’19년 제2차 G20 반부패실무그룹회의 참석 결과 보고서

2019. 5.

국민권익위원회
국제교류담당관실

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○ 회의명 : 2019년 제2차 G20 반부패실무그룹 회의

○ 일시/장소 : '19. 5. 14.(화)~16.(목)/멕시코 멕시코시티

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□ G20 반부패실무그룹회의 주요 결과

○ 2019 제2차 G20 반부패실무그룹은 2019 G20 정상회의 선언문의 부속서로 채택될 **'내부고발자 보호 고위급 원칙'** 및 **'인프라 청렴도 제고를 위한 우수사례 모음집'**을 중점으로 논의하였으며, 국가별 입장을 종합한 수정안을 도출, 6월 정상회의 전까지 서면을 통하여 최종안을 마련하기로 함.

- '인프라 청렴도 제고를 위한 우수사례 모음집'은 초안에서 '가이드' 로서 논의되었던 것이 **그 보다 낮은 단계인 '모음집'으로 발간하는 것으로 합의**

※ 우리나라의 우수사례로는 **조달청의 전자조달시스템(e-procurement)**이 언급되었으며, 이는 '16년 OECD 공공행정국에서 발간한 'Integrity Framework for Public Investment'에 소개된 바 있음.

- '내부고발자 보호 고위급 원칙'의 대부분의 내용이 권익위의 '부패방지 권익위법'과 '공익신고자 보호법'에 포함되어 있으며, 아래 12개 원칙을 주요 골자로 함.

'내부고발자 보호 고위급 원칙' 주요 내용
I) 내부고발자 보호에 대한 명확한 법적·정책적 프레임 제공
II) 신고자 보호의 영역을 널리 설정하되 명확히 할 필요
III) 보호 대상 신고자의 범위를 광범위하게 설정
IV) 내부고발자에 대한 가시적 신고 창구 마련과 적절한 지원 제공
V) 내부고발자에 대한 비밀 유지
VI) 내부고발자 보복에 대한 포괄적 정의
VII) 내부고발자에 대한 탄탄하고 종합적인 보호 보장
VIII) 보복에 대한 효율적이고 비례적이며 설득력 있는 처벌
IX) 내부고발자 면책 보장
X) 내부고발자 보호에 대한 훈련, 역량강화, 인지제고 활동 운영
XI) 내부고발자 제도 시행과 효율성에 대한 모니터와 평가
XII) 내부고발자 보호 선도

□ 정부 대표단 활동

○ 우리 대표단은 G20 반부패실무그룹에서 '내부고발자 보호 고위급 원칙'을 마련함에 따라 각 조직에서 기본적인 내부 고발 제도 및 창구를 마련하는데 좋은 지침으로 활용될 것이라고 언급함.

- 특히 대표단은 우리나라가 내부고발자를 위한 보호·보상 제도를 우수하게 운영하고 있음을 소개하며, 제 5항에 내부고발자에 대한 지원(support)에 대한 문구를 추가할 것을 요청, 반영됨.

- 또한 제 6항 내용 중, 당초 조직 내부자 보복에 대한 내용만이 언급되어 있는 것에 이의를 제기, 외부자에 대한 보복(계약파기, 명예훼손 등)을 포함시킬 것을 요청하여 포괄적인 표현으로 수정, 반영됨.

○ 부대행사로 러시아대표단측의 요청에 의해 한-러 G20 대표단 양자회담이 진행되었으며, 국제 반부패 아카데미(IACA)의 향후 운영 방안에 대한 상호간의 의견을 나눔.

- 러시아측은 IACA 운영과 관련하여 한국과 같은 재정 기여국을 중심으로 소그룹 모임(core group of countries)를 따로 가지고자 한다고 설명하며, 현재 구상중인 새로운 운영 전략을 5월말 경 이사회와 공유할 예정임임을 언급함.

- 우리 대표단은 IACA가 자체적으로 운영을 지속할 수 있는 자구책 마련이 필요하다는 것에 공감을 표하였으며, IACA 운영을 위한 재정지원을 하는 국가로서 새로운 IACA 운영 방안 논의에 적극 참여할 것이라고 설명함.

□ 관찰 및 평가

○ G20 정상회의 전 3번의 실무그룹회의를 개최하는 예년의 상황과 달리, 금년 G20 정상회의(6월) 일정에 맞추어 2차례 실무그룹 회의에서 고위급원칙에 대한 논의를 마무리해야 하는바 사전에 제시된 아젠다의 대부분을 삭제하고 고위급원칙에 집중적으로 시간을 할애함.

- 내부고발자에 대하여 정의와 보호 범위 등 국가별 입장이 상이한바 분야별 원칙에 OECD, World Bank, UNODC 등이 중립적 의견을 다수 제시함.

- 몇몇 회원국들은 비공식적으로 일본과 멕시코 공동의장의 회의 운영 방식에 불만을 표하였으며, 향후 현장에서 고위급 원칙 등 주요 문서를 논의할 때 서면으로 충분히 교감을 나눈 후 논쟁의 여지가 있는 필수적 문구 등에 대해서만 현장 토론을 하는 등의 개선방안이 필요하다고 언급함.

○ 의장국은 G20 고위급 원칙 등에 대한 국가별 이행평가를 점진적으로 강화할 것을 희망하며 영향평가(impact assessment) 시행 등을 제시하였으나, 회원국들이 기존 G20 행동계획(Action Plan)에 영향평가가 언급되어 있지 않은 점을 들며 반대 의견을 제시함.

- 이행보고서 질문지 변경에 대해서도 회원국들의 반대에 부딪힌 바, 이행평가 강화가 근시일내에 이루어지기는 어려울 것으로 관찰됨.

□ 향후 계획

○ 제3차 반부패실무그룹 회의는 10.7.(월)-9.(수)간 프랑스 파리에서 개최될 예정이며, 인프라 청렴제고 및 내부고발자 보호와 관련하여 OECD 뇌물방지작업반과 합동 세션을 가질 예정임.

2 세부 회의 결과

□ 개회

○ 일본 마사타 오카타(Masata Otaka) 대사와 멕시코 에두알도 하라미요(Eduardo Jaramillo) 박사가 공동 의장으로서 환영인사를 하였음. 반부패 이슈에 대한 국제기구(IOs)와 국가간 기구(Inter-governmental Organizations)의 역할을 강조하였으며, 금년도 정상회의 부속서로서 '내부고발자 보호' 고위급 원칙과 '인프라 개발 관련 부패 방지 모음집'을 논의할 예정임을 소개함.

□ 인프라 개발에 대한 투명성과 청렴성 증진 우수사례 모음집

○ '19.1월에 개최되었던 G20 반부패실무그룹 1차 회의에서 '우수사례 가이드'로서 논의되었으나, 반부패실무그룹에서 인프라 청렴 이슈가 제기된 지 얼마 되지 않았고 의제의 광범위성과 중요성에 비하여 회원국들간의 공감대 형성이 충분히 이루어지지 않은 상황을 감안, '우수사례 모음집'으로서 결과물을 도출하기로 함.

- 동 모음집은 G20 회원국 대부분의 우수사례가 소개되어 있으며, 비회원국들의 우수사례도 일부 포함되어 있음.

- 국가별로 제출한 우수사례 대신 UNODC, OECD 등에서 기 발간한 문서에 소개되어 있는 사례를 포함하기도 함.

< 인프라 개발에 대한 투명성과 청렴성 증진 우수사례 모음집 개요>

I) 인프라 사이클 총체적 단계별 청렴성 및 투명성 제고

1. 필요성에 대한 정의 및 선정 과정
2. (사전) 평가 단계
3. 계획 단계
4. 입찰 단계
5. **이행 및 계약 관리 단계**

* **한국의 우수사례로서 조달청의 전자조달시스템(e-procurement system)이 동 단계에서 우수사례로 언급되었으며, 이는 2016 OECD에서 발간한 'OECD Public Governance Review' 중 'The Korean Public Procurement Service: Innovating for Effectiveness'에서 소개된 바 있음.**

6. 부패 인지 및 인프라 개발 강화 단계
7. 평가 및 감사 단계

II) 인프라 개발 부패 위험성을 줄이기 위한 방안

1. 공직자와 공급자(supliers)의 전문성 및 역량 강화
2. 정보 표준화 및 정보처리 상호 운용을 통한 공공분야 내외부 정밀조사 및 신뢰성 향상
3. 인프라 개발 부패 위험성을 측정하고 부패를 줄이기 위한 정부, 민간, 시민사회간 협력

▶ 국가별 의견

○ (러시아) 가이드가 아닌 모음집(compendium)은 정상회의 부속서로 채택될 정도의 중요성을 지니고 있다고 여겨지지 않는바 부속서에서 제외할 것을 요청

o (영국, 미국, 호주, 의장) 금년도 G20 주요 의제에 대해서 논의할 때 인프라 청렴 강화를 주요 의제로 설정하였으며, 논의 시작시 각국 G20 셰르파들에게 반부패실무그룹이 2개의 부속서를 제시할 예정임을 이미 언급한 바 있음. 모음집의 형태가 부속서로서 부적절하다고 여겨지면 가이드로 격상하는 것도 방안이 될 수 있음.

o (중국) 동 문서의 명칭을 모음집으로 유지할 것을 요청함.

o (브라질) 동 문서를 G20 셰르파에게 제출한 후 정상회의 부속서로 채택 여부를 셰르파 회의에서 결정토록 할 것을 제안하였으며, 러시아가 이에 동의함.

□ 내부고발자 보호 고위급 원칙

o ‘whistleblower’라는 용어 사용에 대하여 UNCAC 33조에 언급된 ‘보고자’(reporting persons)와 동일한 의미를 가진다는 문구를 추가하여 정의내림.

o 동 문서는 법적인 효력을 발휘하는 문서가 아니라 정치적 영향력을 가지는 문서임을 재차 확인함.

o 내부고발 채널확보 관련, 조직 내부에서의 신고 또는 외부의 관련 당국에 대한 신고뿐만 아니라 필요한 경우 언론이나 시민사회를 통한 신고를 내부고발 채널로서 확보한다는 내용이 포함된 안을 바탕으로 토론하였으나, 중국측의 반발로 관련 내용에 대한 합의가 보류됨.

o 내부고발자 보호 고위급 원칙은 △법적 체계, △보호 범위, △보호 절차, △보복 방지, △효율적 이행 및 법적 체계에 대한 자체 평가 등의 5가지 주제로 구성되어 있으며, 아래 12개 원칙을 주요 골자로 함.

I) 내부고발자 보호에 대한 명확한 법적·정책적 프레임 제공
- 공공 및 민간분야의 내부고발자 보호를 위한 분명한 법과 정책 이행

II) 신고자 보호의 범위를 널리 설정하되 명확히 할 필요
- 보호의 대상이 되는 부정행위의 범위 및 예외 조건을 명확히 설정

III) 보호 대상 신고자의 범위를 광범위하게 설정
- (계약관계에 상관없이) 고용인, 공직자 또는 직원에 대한 보호 제공

IV) 내부고발자에 대한 가시적 신고 채널과 적절한 지원 제공
- 신고를 장려하고 신뢰를 제고하기 위하여 조직 내외부에 적절한 신고 창구 마련

* 외부 신고창구는 법집행기관 및 그에 상응하는 관계기관을 의미하며 경우에 따라 대중에 대한 신고(public report)도 포함

** 상기 건에 대하여 중국측이 이의를 제기한바 현재 pending 상태

V) 내부고발자에 대한 비밀 유지
- 경우에 따라 신고자가 신분을 밝히지 않고 신고 가능

VI) 내부고발자 보복에 대한 포괄적 정의
- 내부고발자에 대한 보복은 명예, 전문성, 금전적, 사회적, 정신적, 물질적 피해를 포괄적으로 포함

VII) 내부고발자에 대한 탄탄하고 종합적인 보호 보장
- 내부고발자 보복에 대해 직·간접적 보호를 제공하며 때에 따라 법적 절차가 진행중일 때에도 임시 보호를 제공
- 신고자에게 사실입증의 책임을 지우지 아니하며, 신고 창구이용 및 보복에 대한 보호 요청 활용 방법을 자세히 안내할 필요

VIII) 보복에 대한 효율적이고 비례적이며 설득력 있는 처벌
- 신고자에 대한 보복 발생시 해당인의 직위고하와 상관없이 시의적절한 처벌 조치

IX) 내부고발자 면책 보장

X) 내부고발자 보호에 대한 훈련, 역량강화, 인식제고 활동 운영

XI) 내부고발자 제도 시행과 효율성에 대한 모니터와 평가

XII) 내부고발자 보호 선도

▶ 국가별 의견

ㅇ (영국) “G20 회원국은 국제적 내부고발자 보호 지원을 위하여 동 원칙을 활용할 것을 장려한다.”는 문구 추가 희망

ㅇ (캐나다, 독일) 공공과 민간분야의 부패 방지라는 부분에서 ‘공공과 민간분야’라는 문구 삭제를 희망하였으나 독일은 유지할 필요가 있다는 의견

ㅇ (러시아) whistleblower라는 용어 러시아 포함 몇 개 회원국에서 법적으로 정의되어 있지 않음. 따라서 동 문서에서는 UNCAC에서 사용하고 있는 ‘보고자’(reporting person)과 whistleblower이 동일한 의미를 가지고 있다는 언급을 명확히 할 필요. in line with 라는 표현으로는 충분하지 않음. -> is equivalent to로 수정

- (변경 후) For the purpose of the High Level Principles, the term “whistleblower” is equivalent to the term “reporting persons” mentioned in Article 33 of the United Nations Convention against Corruption (UNCAC) as further specified in Principles 2-4 below.

