

The 10th principle against corruption*

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ABSTRACT

On 24 June 2004, the first Global Compact Leaders' Summit announced that the 10th Principle against corruption was adopted by the Global Compact: "Businesses should work against corruption in all its forms, including extortion and bribery." The private sector and other non-state-actors share responsibility for eliminating corruption. The 10th Principle commits Global Compact participants not only to avoid bribery, extortion and other kinds of corruption, but also to develop policies and concrete programmes to address it. Companies have to realize a more transparent global economy.

The UN General Assembly adopted the Convention in October 2003 and it entered into force on 14 December 2005. Over 140 States had ratified the Convention.

The 2004 Global Compact Leaders' Summit designated the UN Convention against Corruption as the underlying legal instrument for the new 10th Principle which is legally binding only for countries that have ratified it and its values and principles are applicable to the widest spectrum of society, including the business community. The principles can serve to companies for adopting or reviewing internal anti-corruption policies, strategies, and measures. The Global Compact established a multistakeholder working group to provide strategic input on anti-corruption and to define the needs of the business community in implementing the principle.

The Working Group has established several task forces to develop various tools and resources to help businesses achieve the goals of the 10th Principle.

The objective of this Reporting Guidance is to promote the strong benefits of reporting on anti corruption in the Communication on Progress by providing a structured and comprehensive guidance document that encourages thorough and consistent reporting of anti-corruption efforts by signatories.

Il 24 giugno 2004 il Summit dei Leaders del Global Compact ha annunciato che il 10° Principio contro la corruzione è stato adottato dal Global Compact: "Le imprese si impegnano a contrastare la corruzione in ogni sua forma, incluse l'estorsione e le tangenti". Il settore privato e pubblico condividono la necessità di eliminare la corruzione. Il 10° Principio impegna i partecipanti del Global Compact non solo a contrastare la corruzione, l'estorsione ed altri tipi di corruzione, ma anche a sviluppare politiche e programmi concreti per affrontarlo. Le aziende devono realizzare una economia globale più trasparente.

L'Assemblea generale delle Nazioni Unite ha adottato la Convenzione nell'ottobre del 2003 entrando in vigore il 14 dicembre 2005. Oltre 140 membri avevano ratificato la Convenzione.

Nel Summit del 2004 i Leaders del Global Compact hanno designato la Convenzione delle Nazioni Unite contro la corruzione come lo strumento giuridico di fondo per il nuovo 10° Principio, giuridicamente vincolante solo per i paesi che l'hanno ratificata ed i suoi valori e principi sono applicabili al più ampio spettro della società, tra cui la comunità d'affari. I principi possono servire alle aziende per l'adozione o per la revisione delle politiche interne anti-corruzione, le strategie e le misure da adottare.

Il Global Compact ha istituito un gruppo di lavoro multistakeholder al fine di fornire un contributo strategico alla lotta alla corruzione e per definire le esigenze della comunità imprenditoriale nella realizzazione del principio.

Il gruppo di lavoro ha istituito diversi gruppi di lavoro per sviluppare i vari strumenti e risorse per aiutare le aziende a raggiungere gli obiettivi del 10° Principio.

L'obiettivo del presente report, guida, è di promuovere i forti vantaggi che derivano dalla segnalazione in materia di lotta alla corruzione nella comunicazione, fornendo un documento strutturato e completo di guida che incoraggia una segnalazione completa e coerente affinché gli sforzi anti-corruzione siano attuati dai paesi firmatari.

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1 . Objectives and Structure.

The Reporting Guidance provides a Reporting Elements which can help any organization to identify the components of a comprehensive anti-corruption programme; to give practical examples on how and what to report, including references to indicators from other initiatives; to provide a clear and easy-to-use format to structure and facilitate the reporting of anti-corruption activities in the annual Communication on Progress.

The Global Compact invites to use the Reporting Guidance to **describe** activities and outcomes in an aligned manner and thereby share your experiences and endeavours.

