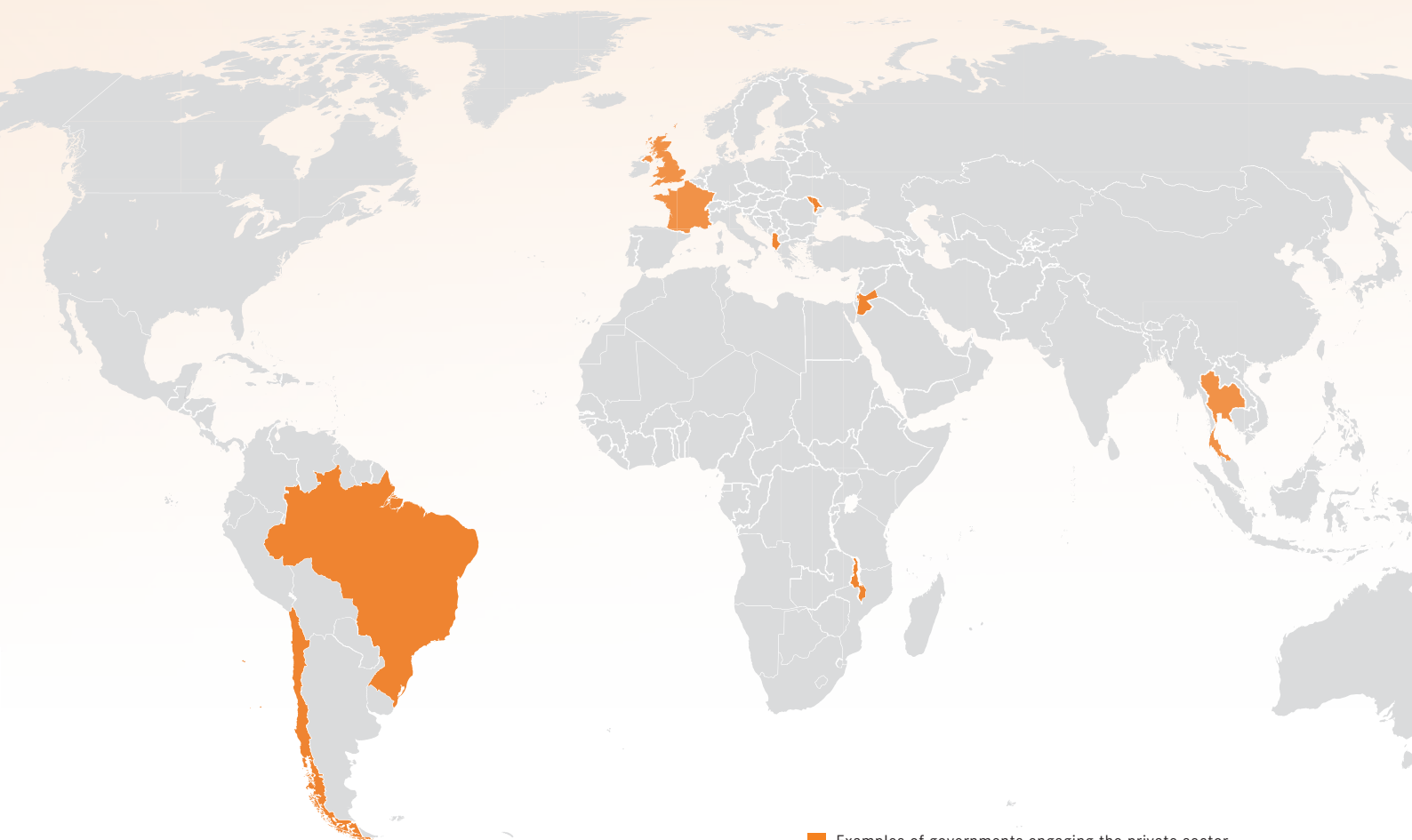





A practical guide for National Anti-Corruption Agencies

# Engaging the private sector in Collective Action against corruption

Edition 1: June 2022



 Examples of governments engaging the private sector in Collective Action described in this guide.

Can you help fill in the map with examples from your country or anti-corruption agency?

## About this guidance

This practical guide is designed to help governments, and in particular National Anti-Corruption Agencies, engage with the private sector more effectively to prevent corruption.

It is based on examples of good practices from around the world. Many of the examples were provided by a core group of members from the Network of Corruption Prevention Authorities (NCPA), who worked together with the Basel Institute on Governance to develop this guidance.

This is a living document which will be amended regularly to include new examples of good practices as they become available. See page 11 on how to provide inputs for this guidance.

