought for years."^{xxvii}

3.3 Mandatory Payment Disclosure Rules for Extractive Industry Adopted by EU, Canada and Norway

Since the passage of the Cardin-Lugar Rule in 2010, the European Union (EU)^{xxviii}, Canada^{xxix} and Norway^{xxx}, have adopted their own mandatory payment disclosure rules for companies listed on their stock exchanges. And while in many ways, the Canadian, and EU requirements are more stringent as they also cover private companies, the laws in all 30 jurisdictions have been deemed equivalent by the SEC. Companies in the extractive industry in 29 countries are allowed to submit the same payment disclosure report, which they prepare in addition to the CbCR, in all 30 jurisdictions. Norway has amended the CbCR so that companies in the extractive industry report payments, profits, tax and economic activities on a country-by-country basis in one report (Caber-Payment).^{xxxi}

4. Transparency Guidelines Set by the Organization for Economic Cooperation and Development (OECD)

To develop guidelines for the global transparency standards proposed by the G-20, the OECD worked through the Global Forum.^{xxxii} OECD's two major transparency initiatives have been

(1) the Base Erosion and Profit Shifting” (BEPS) Reform Agenda as well as (2) the Global Standard on Automatic Exchange of Information (AEOI).

4.1 Base Erosion and Profit Shifting” (BEPS) Reform Agenda

OECD’s BEPS Project was completed in October 2015, and contained 15 Actions covering many aspects of international tax planning. Under the inclusive framework, over 82 countries and jurisdictions have been collaborating to implement BEPS.^{xxxiii}

- **Country-by-Country Report (CbCR) (BEPS Action 13):** Requires MNEs to report a high level global picture of where MNE’s profits, tax and economic activities are located on a country-by-country basis. And for countries to automatically exchange the report with Tax Treaty, Tax Information Exchange Agreement (TIEA) and Multilateral Competent Authority Agreement (MCAA) countries.^{xxxiv} Fifty-two countries have adopted the CbCR, including the U.S., where MNEs will begin filing Form 8975 in 2017.

4.2 The Global Standard on Automatic Exchange of Information (AEOI)

The global standard on Automatic Exchange of Information (AEOI) reduces the possibility for tax avoidance and evasion as well as corruption. It provides for the exchange of non-resident financial account information with the tax authorities in the account holders’ country of residence. Participating jurisdictions that implement AEOI send and receive pre-agreed information each year, without having to send a specific request. The common reporting standards (CRS) for the automatic exchange of tax information between tax authorities was signed by 88 countries --which does not include the U.S. as it has similar legislation that predates AEOI --FATCA—to allow these countries to automatically exchange banking data with one another.^{xxxv} Like FATCA provisions, the CRS requires financial intermediaries—such as banks—to identify the beneficial owners of entities (BEPS 12).^{xxxvi} Fifty-four countries have adopted the CRS and 113 countries have adopted FATCA.

5. Proposal For A Global Payment Transparency Reporting Standard

The majority of bribes are paid to obtain public procurement contracts which distort the fair awarding of contracts, reduces the quality of basic public services, limits opportunities to develop a competitive private sector and undermines trust in public institutions.^{xxxvii}

Public procurement refers to the purchase by governments and state-owned enterprises of goods, services in:

- Transportation^{xxxviii}
- Defense and aerospace^{xxxix}
- Atomic Energy^{xl}
- Infrastructure^{xli}
- Technology^{xlii}
- Healthcare^{xliii}
- Environment^{xliv}
- Education^{xlvi}
- Recreation and Culture^{xlvi}
- Telecommunication^{xlvi}
- Other industries.