The Reporting Guidance focuses mainly on **descriptive Reporting Elements**, description of responsibility assigned to oversee and implement the anti-corruption programme.

The Reporting Guidance contains two principal sections:

- **Business Case for reporting on the 10th Principle:** This section explains and underscores the benefits of reporting on the implementation of the 10th Principle.
- **Reporting Elements for the 10th Principle:** This section sets out a list of Basic and Desired Reporting Elements for the 10th Principle supplemented with practical guidance on the importance of the Element.

2. Communication on Progress.

The Global Compact is a voluntary initiative and includes a mandatory disclosure framework for business participants. Companies committed to implementing the Global Compact principles are required to communicate on their implementation through an annual report, the Communication on Progress (COP) that can serve as a learning tool and basis for public dialogue, an effort towards greater accountability, too. COPs are published on the Global Compact website and show good practices or inspirational examples of corporate implementation.

The COP is based on concepts of public accountability, transparency and continuous performance improvement and is important because it enhance the credibility and value of an organization's participation in the Global Compact; serve as a source of information for stakeholders on an organization's environmental, social and governance activities; facilitate learning and information sharing for Global Compact participants; contribute to the development of a useful collection of organizational practices; drive change in organizations and protect the integrity and accountability of the Global Compact.

The Global Compact has published a *Practical Guide to Communication on Progress* which provides valuable information on the creation and sharing of a COP and showcases several practical examples from participants. The Practical Guide also defines key concepts related to the reporting process, such as reporting boundaries, sustainability context, materiality, sphere of influence, as well as indicators from the Global Reporting Initiative.

A revised Communication on Progress Policy took effect on July 1st 2009. New business participants must report, during the first year of participation, on at least two of the four issue areas such as human rights, labour, environment and anti-corruption. After five years of participation, participants must report on all four issue areas.

There are several benefits from reporting against the 10th Principle and companies are encouraged to start reporting early in participation in the Global Compact. The benefits include:

- demonstrating the commitment of reporting companies to greater accountability and transparency;

- meeting the growing demand for reporting on non-financial matters from a wide range of stakeholders;
- strengthening internal anti-corruption systems through increased transparency;
- enhancing reputation;
- stimulating multi-stakeholder dialogue related to anti-corruption.

3. The Business Case for reporting on the 10th Principle.

The integration of a clear anti-corruption commitment into the corporate responsibility agenda represents a strong signal that the private sector shares responsibility to address and counter corruption. Corruption remains a serious challenge for implementation, monitoring and reporting, owing to the complex and hidden nature of the issue, but also partly because of the lack of a practical reporting guidance.

It can also provide important benefits, such as strengthening internal anti-corruption systems through increased transparency, enhancing reputation and providing a common basis for measuring progress and learning from your peers.

There are three major benefits from reporting on anti-corruption, two categories are applied to individual organizations, the third category outlines benefits also for the overall community.

Increased internal integrity and transparency

This results in the following benefits:

- strengthening **anti-corruption behaviour**, including better risk management and **compliance**;
- encouraging and supporting employees in **resisting corruption**;
- providing management with a foundation for analysis of **progress, planning** and **continuous improvement**;
- **motivating employees** to be proud of the organization's integrity and reputation.

Enhanced reputation

Proactively reporting on anti-corruption efforts can positively influence public awareness and perception, resulting in the following concrete and indirect benefits for organization:

- obtaining a competitive advantage as a **preferred choice** of ethically concerned customers, suppliers and other stakeholders;
- attracting **highly skilled and motivated people**;
- supporting and encouraging **business partners** and challenging **competitors** to resist corruption by setting standards of excellence;
- reducing **cost of financing** by helping external financing institutions to assess risk premium through enhanced information; and
- increasing the **credibility** of voluntary initiatives such as the Global Compact by demonstrating commitment to their values and principles through reporting on progress.