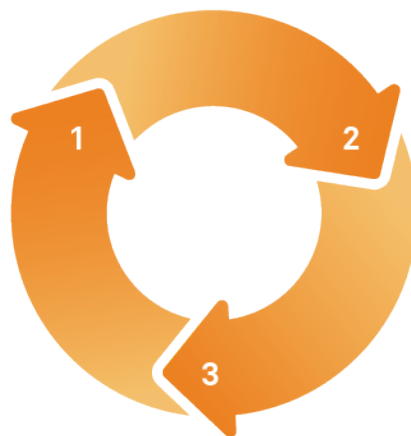
## Three ways governments are engaging with the private sector to prevent corruption

### 1 Collaborate

and consult on corruption prevention activities in the private sector

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- Set up events and engagement platforms focusing on the private sector
- Provide customised advisory support to companies
- Engage the private sector in developing National Anti-Corruption Strategies



### 2 Support

and incentivise the private sector to engage in corruption prevention activities and initiatives

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- Create and develop tangible business benefits for companies investing in compliance
- Incentivise companies to externalise their compliance programmes
- Support and acknowledge compliance certification initiatives

### 3 Demonstrate

leadership by becoming an active participant in Collective Action

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- Establish Collective Action as the go-to approach for engaging with the private sector
- Develop and implement integrity tools to address corruption in public procurement
- Foster compliance in state-owned enterprises by engaging in Collective Action and partnering with the private sector

## Why is it important for governments to engage with the private sector?

The private sector helps to create jobs and prosperity, drives technical innovation and fosters entrepreneurship. Companies large and small therefore play an important role to prevent and reduce corruption in the markets where they operate.

Anti-Corruption Agencies can play an important role in incentivising companies to engage in multi-stakeholder activities to more proactively address corruption and work with other stakeholders to bring common strategic goals to life. A primary way to achieve this is through Collective Action.

## What is anti-corruption Collective Action?

Collective Action brings **companies** from the same sector or different industry sectors together with other parties, such as **government** and/or civil **society**, to:

- **tackle** shared problems of corruption,
- **raise** standards of business integrity, and
- **level** the playing field between competitors.

Anti-corruption Collective Action involves collaboration, cooperation and a willingness to tackle a common corruption risk. Trust and a commitment to work together also characterise Collective Action. The approach can take many forms and uses a variety of tools.

A multi-stakeholder Collective Action approach to address corruption is acknowledged as good practice in numerous National Anti-Corruption Strategies (NACS) and international standards such as UNCAC, and more recently in the updated 2021 OECD anti-bribery recommendations.

By supporting and engaging with the private sector, governments can demonstrate a proactive approach to addressing bribery. Collective Action initiatives have catalysed changes to laws, reduced red tape and changed operating practices by both government agencies and companies. This can stabilise local markets, strengthen competition and attract foreign investment. They have also helped to shape the development of international regulatory standards in particular industry sectors.

## How can Anti-Corruption Agencies engage with the private sector?

### 1. **Getting started: Consult, confer and acknowledge corruption prevention activities and initiatives in the private sector to build collaborative relationships**

Identifying and acknowledging existing anti-corruption activities and initiatives that the private sector is working on can help Anti-Corruption Agencies better understand business realities, identify gaps and focus corruption prevention priorities.

Consult with the private sector, through discussion forums, focus group discussions, online surveys and consultation processes, to identify how bribery occurs. Confidential and anonymous sources are also acceptable. Use the consultation outputs to identify promising points of entry to work with the private sector.

Including or building on these activities in your NACS, policies or guidance documents can be a simple first step to engage with the private sector. This also helps to demonstrate commitment to a collaborative approach to corruption prevention. In addition, it can positively reinforce the value of these initiatives for the companies that are engaged and even incentivise other companies to join.

For environments where the private sector is not yet organised and engaged on the topic of anti-corruption, building engagement platforms can be an important first step to establish the basis for a more collaborative corruption prevention approach.

### **NCPA country examples**

Tools used to identify, capture and develop a collaborative relationship with the private sector

#### **Private-sector anti-corruption conferences**

As part of a joint plan for the implementation of its NACS, Palestine set up a series of private sector-focused conferences focusing on “strengthening the role of the private sector in governance and anti-corruption activities.” The participants included over 400 business representatives and government and civil society representatives. The conference series aimed to strengthen the relationship between the government and the private sector while also developing concrete and actionable recommendations.

→ **Good practice: Setting up dedicated events focusing on the private sector allows the government and civil society to exchange with companies on common issues of corruption. This helps to better understand the different stakeholder perspectives and translate them into collective recommendations and even practicable follow-up activities or initiatives.**

### **Advisory activities for companies provided by anti-corruption agencies**

The French Anti-Corruption Agency (AFA) provides companies with advisory support to implement their anti-corruption compliance programmes. The guidance is based on the eight key elements (risk mapping, code of conduct, anti-corruption training, third-party due diligence, internal whistleblowing system, accounting controls, disciplinary regime, internal control system) defined in France's Sapin II anti-corruption law. The AFA's tailored recommendations are aligned with its official guidelines. In addition, the AFA raises awareness about these different elements through conferences and workshops jointly organised with business federations and associations.

