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on Transparency and Anti-Corruption

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# Agenda for Business Integrity: Collective Action

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This paper is part of the Agenda for Business Integrity and focuses on Pillar 4: Support collective action to increase scale and impact.

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# Collective Action

## An Agenda for Business Integrity – four key pillars of leadership action by companies

The fight against corruption and the promotion of a culture of integrity that goes beyond rules-based compliance need a multistakeholder effort. In this respect, Collective Action initiatives offer a type of “collaborative and sustained process of cooperation” among stakeholders from the private, civil and public worlds with the aim of increasing the scale and effectiveness of anti-corruption actions<sup>1</sup>.

Collective Action matters a great deal in the fight against corruption. The individual actor runs a huge risk when it comes to denouncing corruption, especially in countries where the rule of law is far from secure. Collective Action can help bring vulnerable individual players such as local SMEs – usually with fewer resources at hand – into a coalition of like-minded organizations that aim at “walking the talk” regarding their integrity principles and programmes. This levels the business playing field among competitors, creating trust and drawing a line against those actors that don’t play by the rules and that risk being ostracized as a business community or sector push for better integrity standards and practices.

For those same vulnerable actors, whether they be individuals or companies, the risks of taking a stand alone are often too great and the pressure from authorities too strong to endure. Being part of a larger group helps to share the burden, mitigate the risk and maximize impact. If one actor denounces corruption alone, the costs may be prohibitive; if collective action is successful, the pay-offs can be huge for society as a whole.

Therefore, it is crucial to highlight that Collective Action to fight corruption is completely different from

one country to another. While in most developed countries it is the normal exercise of a basic human right to hold the government accountable, in other countries it is a dangerous endeavour that needs to be protected by the international community.

The rationale behind anti-corruption Collective Action initiatives is to fill the void or complement insufficient, limited or non-existent governance and enforcement legal or normative frameworks in which companies and their partners operate. These initiatives aim to demonstrate that the private sector as a group, together with public and civil actors, can be part of the solution to prevent corruption and bribery and provide incentives for the business sector and its members to persevere and be credible in these efforts in the long term.

The involvement of senior management (presidents, CEOs and other C-suite executives), at least in the earliest stages, is key to ensuring that these initiatives have enough buy-in from participating companies and their employees, assuring enough resources to make them sustainable in the long term. “Tone from the Top” is a key element in Collective Action efforts.

The media and civil society organizations also play a crucial role. They create the buzz that is needed for high government officials to pay attention and feel pressured, and for the wider public to understand complex issues and be able to participate in important public discussions. They are the organizations that create the tools that allow everyone to grasp the important aspects of a difficult discussion and they help to disseminate the message.

“ One of the more important features of the Collective Action framework is its flexibility.

After several years of anti-corruption Collective Actions initiatives and the vast array of experiences accumulated around the globe by companies, business associations and other types of organizations, there is consensus that Collective Action can take four main forms according to the length and breadth of the involved activities (from longer to shorter-term endeavours, encompassing sectorial or project-specific goals) as well as whether they are of a voluntary nature or involve some form of enforceability or external monitoring:<sup>2</sup>

- **Anti-Corruption Declarations:** Voluntary, principle-based, ethical public statements and commitments regarding integrity principles that can be fostered by a group of companies or a group of companies jointly with other actors from civil society – e.g., an anti-corruption NGO – and/or the public sector – e.g., an anti-corruption agency
- **Standard-Setting Initiatives:** Development of specific anti-corruption frameworks and standards tailored to address specific sector problems and weaknesses such as a code of ethics, code of best practices, etc., that are developed with the help of business associations or similar organizations, and that help in standardizing certain integrity policies within a specific sector and align individual members practices
- **Capacity-Building Initiatives:** Companies jointly share their *know-how*, resources and tools from their compliance programmes, and with the help of their compliance practitioners, to offer concrete capacity building and training opportunities for other companies that are part (or not) of their supply and value chains, in particular SMEs, as well as for public officials and organizations, and other practitioners from civil society organizations. The aim of these initiatives is to help create or enhance compliance systems and tools in smaller and/or less resourceful organizations
- **Integrity Pacts:** Agreements that involve a higher level of commitment from their members, and that are most commonly used in specific public tenders or bidding for large projects in infrastructure, sports events, for procurement procedures, etc., with the aim of preventing bribery, conflicts of interest, etc. They can incorporate an external monitoring and certification process which can include sanctions in case of non-compliance, from lesser ones to even exclusion from the initiative

These different types are not rigid. Certain Collective Action initiatives can mix many elements of the different types at the same time or can evolve in time from one type to another according to the needs and demands of the involved stakeholders. In fact, one of the more important features of the Collective Action framework is its *flexibility*. It can be adapted to the specific

challenges – both risks and opportunities – the involved stakeholders identify in a specific sector, project, business environment, geographical location (local, regional or global), cultural and social context, etc. They can also be started and facilitated by companies themselves, or by actors from civil society or the public sector, or jointly by any combination of them. According to the kind of members and other stakeholders that take part in them, Collective Action initiatives can span completely private sector-based endeavours to more hybrid models, composed of private-public or private-civil society multistakeholder partnerships.