Finally, reporting on anti-corruption activities based on a consistent reporting guidance enables different stakeholders to share information, raise awareness, learn from each other and improve practices. Stakeholders, as well as each individual organization, can benefit from this in multiple ways:

- sharing **experience and procedures** with other organizations;
- stimulating **multi-stakeholder dialogues**;
- increasing importance of disclosure on anti-corruption activities in overall **sustainability agendas**;
- driving **media coverage** of good anti-corruption practices through provision of comparable progress reports.

Recognizing that companies report on anti-corruption in different ways and to different extents, the Reporting Elements are organized in an easy-to-apply matrix:

- **Basic Reporting Elements:** These Elements are considered to be the basic level of reporting on an organization's anti-corruption policies and procedures;
- **Desired Reporting Elements:** These additional Elements give the opportunity to report more extensively on your anti-corruption policies and procedures;
- **Commitment and Policy:** how your organization has committed to a zero-tolerance of corruption;
- **Implementation:** how your organization's commitment has been put into practice through detailed policies and systems;
- **Monitoring:** how your organization monitors progress and has a continuous process for improvement.

The Global Compact asks reporting companies to reference the Reporting Guidance when developing a COP, e.g., in the index of a sustainability report.

4. Commitment and Policy.

Commitment means that the organization shows by its public communications and actions that it will not tolerate corrupt behaviour by its employees or business partners. A public statement enhances an organization's reputation, reinforces the internal policies and systems among employees and business partners and can help to deter corruption.

Public commitment can be shown in various ways: public declaration by the organization through such channels as annual shareholder meetings and reports, interviews, management letters circulated to each employee, public meetings, departmental meetings, supplier and other business partner communications, statements on the internet and intranet, keynote speeches to and from heads of business units.

The Definition of Corruption and the United Nations Global Compact Corruption is defined by Transparency International as "the abuse of entrusted power for private gain". During the negotiations of the United Nations Convention against Corruption, UN Member States considered the opportunity for the global anti-corruption treaty to provide a legal definition of corruption. The international community reached global consensus on a large number of manifestations of corruption while leaving each State free to go beyond the minimum standards set forth in the Convention. The Convention calls for ratifying States to outlaw bribery of public officials; embezzlement, trading in influence, abuse of function, and illicit enrichment by public officials; and bribery and embezzlement in the private sector, as well as money laundering and obstruction of justice. These corrupt actions are spelled out under the chapter of the Convention devoted to criminalization and law enforcement, corruption is a crime, bribery and extortion, too. In consonance with this approach, the 10th Principle of the United Nations Global Compact calls for companies to work against corruption in all its forms, including extortion and bribery.

Compliance with all relevant laws, including relevant anti-corruption laws, is a legal obligation for organizations.

5. Publicly stated formal policy of zero-tolerance of Corruption.

An anti-corruption policy helps employees and business partners to understand the detailed position of the organization and will provide the context for detailed rules and procedures and a way forward towards continuous progress.

The policy can include a statement that the organization does not tolerate corrupt behaviour and confirmation that the organization has established binding organizational guidelines requiring all directors, managers and employees to behave in conformity with the law and the guidelines that are the cornerstone of the organization's work and the relationships of its directors and employees with one another as well as with customers and partners.

6. Statement of support for international and regional legal frameworks, such as the UN Convention against Corruption.

International anti-corruption treaties inform and shape national legislation. The UN Convention against Corruption (UNCAC) is the only global convention against corruption and is the most comprehensive of all the anti-corruption conventions preventing and fighting corruption in the public and in the private sectors. Support by organizations for international legal frameworks is important because this demonstrates organizations' readiness to promote common global standards irrespective of the status of domestic regulation; organizations' alignment with the global anti-corruption movement across industries; promotion of level-playing fields within specific industries.