ㅇ (중국) 내부고발자 신고 채널 확보 관련, 조직 내부에서의 신고 또는 관련 법집행 당국 뿐만 아니라 언론과 시민사회를 통한 신고를 포함한다는 내용에 반대의사를 표명

ㅇ (한국) 신고자 비밀보장과 관련하여 한국은 2018년부터 대리인 신고제를 도입한 후 지금까지 성공적으로 운영하고 있음. 우리의 경험에 비추어보았을 때 신고인의 경우 자기 신분보장을 위한 제도를 활용할 때 재정적 또는 다른 부담이 발생하는데, 경우에 따라 이것이 굉장히 중요한 장애로 작용하기도 함.

- 따라서 원칙5번의 첫번째 문단 마지막에 다음과 같은 문구 추가를 희망함. “and to provide adequate supports to ensure the confidentiality of the whistleblowers”

- (변경 전) G20 countries should allow for persons who have made a report to be notified of, or provide advanced consent to, the disclosure of their confidential information.

- (변경 후) Where appropriate, G20 countries could also consider ways to allow and support whistleblowers to make a report without revealing their own identity while being able to communicate with the recipient of the report.

ㅇ (한국) principle 6의 첫 번째 문단 첫 문장이 보복유형을 예시하고 있으나, 이는 내부 고발이 조직내부에서 발생한 경우에만 한정됨. 고발은 조직의 외부인에 의해서도 일어날 수 있음. 예를 들면 조직과 협력·계약을 체결한 다른 조직이나 개인 등에 대한 보복 유형도 예시할 필요가 있음. 계약의 해지, 평판에 해가 되는 거짓 정보유표 등이 그 예가 될 수 있음.

- (변경 전) Retaliation against whistleblowers may take many forms including dismissal, suspension, demotion, transfer, reassignment, change in duties, reduced opportunity for

advancement, including lower performance ratings, pay reduction or benefits, any other significant change in working conditions, or the provision of unwarranted negative information to future potential employers, business partners or contractors.

- (변경 후) Retaliation against whistleblowers may take many forms, not limited to workplace retaliation and actions that can result in reputational, professional, financial, social, psychological and physical harm.

○ (캐나다, EU, 프랑스, 네덜란드) 내부고발자의 보호 범위를 공공분야 뿐만 아니라 민간분야까지 확대하여 적용한다는 것을 명확히 언급할 필요가 있음.

○ (영국, EU, OECD) 고발에 대한 우선적 채널을 내부에 마련한다는 내용을 추가할 것을 제시하였으나, 사우디, 러시아는 내부 채널이 아니라 외부의 관련 당국에 신고하는 것이 더 효율적인 경우도 있다고 주장하며 관련 내용 수정을 요청함.

○ 의장은 금번 회의에서 합의된 고위급 원칙 6차 수정안에 대하여 일주일간의 침묵절차(silent procedure)를 거칠 예정이며, 국가별 내부 검토를 통해 이견이 있으면 5.24(금)까지 의견을 줄 것을 요청함.

□ 부패 측정

○ 당초 부패 측정(corruption measurement)에 대한 국가별 발표와 논의를 진행할 예정이었으나, 고위급 원칙 및 우수사례 모음집에 대한 논의가 예상보다 길어진바, 발표 예정자 중 멕시코만이 발표를 하고, 나머지 발표는 3차 회의에 진행하기로 함.

○ (멕시코) 멕시코는 부패측정을 위하여 국가적 설문조사(national surveys, 통계 등을 통해 정보를 수집하고 있으며, 자체적인 분석을 통하여 국내 기관별 부패정도에 대한 평가를 수치화하고 있음.

- 평가 항목 : 반부패 프로그램의 유무, 고충처리·감사·처벌 횟수, 형법 제도상 부패사건 개수 등

○ (러시아) 신뢰할 수 있고 공정한 부패측정수단 개발은 G20 실무회의에서 여러 차례 논의된바 있음. 멕시코의 사례는 이러한 지표를 개발하는데 주요한 참고가 될 것임. 러시아는 기업 부패 측정기준(business barometer of corruption)을 개발 중에 있음.

○ (인니) 현재 국제적으로 널리 통용되고 있는 부패인식지수는 인식에 의존한다는 점과 국가별 순위를 측정한다는 점, 향후 follow up 방안을 제시하지 않는 다는 점에서 한계점을 가지고 있음. 인도네시아는 KPK 주도로 청렴도 측정(integrity assessment)을 시행중이며 앞서 언급한 부패인식지수의 단점을 보완한 측정지표로 역할을 할 것으로 기대함.

* 권익위는 한(권익위)-인니(KPK) 반부패 협력 MOU를 통해 인도네시아 KPK측에 청렴도 측정 기술전수를 시행한 바 있음.

□ 실질협력(중국발표)

○ G20 회원국은 세계 경제의 약 90%, 세계 무역의 약 80%, 세계 인구의 약 67%를 구성하고 있는바 부패 공직자들 횡령 자산의 최종 목적지가 되기 쉬움.

- 따라서 G20은 각국의 부패 공직자들과 횡령 자산이 국경을 넘을 수 없도록 솔선수범하여 모범이 될 필요가 있음.

ㅇ 중국은 Skynet이라는 프로그램을 운영하여 2014-19간 120여 개국으로부터 5,575명의 자금 횡령자들을 소환하였으며, 이 중 1,215명이 공직자였음. 회복된 자산은 약 13.783bn RMB yuan에 달함.

- 또한 중국은 2015년 인터폴과의 협력을 통하여 100명의 자금 횡령자를 인터폴 적색 경보(red notice) 명단에 등록하였고, 이 중 56명을 자국으로 소환함.

ㅇ 향후 협력 방안으로는 1) DOE 매커니즘을 강화하여 국가별 법집행기관, 반부패기관, 기소, 돈세탁 방지기관, 이민국 등이 동 네트워크에 가입할 수 있도록 하며, 2) APEC의 ACT-NET과 같이 G20 법집행 협동 네트워크를 별도로 구성하고, 3) 본국소환 및 MLA 조약을 활성화하며, 4) 우수사례와 경험 공유를 강화할 것을 제시함.

ㅇ (의장) 회원국들이 금번 중국측의 발표를 이해하는데 충분한 시간이 더 필요할 것으로 생각됨. 차후에 이와 관련하여 구체적인 방안을 가지고 논의할 기회를 가질 수 있으면 좋겠음.

- 또한 동 의제와 관련, 별도의 네트워크를 마련하는 것은 중국이 언급한 바와 같이 UNCAC를 기반으로 논의한다는 전제를 바탕으로 진행하는 것이 필요할 것으로 생각됨.

ㅇ (캐나다, 미국, 영국) 10월 아젠다에 동 이슈를 포함하여 논의를 이어갈 것을 제안함.

ㅇ (영국) 인도, OECD와 함께 이니셔티브를 갖고 진행하고 있는 부패 및 기타 경제범죄에서 관련 내용을 다룰 수 있을 것으로 생각되는바, 중국 측에서 기대하는 논의안을 가지고 별도로 의견을 나눌 수 있을 것으로 생각됨.

□ 이행보고서

ㅇ (의장) 지금까지 반부패실무그룹 이행보고서가 주제별로 2-3개 질문이 제시되었던것에서 좀 더 발전하여 주요 주제에 대해 5-6개의 구체적 질문을 제기하고자 함.

- 지금까지의 이행보고서는 G20 외부(시민사회 등) 의 시각에서 보았을 때 이행상황을 충분히 점검하지 못하고 있다는 의견이 있어, 조금 더 강화시킬 필요가 있다고 생각함.

- 금년도 주요 의제는 정보 공개(open data), 공공 조달(public procurement), 실소유자, 법인의 책임문제dhk 관련된 이행상황을 중점적으로 점검하고자함.

- 6월초에 질문지 초안을 회람할 예정이며, 모든 절차를 거쳐 10월말까지 회원국의 답변을 취합, 결과를 도출하는 것을 목표로 함.

ㅇ (독일) 주요 이슈에 해외뇌물을 포함시킬 것을 요청함.

ㅇ (중국, 사우디, 이탈리아) 지금까지의 이행 보고서를 계속 유지하기를 희망함. 가장 최근에 발간한 이행보고서에도 주요한 고위급 원칙에 대한 이행평가가 이미 강조되어 있음. 의장의 제안처럼 주제를 선정하여 중점적 이행점검을 하는 것이 의미 있는 변화인지 고려해 봐야할 필요가 있음.

ㅇ 참석자들은 이행점검을 일정 수준 강화할 필요가 있다는 것에 공감하였으나, 형식은 현행대로 유지해야 한다는 것에 의견을 같이 함. 의장은 6월중 이행보고서 질문지 초안을 회람할 예정이며, 이에 대한 국가별 의견을 서면으로 제출해 줄 것을 요청함.

□ (부대행사) 부패방지 및 예방과 관련된 국제적 매커니즘과 도구

ㅇ 국제적 반부패 평가기구(monitoring bodies)는 각 지역별, 주제별 특성이 있으며 주요 차이점은 아래와 같은 부분에서 나타남.

- 기구별 법적 시스템, 타이밍과 평가 사이클, 회원 구성과 지역적 특성, 총회 구성 및 국가를 대표하는 대표단 들이 모두 상이함.
- UNCAC, OECD(뇌물방지작업반 및 청렴작업반), OAS, GRECO 에서 각각 다른 주제를 다룸.
- 모든 기구가 반부패 기술 지원에 대한 권한 및 역량을 갖추고 있지 않음.

ㅇ 기구간 협력과 시너지 효과를 강화하기 위해 아래와 같은 활동이 진행중에 있음.

- 사무국간 정기적 회의 및 합동 행사
- 다른 기구가 개최하는 회의에 대한 적극적 참여
- 각 사무국의 연간 계획, 모니터링 보고서, 가이드라인 등 정보 공유
- 상호 일정에 영향을 미치지 않도록 현장방문 및 연간 회의 일정 조율
- 특정 국가 평가시 상호 정보 공유
- (특히 UNCAC와 관련된 경우) 평가 주기, 주제에 따라 각 평가 기구의 결과를 참고사항으로 활용
- 각 평가기구의 권고사항이 모순 없이 상호 보완할 수 있도록 점검
- 트렌드, 위험 분야, 우수사례 등 공유를 위한 합동 주제 보고서 작성
- 보고서 및 데이터 베이스에 대한 온라인 접근성 강화

ㅇ 지난 20년간 국제사회에 등장한 반부패 매커니즘은 아래와 같음.

- Inter-American Convention Against Corruption (1997)
- OECD Anti-Bribery Convention (1999)
- Council of Europe Criminal Law Convention on Corruption (2002)
- African Union Convention on Preventing and Combating Corruption (2003)
- United Nations Convention Against Corruption (2005)
- League of Arab States Convention Against Corruption (2010)
- G20 Anti-Corruption Action Plan (2010)
- ADB/EBRD/World Bank/IDB/AfDB Agrement for mutual enforcement of debarment decisions (2010)

ㅇ 국제 반부패 매커니즘간 시너지 효과를 강화하기 위해서 아래와 같은 조치가 권장됨.

- 새로운 평가시스템 마련 논의시 타 사무국을 초청, 다양한 의견을 나눌 수 있도록 함.
- 공통적인 문제점, 우수사례, 규제 모델 인지 및 공유
- 장·단기 평가 스케줄을 공유하여 평가 대상국이 계획적으로 각 기구별 평가를 대비할 수 있도록 조율
- 평가 대상에 대한 기초 정보(법률, 통계, 정책자료, 공식적 반부패 보고서 등)를 공유하여 공통된 데이터베이스/플랫폼/자료실 운영
- 전문가 및 직원 상호 파견을 통한 훈련 프로그램 운영

3 러시아 대표단과의 면담 결과

□ 면담 개요

○ 일시/장소 : ’19. 5. 16.(목) 11:30 - 11:50 / 멕시코 외교부 청사 2층

○ 참석자(총 5명)

- 우리측 : 김상년 청렴총괄과장, 문소희 국제교류담당관실 사무관
- 상대측 : Andrey Avetisyan 러시아 외교부 G20 대표, Alexey Konov IACA 이사회 의장, Natalia Primakova 러시아 외교부 국제반부패협력과 담당관

□ 면담 내용

○ 러시아측은 재정위기를 맞은 IACA 운영과 관련하여 오스트리아 정부와 논의를 진행하였고, G20 반부패실무그룹 계기에 참석하는 IACA 회원국에게 관련 내용을 전달하고자 한다고 설명함.

* 오스트리아는 G20 비회원국인바, 러시아가 관련 내용 전달

- 현재 학장이 공석인바 이사회가 IACA 운영을 주도하고 있으며, ‘18.12월 선거를 통하여 러시아 국적의 이사회 의장이 선출됨.

○ IACA는 단지 현재 처한 상황에 대한 극복이 아니라 근본적인 운영문제를 해결해야하며, 금전적인 자구책 마련이 필요함.