→ **Good practice: Providing customised advisory support to companies, upon request, builds trust and facilitates ownership of the anti-corruption compliance programmes that companies implement. It also strengthens these programmes' effectiveness by helping companies to adapt national and international standards to their operational specificities.**

### **Provide the possibility for structured private-sector input in the development of your National Anti-Corruption Strategy**

Many Anti-Corruption Agencies engage the private sector when developing or updating their NACS. The format can vary from focus group discussions to setting up more structured and permanent engagement platforms. In Jordan, a standing committee which included strong representation from the private sector (leading business association) was set up to inform the NACS process, related activities and the implementation process. This helped to ensure buy-in from all the relevant stakeholders.

→ **Good practice: Creating a dedicated space for the private sector to play an active part in the development of the NACS is important to establish ownership for all stakeholders. It also opens up the possibility to set up engagement platforms that facilitate the implementation phase of your NACS.**

### **Evolving private-sector training platforms into engagement platforms**

Many Anti-Corruption Agencies have existing education, training and outreach programmes which often already include the private sector.

Most of these programmes focus on building the capacity of the private sector to comply with the country's anti-corruption laws and regulations. In France and Albania, these training platforms have evolved into more interactive engagement platforms, which have enabled companies to request additional training and even individual mentorship from the Prevention Officers of the Anti-Corruption Authorities (as is the setup in France). This approach is mutually beneficial. It allows companies to benefit from the support offered at no additional cost. The anti-corruption agencies benefit from the practical feedback provided by the companies, which helps them to fine-tune their guidelines and policies.

The French AFA also collects companies' observations and inputs when developing its anti-corruption policy frameworks. It publishes guidelines and practical guides to help companies implement the anti-corruption measures and best practices set out by the law. The policies are always pre-published on its website for consultation. The contributions, where relevant, are included in the final version of the document. Afterwards, the AFA engages with these organisations to present the final version and provide feedback regarding their contributions.

→ **Good practice: Capitalising on existing platforms such as training and capacity-building engagements can help to develop a more sustained, mutually beneficial and future-looking dialogue with the private sector.**

## **2. Support and incentivise the private sector to engage in corruption prevention activities and initiatives**

Anti-Corruption Agencies can also actively incentivise and motivate the private sector to engage in or to develop corruption prevention initiatives that go beyond the minimum. This involves shifting the focus from penalties for non-compliance to incentives for companies that are investing in their anti-corruption compliance.

## NCPA country examples

Incentives for the private sector to engage in the fight against corruption

### Integrity Awards

In order to incentivise companies to invest in their compliance programmes and focus on addressing corruption risks, Moldova has teamed up with UNODC to set up an annual award for companies that have implemented the highest standards of integrity.

In Brazil, the Comptroller General (CGU) has developed a certification programme called *Pró-Ética*, which publicly acknowledges the voluntary integrity measures adopted by companies. The programme has been running since 2010 and allows Brazilian companies to send in their evaluation questionnaires on an annual basis. The questionnaire identifies the commitment, activities and steps taken by the companies to implement measures aimed at preventing, detecting and remediating acts of corruption and fraud. If the company successfully passes the evaluation phase, it is awarded the title of *Pró-Ética* company.

→ **Good practice: Balancing the “name and shame” approach with a “name and praise” approach for companies that are publicly demonstrating their commitment to integrity can help incentivise companies to further assess how they can better implement, communicate and externalise their integrity standards and anti-corruption efforts.**

### Connecting access to credit and investments with anti-corruption compliance

France is currently looking into making it easier for compliant businesses to access financing and credit by promoting anti-corruption standards to investors and public and private credit institutions at the national and international level. This is still an ongoing process, but the aim is to help promote and create tangible business benefits for compliant companies.

→ **Good practice: Highlighting and developing tangible business benefits for compliant companies can help strengthen engagement, build trust and generate sustainable momentum to positively affect the business environment.**

## Examples from around the world

### Promoting Collective Action as part of adequate compliance procedures in anti-corruption laws/guidance

In the [UK Bribery Act Guidance](#), anti-corruption Collective Action is identified as a way for companies to demonstrate ‘adequate procedures and tone from the top’ when implementing their compliance programme.