It accounts for a substantial portion of the taxpayers' money and remains the government activity most vulnerable to waste, fraud and corruption due to the size of the financial flows involved. With 20% of GDP, or around \$9.5 trillion of public money, government procurement accounts for a substantial part of the global economy which corruption drains off between 20 and 25 per cent or around \$2 trillion annually.^{xlvi}

The U.S. government and its agencies have funded, collaborated and partnered with business

as well as educational institutions in fostering and continuously developing innovative technologies and science.^{xlix} Such advances in intellectual property (IP), which sustains the competitive edge of the U.S. economy, are protected and commercialized through patents, trademarks and copyrights. The legal protection of IP rights is vital to promoting innovation and creativity, because it economically incentivizing its creator, which is an essential element of the free-enterprise, market-based system. The entire U.S. economy relies on some form of IP, because virtually every industry either produces or uses it, both directly and indirectly, and for every innovation in a given industry, generally there are corresponding economic opportunities for other industries to bring advances to the public including logistical and supporting businesses.¹ Senator Cardin emphasizes that technological innovation is indispensable for economic growth.^{li}

Countries around the world-- including top fossil fuel exporting countries^{lii} -- are putting technological innovation at the heart of public procurement, reshaping procurement into a strategic tool for income growth, national competitiveness, improvements in the health, economic well being, and overall quality of life.^{liii} More than four-dozen countries have created national innovation strategies and/or launched national innovation foundations.^{liv} These countries are relaxing foreign direct investment constraints, providing funding, financing, using public-private collaborations^{lv}, tax breaks and asking MNEs from outside their borders for commitments to their countries. They are implementing “indigenous innovation” policies demanding from MNEs broad-based, explicit, and often extensive skills, knowledge, and IP transfers^{lvi}, with offset agreements^{lvii}, to build up their infrastructure, increase productivity, drive innovation and to diversify their economies from being importers of technology to having the capability to develop and export their own industrial, military, aerospace, technological goods and services.^{lviii}

Since the credit crises, many countries are facing a sovereign debt and a funding crisis. The U.S. federal funding for R&D as a share of GDP in 2016 was at the lowest it has been since the Soviets launched Sputnik 1, 60 years ago.^{lix} Many cash-strapped government agencies have been turning to “public-private partnerships” (PPPs), to fund public procurement projects without incurring additional debt to stimulate the economic growth with the aim of passing on substantial risk of funding to the private sector.^{lx}

PPPs take many forms, from simply transferring management responsibilities to a private sector firm, right through to integrated contracts that incorporate the design, building,

maintenance and operation of the procurement project.^{lxi} The U.S. lags behind other countries in PPP use because in public procurement projects the various delivery elements such as project design, construction, financing, operation and maintenance are not bundled together.^{lxii}

PPPs typically involve a government agency identifying a potential project, determining that there is sufficient revenue potential from the project to attract investor interest, soliciting competitive bids, and then selecting one or more private sector entities or MNEs to design, finance, build, operate, and maintain the project. In a PPP, the government generally owns the project, but grants the MNEs significant authority over its development and operation. Typically, a private sector consortium forms a special company called a "special purpose vehicle" (SPV) based in a tax haven to develop, build, maintain and operate the asset for the contracted period.^{lxiii} PPPs require a source of finance from financial institutions that can provide financing from their own resources or arrange financing from other sources.

In essence MNEs from all industries are involved in doing business via PPPs, with government agencies around the world. It is not just the extractive industries. These business transactions between MNEs and government agencies could require a bid for licenses, signing governmental contracts, generating revenues, paying or not paying taxes, and making various other payments to government agencies such as registration, licensing fees, rents and royalty payments when there has been a transfer of IP or other assets.

The goal of CbCR is to provide the same valuable information to all constituents so they can trace how money is generated and how it flows within MNE structures from country to country. Thirty-five countries require disclosure of payments made to governments in the extractive industry, with Norway disclosing such payments in CbCR-Payment. We suggest that the CbCR should be amended to include disclosure of payments to government agencies for all industries to standardize and streamline MNEs reporting requirements, with the goal of improving transparency and mitigating corruption, which could represent a constraint to trade or investment for countries seeking capital investment into their economies (CbCR-Payment).