○ IACA 운영과 관련하여 한국과 같이 재정적 기여를 하는 국가를 중심으로 소그룹 모임(core group of countries)을 따로 가지고자함. 현재 새로운 운영 전략을 구상중이며 금년 5월말경 이사회와 공유할 예정임.

○ 새로운 전략(new strategy)은 아래 내용을 포함함.

- 연수기관(training institute)에서 연구기관(research institute)로의 영역 확대(G20 반부패실무그룹을 포함한 국제적 반부패 논의에 분석적 의견 제시 가능(analytical support))
- 자체적 수익 창출 방안으로 온라인 교육 시행, 기업과의 협업 확대 등

○ 한국은 IACA가 자체적으로 운영을 지속할 수 있는 자구책 마련이 필요하다는 것에 공감을 표하였으며, IACA 운영을 위한 재정 지원을 하는 국가로서 새로운 IACA 운영방안 논의에 참여할 의사가 있음을 언급함.

○ 또한 IACA 운영에 대한 새로운 전략이 접수 되는대로 내부 검토를 통하여 우리측 의견을 공유할 수 있도록 할 것이며, 동 면담에서 언급된 내용을 본부에 전달하겠다고 부언함.

붙임 1 회의 일정

5.14.(화)	
08:30~09:00	**등록**
09:00~09:30	**개회** • Mme. Martha Degado Peralta, 멕시코 다자 및 인권 차관 • Mme. Irma Erendira Sandoval, 멕시코 공공행정장관 • 멕시코 공공행정부 및 UNODC간 양자 MOU 체결 서명식
09:30~11:00	**패널 토론 1 : UN반부패협약 15주년 기념, 다양한 반부패 매커니즘간의 시너지효과 논의** • UNCAC 대표 • Inter-American Convention against Corruption 대표 • OECD 뇌물방지협약 대표 • G20 반부패실무그룹 대표
11:00~11:15	**커피 브레이크**
11:15~13:00	**패널 토론(계속) 1 : UN반부패협약 15주년 기념, 다양한 반부패 매커니즘간의 시너지효과 논의** • APEC 반부패 투명성 실무그룹 대표 • GRECO 대표 • Arab Anti-Corruption Convention 대표 • African Union Convention on Preventing and Combating Corruption 대표
13:00~14:00	**점심 휴식**
14:00~15:30	**패널 토론 2 : 내부고발자 보호 강화** • Mme. Irina Stefuriuc, Anti0corruption Team Leader, European Commission, Euopean Union • Mme. Catherine McMullen, Chief of the Disclosure Unit, Office of Special Counsel, 미국 • Mme. Constanze von Soehnen, Crime Prevention and Criminal Justice Officer, UNODC • Mme. Mathilde Mesnard, Deputy Director, Directorate for Financial and Enterprise Affairs, OECD • Mr. Mark Worth, European Center for Whistleblower Rights/Government Accountability Project
15:30~15:45	**커피 브레이크**
15:45~17:45	**패널 토론 3 : 부패방지 및 예방에 대한 시민사회와 민간분야 참여** • Mr. Alfredo Durante Mangoni, 이탈리아 외교부 • Mme. Dalida Cleotilde Acosta Pimentel, Head of the Liason Unit with the National Anticorruption system, 멕시코 공공행정부 • Mr. Lucio Angelo Jr. 브라질 검찰 • Mme. Maria Emilia Berazategui, Global Advocacy Coordinator, 국제투명성기구 • Mme. Marijke Wolfs, 네덜란드 국제상공회의소 총장 • Mr. John Versantvoort, 아시아개발은행 반부패 청렴사무소장
17:45~18:00	**폐회**

5.15.(수)	
08:30~09:00	**등록**
09:00~09:20	**개회** • Junian Ventural Valero 멕시코 외교차관 • 일본측 공동의장 Masato Otaka 대사 • 멕시코측 공동의장 Eduardo Jaramillo 박사 • 회의 일정 등에 대한 안내
09:20~10:40	**세션 1. 인프라 개발에 대한 투명성과 청렴성 증진 우수사례 가이드 수정안 논의**
10:40~11:00	**커피 브레이크**
11:00~11:25	**세션 2. 정보 공개** • 캐나다 • Open Government Partnership
11:25~12:45	**세션 3. B20 및 C20와의 협력** • B20, C20
12:45~14:00	**점심 휴식**
14:00~17:00	**세션 4. 내부고발자 고위급원칙** • 공동의장이 내부고발자 고위급원칙 수정안에 대하여 브리핑
17:00~17:30	**커피 브레이크**
17:30~20:00	**세션 4. 내부고발자 고위급원칙(계속)**
20:00~20:30	**휴식**
20:30~23:00	**세션 4. 내부고발자 고위급원칙(계속)**

5.16.(목)	
08:30~09:00	**등록**
09:00~11:30	**세션 12. 내부고발자 보호 고위급 원칙 및 인프라 개발에 대한 투명성과 청렴성 증진 우수사례 가이드 논의(계속)**
11:30~11:50	**커피 브레이크** ※ 한국정부대표단은 11:30-11:50간 러시아대표단과 별도의 양자회담 개최
11:50~15:00	**세션 13. 내부고발자 보호 고위급 원칙 및 인프라 개발에 대한 투명성과 청렴성 증진 우수사례 가이드 논의(계속)**
15:00~15:50	**세션 14. 이행보고서 및 영향 평가**
15:50~16:30	**세션 5. 실질적 협력** • 중국(투자이민 관련)
16:30~16:40	**세션 11. 부패와 민영화 과정** • 사우디 아라비아

※ 6월 G20 정상회의 이전에 고위급원칙 및 모음집에 대한 논의를 마무리해야 하는 관계로, 기존 계획보다 5-6시간 연장하여 회의가 진행되었으며, 생략된 세션은 추후 3차 반부패실무그룹 회의시 재차 논의하도록 합의함. (일반적으로 G20 정상회의는 연말에 개최되는바, 3차례 실무회의에 걸쳐 부속서를 논의하는 반면, 2019년 정상회의는 6월에 개최되어 2차례 실무회의에서 부속서 합의 필요)

붙임 2 내부고발자 보호 고위급 원칙 수정안

G20 High-Level Principles fortheEffectiveProtectionofWhistleblowers
효과적인 신고자 보호를 위한 G20 고위급 원칙

The effective protection of whistleblowers and handling of protected disclosures are central to promoting integrity and preventing corruption in. Whistleblowers can play a significant role in revealing information that would otherwise go undetected, leading to improvements in the prevention, detection, investigation and prosecution of corruption. The risk of corruption is heightened in environments where reporting is not facilitated and protected.
공익신고자보호와 보호대상인 신고의 처리는 청렴도 향상과 부패 예방에 핵심이다. 공익신고자들은 그들이 아니었으면 밝혀지지 않았을 정보를 공개하는 데 핵심적인 역할을 함으로써, 부패의 예방/적발/수사/기소에 있어 개선을 이끈다. 부패 위험은 신고가 장려되거나 보호되지 않는 환경에서 증가한다.

The need for effective protection of whistleblowers is already recognised in international and regional instruments. However, implementation of these standards varies significantly across jurisdictions. In addition, some jurisdictions have legislated to protect whistleblowers but many have little or no form of protection across public and private sectors. The resulting fragmented approach leads to a lack of predictability and a general misunderstanding about the scope and purpose underlying protection regimes, ultimately discouraging disclosures by whistleblowers and impairing the effective enforcement of anti-corruption laws in G20 countries.
이미 국제/지역 제도에서는 공익신고자의 효과적 보호의 필요성을 인정하고 있다. 그러나 그런 기준은 관할구역에 마다 매우 상이하게 이행된다. 게다가, 일부 국가에서 공익 신고자를 법적으로 보호하고 있으나, 많은 국가들은 보호 공공 및 민간 분야 모두 형식이 거의 혹은 전혀 존재하지 않는다. 그 결과 단편적 보호 방식 때문에 보호제도의 범위와 목적에 대한 예측성과 일반적인 이해가 부족해져, 결국에는 공익신고자의 신고를 막고, G20국가들의 반부패 법의 효과적인

집행을 해친다.

Protecting whistleblowers is a priority issue for Japan’s 2019 G20 Presidency, which aims to respond to the 2019-2021 Action Plan of the G20 Anti-Corruption Working Group’s (ACWG) call to “assess and identify best practices, implementation gaps and possible further protection measures as appropriate.” This issue has been at the forefront of the agenda of the G20 countries since the Seoul Summit in 2010. In response to the call by the G20 Leaders, in 2011, the ACWG tasked the OECD with preparing a “Study on Whistleblower Protection Frameworks, Compendium of Best Practices and Guiding Principles for Legislation”.
공익신고자 보호는 일본 의장국 하 2019 G20의 우선순위이며, G20 반부패 워킹그룹(ACGW)의 2019-2021 액션플랜에서 요구하는 “베스트 프랙티스, 이행격차 및 가능한 추가 보호조치 평가 및 확인” 에 부응할 목적을 가지고 있다. 공익신고자 보호는 2010년 서울정상회의 이후 G20 국가들의 핵심 아젠다 였다. G20 정상들의 이런 요구에 부응하기 위해, 2011년 ACGW 는 OECD에 “공익신고자 보호 체계, 베스트 프랙티스, 입법화를 위한 가이드 원칙에 대한 연구” 임무를 주었다.

The High-Level Principles, developed under Japan’s G20 Presidency, and endorsed by the G20 countries, build upon existing standards and good practices from the United Nations and several other international/regional bodies. The Principles reaffirm the importance of acting collectively to ensure the effective protection of whistleblowers. Moreover, they could form the basis for establishing and implementing more effective protection frameworks for whistleblowers in G20 countries, and are not intended to be an exhaustive list of legislative and policy measure that the G20 countries may take. These principles are complemented by the 2015 G20 High Level Principles on Private Sector Transparency and Integrity.
이 고위급 원칙들은 일본 의장국 하에서 개발되어, G20 국가들에 의해 채택되었으며, UN과 다른 국제/지역 기구의 현 기준과 모범사례를 기반으로 하였다. 이 원칙들은 효과적인 공익신고자 보호를 위해 함께 행동하는 것이 중요함을 재차

강조하고 있다. 또한, 이 원칙들은 G20 국가가 보다 효과적인 신고자 보호 체제를 마련하고 이행하기 위한 기초를 제공하며, G20 국가가 채택할 수 있는 모든 법적/정책적 조치를 나열하지는 않는다. 이 원칙들은 민간분야 투명성 및 청렴도에 대한 G20 고위급 원칙 2015에 의해 보완되었다.

In this context, G20 countries also recognised the need to look togender-specificaspectsrelatedtowhistleblowing.
G20 국가들은 또한, 이런 맥락하에서, 신고자 보호 관련 젠더 측면도 연구해야 할 필요가 있음을 인정했다.

Applicability, scope and definitions

적용가능성, 범위, 정의

The following High-Level Principles build on the aforementioned Study and provide reference for countries intending to establish, modify or strengthen protection frameworks, legislation, and policies for whistleblowers and are intended to complement existing anti-corruption commitments and not weaken or replace them. They could help countries to assess their whistleblower protection frameworks. To supplement these Principles, a non-exhaustive menu of good practices will be developed and will set out more specific and technical guidance that countries may choose to follow.

아래의 고위급 원칙들은 위 언급된 연구(공익신고자보호 체제, 베스트 프랙티스, 입법화를 위한 가이드 원칙에 대한 연구)를 기반으로 하며, 공익신고자 보호 체제/법/정책을 수립, 수정, 강화하려는 국가와, 기존 반부패 약속들을 약화시키거나 대체하는 것이 아닌, 보완하고자 하는 국가들에게 참고자료가 될 수 있다. 또한 국가들이 자국의 공익신고자 보호 체제를 평가하는 데 도움이 될 수 도 있다. 모범사례 개략 메뉴를 개발하여 이 원칙들을 보완할 것이며, 국가들이 따를 수 있는 보다 구체적이고 기술적인 지침을 수립할 것이다.

The High Level Principles offer flexibility to enable countries to effectively apply them in accordance with their respective legal traditions. The principles

can also provide guidance to those responsible for setting up and operating protection frameworks for whistleblowers in the public sector at the national and, consistent with national legal systems, sub-national levels and, as appropriate, the private sector. The High-Level Principles use the term “whistleblower” because of its longstanding and widely understood use in the context of the G20. For the purpose of the High Level Principles, the term “whistleblower” is equivalent to the term “reporting persons” mentioned in Article 33 of the United Nations Convention against Corruption (UNCAC) as further specified in Principles 2-4 below. The High-Level Principles focus on five core pillars: 1) legal framework, 2) scope of protected disclosures, 3) procedure for protected disclosures, 4) remedies and effective protection against retaliation, and 5) effective enforcement and self-evaluation of the legal framework.