Companies can demonstrate support for international treaties by issuing a general statement of support for UNCAC or for a regional convention such as the OECD Convention; in national jurisdictions in which can operate; encouraging governments to sign and ratify international conventions, to ensure that the principles of the conventions are properly enacted and properly enforced. A statement of support may best be carried out as a collaborative effort by a business sector or initiative.

7. Carrying out risk assessment of potential areas of Corruption.

Risk assessment is the foundation of an anticorruption programme. To address the risks of corruption in its operations, an organization must understand how its business model and procedures may expose it to such risks.

Risk assessments for corruption can be detailed, because it is often appropriate to start assessment at a high level and increase the focus and level of analysis over time. A risk assessment looks at business activities, location of business activities, industries, local business conditions and customs, identifies corruption risks inherent in those activities and attempts to estimate the likelihood of the occurrence of the risks and their impact on the organization. Finally, the assessment looks for ways and means to minimize the risks by providing appropriate counter measures. The organization will define the potential areas of corruption.

8. Detailed policies for high-risk areas of corruption.

Detailed policies are needed to give specific guidance to employees on how to act in order to be in compliance with your organization's anti-corruption policy and how to counter specific forms of corruption. The detailed policies will provide the basis for implementation procedures. In the event of a violation of the organization's anti-corruption policy, evidence of supporting policies and procedures can help protect the organization's reputation and can also serve as a mitigating factor in the case of prosecution or sentencing.

In order to develop detailed policies, organizations can draw upon the UN Convention against Corruption and on various voluntary instruments that cover conflict of interest, money

laundering, embezzlement, gifts, hospitality and travel, donations, sponsorships, social and community investment, facilitation payments, political contributions, interactions

with government officials and lobbying and dealings with business partners, agents and other intermediaries, joint ventures use of the organization's assets, mergers, acquisitions and minority interest.

9. Policy on anti-corruption regarding business partners.

Business partners include among others, agents, consultants or other intermediaries, joint venture and consortia partners, suppliers and customers. Sometimes the organization may be held legally liable for corruption by a business partner. Stakeholders may disapprove of an organization's dealings with a third party known to be involved in corrupt activities though not related to its immediate business activities. An organization can be a positive force in supporting its suppliers in tackling corruption and thereby creating a level playing field.

The organization should have a policy in place extending its anti-corruption commitment to business partners.

10. Implementation. Translation of the anti-corruption commitment into Actions.

Making a formal commitment to zero toleration of corruption is an important step for an organization that remains at risk of violating anti-corruption laws.

Concrete actions to prevent, detect corruption and apply sanctions begin with identifying corruption risks within an organization's operations. The organization can implement its anti-corruption programme by doing **detailed procedures**, such as develop detailed procedures that support anti-corruption commitment and cover forms of corruption bribes, gifts, entertainment and expenses, donations and sponsorships, political contributions, facilitation payments and conflicts of interest; **Responsibility**: appoint a manager to devise, implement, monitor and improve the programme under the oversight of senior leadership; **Business partners**: communicate your anti-corruption commitment to your business partners and require anti-corruption standards of them; **Awareness and education of employees**: provide communication and training to ensure that your employees understand.

11. Support by the organization's leadership for anti-corruption.

Leadership means not only communicating a clear message but also acting with integrity and leading by example speaking at employee and external events and communicating through internal and external channels. Communications can include internal memoranda circulated to each employee; a CEO declaration on the organization's intranet; keynote speeches from heads of business units during employee meetings. External communications can include an integrity message from the CEO in corporate literature and for larger organizations, a statement in the sustainability or equivalent report.

Communication on the organization's commitment to zero tolerance of corruption is the most important and continuous action that the organization can take aside from making the anti-corruption commitment.

Communication helps to ensure that along with all other important messages for employees, the anti-corruption policy and how the employee should act. It will put the organization

in a better position to require adherence, achieve compliance, take disciplinary actions for non-compliance, and ultimately see that your employees' actions live up to the organization's values and the anti-corruption commitment.