The tool's inherent flexibility must be a constant source of innovation and creativity, avoiding the undertaking of *paper-based* Collective Action initiatives (in a similar way to *paper-based* compliance programmes) that are mere exercises in aspirational statements with no practical consequences or real impact. Collective Action also allows for the undertaking of *bottom-up* or “grassroots” approaches promoted by and originated from local and regional actors – companies, CSOs, etc. – and not only *top-down* endeavours commonly led by international actors such as multinationals, multilateral organizations and international NGOs. Frequently, local and regional level organizations have a better grasp of the problems that must be addressed and their relative nuances and are better positioned to identify specific corruption risks and issues. They can also offer contextualized solutions that can be better received (and less resisted) by local business and local communities.

In this regard, the work carried out by the Maritime Anti-Corruption Network (MACN) is an excellent example. The guiding principle of this global business network founded in 2011, which involves the collaboration of more than 130 companies, is that “lasting changes in the operating environment will take effect only if they are enabled and supported by and beneficial to key stakeholders”<sup>3</sup>, working along with local authorities, NGOs and companies. Some interesting outcomes of this Collective Action's work include reductions in demands for facilitation payments in the Suez Canal in Egypt; a new regulatory framework in Argentina that reduces discretion in the inspection of holds and tanks (including the establishment of a system of cross-checks to increase integrity alongside an escalation process when disputes occur and an *e-governance* system); and improved ease of operations in ports in Nigeria, all with the involvement and, most importantly, the ownership of local and regional actors, both as key members of these initiatives as well as neutral coordinators of these actions.

Another interesting example is the Alliance for Integrity, a multistakeholder initiative, funded by the German agency GIZ, which works as a platform that offers practical solutions to strengthen the compliance capacities of companies and their supply chains. In particular, this initiative – which

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has a strong presence in Argentina, Colombia, Indonesia, Mexico and Nigeria – has undertaken anti-corruption training programmes in which compliance practitioners from MNEs and other large national companies that operate locally, along with local experts, share their experiences and best practices and help develop and implement compliance programmes for local SMEs<sup>4</sup>. Sharing the concrete experience accumulated by local practitioners – who deal with specific compliance challenges daily – with small local companies, which are also frequently part of their value chains, is an excellent way to create capacity building and level the business playing field.

This initiative has also used technology to support SMEs in this process, such as The Integrity App, a digital tool the Alliance for Integrity created for the self-evaluation of integrity programmes through a set of questions that offers free access to content that helps implement or improve SMEs’ integrity programmes<sup>5</sup>. These activities have been supported or accompanied by local chapters of the UN Global Compact and business associations.

On the other hand, the Extractive Industries Transparency Initiative (EITI) is a multistakeholder global standard initiative to promote the open and accountable management of oil, gas and mineral resources that has for many years involved the participation of dozens of governments, companies and civil society organizations. Participating governments must disclose how much they receive from extractive companies operating in their countries and these companies must report how much they pay. The disclosure of information through *open data* reporting covers the entire extractive industry value chain, including how extraction rights are awarded through contracts and licences, the collection and allocation of revenues in connection with governments, and how these processes benefit the public through social and economic spending<sup>6</sup>.

The recent development of the High-Level Reporting Mechanism (HLRM) by the OECD, the Basel Institute of Governance and Transparency International<sup>7</sup> is another example of the tool’s flexibility. The HLRM looks at addressing complaints of bribery solicitation in public procurement, customs procedures, etc. in which public officials are involved. When a complaint is received, the mechanism starts a quick, practical evaluation and response with the aim of restoring “the status quo before a reported problem escalates” and can be designed and adapted to different local contexts with the help of different types of stakeholders. This instrument has been designed and deployed in Colombia, Argentina, Ukraine and Panama with the participation of governments and/or companies, business associations, and civil society experts and organizations, and out of these experiences it has been suggested that the HLRM tool might also be a key component in wider Integrity Pacts. In the context of the COVID-19 pandemic, the situation demands special attention to public procurement

and similar sensitive areas. Governments around the world are using the emergency to pick and choose companies to provide all sorts of goods and services. Collective Action tools such as the HLRM should be fostered and further replicated to demand competitive procedures and objective criteria to remain at the centre of every public procurement system. The emergency cannot become the go-to excuse to increase the risks of corruption.

Based on the wealth of experience undertaken in the past decade alone<sup>8</sup>, the future of Collective Action as a tool in the fight against corruption looks promising. It will certainly be updated and expanded to take into account key business integrity trends this Global Future Council on Transparency and Anti-Corruption is examining, which will *future-proof* it to tackle the challenges the business sector will face in the medium and long term.

In particular, the rise of stakeholder capitalism will demand a more active participation and voice in the shaping of Collective Action initiatives – whether they are of a more or less formal nature – from the part of new stakeholders such as institutional investors<sup>9</sup>, employees, unions, citizen movements and activists, younger consumers and others that might emerge. Previously unexpected alliances of different types of stakeholders will pave the way for innovating Collective Action endeavours.