이 고위급 원칙들은 국가들이 자국의 법적 전통에 맞게 효과적으로 적용할 수 있도록 유연성을 제공한다. 이 원칙들은 또한 국가차원, 그리고 국가 법 시스템에 따라, 지역차원의 공공분야 공익신고자 보호, 그리고 적당하다면, 민간 분야 공익신고자 보호 체제를 마련하고 운영하는 담당자들에게 가이드를 제공할 수도 있다. 이 고위급 원칙은 “공익신고자(whistleblower)”라는 용어를 사용하는데, 그 이유는 그 용어가 오랫동안 사용되어 왔고 G20 에서 널리 이해되어 왔기 때문이다. 고위급 원칙의 목표를 위해 공익신고자라는 용어는 아래의 원칙 2-4에서 추가적으로 언급되듯UN 반부패 협약 33조의 신고자(reporting persons)과 같은 의미이다. 고위급 원칙은 1)법적 체제, 2)보호 대상 신고의 범위, 3) 보호 대상 신고를 위한 절차, 4)보복조치에 대한 구제조치와 효과적인 보호, 5) 법적 체제의 효과적 이행과 자가평가라는 다섯 가지 핵심내용에 초점을 맞춘다.

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Principles

원칙들

LEGAL FRAMEWORK

법적 체제

Principle 1: Establish and implement clear laws and policies for the protection of whistleblowers

원칙 1: 공익신고자 보호를 위한 명확한 법과 정책을 수립하고 이행한다

G20 countries should establish and implement clear laws and policies for the protection of whistleblowers, which apply as appropriate across the public and private sectors. Where appropriate, G20 countries should consider the adoption of legislation that is dedicated exclusively to such protections.
G20 국가들은 공익신고자 보호를 위해 공공 및 민간 분야 전반에 적용할 수 있는 명확한 법과 정책을 수립하고 이행해야 한다. G20 국가들은, 적절하다면, 그런 보호조치 만을 위한 법을 도입하는 것을 고려해야 한다.

G20 countries should also encourage organisations to establish and implement protections, and provide guidance on the elements of these protections.
G20 국가들은 기관들이 보호조치들을 수립하고 이행하도록 유도해야 하며, 그런 보호조치 요소에 대한 지침을 제공해야 한다.

SCOPE OF PROTECTED DISCLOSURES
보호대상 신고 범위

Principle 2: The scope of protected disclosures should be broadly but clearly defined

원칙 2: 보호대상 신고의 범위는 광범위해야 하나 명확히 정의되야 한다.

G20 countries should endeavour to adopt a broad but clear definition of wrongdoing for protected disclosures. Mindful of the scope and purpose of the High Level Principles, G20 countries are encouraged to clearly specify the limited exceptions that may apply to protected disclosures. The disclosure of information tending to show the deliberate concealment of these wrongdoings should also be protected.
G20 국가들은 보호대상 신고에 해당하는 부정행위를 광범위하고 명확하게 정의하기 위해 노력해야 한다. G20 국가들은, 고위급 원칙의 범위와 목적을 유념하여, 보호 대상 신고에만 적용되는 한정된 예외사항들을 명확히 제시하도록 한다. 이런 부정행위의 의도적 은폐를 알리는 정보를 신고하는 것 역시 보호되어야 한다.

Principle 3: Protection should be available to the broadest possible range of reporting persons

원칙 3: 보호는 최대한 넓은 범위의 신고자에게 제공되어야 한다.

G20 countries' protection frameworks should extend to the broadest possible range of persons, as a minimum, employees, public officials or workers, irrespective of the nature of their contractual relationship. In addition, G20 countries should seek to provide appropriate protection to persons reporting corruption to competent authorities outside of an employment situation including confidentiality.
G20 국가의 신고자 보호 체제는 최대한 광범위한 사람들에게로 확대되어야 한다. 계약 형태와 무관하게, 최소한 근로자와 공무원에게까지 확대 되어야 한다. 또한, G20 국가들은 고용 상황 밖에서 유관기관에 부패를 신고하는 사람들에 대

한 비밀유지 등의 적당한 보호조치를 제공하기 위해서도 노력해야 한다.

PROCEDURE FOR protected DISCLOSURES

보호대상 신고를 위한 절차

Principle 4: Provide for visible reporting channels and adequate support to whistleblowers

원칙 4: 공익신고자를 위해 가시적 신고 채널과 적절한 지원을 제공한다

To facilitate reporting and promote trust, G20 countries should ensure that diverse, highly visible and easily accessible reporting channels are available to whistleblowers and extend protection to all eligible persons reporting through those channels, which could include internal reporting channels established within organisations, external reporting to law enforcement or other competent authorities and, in certain circumstances, to public reporting. Organisations are advised to create internal channels that are granted with the necessary independence for receiving, assessing, investigating and acting on reports, and foster an organisational culture that builds confidence in reporting, proportionate to their size. Internal reporting can contribute to an early and effective resolution of the risk to the public interest and may be encouraged.
신고를 유도하고 신뢰를 높이기 위해, G20 국가들은 공익신고자들이 다양하고, 가시성이 높으며, 접근이 용이한 신고 채널을 활용할 수 있도록 해야 하며, 그런 채널(기관 내 신고채널, 법 집행기관 이나 기타 유관기관으로의 신고, 그리고 특정 상황에서, 공개신고라는 외부 신고채널)을 통해 신고하는 자격을 갖춘 모든 신고자들에게로 보호조치를 확대해야 한다. 기관들은 기관의 규모에 맞게 신고 접수/평가/조사 그리고 신고에 따른 조치를 위한 독립성을 갖춘 내부 채널을 마련하도록 하며, 확신을 갖고 신고할 수 있는 조직문화를 만들도록 한다.

Without prejudice to the exceptions under Principle 2, G20 countries should

ensure that, whistleblowers' contractual or, as appropriate, civil service obligations, including non-disclosure or other employment agreements, such as severance agreements, do not prevent whistleblowers from making protected disclosures, deny them protection or penalise them for having done so.
원칙 2의 예외에 영향을 미치지 않으면서, G20 국가들은 반드시 공익신고자의 계약상 혹은 적절하다면, 시민서비스 의무 (비밀유지나 퇴직금 합의 등 기타 다른 고용 합의)로 인해 공익신고자가 신고를 꺼리지 않도록 하며, 공익신고를 이유로 공익신고자 보호를 거부하거나 이들을 처벌하는 일이 없도록 해야 한다.

Principle 5: Ensure confidentiality for whistleblowers

원칙 5: 신고자의 비밀을 보장한다

G20 countries' protection frameworks should ensure confidentiality of the whistleblower's identifying information and the content of the protected disclosure, as well as the identity of persons concerned by the report, subject to national rules, for example, on investigations by competent authorities or judicial proceedings.
G20 국가의 신고자 보호 체제는 국내 규정, 예를 들어 관련 당국에 의하거나 사법 절차에 따른 수사 관련 규정의 적용을 받는 신고자가 제공한 정보와 보호대상의 신고, 그리고 신고에 포함되는 사람들의 신원에 대한 기밀을 유지해야 한다.

Where appropriate, G20 countries could also consider ways to allow and support whistleblowers to make a report without revealing their own identity while being able to communicate with the recipient of the report.
적당한 경우, G20 국가들은 또한 공익신고자들이 신고를 할 때 신원을 노출하지 않으면서 신고를 한 기관과 연락을 가능하게 하고 지원하는 방법을 모색할 수 있다.

REMEDIES AND EFFECTIVE PROTECTION AGAINST RETALIATION.
보복조치에 대한 구제조치와 효과적인 보호조치

Principle 6: Define retaliation against whistleblowers in a comprehensive way

원칙 6: 공익신고자에 대한 보복조치를 광범위하게 정의한다

Retaliation against whistleblowers may take many forms, not limited to workplace retaliation and actions that can result in reputational, professional, financial, social, psychological and physical harm.
공익신고자에 대한 보복조치는, 직장 내 보복과 명성, 직업상, 경제적, 사회적, 심리적, 신체적 불이익을 가하는 조치뿐이 아닌, 여러 가지 형태로 나타날 수 있다.

In developing their protection frameworks, G20 countries are advised to define the scope of retaliation as comprehensively as possible, and are advised to offer guidance and in their legislation provide a not-exhaustive but comprehensive list of types of retaliation that may trigger the protection of whistleblowers to provide more legal certainty and avoid limiting unfavourably the scope of protection.
G20 국가들은 보호체제를 개발할 때 보복조치의 범위를 가능한 포괄적으로 정의하도록 하며, 지침을 제공하고, 국내 법에 신고자 보호가 필요하게 될 보복조치 유형을 포괄적으로 나열할 것을 제안한다. 이는 법적 확실성을 보다 명확히 하고, 보호 범위의 제한을 막기 위함이다.

Principle 7: Ensuring robust and comprehensive protection for whistleblowers

원칙 7: 과감하고 포괄적인 신고자 보호를 보장한다.

G20 countries should ensure that whistleblowers who make a protected disclosure are protected from any form of retaliatory or discriminatory action, should consider providing effective remedies that address direct and indirect detriment suffered as a result of any retaliatory action, and may consider allowing for effective interim protection pending resolution of legal proceedings.
G20 국가들은 보호대상인 신고를 한 공익신고자들을 모든 종류의 보복 조치나

차별적 조치로부터 보호해야 하며, 보복조치에 따른 직/간접 피해를 해결할 효과적인 구제조치를 제공할 것을 고려해야 하며, 법적 절차가 진행중인 경우 효과적인 임시 보호조치를 제공할 수 있다.

G20 countries should consider having mechanisms that attribute the burden of proof in a proportionate way that protects whistleblowers, including in the case of dismissal.
G20 국가들은 해고 같은 상황에서 적절한 방식으로 공익신고자들을 보호하기위해 입증책임을 설명할 체제들을 마련할 것을 고려해야 한다.

G20 countries should also consider making available assistance to whistleblowers in order that they are aware of the available reporting channels and how to make use of them, the protections available where retaliation occurs as a result of making a report, and the proceedings available to request a remedy for alleged retaliation.
G20국가들은 또한 공익신고자들이 이용할 수 있는 신고 채널에 대해 인지하고, 그런 채널의 이용방법을 알고 있으며, 신고로 인해 보복조치가 발생한 경우 받을 수 있는 보호조치, 그리고 보복으로 추정되는 조치에 대한 구제를 신청할 수 있는 절차를 알고 있도록 공익신고자에 대한 지원을 제공할 것을 고려해야 한다.

Principle 8: Provide for effective, proportionate and dissuasive sanctions for those who retaliate

원칙 8: 보복조치를 가한 사람들에게 효과적이고 적절하며 예방적인 처벌을 한다

G20 countries should consider providing for effective, proportionate and dissuasive sanctions for those who retaliate against whistleblowers or breach confidentiality requirements, and ensuring that the sanctions are applied in a timely and consistent manner, regardless of the level or position of the person who retaliated.

G20 국가들은 공익신고자에게 보복조치를 가하거나 비밀유지의무를 위반한 자들에 대해 효과적이고 적절하며 예방적인 처벌을 하거나, 그런 처벌들이 제 때에 그리고 그런 자들의 위치나 지위와 무관하게 일관되게 적용될 수 있도록 고려해야 한다.

Principle 9: Ensure that whistleblowers cannot be held liable in connection with protected disclosures

원칙 9: 공익신고자가 신고내용과 관련하여 처벌받지 않도록 한다.

G20 countries should consider ensuring that those who make protected disclosures using channels in accordance with Principle 4, are not subject to disciplinary proceedings and liability, based on the making of such reports. This Principle is without prejudice to the liability of the person making the report for their involvement in an offence that is the subject of the report and where the reporting person had no reasonable grounds to believe that the information reported was accurate. It is also without prejudice to national rules on the treatment of cooperating offenders.
G20국가들은 원칙 4의 채널을 사용해 보호대상의 신고를 한 공익신고자들이 그런 신고에 기반한 징계조치의 대상이 되지 않도록 하거나 책임을 지지 않도록 할 것을 고려해야 한다. 본인이 연루된 내용을 신고했거나, 신고한 정보가 정확하다고 믿을 충분한 이유가 없었을 경우에, 이 원칙은 공익 신고자에 대한 책임에 영향을 미치지 않는다. 또한 혐의 공모자들에 대한 처리에 대한 국내 법에도 영향을 미치지 않는다.

G20 countries may consider effective, proportionate and dissuasive sanctions for whistleblowers' reports proven to be knowingly false. Where appropriate measures may be put in place for compensating persons who have suffered damage from such false reports.
G20 국가들은 고의로 허위사실을 신고한 공익신고자에 대해 효과적이고 적당하며 예방적인 처벌을 고려할 수 있다. 적당한 경우에, 그런 허위 신고로 피해를 입은 사람들에 대한 보상 조치를 마련 할 수 있다.

EFFECTIVE ENFORCEMENT AND EVALUATION OF THE LEGAL FRAMEWORK

법적 체제의 효과적 집행과 평가

Principle 10: Conduct training, capacity-building and awareness-raising activities

원칙 10: 훈련, 역량 구축, 인식 제고 활동을 구축한다

G20 countries should promote awareness of their frameworks for the protection of whistleblowers, including with a view to changing public perceptions and attitudes towards protected disclosures and whistleblowers. Similarly, they should encourage awareness raising with regard to the usefulness of reporting and the available protected reporting channels and policies on protection from retaliation, including information on where to appeal or seek support.
G20국가들은 보호대상 신고와 공익신고자에 대한 대중의 인식과 태도를 변화시키기 위해 신고자 보호 체제에 대한 인식을 제고해야 한다. 마찬가지로, G20 국가들은 신고의 유용성, 보호가 보장된 가용한 신고채널, 그리고 보복조치에 대한 보호정책 (어디에 이의를 제기할지 또는 어디로 지원을 요청할지 등)에 대한 인식 강화를 도모해야 한다.