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6. CONCLUSION

Since the credit crisis, public procurement has been increasingly used for technological innovation and economic development undertaken via PPPs with MNEs from all industries. Transparency and accountability in the handling of public funding in accordance with UNCAC will bolster the fair awarding of public contracts, improve the quality of basic public services, enhance opportunities to develop a competitive private sector, and build trust in public institutions. To further the goal of transparency in payments, to make it harder for the recipient to cover up the amount diverted from public coffers, payments to governments should be reported in a standardized and streamlined fashion using CbCR-Payment for MNE's in all industries. Reporting payments in CbCR-Payment would standardize and streamline reporting requirements for MNEs by providing a high level global picture of where MNEs payments, profits, tax and economic activities are located on a country-by-country basis.

ⁱ Selva Ozelli Esq, CPA and Roger Russell, Esq, “Tax Transparency and Its Implications for Multinational Enterprises”, Bloomberg BNA Tax Management Memorandum, Mar 6, 2017

ⁱⁱ <https://www.whitehouse.gov/the-press-office/2017/01/28/executive-order-ethics-commitments-executive-branch-appointees>; Chuck Ross, *New Disclosures Show It Was Probably A Good Idea To Fire Michael Flynn*, The Daily Caller (Mar. 8, 2017)

ⁱⁱⁱ ALAN BOYLE, *Softbank puts \$1.7B into Intelsat merger with OneWeb satellite internet venture*, Geek wire (Feb. 28, 2017)

^{iv} See http://www.usdoj.gov/usao/eousa/foia_reading_room/usam/title9/47mcrm.htm; <https://www.sec.gov/spotlight/foreign-corrupt-practices-act.shtml>

^v Foreign Payments Disclosure: Hearings Before the Subcomm. on Consumer Prot. & Fin. of the Comm. on Interstate & Foreign Commerce, 94th Cong. 45 (1976).

^{vi} See Foreign Corrupt Practices Act Amendments of 1988 § 5003(d)(1), Pub. L. No. 100-418, 102 Stat. 1415.

^{vii} COMM. ON FOREIGN RELATIONS, CONVENTION ON COMBATING BRIBERY OF FOREIGN PUBLIC OFFICIALS IN INTERNATIONAL BUSINESS TRANSACTIONS, S. EXEC. REP. NO. 105-19, (1998); http://www.oecd.org/daf/anti-bribery/ConvCombatBribery_ENG.pdf; Selva Ozelli, “Is This Bribe Deductible? Tax Implications of the U.S. Foreign Corrupt Practices Act”, Tax Notes International, Dec 12, 2007; “OECD Toughens Convention Language On Requirements for Deductions on Bribes”, Bloomberg BNA, Dec 10, 2009

^{viii} <https://www.unodc.org/unodc/en/treaties/CAC/>

^{ix} Chapter VI, Technical Assistance and Information Exchange (Articles 60-62)

^x Chapter III, Criminalization and Law Enforcement (Articles 15-42) - Parties must establish or maintain a series of specific criminal offences which include criminalization of active and passive bribery of national, international or foreign public officials and embezzlement of public funds.

^{xi} Chapter II, Preventive Measures (Articles 5-14) - Parties must promote transparency and accountability in the management of public finances

^{xii} Chapter IV, International Cooperation (Articles 43-50) - Parties must assist one another -- through extradition, mutual legal assistance, transfer of sentences persons and criminal proceedings, and law enforcement cooperation -- in every aspect of the fight against corruption, including prevention, investigation, and the prosecution of offenders.

^{xiii} Chapter V, Asset Recovery (Articles 50-59) - Parties must cooperate on asset recovery, in both civil and criminal law, for tracing, freezing, forfeiting and returning funds obtained through corrupt activities.

^{xiv} Chapter I, General Provisions (Articles 1-4); Chapter VII, Mechanisms for Implementation (Articles 63-64); Chapter VIII, Final Provisions (Articles 65-71).