Communication and training should be made at all levels within the organization from senior leadership to supervisory level staff with messages relevant to the targeted employee audience and training tailored to identified risks and needs. Communications should be made over extended periods of time, because this is more effective than large amounts of information provided during a limited period.

Checks and balances are essential tools to prevent and detect corruption because they separate the power to make decisions from the power to verify the execution of such decisions. This restricts the opportunity for corrupt employees to create false transactions and records and hide corrupt activities.

The risk of corruption in the supply chain is high, especially in countries with a high degree of corruption. Customers have a key role to play to encourage the engagement of their supply chain in countering corruption. As part of complex value chains of production all organizations face the risks of being associated with corrupt behaviour by business partners and thus having their supplies disrupted if their suppliers, as a result of conviction for corruption, have to close operations or end up on blacklists.

Just as effective oversight and leadership by management is essential to the anti-corruption programme so too is the assignment of clear lines of responsibility and accountability to management in all parts of the organization for effective implementation of the programme and avoidance of omissions or errors.

Human Resources ("HR") plays an important role in the anti-corruption programme by providing policies and procedures that shape the motivation, understanding, skills and actions of employees in implementing the anticorruption commitment.

The HR policies and procedures for employees should include clearly stated anti-corruption requirements rules and guidance. The policies and procedures will be developed in alignment with relevant laws and regulations by assessing and mitigating corruption risks; consulting with employees and employee representative bodies; analyzing results of surveys and research and benchmarking with peer organizations. The policies and procedures will be communicated formally with regular reviews of their effectiveness and improvements.

12. Communications (whistleblowing) channels and followup mechanisms for reporting concerns or seeking advice.

Whistleblowing channels are an important feature of most anti-corruption programmes as they can provide a confidential safetyvalve for employees to make the organization aware of wrong doings or doubtful practices by or within the organization. Whistleblowing channels can also be used as advice channels to provide guidance on the anti-corruption programme in general or a specific issue or dilemma faced by an employee.

- Describe individual solutions already implemented or envisaged.
- Provide statistics of the use of the whistleblowing, advice or hot lines.
- Specify a break-down of the types of inquiries, provided that this will not lead to a breach of confidentiality or security for the reporting employees.

Analysis of concerns expressed through Whistleblowing channels and can be used to identify areas for improvement, which in turn will form part of the process of continuous improvement covered by Reporting.

Strong internal controls are necessary to preventing and detecting corruption. A corruption incident in any form represents a breach of the controls. Transparent disclosure of an assessment of the effectiveness of internal controls builds the confidence of stakeholders.

The organization's Board or equivalent body is ultimately responsible for the system of internal controls, although it is customary to delegate to management the task of establishing, operating and monitoring the system of internal controls. The internal controls should provide "reasonable assurance" that payments and receipts are authorized by management, owner, the Board or equivalent body. Auditing of the control mechanisms provides assurance that controls are functioning effectively. An example is an internal audit function with a specific mandate to test anti-corruption controls and the implementation of related policies. An external audit mandate can add further assurance to the process.

Participation in voluntary initiatives offers strong benefits. Organizations can learn from peers and handle corruption risks more effectively. It also allows organizations to create collective action and minimum standards, thereby encouraging a level playing field. Participation in voluntary initiatives can help build societal integrity and organizations that undertake participation in initiatives with the aim of contributing to society can benefit through helping strengthen societies and a business environment in which the risk of corruption is reduced.

13. Monitoring.

Monitoring and continuous improvement are identified and the anti-corruption programme is continuously improved to remain effective and up-to-date in addressing changing risks.

Monitoring compliance and implementing improvements will be conducted by internal or external auditors, consultants or service providers. In addition, employee suggestions, reports on use of whistleblowing channels and hotlines can provide information useful to monitor and improve the programme. It is most effective if the results of assessments and other identified improvements form part of a continuing process and are shared broadly across the organization.