G20 countries should consider providing for adequate training to the recipients of protected disclosures in the public sector and ensure that detailed and clear guidelines for the public and private sector are in place to ensure that these organisations can effectively establish and operate internal protection frameworks.
G20 국가들은 공공분야의 공익신고 접수 담당자들에게 적절한 훈련을 제공할 것을 고려해야 하며, 공공 및 민간 분야를 위한 자세하고 명확한 가이드라인을 마련하여 그런 기관들이 내부 보호 체제를 효과적으로 수립하고 이행할 수 있도록 해야 한다.

Principle 11: Monitor and assess the effectiveness and implementation of the framework

원칙 11: 공익신고자 보호 체제의 효과 와 이행을 모니터링하고 평가한다

G20 countries are encouraged to periodically review their frameworks for the protection of whistleblowers. In doing so, G20 countries may consider ways of assessing and improving effectiveness and conducting regular monitoring and evaluation of the entire protection framework, including its impact on corruption reporting, collecting systematically relevant data and information, and where appropriate, reporting on the data while ensuring confidentiality and privacy safeguards.

G20 국가들은 자국의 공익신고자 보호 체제를 정기적으로 검토하도록 한다. 이를 통해 G20 국가들은 신고자 보호 체제 전체의 효과를 평가하고 제고하며, 정기 모니터링과 평가를 수행하는 방법을 모색 할 수 있다. 예를 들어, 부패 신고, 관련 데이터 및 정보의 체계적 수집, 그리고 적당하다면, 비밀 유지와 사생활 보호를 보장받으면서 관련 데이터를 신고하는 데 신고자 보호체제가 어떤 영향을 미치는 지이다.

Principle 12: Lead the way on the protection of whistleblowers

원칙 12: 신고자 보호에 선도적인 역할을 한다

Leading by example in this area, G20 countries are encouraged to provide technical assistance to other countries that wish to establish or strengthen their frameworks for the protection of whistleblowers.

G20 국가들은 이 분야에서 모범을 보이면서 자국의 신고자 보호 체제를 수립 혹은 강화하려는 국가들에게 기술적인 지원을 제공하도록 한다.

Article 33 of UNCAC states that "Each State Party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention".

UN 반부패 협약 33조에 따르면 "각 정부는 국내 법 시스템에 선의를 갖고 합당한 이유에 근거하여 관할기관에 본 협약 상의 혐의와 관련된 모든 사실들을 신고한 모든 사람들을 부당한 처우로부터 보호하기 위한 적당한 조치들을 추가할 것을 고려해야 한다."

2015 G20 High Level Principles on Private Sector Transparency and Integrity. Principle 17 addresses effective and easily accessible reporting mechanisms and whistleblower protection.

민간분야 투명성과 청렴도에 대한 G20 고위급 원칙 2015. 원칙 17은 효과적이고 접근이 용이한 신고 체제와 공익신고자 보호를 다룬다.

붙임 3 **인프라·개발에 대한 투명성과 청렴성 증진 우수사례 가이드 수정안**

G20 COMPENDIUM of Good Practices for Promoting Integrity and Transparency in Infrastructure Development

Taking into account country feedback and comments, the revised *Compendium of Good Practices for Promoting Integrity and Transparency in Infrastructure Development* builds on the four key avenues of the first draft of the Good Practices Guide, to promote integrity and transparency in the entire infrastructure cycle, namely:

- ○Enhancing transparency in public procurement
- ○Leveraging Open Data
- ○Preventing and managing conflict of interest
- ○Enforcing compliance and detecting corruption

Preamble

Quality infrastructure supports sustainable growth, improves well-being and generates jobs. Recognising this, quality infrastructure is both an explicit goal and enabler of the 2030 sustainable development agenda. However, solely focussing on increased financing is not sufficient. Better governance of infrastructure projects is key to increase both the volume and quality of infrastructure investments by addressing governance shortcomings that can cause delays, raise costs and debts for governments and private investors, hamper fair competition and undermine the quality of the infrastructure project ultimately undermining economic and social progress (OECD, 2017).Integrityandtransparencyarecrucialforcounteringcorruptioneffectivelyandthedeliveryofqualityinfrastructure.Consequently,thisCompendiumdoesnotlookatsecondaryconsequencesofcorruptionininfrastructure,butfocusesontransparencyandintegrityintheinfrastructurecycle.

Infrastructure development can indeed be particularly vulnerable to corruption and fraud due to its size and complexity, investment value, and the number of stakeholders involved. The integrity risks are considerable at each stage of the infrastructure project cycle (see Figure 1). Governments are required to navigate various sectors and industries, bringing together a multitude of actors and that may pose various corruption risks. From the exercise of undue influence or capture during the preliminary stages, including the needs definition and selection stages, to suboptimal performance in the implementation and maintenance phases, corruption can derail the effective delivery of infrastructure projects and divert investment from its intended use.

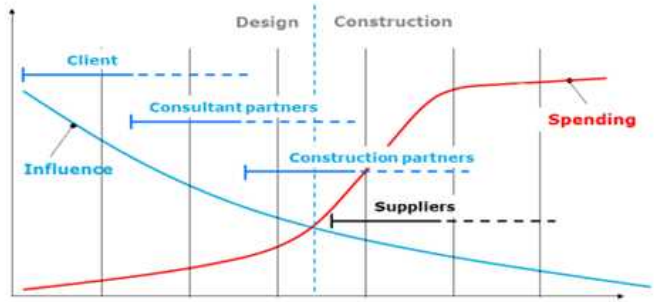

Figure 1. Evolving corruption risks throughout the life cycle of infrastructure project

Source: Developed by the OECD

The same principles that drive or should drive countries' efforts to fight corruption and safeguard integrity in society apply to the context of infrastructure governance. The UN Convention against Corruption (UNCAC) binds all G20 members and beyond, and is the accepted international framework for prevention, criminalisation, international cooperation and asset recovery. It provides for a comprehensive approach for preventing and prosecuting corruption, and includes measures directed at integrity in the public service, including managing conflict of interest, strengthening transparency, establishing effective systems of audit and oversight, providing protection of whistleblowers and witnesses, effective criminalisation and law enforcement and international cooperation. The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Anti-Bribery Convention) and its accompanying 2009 Anti-Bribery Recommendation focus on the "supply side" of foreign bribery. They set standards for an effective legislative and enforcement framework for combating foreign bribery, and address related issues aimed at enhancing prevention, through the promotion of corporate anti-corruption compliance, and detection, through the development of reporting channels for public officials, promotion of whistleblower protection.

Contributing to the implementation of the UNCAC and the OECD Anti-Bribery Convention and complementing it, the G20 has adopted a number of Principles that can support countries' efforts to ensure integrity and transparency throughout the entire infrastructure cycle when applied to this sector:

- ○ G20 High-Level Principles for Preventing and Managing 'Conflict of Interest' in the

Public Sector (2018)

- G20 High-Level Principles for Preventing Corruption and Ensuring Integrity in State-Owned Enterprises (2018)
- G20 High Level Principles on Organizing Against Corruption (2017)
- G20 Principles for Promoting Integrity in Public Procurement (2015)
- G20 Open Data Principles (2015)
- G20 High-Level Principles on Private Sector Transparency and Integrity (2015)
- G20 High-Level Principles on Beneficial Ownership Transparency (2014)
- G20 Guiding Principles on Enforcement of the Foreign Bribery Offence (2013)
- G20 Guiding Principles to Combat Solicitation (2013)

I. Promoting integrity and transparency in infrastructure throughout the entire infrastructure cycle requires a holistic approach

Applying integrity and transparency principles to the infrastructure sector requires to go beyond traditional, siloed approaches and to involve the various stakeholders in a holistic approach (OECD, 2016).Forinstance,acountry'swiderpublicintegritysystemrequirespublicofficials,inallrelevantdepartmentsincludingnationaldebtmanagementoffices,tofulfiltheirdutiesinlinewithlaws,relevantcodesand,whereapplicable,internationalstandardsofbehaviour.SuchaholisticapproachhasalsobeenengagedforinstancebytheUnitedNationsEconomicCommissionforEuropewiththeestablishmentofinternationalStandardsonaZeroToleranceApproachtoCorruptioninPublic-PrivatePartnershipProcurement.Inthecontextofpublicinfrastructureprojects,similarstandardsandexpectations,asappropriate,shouldbeextendedtothemyriadofactorsinvolved,includingprivatesectoremployeessuchassuppliers,lenders,sub-contractorsandconsultants. Oversight should be effective throughout the project cycle with effective internal control and external audit in all stages of the procurement process. Whistleblower hotlines and other reporting mechanisms should be available to all stakeholders, public and private sector employees, and citizens. EU There should be clear rules and guidelines on avoiding conflict of interests. Transparency and open data principles should be widely applied in order to prevent and detect corruption.

Following the infrastructure cycle, this Good Practice Compendium identifies specific measures to strengthen integrity and transparency at each phase of the infrastructure cycle.

I.I. Needs definition and selection phase

The infrastructure cycle starts with the definition of the needs and the identification of the best way to respond to this need. The identification and selection process of investment projects often involves significant discretion on the part of public officials, along with the participation of multiple stakeholders, which may make this stage particularly prone to corruption and policy capture (OECD, 2016).

Enhancing transparency and integrity can contribute to ensuring that the process is carried out based on legitimate policy priorities. Specific policy options could include:

- Ensuring that public investment decisions are based on national, regional and sectorial objectives, for instance by:

  - Establishing a national long-term strategic vision that addresses infrastructure service needs in the medium to long term. The 2012 National Policy Strategy for Infrastructure and Spatial Planning (SVIR) in the Netherlands provides a holistic perspective on infrastructure planning by creating a platform for co-ordinating planning across sectors. The SVIR links spatial developments and infrastructure within a broad vision for the future of the country in 2040. It covers infrastructure development for passenger, freight transport across all modes, energy (electricity transport, renewables, and oil and gas), and the water system and thereby ensuring that sufficient space is available to meet the country's current and future infrastructure needs and balance the different uses of land, subsoil and the sea while safeguarding the quality of the environment (OECD, 2017).

  - Setting up an expert body, where appropriate, responsible for assessing the national infrastructure needs such as the National Infrastructure Commission in the United Kingdom responsible for expert advice to the Government on Infrastructure.

  - Co-ordination with sub-national governments to ensure that strategic priorities for investment are aligned across levels of government. For example, the Council of Australian Governments is the main forum for infrastructure development and implementation of inter-jurisdictional policy. Through the Council, the federal and subnational governments have agreed to a national port strategy.

  - Establishing a national information portal to serve as a point of reference for land use planning for government institutions and the public. For example, in Indonesia, the One Map Policy, compiling 83 thematic maps, including the National Sea Spatial Plan Map (RTRLN), the sub-district and village border map, aims to foster collaboration, transparency and accountability. In this way, infrastructure development can be more accurately planned by using a mix of data, which includes spatial and land use information.

- Preventing the selection of public investment from favouring a particular interest group/individual over the public interest, for instance by:

  - Rendering the decision-making process more transparent by making information available publicly. For example, in Australia, "in order to draw the market's early attention to potential procurement opportunities, each relevant entity must maintain on AusTender [the national public procurement system] a current procurement plan containing a short strategic procurement outlook" (World Bank, 2016).

  - Strengthening citizen participation through participatory budgets, which have been used increasingly on the different levels of government, such as Paris, France and Porto Alegre, Brazil. In Porto Alegre, budget allocations for public welfare works are made only after the recommendations of public delegates and approval by the city council.

I.II. Appraisal phase

The appraisal phase serves to evaluate an infrastructure project's feasibility, to give the official approval and to determine how and by whom it will be financed. It can be difficult to assess the cost of government-led investment projects, and especially infrastructure projects, where comparable information is not often available due to its size or the scarcity of comparable projects. Consequently, financial, economic, environmental and social feasibility studies, as well as unsolicited proposals, have more room for manipulation (OECD, 2016).

In order to counteract this, the following policy options could be adopted:

- Fostering objectivity and credibility of social, economic and environmental feasibility studies through well-evidenced, comprehensive and multi-dimensional assessment processes, as well as guiding the use of public official discretion and mitigating risks, for instance by:

    - Developing standardised assessment guidelines. For example, the HM Treasury of the UK issued a Green Book to guide central government on how to appraise infrastructure projects based on the Five Case Model. This is a good practice approach to business case development according to five dimensions (strategic, economic, commercial, financial and management).

    - Broadening the decision-making basis by selecting external experts to conduct a feasibility study based on a transparent procurement process. For example, the Government of Gujarat, India, selected a consulting firm through a competitive bidding process to undertake a technical economic feasibility study of the Vadodara Halol Toll Road (VHTR).

- Ensuring that delivery modes of infrastructure projects are assessed against value for money and represent the optimal allocation of responsibilities and risks given the specific characteristics of the planned infrastructure. For example, the Productivity Commission in Australia developed guidance on the typical allocation of responsibilities and risks according to different delivery modes.

- Having a clear process to compare between different delivery modes and determine whether a project is suitable for a Public-Private Partnership (PPP) model (relative value for money analysis). For instance, the PPP unit of Victoria, Australia (Partnership Victoria) uses a public sector comparator that takes into account the risks that are transferable to a probable private partner, and those risks that will be borne by the government.