^{xv} <http://www.unodc.org/unodc/en/corruption/index.html>

^{xvi} <http://traceinternational.org/GER/>; <https://www.oecd.org/daf/anti-bribery/Working-Group-on-Bribery-Enforcement-Data-2014.pdf>; http://www.transparency.org/exporting_corruption; <http://www.fcpablog.com/display/Search?moduleId=17494820&searchQuery=jail>; *Aggressive Corruption Persists: Findings from the latest AlixPartners global anti-corruption survey*, metrocorpounsel.com (Jul. 4, 2016)

^{xviii} <https://www.justice.gov/criminal-fraud/related-enforcement-actions/a>; <https://www.sec.gov/spotlight/foreign-corrupt-practices-act.shtml>; <https://corpgov.law.harvard.edu/2017/01/19/2016-year-end-fcpa-update/>; <https://www.justice.gov/criminal-mlars>; <http://www.fcpablog.com/blog/tag/kleptocracy-asset-recovery-initiative>

^{xviii} Nicole A. Navas, Spokesperson/Public Affairs Specialist, U.S. Department of Justice (DOJ)

^{xix} Nicole A. Navas, Spokesperson/Public Affairs Specialist, U.S. Department of Justice (DOJ)

^{xx} <http://www.oecd.org/corruption/oecd-foreign-bribery-report-9789264226616-en.htm>

^{xxi} Nicole A. Navas, Spokesperson/Public Affairs Specialist, U.S. Department of Justice (DOJ); Johann Le Frapper, Association of Corporate Counsel (ACC), *Fighting Corruption Should Be a Government, Corporate and Global Effort: More emphasis should be placed on incentivizing compliance*, Metrocorpconsult.com (Mar. 6, 2017)

^{xxii} <http://www.oecd.org/dev/Corruption-in-the-extractive-value-chain.pdf>;

^{xxiii} https://eiti.org/sites/default/files/documents/eiti_brief_on_contract_transparency.pdf

^{xxiv} <https://www.doi.gov/eiti>; <https://www.state.gov/e/enr/c56887.htm>; Elisha Bala-Gbogbo, *Nigeria Charges Shell, Eni With Corruption Over Oil License*, Bloomberg (Mar. 3, 2017); Dana Hughes, *Nigeria Drops Bribery Charges Against Former Vice President Dick Cheney after Halliburton Agreed to pay Nigeria \$250 million Dollars in Fines*, ABC News (Jan. 20, 2010);

^{xxv} 1504 of the Dodd-Frank Wall Street and Consumer Protection Act of 2010 (Dodd-Frank Act).

^{xxvi} Alex Parker, *Europe to Leave U.S. Behind on Oil, Gas Tax Transparency?*, Bloomberg BNA (Feb. 13, 2017); Tom DiChristopher, *Trump and GOP killed an energy anti-corruption rule for no good reason, advocates say*, CNBC (Feb. 14, 2017); *Donald Trump Signs a Law Repealing a Disclosure Rule for Oil Companies*, The Economist (Feb. 17, 2017)

^{xxvii} <https://www.cardin.senate.gov/newsroom/press/release/cardin-statement-on-senate-repeal-of-key-anti-corruption-rule-for-oil-gas-industry; Africa: Transparency Setback, African Agendas, AllAfrica.com> (Feb 7, 2017);

^{xxviii} The scope of the European rules is broader than the US rules, for example by extending the requirements to loggers of primary forests. According to the European Directive, member states "shall require large undertakings and all public-interest entities active in the extractive industry or the logging of primary forests to prepare and make public a report on payments made to governments on an annual basis." (Article 42, 2013/34/EU Directive). Member states have time until July 2015 to issue enforcing rules of the Directive, and reporting must begin for financial years commencing on or after Jan. 1, 2016 (Article 53, 2013/34/EU Directive). For the full text of the Directive see here: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0034&from=EN>;