It is also important that concrete remedial actions are identified and reviewed by the leadership and that necessary changes are implemented and communicated.

Monitoring and continuous improvement will keep anti-corruption programme up-to-date and relevant to the needs of the organization. The leadership of the organization should oversee the results of reviews and ensure that changes are implemented.

This will also show further the commitment and involvement of the leadership in ensuring the implementation of the anti-corruption policy and the assignment of adequate resources to support this.

Responsibility for oversight of the anti-corruption programme will depend upon the governance structure of the organization. It could be the Board or equivalent body, owner or a committee such as an audit or ethics committee. Reviews should be carried out regularly by senior management and/or the audit committee or ethics committee (reporting to the Board) of the effectiveness of anti-corruption policies, including benchmarking against best practice of peer organizations within the same sector (or across sectors). Results of reviews with specific regular recommendations should be made to the Board or ownership which should then ensure the recommended changes are implemented as judged appropriate.

14. Dealing with incidents.

No organization is immune to the threat of an incident of corruption. Such incidents can present significant adverse consequences for an organization and preparations should be made so that such incidents are handled well, impacts are mitigated and that lessons are learned and measures applied to improve the programme. Adverse consequences can include prosecution by authorities with risk of fines and other costs; reputational damage and undermining of the anti-corruption programme.

It is advisable to devise a process setting out the steps to be taken to deal with incidents:

- Procedures, roles, rights, responsibilities for investigations;
- Investigation by a dedicated corporate team;
- Documented investigation;
- Reporting of findings to the leadership;
- Remedial steps or sanctions taken against relevant employees;
- Appropriate disclosure to relevant authorities;
- Suspension of contracts or payments to any third parties involved;
- Internal and external communication.

Regulatory frameworks may differ in the disclosure requirements for public legal cases. However, irrespective of applicable disclosure requirements, the management of an organization may determine to report on public legal cases for a variety of reasons.

These can include a commitment to a policy of transparency or to a voluntary reporting code or stakeholder expectations. Apart from meeting any regulatory requirements, voluntary reporting of public legal cases is valuable as it can show that the organization acts transparently and takes seriously any incidents or violations of its anti-corruption programme.

Anti-corruption cases can be made public within and outside the organization through appropriate channels such as filings with stock exchange.

While there is no agreed-upon standard or code for an effective anti-corruption programme at present, an independent review of an organization's programme can provide the organization with valuable insight into the strengths and weaknesses of its programme.

Obtaining an independent external assurance of the design, strength and quality of an organization's anti-corruption compliance programme can offer a range of benefit including enhanced credibility with stakeholders; reduced cost of financing by helping external financing institutions to assess risk bodies, media communication, sustainability or corporate citizenship reports, announcements to staff.

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Obtaining an independent external assurance of the design, strength and quality of an organization's anti-corruption compliance programme can offer a range of benefits including:

- enhanced credibility with stakeholders;
- reduced cost of financing by helping external financing institutions to assess risk premium through enhanced information;
- meeting pre-qualification requirements of public sector customers, export credit agencies, inter-governmental lenders, and national lenders;
- strengthening the anti-corruption programme (by forming part of a continuous improvement process);
- mitigating factors in prosecution and/or sentencing in cases where corruption has occurred.

Finally, independent external assurance comprises an external, third-party assessment of an organization's anti-corruption measures. Independent assurance comes in two forms:

assurance of the adequacy of the design and implementation of the programme considering the nature of its business and the corruption risks that it is facing; testing the effectiveness of measures in place. Assurance can be provided using various frameworks e.g., AA 1000 Assurance Standard, ASEA 3000 or a framework that Transparency International and the Partnering Against Corruption Initiative (PACI) are currently developing with the accounting profession. Assurance engagements could then be carried out by various parties such as assurance providers, lawyers, consultants, inspection agencies, NGOs and others.