I.III. Planning phase

During the planning phase, clear regulations and legal requirements concerning the transparent and fair development of the bidding documents and terms of reference are essential to guide a public official's discretion or avoid private interests from exerting undue influence on the process. In addition, openness and external scrutiny can be helpful in curbing corruption in the process (OECD, 2016).

Specific policy options could include:

- Ensuring equal access of actors to relevant information, for instance by:

    - Digitalising information and fostering the release of data in open and machine-readable formats to facilitate data accessibility, usefulness and re-use. In Italy, the online portal Opencantieri, managed by the Ministry of Infrastructure and Transportation, provides open, complete and up-to-date information on Italy's ongoing public infrastructure projects. The website (http://opencantieri.mit.gov.it /)hoststheplatformcontainingtheavailabledataandprovidesasynthesisaswellasspecificinsightson issuessuchasfinancing,costs,timinganddelays.Alltheinformationispubliclyaccessibleandcanbed ownloadedthroughtheMinistryofInfrastructureandTransportation'sopendataportal (http://dati.mit.gov.it/catalog/dataset).

    - Disseminating public procurement information through comprehensive e-procurement systems, making them available as open data (e.g. according to US open contracting principles and standards) whenever suitable and in a manner that respects data protection laws. For example, the National Government Procurement Electronic System in Saudi Arabia (Etimad), managed by the Ministry of Finance, aims to create a transparent standard system and to ensure the digital transformation by enabling the government agencies to publish all of their public procurement activities. In Russia, the information on the contracts system in the realm of public procurement is published on an information system giving free and unlimited access to stakeholders. This includes the digitalisation of all standard procurement procedures, including for those tenders that are open to Small and Medium-sized Enterprises (SMEs). In India, the Central Public Procurement Portal (htt://eprocure.gov.in) is available as a platform for all types of procurement (Goods, Services & Works) strengthening transparency, reliability and non-discrimination amongst bidders by allowing free access to tender documents, clarifications, secure on line bid submission and access to bid opening event to all. EU E-procurement is mandatory in all EU Member States and the European Commission maintains the Tenders Electronic Daily (TED) database. The online version of the 'Supplement to the Official Journal of the European Union' is updated regularly with tenders from across Europe. Furthermore, in the EU contracts above a certain value (EUR 10 Million for public works and EUR 1 Million for goods and services) must be made available on request; exceptions are only allowed in the case of commercially sensitive information.

I.IV. Tendering phase

The tendering phase is when suppliers decide to respond to public needs by submitting an offer, when bids are evaluated and contractor(s) selected based on their technical and cost proposal. The criteria for selection need to be clear and transparent; the decision needs to be unbiased and the officials in charge should not have any conflict of interest US arising from the bidding and contracting process XXX (OECD, 2016).

Specific policy options could include:

- Ensuring that the winning bidder is the most qualified, for instance by:

    - Inviting civil society to monitor that the process is carried out transparently and with integrity. In Mexico, social witnesses are required to participate in all stages of the public tendering procedures above a certain threshold as a way to increase transparency in the public procurement process.

    - Including a detailed description of the circumstances considered to constitute a conflict of interest according to the law or framework regulating conflict of interest. For example, the German Regulation on the Award of Contracts includes a detailed list of the situations where a conflict of interest exists and requires the person concerned to recuse themselves of the specific procurement procedure.

    - Actively predicting, identifying and managing conflict-of-interest situation, also by applying innovative data-driven approaches, which might impact the contract awarding. The Department of Planning, Transport and Infrastructure in South Australia provides procurement officials with examples of situations that would be considered as a conflict of interest of a public official in relation to a company submitting a tender. Where applicable, public officials could be mandated to disclose their assets and interests. New Zealand requires any public officials involved in a procurement activity to complete a 'conflict of interest and confidentiality agreement', stating any actual, potential or perceived conflicts of interest and detailing how a conflict of interest will be managed, before developing tender documents, joining an evaluation panel or

making any other relevant decision. TURKEY In Turkey, the Public Procurement Law has detailed provisions with regards to persons and authorities who cannot participate in any procurement, directly or indirectly or as a sub-contractor, either on their own or on behalf of others, in order to prevent conflicts of interest.

- GERMANY Enforcing cooling-off periods to prevent former civil servants and ministers being able to profit from knowledge and contacts gained throughout their public service career. For example, in the UK, ministers and senior crown servants must seek permission of the Advisory Committee on Business Appointments before taking on any new paid or unpaid appointment within two years of leaving ministerial office or Crown service reviews the UK Business appointment rules for civil servants. In the United States, public procurement officials are prohibited from accepting compensation from a contractor for one year following their government employment if they served in certain decision-making roles with respect to a contract awarded to that contractor. They are also required to disclose any contacts regarding non-Federal employment by an offeror on an active procurement, and either reject such offers of employment or disqualify themselves from further participation in the procurement.

- Applying clearly pre-defined criteria in public tenders and comparatively assessing proposals both on financial and technical merits. For example, the construction of the aquatics centre for the 2012 London Olympics and Paralympic Games has been awarded based on the Most Economically Advantageous Tender (MEAT) criterion in the sense of assessing other components than price.

- Providing verbal debriefing by the government to aggrieved bidders to provide a better understanding of how the decision was reached and thereby increasing understanding of the integrity of the process. For example, UK regulations require departments to debrief bidders in contracts UK XXX.

- Increasing access to information by providing public purchasers and companies, including SMEs with up-to-date information on public procurement through accurate guides. In France, for instance, the Legal Affairs Department (DAJ), which is responsible for developing regulations on public procurement, has developed numerous guides, such as the good practice guides on public procurement, dematerialisation, or access to public procurement by SMEs. The DAJ guides invite public purchasers to follow the recommendations of international organisations such as the *OECD Recommendation on Public Procurement* and to respect transparency in the different stages.

- Assuring the integrity of bidding companies, for instance by:

  - Applying official debarment lists to exclude suppliers not upholding integrity standards. For example, the exclusion list of suppliers, such as the EU debarment system and the Multilateral Development Banks' cross debarment list. This should include strengthening the harmonisation of anti-corruption and debarment clauses between the latter. Similarly, China has a system of debarring companies witha poor track record in compliance and integrity, from participating in public procurement.

  - Listing companies, their owners and top management condemned for administrative or criminal offences (such as bribery, money laundering and tax evasion) and violations of competition and labour law. Enabling contracting authorities to check in a single nationwide electronic dataset whether a company has breached the law, Germany created, in 2017, a competition register listing companies convicted for criminal association, money laundering, fraud of the public sector, bribery and corruption in business transactions, trafficking in influence, human trafficking, and tax evasion. The register also includes companies that have violated environmental, social, employment obligations and competition law (and whose offences resulted in fines above 50,000 euros) (Bundeskartelamt, 2017).According to Russian legislation, the

owners and top management of entities who have been convicted of corruption, as well as entities charged for administrative offences according to article 19.28 'Illegal gratification on behalf of a legal entity' of the Code of Administrative Offences of the Russian Federation, cannot participate in public procurement processes. In order to check if participants in procurement proceedings havenotbeenconvicted,theGeneralProsecutor'sOfficeoftheRussianFederationmaintainstheregisteroflegalentitieschargedwithadministrativeoffencesunderarticle19.28,whichispublishedonthe Internet.

- Establishing specific restrictions on government suppliers, such as in the EU where conflicts of interest provide for ground for exclusion of bidders from the procurement process. Similarly, in the case of the Bicol International Airport Development Project in the Philippines, bidders with conflict of interest were disqualified from the procurement process.

- Establishing integrity programmes and guidelines for the private sector, where appropriate. For example, Indonesia developed the voluntary programme National Movement for Integrity Development in the Business Sector with the tagline "Professional with Integrity (PROFIT)". PROFIT is a Business Integrity Development Movement involving business sector as focal point, together with regulator, law enforcement officials and community in general. It consists of the following activities:

  - Establishing the Anti-Corruption Advocacy Committees in national and local level as a communication forum for private business and regulatory agencies (public-private partnership);
  - Establishing the Corruption Prevention System Guideline for Corporations/Enterprises in response to the enactment of the Supreme Court Regulation No. 13 of 2016 on the Procedure of Corporate Criminal Liability, and disseminate it progressively. In 2019, it focuses on piloting the implementation in eight sectors, which have been identified as the most vulnerable sectors to corruption;
  - Implementing Anti-Bribery Management in Government and Private Sector;
  - Establishing a programme aimed at enhancing integrity competence standard for Integrity Officer (Certified Integrity Officer programme);
  - Establishing communication strategies to implement PROFIT in the business sector; and
  - Establishing close cooperation with business sector to implement the business integrity development programme.

- Implementing a strong regulatory system for State-owned Enterprises (SOEs), for instance by encouraging SOEs to develop codes of conduct to promote integrity and transparency and covering the relation with consumers, such as the collection of bills. State ownership entities – that is, the entities or co-ordinating agencies charged with exercise of ownership on behalf of the state – may expect SOEs to develop codes of conduct, ethics or similar. For instance, Brazil's "Statute of SOEs" (Law 13.303/2016) provides for SOE adoption of a Code of Conduct and Integrity that includes the prevention of conflicts of interest and prohibition of acts of corruption and fraud. Codes should also refer to the channels available to receive internal and external information concerning, among other things, the practice of acts of fraud and corruption (hotline). China's Guideline on Corruption Risk Management for Central SOEs in 2012 and the Provisional Guidance on Compliance Management for Central SOEs in November 2018 require central SOEs to enhance compliance management as they invest and operate overseas, set red lines for overseas investment and operations, and establish institutions, systems and procedures for operational compliance, with a view to addressing compliance risks in major decision-making, important contracts, management of large volumes of funding, and corporate governance of their overseas subsidiaries.

- Requiring that bidders submit a certificate of independent bid determination (CIBD), i.e. a signed statement that the bid is genuine, non-collusive and made with the intention of accepting the contract, if awarded. Requiring a CIBD can be an important deterrent to bid rigging. First, a CIBD makes firms aware of the unlawful nature of collusive agreements. It also demonstrates that the contracting authority is alert to bid rigging, and will check signs of suspicious behaviour by bidders. Lastly, a CIBD makes the legal representatives of firms directly accountable for any unlawful behaviour. For example, since January 2019, the Argentinian National Directorate of Roads (Dirección Nacional de Vialidad, DNV) decided to require a CIBD in all its tenders (OECD, 2019 (forthcoming)).

- Implementing company beneficial ownership registers, which are accessible, searchable and downloadable by the public without a fee, in accordance with open data best practice. Beneficial ownership information can be used to identify the real owners and controllers of companies who are profiting from infrastructure projects.

- Preventing bid rigging, in a public investment, for instance by:

  - Avoiding releasing information on the identity of bidders and the details of bids during the procurement procedure. Transparency about who the competitors are and what their bids include can facilitate bid rigging (OECD, 2012).Suchinformationshouldhoweverremainavailabletoprocurementofficialsandtheirsupervisors,internalandexternalauditorsandothercompetentpublicbodies,aswellastointerestedthirdpartiesonaneed-to-knowbasis.

  - Having in place clear rules to exclude those from future contracts or ongoing tendering processes that have previously engaged in bid-rigging, collusion or cartel agreements. In the EU, contracting authorities can exclude suppliers for up to three years.

I.V. Implementation and contract management phase

The implementation and contract management phase concerns the actual construction or maintenance work. This phase implies the attribution of management responsibility to ensure proper management of works and outputs and responsibility lines. The concretisation of the selected proposal brings about many new decisions related to the supplied material, the timetable, labour arrangements and any other possible unexpected event that might change the initial agreement. It is essential to have a mechanism in place to ensure the contract is implemented properly without unjustified changes in costs or level of quality and to ensure the quality of the infrastructure project throughout its life cycle (OECD, 2016).Furthermore,itisvitalthatgovernmentauthoritiesmeettheircommitments,suchaspaymentintime,tonotincentivisetheprivatesectortocommitintegritybreaches.

The following examples reflect good practices to limit opportunities for corruption:

- Ensuring that there is no false reporting of invoices, for instance by:

  - Making the estimated cost of the project, contract modifications and the final cost incurred publicly available to public officials and civil society. In Spain, the 2017 Public Procurement Law has significantly expanded the number of documents and information that contracting entities must make public, including through their "contracting entity profiles" in the e-Procurement Portal. Transparency obligations also cover the contract execution phase (contract modification notice and rationale, any appeals during the execution phase as well any contract suspensions as a result of those appeals). In Brazil, the "Portal de Compras" allows both public officials and civil society to oversee ongoing public infrastructure projects. For example, through the portal it is possible to access information related to procurement processes, contracts, average prices, providers/contractors, among others. In France, Etalabisresponsibleforimplementinganewlegalobligationfor70,000Frenchpublicpurchasers(localauthorities,ministries,publichospitals,etc.):thepublicationinopendataformatofdatarelatestopubliccontractsandconcessions(totalling130billioneuros)knownas"criticaldata"foramountsexceeding25,000euros.Thisincludesinformationsuchas,butnotlimitedto,themarketidentifier;thenameofthepublicpurchaser;thedateofnotification;thesubject,amountanddurationofthecontractandchangesinduration,amountorincumbentcompaniesthatmayoccurthroughoutthedurationofthecontract.Furthermore,intheEU,modificationofcontractswithoutanewtenderprocedureisstrictlyregulated.