^{xxix} Extractive Sector Transparency Measures Act, <http://laws-lois.justice.gc.ca/eng/acts/E-22.7/page-1.html>

^{xxx} Norway has regulated CbCR for enterprises in the extractive industry and in logging of non-planted forestry, effective as of Jan. 1, 2014. The regulations can be viewed here: <https://www.regjeringen.no/nb/dokumenter/forskrift-om-land-for-land-rapportering/id748525/>; <https://www.regjeringen.no/no/dokumenter/prop-1-ls-20132014/id740943/?q=land-for-land&ch=3>; 21.6.2015. The announcement of the Norwegian Ministry of Finance can be view here: <https://www.regjeringen.no/nb/aktuelt/forskrift-om-land-for-land-rapportering/id748537/>; The scope of the Norwegian rules is wider than the similar rules in the EU and the USA with regard to the elements that are required to be disclosed (e.g. sales income, production volume, acquisitions of goods and services, and number of employees in every subsidiary.); Norway also discloses under EITI <https://www.regjeringen.no/globalassets/upload/kilde/ud/bro/2006/0038/ddd/pdfv/293033-tnps.pdf>

^{xxxi} *An extended country by country reporting standard - A Policy Proposal to the EU* (Jan. 2012), http://www.publishwhatyoupay.no/sites/all/files/1007a-PWYPNorway_CBC_Reporting_DOWNLOAD.pdf;

^{xxxii} <http://www.ey.com/gl/en/services/tax/international-tax/alert--norway-introduces-country-by-country-reporting>

^{xxxiii} <https://www.oecd.org/tax/transparency/global-forum-annual-report-2015.pdf>

^{xxxiii} <http://www.oecd.org/ctp/beps-actions.htm>

^{xxxiv} <https://www.oecd.org/ctp/transfer-pricing/beps-action-13-country-by-country-reporting-implementation-package.pdf>

^{xxxv} Joe Kirwin, *EU Targets U.S. for Tax Haven Blacklist Screening*, Bloomberg BNA (Dec. 19, 2016)

^{xxxvi} <http://www.oecd.org/tax/automatic-exchange/international-framework-for-the-cr/s/>;

^{xxxvii} <http://www.oecd.org/corruption/oecd-foreign-bribery-report-9789264226616-en.htm>;

[http://documents.worldbank.org/curated/en/330521476191334505/pdf/INT-FY16-Annual-Update-10062016.pdf](http://documents.worldbank.org/curated/en/330521476191334505/pdf/INT-FY16-Annual-Update-10062016.pdf;);

<http://www.transparency.org/bpi2011/results>

^{xxxviii} *Abu Dhabi to Al Ain Hyperloop System Feasibility Study Announced*, Raily News (Dec. 19, 2016); *King Abdulaziz Project for Riyadh Public Transport Presented at UN Headquarters*, Raily News (Oct. 5, 2016)

^{xxxix} Randy Starr and Anurag Garg, *2017 Aerospace and Defense Trends: Contractors as Local Businesses Around the World*, Aviation Week (Mar. 1, 2017); David Reid, *US aerospace & defense sector fires off \$146 billion in exports*, CNBC (Feb. 14, 2017); *China's military tech challenging West's dominance: Study*, Straits Times (Feb. 16, 2017); *Saudi Prince 'Received Arms Cash'*, BBC (Jun. 7, 2007)

^{xl} RACHEL SILVERSTEIN, *Toshiba won't be building FPL's nuclear reactors. Customers should not have to keep paying*, Herald Miami (Feb. 28, 2017); Jillian Ambrose, *Toshiba's nuclear fallout shows the Government must take a stand*, Telegraph (Feb. 16, 2017); JONATHAN SOBLE, *Toshiba's Chairman Resigns as Its Nuclear Power Losses Mount*, NY Times (Feb 14, 2017); *Made in China: exporting Chinese nuclear technology to the UK*, Power Technology.com (Apr. 1, 2016); *Former Russian Nuclear Energy Official Sentenced to 48 Months in Prison for Money Laundering Conspiracy Involving Foreign Corrupt Practices Act Violations*, DOJ Press Release (Dec. 15, 2015)