The involvement of all these new stakeholders will also be accompanied by an increasing demand to “connect the dots” between corruption and its negative impacts on other environmental, social and governance (ESG) issues such as access to water<sup>10</sup>, deforestation<sup>11</sup>, climate change<sup>12</sup>, human rights, or executive compensation that are prominent in their concerns and are aligned with the 2030 UN Agenda/Sustainable Development Goals’ roadmap<sup>13</sup>.

In this respect, human rights represent the most promising area in which the connection of corruption risks and their impacts can lead to wider Collective Action initiatives in terms of the range of substantive issues covered. The UN Working Group on Business and Human Rights is strongly advocating for businesses to undertake Collective Action initiatives by way of industry collaboration to tackle systemic challenges and urging open and transparent multistakeholder dialogue, linking human rights and anti-corruption due diligence and their respective risks mitigation and prevention<sup>14</sup>. Interestingly, a new project currently undertaken by the Basel Institute on Governance and the OECD that looks at positioning Collective Action as a compliance “global norm” is also looking at ways to “capitalize” on synergies between bribery prevention and human rights protection<sup>15</sup>.

It is possible to envisage that previously narrow focus of *anti-corruption* Collective Action initiatives will evolve into more ambitious *integrity* Collective Action endeavours where the convergence

and the interdependence of non-financial ESG/sustainability risks and issues will be addressed. This can also pave the way for a richer coordination and exchange of experiences within the business community among compliance practitioners and their colleagues and counterparts from other functions such as sustainability, risk management, ESG or human rights, breaking down long-standing silos and barriers to tackle these complex integrity challenges. A diversity of viewpoints and “languages” beyond legal compliance will not only be present through the participation of stakeholders from civil society or the public sector but also, crucially, with the participation of all these other corporate functions and their voices, discussions will be richer and deeper.

As seen from the most innovative Collective Action initiatives being undertaken nowadays, technology is a catalyst for increasing the scale and impact of these types of initiatives. This is both in terms of providing solutions and tools based on new technologies (e.g., artificial intelligence, blockchain, open data and big data, etc.) as well as laying out the platform itself through which these Collective Action actions are taking place and their outcomes are shown and shared with the larger business, civil and public communities. As the [Hacking Corruption in the Digital Era](#) paper describes, tech trends are shaping the future of integrity by strengthening corporate compliance systems, transforming the integrity environment in which businesses operate and changing global incentives for integrity in business<sup>16</sup>. Collective Action is no exception to these larger trends. In each of the examples listed above, and in many others currently taking place, these tech trends are transversal to all these initiatives and many of them have tech solutions and tools at the centre of their value propositions. Be it through the development and exchange of best practices regarding digital compliance systems, platforms or tools (e.g., Alliance for Integrity, MACN), the development of *e-governance* systems (e.g., MACN, EITI), *open data*-based reporting and disclosure of private sector payments (e.g., EITI), or the development of whistleblowing systems for the reporting of bribery complaints (e.g., HLRM), tech trends are cross-cutting. And on top of these developments, we can mention tech platforms that collect and systematize data and information about all these Collective Action projects making them accessible to wider audiences such as the Forum’s own Tech for Integrity Platform<sup>17</sup>, the Basel Institute’s B20 Collective Action Hub<sup>18</sup>, or the UN-Business Action Hub<sup>19</sup>.

In conclusion, in order for Collective Action initiatives to be future-proof in the context of a 2030 Agenda for Business Integrity (and the overall SDGs agenda), four complementary main aspects will have to be taken into account:

- The need to evolve from *legal compliance*-based to more ambitious, wider integrity-based Collective Action initiatives
- Incorporation of *new emerging stakeholders* into the design and implementation of Collective Action initiatives, not only from civil society and governments but also from companies themselves, looking at the involvement not only of compliance practitioners *but also* the diverse viewpoints of additional functions/areas such as sustainability, human rights, etc., functions, *along with*
- Consideration of the *negative impacts corruption risks* has on other ESG issues, including human rights and climate change
- Collective Action as a tool has the necessary *flexibility* to be a source of constant innovation, allowing it to adapt quickly to emerging challenges and situations at the local, regional or global levels, where technology also plays a key role as a catalyst for both innovating and scaling impact of these initiatives

Much faster than anyone could have predicted, the COVID-19 pandemic has put anti-corruption and compliance practitioners under enormous pressure to show how they can address, not only individually but most importantly collectively, the challenges the health crisis poses for the continuity of their compliance programmes within economic, financial and social uncertainties. It has also put the spotlight on how corruption and overall integrity risks that have emerged and materialized during the pandemic have had a negative impact on issues such as diminished access to healthcare services and products of quality due to rigged and fraudulent procurement processes, lack of protection of the health and security of employees and customers, misuse of public funds and subsidies, among other consequences<sup>20</sup>.

How well companies both individually and collectively are able to manage these risks and challenges, connect the dots on integrity risks and incorporate the “lessons learned” from this experience will frame the future design and implementation of Collective Action initiatives much in line with the four main aspects mentioned above and the overall 2030 Agenda for Business Integrity set forward by this Council.

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