  - Covering the entire public procurement cycle, including the contract management phase and project variations and reasons for overrun in an e-procurement system. . TURKEY In Turkey the digitalisation of the procurement process is one of the primary objectives of the Public Procurement Authority (PPA), which operates an e-procurement system called Electronic Public Procurement Platform (EKAP). The tool helped the procurement process to become more transparent and effective, faster and competitive, leading to important savings for contracting authorities. All contracting authorities within the scope of the Public Procurement Law have to use EKAP, and all tender notices are freely accessible on EKAP. The Korean e-procurement system, KONEPS, is a fully integrated end-to-end procurement system collecting information on bidder's qualifications, delivery report, e-invoicing and e-payment. The system also provides project information on a real-time basis. According to the Public Procurement Services, the system has boosted efficiency, improved transparency and eliminated instances of corruption by preventing illegal practices and collusive acts (OECD,2016). Similarly,intheUkraine,theintegratede-procurementsystemProZorroprovidesprocurementdatathroughanopenandfreeportal.Startedin2016byacivilsocietyinitiative,themajorityofUkrainiantendersaretodayawardedthroughProZorro,anditsdataisusedtoincreasetransparencyinUkrainianpublicprocurement.Documentedsavingsthroughtheprojectcanbeassessedviathemonitoringsectionofitsweb site.

- Ensuring that there is no delay in the delivery of the infrastructure project, for instance by:

  - Creating a website that monitors in real time the advancement of the public infrastructure project. The Colombian "Rolling on the Road" (Rodando la Vía) Initiative requires inspectors of road infrastructure projects to upload videos of the works in progress on an online platform. This allows citizens to oversee the development of the public infrastructure projects and to raise complaints in case they identify a wrong use of resources. Similarly, in Myanmar, the Asian Development Bank used geotagging, a method of capturing photos and videos using cameras and mobile phones with built-in global positioning system receiver and associating these with geographical coordinates, to verify the accuracy of project progress reports and inspect the project outputs of a road infrastructure project.

  - Enhance citizen participation in the implementation and monitoring phase. The Ministry of the Treasury and Public Credit in Mexico, in collaboration with the Global Initiative for Fiscal Transparency, launched the "Data on the Streets" (Datos en la calle) Initiative. Through this initiative, citizens visit in person the community of their choice and verify in situ the information contained in the government platforms, in order to take note of what they see, and report their experience and findings through social networks and other available media channels. In China, a specific website was created to publicise information concerning the construction progress of all 2008 Olympic venues, and also other relevant information. This allowed the public to monitor the whole process in constructing the venues.

- Holding contractors accountable to project specifications and professional standards, for instance by:

    - Requiring a strong and effective regulatory system reinforcing accountability and transparency by ensuring that contract modifications are justified and no lower quality materials are accepted than those specified. In Switzerland, supervision of road construction projects includes frequent testing of materials by two independent laboratories, one mandated by the Federal Roads Office and one mandated by the contractor.

- Encouraging SOEs to have clear rules for engaging and, if necessary, disengaging with third parties including, for instance by:

    - Integrating SOE expectations on anti-corruption into contracts and retaining the right to dissolve the contract if the third party violates the agreement. This is practiced by SOEs in Italy and Switzerland, amongst others, often at the impetus of the SOE itself.

    - Seeking to ensure that no impermissible changes are possible once the agreement has been signed. Finland's Act on Public Procurement and Concession Contracts (1397/2016) provides clear grounds under which contracts can be amended without having to reopen a public procurement. The law applies also to state-owned enterprises (SOEs), whose compliance is moreover reinforced through the government's resolution on state-ownership policy that sets expectations for SOEs to ensure corporate social responsibility in its business operations and value-chain.

I.VI. Detection of corruption and enforcement in infrastructure development

The detection of integrity violations and effective enforcement mechanisms are the necessary "teeth" to any country's public integrity framework and are a principal means by which governments can ensure compliance and deter misconduct. If carried out in a coordinated, transparent, and timely manner, they can also promote confidence in the governance framework of infrastructure projects and serve to strengthen its legitimacy over time.

The following examples reflect good practices to facilitate detection and ensure effective enforcement:

- Establishing effective reporting channels for complaints and for reporting misconduct, corruption and fraud for suppliers, public sector employees and individuals, for instance by:

    - Establishing alternative reporting channels to offer individuals a choice to whom to disclose. For example, in Canada, disclosures can be made to the immediate supervisor, senior officers responsible for internal disclosures or to the Office of the Public Sector Integrity Commissioner of Canada.

    - Setting clear procedures for handling complaints and investigating reports. In the Slovak Republic, there are specific requirements for employers with more than 50 employees to establish reporting channels, coupled with the duty to issue an internal regulation outlining specific measures regarding confidentiality, processing of personal data, keeping record of the disclosure within a specific registry and following up with the discloser upon assessment of the disclosure.

    - Creating an integrated online platform that support government transparency and public reporting. For example, Indonesia has several online platforms to facilitate public monitoring and reporting such as LAPOR! (Online Public Complaint and Aspiration Service), JAGA (Online platform aimed at increasing public participation in monitoring public services, especially education, health and licensing), Satu Data Indonesia (Indonesia One Data), Initiative Integrated One Stop Service (PTSP), and Data Portal for the State Budget (APBN), as well as the establishment of SP4N (National Public Service Complaint Management System).

- Ensuring whistleblower protection, for instance by:

    - Adhering to international guidance for businesses on whistleblower protection such as the World Bank Integrity Compliance Guidelines and the UN Convention against Corruption.

    - Establishing a dedicated whistleblower protection framework for public and private employees reporting misconduct, corruption and fraud. Ireland, for example, introduced the Protected Disclosures Act in 2014 providing protection from dismissal and any other form of penalisation to all workers, including employees, contractors, agency workers, and trainees who make a protected disclosure.

    - By allowing the general public to identify an authority to which alerts can be reported. In France, for example, a report can be made to the Ombudsman/Defender Rights (Défenseur des droits). This independent authority directs whistleblowers to the competent authorities and puts in place guides for issuing alerts to the public.

- Ensuring an effective internal control process, based on risk assessment for instance by:

    - Conducting periodic risk assessments to inform decisions about strategy and control activities, in line with international standards, such as the framework of the Committee of Sponsoring Organisation of the Treadway Commission (COSO) or International Organization on Standardization.

    - Establishing a clear procedure for dealing with unexpected risks, and mechanisms through which advice is provided. For example, senior managers at Transport Infrastructure Ireland established risk management policy, risk mapping process and fraud risk register to identify and manage the areas of a project, which are vulnerable to fraud and corruption risks.

    - Review that internal control and risk assessment procedures have been implemented and review them where necessary. For example, every year, the Asian Development Bank's (ADB) Office of Anticorruption and Integrity selects high-risk infrastructure projects and tasks a team of specialists to verify if the projects comply with the ADB's policies on procurement, financial management and asset management. The purpose of this review is to check whether the internal controls and governance of each project are sufficiently robust to prevent integrity violations and ensure funds are used for intended purposes and beneficiaries. If there are shortcomings, the ADB engages with the relevant country officials and recommends remedial actions. The ADB also conducts follow-up reviews to verify the implementation of recommendations. Results of proactive integrity reviews are published on the ADB's website to promote transparency and accountability as well as share lessons learnt.

- Ensuring adequate and timely sanctions through the disciplinary system, for instance by:

    - Promoting mechanisms for co-operation and exchange of information between the relevant bodies, units and officials. In Brazil, the Disciplinary Proceedings Management System (*Sistema de Gestão de Processos Disciplinares*, CGU-PAD) allows to store and make available, in a fast and secure way, information about the disciplinary procedures instituted within public entities.

    - Encouraging transparency within public sector organisation and to the public about

the effectiveness of the enforcement mechanisms and the outcomes of cases. In Colombia, the Transparency and Anti-corruption Observatory publishes on its website updated statistics on corruption-related criminal, disciplinary and fiscal sanctions.

- The criminalisation of bribery of public officials, both domestic and foreign, is a legal requirement for all G20 countries under UNCAC, the OECD Anti-Bribery Convention and other regional instruments. This can be done in a number of ways, for instance by:

  - Adopting clear and explicit legislation on the domestic and foreign bribery offences, which cover the key elements of the internationally agreed definitions, including offering, promising or giving of a bribe, bribery through intermediaries, and bribes paid to third party beneficiaries, as provided under relevant Articles of the UNCAC and OECD Anti-Bribery Convention. This can be achieved through amendments to the Criminal Code, as done by Italy and China, or adoption of specific legislation, such as the UK Bribery Act or the Foreign Corrupt Practices Act in the United States.

  - Adopting effective systems for liability of legal persons for corruption offences, following international standards such as the G20 High Level Principles on the Liability of Legal Persons for Corruption and Annex I to the 2009 OECD Anti-Bribery Recommendation.

- Establishing a legal framework that allows for effective enforcement of domestic and foreign bribery laws, including in the context of infrastructure projects, covering areas such as jurisdiction, statute of limitations, corporate liability and ensuring the independence of enforcement processes from political interference, for instance by:

  - Establishing specialised units with adequate resources and expertise to deal with corruption and bribery investigations and prosecutions. For instance, in Germany, the *Länder* have either set up special anti-corruption units or dedicated public prosecution offices that specialise in investigating economic crimes, with similarly specialised directorates in the police forces of the *Länder*. Canada has set up a specific Royal Canadian Mounted Police (RCMP) unit to investigate transnational bribery cases. The United States also has longstanding units to deal with foreign bribery investigations in the Federal Bureau of Investigation (FBI), the Department of Justice (DOJ), and the Securities and Exchange Commission (SEC). In France, the Parquet National Financier (PNF) is an investigation and prosecution unit specialising in serious and complex financial crime, including the corruption of foreign public officials. It is assisted by the services of the Central Office for the Fight against Corruption and Financial and Fiscal Offences (OCLCIFF).

  - Ensuring independence of law enforcement authorities from political pressures, as noted in G20 Guiding Principles on Enforcement of the Foreign Bribery Offence and Article 5 of the OECD Anti-Bribery Convention. In Italy, public prosecutors are independent from government and, once assigned to a case, a prosecutor has total autonomy from other prosecutors as well, ITALY in combination with mandatory criminal action. In the Netherlands, the Instruction on the Investigation and Prosecution of Corruption of Public Officials Abroad explicitly requires prosecutors to not allow themselves to be influenced by considerations of national economic interest, the possible effect on the relationship with another state or the identity of the natural or legal persons involved, in line with Article 5 of the OECD Anti-Bribery Convention.

- Developing detection capabilities by mobilising all stakeholders with a potential to detect corruption or bribery in infrastructure projects. In addition to whistleblowers, mentioned above, this could include mobilising government agencies such as Financial Intelligence Units (FIUs), the tax administration, diplomatic missions, export credit and Official Development Assistance (ODA) agencies, as well as the private sector, EU the press and civil society, for instance by:

  - Ensuring adequate training and awareness of corruption red flags in key government agencies. The Netherlands Financial Intelligence Unit is member of the Financial Expertise Centre and delivers knowledge and expertise to various "Taskforces" and "Fusion Groups" on topics to improve the integrity of the financial sector and infrastructure in the Netherlands. The Swedish International Development Cooperation Agency (SIDA) has developed a list of red flag indicators to identify potential corruption in ODA-funded projects.

  - Developing a reporting and cooperation framework for officials for the sharing of information with law enforcement. In Japan, during the course of joint investigations between tax inspectors and public prosecutors into allegations of tax evasion by a company, public prosecutors identified slush funds, which had been used for bribing a senior official of a foreign public procurement authority in relation to a substantial infrastructure project that was financed in part by official development assistance from Japan.

  - Opening up government procurement data and implementing open contracting practices to empower a broader range of actors, including civil society organisations EU and investigative journalists, to follow financial flows better, monitor government performance and reinforce transparency and accountability.

- Facilitating law enforcement cooperation across borders, taking into account the fact that large infrastructure projects often involve multiple stakeholders from different countries, for instance by:

  - Developing a national framework for international cooperation following the guidance laid out in the G20 High-Level Principles on Mutual Legal Assistance (MLA).

  - Fostering strong relationships between law enforcement agencies and law enforcement authorities, domestically and internationally, with a view to building trust and facilitating informal cooperation, which in turn may lead to more efficient formal MLA. This can include encouraging participation of law enforcement officials in international and regional networks focusing on international cooperation in anti-corruption and related matters, e.g. the Camden Asset Recovery Inter-Agency Network (CARIN), the Iber Red network, and the OECD Working Group on Bribery Law Enforcement Officials' meetings and regional law enforcement networks (LEN). Bilaterally, joint task forces can enhance cross-border law enforcement cooperation. For instance, China and Laos set up a task force composed by the law enforcement authorities of both sides to monitor the ongoing China-Laos Railway Project and other infrastructure projects.

  - Coordinating investigative efforts by relying on multi-jurisdictional or parallel investigations. For instance, in 2016, Brazil, Switzerland and the UnitedStatesreached coordinated resolutions with several companies for their involvement in a complex bribery scheme under which the companies had secured billions of dollars of infrastructure projects by paying bribes to government officials, politicians, and political in several countries in Latin America and Africa.

I.VII. Evaluation and audit phase

Evaluation and auditing of public investment projects reaffirms its significance when considering its role in delivering public policy goals. The evaluation and audit phase of a public investment project can also partially assess the achievements of the government in delivering public policy goals. Given the importance of the audit function for integrity throughout the investment project cycle, operational independence and protection from external and undue influence are critical.