^{xli} Jones Day, *The Plan for the Future of American Infrastructure*, Lexology (Feb. 10, 2017); *Asia's massive infrastructure gap*, Daily Star (Mar. 7, 2017); *Lula, Dilma, and Mercadante Accused of Conspiring Against Operation Car Wash*, Plus55.com (Feb. 20, 2017); *PH to implement massive infrastructure plan*, news.pia.gov.ph (Oct. 24, 2016);

^{xlii} Doris Dumlao-Abadilla, *Tech innovators challenged to champion public good*, Inquirer Business (Feb. 12, 2017); Carlos Tejada, *Money, Power, Family: Inside South Korea's Chaebol*, NY Times (Feb. 17, 2017); *Japan, Korea and Germany at risk from China tech rise*, afr.com (Dec. 14, 2016)

^{xliii} *Centralisation set to transform European healthcare*, Health IT Central (Mar. 3, 2017); *Uganda: Corruption Growing in Local Governments*, AllAfrica.com (Feb. 20, 2017)

^{xliiv} *Japan Medical Water Purification Systems Market In-depth Research Report on Market from 2016 to 2021*, MedGaget.com (Mar. 4, 2017); *Denmark top EU energy tech exporters*, Cphpost.dk (Apr. 28, 2016);

^{xliv} *First ever procurement process for adult education budget contracts finally launched*, feweeek.co.uk (Jan. 31, 2017); *Schools are a hot spot for corruption says report - "2016 was the year in which South Africans decisively and publicly rejected corruption"*, northglennnews.co.za (Mar. 2, 2017)

^{xlvi} Jean Sorensen, *City of Surrey adding new recreational centres in 2017 to meet demand*, Journal of Commerce (Nov. 11, 2016)

^{xlvii} ANDREW MARTONIK, *ZTE guilty of violating U.S. sanctions, will pay \$892 million for shipping goods to Iran and North Korea*, Android Central (Mar. 7, 2017); *Vodafone and Technoport S.A. open innovation centre in Luxembourg*, Luxembourgier Wort (Dec. 15, 2016); *Western Australia launches fund to boost rural telecommunications infrastructure*, out-law.com (Feb. 1, 2017); *Panama Papers Unmask Mexican Billionaires in Offshore Schemes*, TeleSurtv.net (May 9, 2016); *Telenor faces more bribery allegations*, Newsinenglish.no (Jan. 19, 2015); Richard L. Cassin, *Ex Head of State Jailed For Alcatel Bribes*, FCPA Blog (Apr. 28, 2011);

^{xlviii} <http://www.oecd.org/gov/ethics/public-procurement.htm>; <http://oecdinsights.org/2015/03/27/transparency-in-public-procurement-moving-away-from-the-abstract/>;

https://issuu.com/transparencyinternational/docs/2014_anticorruption_publicprocureme?e=2496456/8718192; <http://g20.org.tr/wp-content/uploads/2015/11/G20-PRINCIPLES-FOR-PROMOTING-INTEGRITY-IN-PUBLIC-PROCUREMENT.pdf>

^{xlix} Greg Satell, *This Program Uses Lean Startup Techniques to Turn Scientists into Entrepreneurs*, Harvard Business Review (Mar. 7, 2017); *State is pushing universities to bring research to market*, crainscleveland.com (Mar. 5, 2017); *Samantha Masunaga, Don't expect a space race between SpaceX and NASA. They need each other*, LA Times (Mar. 5, 2017); *Amazon launches 'Alexa Fund Fellowship' to support universities transforming voice technology*, thetechportal.com (Mar. 3, 2017); *NASA Takes Solar Power Generation To A Whole New Level*, Wall Street Pit (Feb. 28, 2017); *Hatching New Ideas, from Tech Transfer to Incubation*, National Law Review (Feb. 10, 2017); *6 reasons the clean energy revolution doesn't need Trump's blessing*, inhabitat.com (Feb. 6, 2017);

https://www.energy.gov/sites/prod/files/2017/01/f34/2017%20US%20Energy%20and%20Jobs%20Report_0.pdf; *TOP FEDERAL IT CONTRACTS TO WATCH FOR IN 2017*, Nextgov.com (Jan. 31, 2017); *DynCorp says its fight for \$10 billion contract is valid. Its rival calls it 'frivolous' and 'desperate.'*, Bizjournal (Dec. 22, 2016); *MARCUS WEISGERBER, Lockheed looks to diversify its satellite business; Why Europe won't buy American tanks; Iraq wants more firepower from the sky; and more.*, Defense One (Oct. 13, 2016)

¹ Intellectual Property and the US Economy 2016 Update, USPTO, <https://www.uspto.gov/sites/default/files/documents/IPandtheUSEconomySept2016.pdf>; Intellectual Property and the US Economy 2012, https://www.uspto.gov/sites/default/files/news/publications/IP_Report_March_2012.pdf; Special 301 Report on intellectual property theft (2016), <https://ustr.gov/sites/default/files/USTR-2016-Special-301-Report.pdf>; *The Impact of Intellectual Property Theft on the Economy, REPORT BY THE U.S. CONGRESS JOINT ECONOMIC COMMITTEE CHAIRMAN'S STAFF Senator Bob Casey* (Aug. 2012), https://www.jec.senate.gov/public/_cache/files/aa0183d4-8ad9-488f-9e38-7150a3bb62be/intellectual-property-theft-and-the-economy.pdf; *President-Elect Trump's Positions on Technology and Innovation Policy*, ITIF (Nov. 2016), <http://www2.itif.org/2016-trump-on-tech.pdf>

ⁱⁱ Jonathan Hunter, *Senator Cardin toured the Sierra Nevada Corporation for Integrated Missions Systems in Hagerstown*, your4state.com (Aug. 15, 2016)

ⁱⁱⁱ Solape Renner and Tope Alake, *Solar Power May Get Boost From Africa's Biggest Oil Exporter*, Bloomberg (Mar. 7, 2017); Glen Carey and Vivian Nereim, *Saudi Arabia's Full Statement to Bloomberg on Its 2017 Agenda*, Bloomberg (Mar. 6, 2017), http://vision2030.gov.sa/sites/default/files/report/Saudi_Vision2030_EN_0.pdf; *Marubeni JV to build solar power plant in Abu Dhabi*, tradearabia.com (Mar. 6, 2017);

ⁱⁱⁱⁱ Robert D. Atkinson and Stephen J. Ezell, *Innovation Economics: The Race for Global Advantage* (New Haven, CT: Yale University Press, 2012); <https://www.gov.uk/government/news/liam-fox-welcomes-industrial-strategy-commitment-to-uk-trade>

^{lv} Stephen J. Ezell, Frank Spring, and Katarzyna Bitka, *"The Global Flourishing of National Innovation Foundations"* (Information Technology and Innovation Foundation, April 2015), <http://www2.itif.org/2015-flourishing-national-innovation.pdf>.

^{lv} Juan Pedro Tomás, *Nokia signs agreement with Saudi operator to collaborate on 5G, IoT*, rcwireless.com (Mar. 7, 2017); *Iran, Italy to hold scientific coop. meeting*, mehrnews.com (Mar. 7, 2017); *Government agencies partner on technology transfer*, Business Mirror (Mar. 5, 2017); *On the wing: The UAE's soaring aerospace ecosystem*, khaleejtimes.com (Mar. 5, 2017); *New technology to make data transfer 10 times faster than 5G*, economicstimes.indiatimes.com (Feb. 6, 2017)