Specific policy options could include:

- Ensuring an independent audit process, for instance by:

  - Providing adequate capacity and resources to provide timely, standardised and reliable audits. For example, the UK National Audit Office introduced in 2010 guiding principles for an improved assurance system for high risk projects including those of infrastructure nature. The overall objective of timely and reliable assurance is to help identify and reduce risks to successful delivery of project outcomes. Throughout the preparations of the XXII Olympic Winter Games and XI Paralympic Winter Games in Sochi in 2014, the Accounts Chamber of the Russian Federation, in addition to the control over the activities of the State Corporation Olympstroy, monitored the implementation of legal requirements for contracts and contracting system with the participation of all auditing divisions every three months. The analysis concerned planning and distribution of financial resources, including capital expenditure, in relation to the approved financial plans and construction schedules in order to prevent the growth of expenses.

  - Elaborating specific code of conducts regarding auditors contact with contractors. For example, the International Organisation of Supreme Audit Institutions developed a Code of Ethics for auditors in the public sector structured around five areas: 1) Promulgation of trust, confidence and credibility 2) Integrity, 3) Independence, objectivity and impartiality 4) Professional secrecy 5) Competence.

  - Leveraging open data to ensure improved transparency and accountability. For example, Ukraine is planning to connect its public procurement platform, the Prozorro platform, which is based on the Open Contracting Data Standard (ODCS). Building on this work, CoST has launched the Open Contracting for Infrastructure Data Standard, connecting infrastructure project-level information with information on individual contracts enabling governments to 'see' the whole project cycle from planning to the final close of contracts.

II. Key enablers for mitigating the risk of corruption in infrastructure development

In addition to strong and effective regulatory systems, there are several enablers for ensuring the effective implementation of the measures detailed, not unique to a particular stage or phase, but rather critical throughout the entire investment cycle:

- **Data standardisation and interoperability can help to strengthen scrutiny and accountability inside and outside the public sector**: The use of data standards (e.g. semantics, unique identifiers, formats) throughout the infrastructure project cycle can help to enable data interoperability and aggregating fragmented information and data silos (e.g. on project identification, appraisal, financing and implementation). This can help to enable data traceability providing interested stakeholders inside and outside the public sector with a holistic view of the project development. Further, it offers opportunities to compare and benchmark the development stage of different infrastructure projects and therefore to identify deviations from standard patterns signalling potential risks of corruption or collusion. For example, the city of Buenos Aires implemented open data principles for the development of all infrastructure required for the 2018 Youth Olympic Games, allowing it to provide better and structured information the general public and to develop tailored communication strategies and social consultations. ITALY Likewise, Italy introduced the BIM (Building Information Modelling) methodology as mandatory for public procurement of infrastructure projects, in order to increase transparency, accountability, and social control. Partnerships such as the Contracting 5 (C5) (http://www.contracting5.org /

),whichgroupsArgentina,Colombia,France,Mexico,theUK,andUkraine,areleadingcross-nationaleffort stospurthedefinitionandimplementationofopencontractingpractices,includingtheadoptionanduseof theOpenContractingDataStandard(OCDS).Thiscanstrengthenthecapacitytouseopendataasatooltosus tainanti-corruptionefforts,nationallyandacrossborders.TheOCDSoffersaseriesofguidelinesregardingt hereleaseofstandardised,highqualityandreusabledataandassociateddocumentsforeachphasesofapu bliccontractingprocess.

- **Collaborative approach to assessing and mitigating the risk of corruption in infrastructure development by government, business and civil society:** By developing joint public and private sector integrity standards, countries can cultivate a mutual understanding for the corruption risks in each sector, the obstacles and difficulties to effectively apply risk mitigation strategies and develop solutions to overcome them jointly. For example, Integrity Pacts have been used in more than 18 countries worldwide, among others in Argentina, Bulgaria, China, Colombia, Ecuador, Germany, Hungary, India, Indonesia, Italy, Latvia, Mexico, Pakistan, Panama, Paraguay, Peru, Rwanda, South Korea and Zambia. An Integrity Pact is a contract between a contracting authority and economic operators bidding for public contracts that they will abstain from corrupt practices and will conduct a transparent procurement process. To ensure accountability and legitimacy, an Integrity Pact includes a separate contract with a civil society organisation, which monitors that all parties comply with their commitments. The European Commission promotes the use of Integrity Pacts for safeguarding the EU funds against fraud and corruption and as a tool to increase transparency and accountability, enhance trust in authorities and government contracting, contribute to a good reputation of contracting authorities. Integrity Pacts, as a preventive and collaborative tool, can bring important cost savings, improve competition through better procurement and improve the governance of entire infrastructure project cycle. Another example, for a collaborative approach is the official arbitrage system of the Netherlands used to settle infrastructure disputes. The arbitrage system consists of experts on infrastructure and procurement who are selected by both the public and private sector. Before any disputes come to court, there is a mandatory dispute settlement committee. If the advice given by the committee does not lead to an informal settlement, it will be settled in this court. Another type of collaborative approaches include collective action. For example, the German Alliance for Integrity is a business-driven multi-stakeholder initiative, seeking to promote transparency and integrity in the economic system. To achieve this goal, the Alliance for Integrity facilitates collective action of all relevant stakeholders from the private sector, the public sector, civil society, international organizations and academia. By pooling expertise and resources, such as a training programme based on international good practice and peer-to-peer learning, the stakeholders jointly work on practical solutions to strengthen the compliance capacities of companies and their supply chains. UK The XXX [Construction Sector Transparency Initiative][Infrastructure Transparency Initiative] (CoST) addresses these enablers by tackling mismanagement, inefficiency and corruption throughout the infrastructure cycle. CoST works with governments, industry and civil society to improve the performance and quality of infrastructure by promoting open contracting and facilitating civil society oversight of infrastructure investments. CoST has developed tools, guidance and support that assist governments, civil society and the private sector to disclose, validate and use infrastructure data. This includes the Open Contracting for Infrastructure Data Standard (OC4IDS) and an independent assurance process that turns infrastructure data into compelling information, highlighting issues of concern at each stage of the project cycle.

Annex – Supporting work from International Organisations

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OECD (2012), *Recommendation on Fighting Bid Rigging in Public Procurement*.

UNECE, *Standards on a Zero Tolerance Approach to Corruption in PPP Procurement*, ECE/CECI/WP/PPP/2017/4, Geneva, 2017.

붙임 4 **심각한 경제범죄 및 자산회복에 대한 G20 반부패실무그룹 협력 범위와 계획**

Draft Outline for a G20 ACWG Scoping Paper on International Co-operation dealing with Serious Economic Offenders and recovery of Stolen Assets

Objective

To provide a preliminary mapping of international and national institutions and initiatives, their mandates, and activities in relation to action taken against and international co-operation for dealing with economic crime and offenders and for recovery of stolen assets. The objective is to identify possible challenges and areas for further cooperation among IOs. This 10-12 page document would provide the basis for G20 ACWG reflection (possibly at the October 2019 ACWG meeting) on ways in which it can add value to the global framework for repatriating stolen assets and serious economic offenders. The document could also include a description of international cooperation mechanisms and ways for sharing good practices.

Proposed timeline

The OECD proposes the following timeline for the G20 ACWG scoping paper on serious economic offenders and stolen assets:

April 2019: OECD, India, and UK, jointly submit the draft outline to ACWG, via the ACWG co-chairs, with a view to discussion and endorsement of the outline at the May ACWG meeting.

May – September 2019: OECD to carry out consultations with other international organisations, and to coordinate the preparation of the scoping paper with members and relevant bodies and institutions.

September 2019: Draft scoping paper submitted jointly by OECD, India and UK to ACWG for consideration at the October ACWG.

Introduction

The introductory section will elaborate on the relevance of the issue of fugitive serious economic offenders and outline existing relevant national and international initiatives. It will introduce the linkages of the issue related to serious economic offenders and stolen assets to a wide range of offenses, including corruption, money laundering, tax evasion, and others. This section would emphasise that, given the breadth of the issue, different aspects could be addressed in a wide variety of fora. Possible areas for cooperation among international organisations would also be identified. A joint/collaborative work among the IOs could be useful for developing a framework for global co-operation on this issue. This section would also outline the rationale for G20 attention.

Part 1 of the scoping note will lay out the definition of economic offences and its various types. It will provide a mapping of the mandates and activities in relevant international organizations on economic offences. This part will also take note of various national and international initiatives taken up in this regard to repatriate the offenders to the countries of their nationalities and recover stolen assets. This will assist, in the first instance, in defining and prioritising issues for further reflection by the G20 Anti-Corruption Working Group as well as contribute to increasing coherence. A further aim would be to foster greater awareness among the different bodies of the wider efforts in this area, and could provide a starting point for the discussion on the links between corruption and economic crimes.

Part II of the scoping note would analyse possible gaps and explore ways to develop a holistic appreciation of the policy challenges. The third and final part will propose next steps for consideration by the G20 and for submission to Leaders.

Part I: Mapping

Defining economic offences and its various topologies (each subsequent section can also elaborate on whether there is any aspect under their mandate that deals with economic offences).

Tax (OECD)

Background: Relevance of tax to the discussion

International norms and tools

International Co-operation between tax authorities: Mechanisms and existing practice

Possible next steps in the area of tax, including how to promote the whole of government approach in sharing information.

Anti-Corruption (OECD, UNODC)

Background: Relevance of anti-corruption to the discussion

International norms and tools

International Co-operation between anti-corruption authorities: Mechanisms and existing practice

Possible next steps in the area of anti-corruption

Anti-money laundering (Financial Action Task Force)

Background: Relevance of anti-money laundering (AML) to the discussion

International norms and tools

International Co-operation between enforcement authorities: Mechanisms and existing practice

Possible next steps in the area of AML

Asset recovery (UN/WB StAR Initiative, FATF)

Background: Relevance of asset recovery to the discussion

International norms and tools

International Co-operation between enforcement authorities: Mechanisms and existing practice

Possible next steps in the area of asset recovery

International cooperation on persons sought for serious economic offences (UNODC, OECD)

Background: Importance of international cooperation persons sought for serious economic crimes through extradition and denial of entry

International norms and Tools

International Cooperation Mechanisms & Practices in Extradition and Denial of Entry

Possible steps in promoting international cooperation in this area

Illicit Trade (OECD, UNODC & World Bank)

Background: Relevance of illicit trade to the discussion

International norms and tools

International Co-operation between enforcement authorities: Mechanisms and existing practice

Possible next steps in the area of illicit trade

Part II: State of Play

This part would synthesise the results of the information in Part I to produce a global state of play synthesis of work on economic offenders and asset recovery. The synthesis would provide a preliminary identification of where there may be gaps or duplication, along with a calendar of work that is to be delivered in the near to medium term.

Part III: Proposed Next Steps

This part would outline from the mapping and gaps identified in section II and III, issues and work streams that could be advanced further by the G20 and relevant international organisations.

붙임 5 (non-paper) 부패 도피자 및 자산회복에 대한 국제적 실질 협력

International Practical Cooperation on Persons Sought for Corruption and Asset Recovery

Non-paper proposed by China

It couldn't be emphasized more on the damages of corruption to government credibility, economic growth and development. For G20, International practical cooperation on anti-corruption, especially on persons sought for corruption and asset recovery, plays a key role in fighting corruption with tangible effects. During the G20 Summit in Buenos Aires, the Leaders committed to continuing practical cooperation to fight corruption and cooperating on the return of persons sought for corruption offences and stolen assets. G20's efforts can also contribute to the work of other fora, like the United Nations Convention against Corruption (UNCAC) in particular.

Building upon the G20 High-Level Principles on Cooperation on Persons Sought for Corruption and Asset Recovery, the G20 Common Principles for Action: Denial of Safe Haven, the G20 High-Level Principles on Mutual Legal Assistance, the G20 key asset recovery principles and other G20 consensus reached at previous

G20 Summits, and bearing in mind the proposals of many other G20 members, like the one on return of persons sought for economic offences by India, China proposes that G20 keep the momentum on international practical cooperation on persons sought for corruption and asset recovery. We hope that Osaka Summit this year could make progress in the following aspects:

Firstly, G20 should reaffirm their commitment to strengthening practical cooperation on persons sought for corruption and asset recovery and leading by example, while sticking to the principles of "Zero Tolerance, Zero Loopholes, Zero Barriers".

Secondly, G20 should cooperate on persons for corruption and asset recovery with practical actions, including but not limited to law enforcement cooperation, mutual legal assistance, and work to deny safe haven.

Thirdly, international practical cooperation especially on persons sought for corruption and asset recovery should be kept as an important issue on the G20 agenda. The good practices, like the work of Denial of Entry Experts Network should continue.

Fourthly, G20 should pay attention to the corruption risks which were neglected or are emerging and update our agenda accordingly. For example, many corruption crimes are closely related to the investment immigration policies of some countries. G20 should strengthen work in this respect by information exchange and encourage members to review their immigration programs and policies, to prevent them from being abused by persons seeking safe haven. China proposes further discussions on this emerging issue with the help of the Research Center on International Cooperation Regarding Persons Sought for Corruption and Asset Recovery in G20 Member States as the facilitator.

붙임 6 회의 사진