^{lvi} *Hybrid electric feasibility guide*, maritimejournal.com (Mar. 7, 2017); *Alaina G. Levine, Navigating technology transfer issues*, sciencemag.org (Mar. 3, 2017); *Gary Peters, The importance of China's high-speed tech transfer policy*, railway-technology.com (Mar. 1, 2017); *Vivek Raghuvanshi, Britain's Inzpire offers full technology transfer under Make in India policy*, Defense News (Feb. 28, 2017); *Saab and HAL sign technology transfer contract for IDAS maintenance in India*, airforce-technology.com (Feb. 22, 2017); *Iran, Turkey hold workshop on tech transfer*, mehrnews.com (Feb. 19, 2017); *10 European Scientists who are the Best at Co-founding Biotech Companies*, <http://labiotech.eu> (Feb. 14, 2017); *New Policies On Technology Transfer In China: Granting More Autonomy To Universities*, Ip-watch.org (Feb. 10, 2017); *Trump administration assures India over continuation of defence technology transfer: Report*, Indiatvnews.com (Feb. 10, 2017)

^{lvii} *Austria looks into broadening Airbus fraud lawsuit to U.S., Britain*, Reuters (Feb. 24, 2017)

^{lviii} www.gov.uk/government/consultations/building-our-industrial-strategy;

^{lix} *Hearing on Leveraging the U.S. Science and Technology Enterprise Before the U.S. Senate Committee On Commerce, Science, & Transportation, 114th Cong.* (May 2016) (written testimony of Robert D. Atkinson, President, Information Technology and Innovation Foundation), <http://www2.itif.org/2016-senate-competes-act-testimony.pdf>.

^{lx} Michael Fahy, *Saudi Arabia turns to public-private partnerships to complete rail projects*, The National Business (Mar. 7, 2017); *ANABEL GONZALEZ, The secret sauce of a 'start-up nation'*, Worldbank.org (Mar. 6, 2017); *CHOE SANG-HUN and PAUL MOZUR, Samsung Bribery Scandal Threatens South Korea Success Story*, NY Times (Mar. 4, 2017); *Public private partnerships the way to go*, Zimbabwe Independent (Mar. 3, 2017); *Cody McFarlane, Argentina: Public – Private Partnership Regime Overview*, Mondaq (Mar. 3, 2017); *Brazilian Capital Seeks Public Private Partnership to Improve Transportation*, Leaders League (Mar. 3, 2017); *ADB stresses on promotion of PPP*, Katmandu Post (Mar. 1, 2017); *Che Odom, Governors Support Trump Private-Public Infrastructure Plan*, Bloomberg BNA (Feb. 28, 2017); *Bill Lucia, The Trillion Dollar Question Hanging Over Public-Private Partnerships*, Route Fifty (Feb. 28, 2017); <http://peternavarro.com/sitebuildercontent/sitebuilderfiles/infrastructurereport.pdf>; *R. Seetharaman, PPPs will ease fund strain for GCC infrastructure projects*, khaleejtimes.com (Feb. 18, 2017); *Steve Hanley, Panasonic, Younicos, & Xcel Energy Form Denver Public/Private Microgrid Partnership*, <https://cleantechnica.com> (Feb. 16, 2017); *Jennifer Ehidiamen, Nigeria's Okechukwu Enelamah talks growth, private partnerships and economic diversity*, Devex (Feb. 17, 2017); *BOOSTING PRIVATE SECTOR CONFIDENCE IN CHINESE PUBLIC-PRIVATE PARTNERSHIPS*, Georgetown Public Policy Review (Feb. 6, 2017);

^{lxi} *Benchmarking Public-Private Partnerships Procurement* World Bank (2017)

^{lxii} *Carter B. Casady, R. Richard Geddes, Private Participation in US Infrastructure: The Role of PPP Units*, American Enterprise Institute (Oct. 26, 2016);

^{lxiii} *Oxfam: the International Finance Corporation and tax havens – new report* (Apr. 11, 2016), <http://www.taxjustice.net/2016/04/11/15578/>

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