→ **Good practice: Identifying and highlighting practical anti-corruption tools, such as Collective Action, in national anti-corruption laws and guidance documents can help provide clarity for companies on how to effectively implement a compliance programme that is in line with the law.**

### Promoting and co-developing private sector anti-corruption activities/ Collective Action under the NACS

Malawi’s Anti-Corruption Bureau (ACB) has identified Collective Action activities as the vehicle to promote private-sector engagement and the most inclusive way to structure private-sector activities in their strategy. Malawi’s first NACS focused on the role of the government. To balance this, the revised [NACS II](#) launched in December 2019 not only includes Collective Action as the tool of engagement, but also concretely includes the development of Collective Action initiatives with a specific and visible role for the ACB, such as Integrity Pacts and the [High Level Reporting Mechanism](#).

→ **Good practice: In order to successfully implement private-sector activities under a NACS, it can be helpful to include concrete activities that link to the government as a key stakeholder to drive the process. This effectively demonstrates government commitment to collaborate. Common government-driven integrity tools relate to public procurement, such as developing Integrity Pacts or the High Level Reporting Mechanism. See the Annex for further examples.**

### Supporting compliance certification initiatives

There are a number of examples of country- and sector-specific Collective Action initiatives that have developed a tailored compliance certification for businesses. Companies that sign up are typically trained and audited as part of the certification process on the compliance standards that have been developed through a collaborative approach.

In Thailand, for example, the [Thai Collective Action Against Corruption](#) initiative has developed a compliance certification programme that is open to large



local companies and multinationals as well as local small and medium-sized enterprises (SMEs). The certification has been developed to reflect both global best practices as well as the local business reality. The initiative, which has been operating for over 10 years, is business driven and has certified over a hundred companies operating in Thailand so far. See the Annex for further examples.

→ **Good practice: As an active stakeholder, government can help to develop and implement local, regional or sector-specific compliance certification initiatives. Offering support can incentivise companies to engage and enable the discussion around access to public projects for companies that are certified.**

### 3. Demonstrating leadership by becoming an active participant in Collective Action

Governments can and should demonstrate leadership in the pursuit of a more inclusive approach to fighting corruption. This needs to extend beyond supporting and incentivising the private sector, important as those elements are. Becoming an active member in multistakeholder corruption prevention initiatives such as Collective Action demonstrates commitment to work with the private sector on common corruption problems.

This can be particularly important and impactful in areas where interaction between governments and the private sector is inevitable, such as processes in public procurement, licensing and cross-border trade.

#### **NCPA country examples**

Examples of Collective Action initiatives on joint interest areas

##### **Integrity Pacts**

Palestine is looking to implement Integrity Pacts in public tenders as a standard practice. This was recommended as a follow-up activity from a private sector-focused conference.

→ **Good practice: For many countries, corruption in public procurement is a major concern which requires additional integrity measures to**

be implemented. The Integrity Pact is one example of an integrity tool available for anti-corruption and procurement authorities. The tool was developed by Transparency International in the mid-1990s and has now been implemented in more than 32 countries and 160 major public tenders. Integrity Pacts are a flexible tool that can help make public procurement more transparent and fair and reduce the risk of corruption. An Integrity Pact is usually an agreement between a government procurement authority and bidding companies. Tailored to each tender and country, it commits all parties to refrain from bribery, corruption or collusion. An Integrity Pact typically involves an independent monitor and a clear process for reporting, resolving and sanctioning integrity issues.

### **Establishing Collective Action as the standard engagement tool for the private sector**

Chile has included Collective Action in its NACS as the overarching engagement tool to work with the private sector. It is envisaged that this part of the NACS will be implemented by companies and civil society using existing platforms to develop initiatives on common focus areas around corruption.

→ **Good practice: An essential part of trust building and developing common anti-corruption initiatives is to identify the ground rules for working together. Collective Action offers a flexible framework which focuses on the private sector within a multi-stakeholder approach. Having one engagement format – Collective Action – can help to manage all stakeholders' expectations. It can also secure sustainable buy-in that extends beyond one initiative, and even one NACS cycle.**

## **Examples from around the world**

### **The High Level Reporting Mechanism (HLRM)**

The HLRM is designed to meet the demands for a fast, independent and effective mechanism to address bribe solicitation in public tenders – but without undermining existing legal processes or law enforcement. It is independent and authoritative and aims to find practical solutions to defuse potential corruption-related issues before they become a matter for the judicial authorities. Alerts of potential issues are raised through secure, easily accessible channels which are subsequently communicated to a designated independent panel of experts.

Following their analysis of the alert, taking into consideration all necessary information, the panel of experts works to provide a transparent resolution through open discussion and mediation. The aim is to ensure the issue is resolved with minimal loss of time and money, so that the project can continue smoothly.

The mechanism is designed to be tailored to each country and project. It is developed in collaboration with representatives of the public sector, business and civil society to ensure it meets the needs of all stakeholders involved.

→ **Good practice: Accusations of corruption in public works projects lead to delays, costly legal actions and a loss of credibility, not just for those involved in the project but for the government as a whole. The HLRM offers governments a practical early detection tool to identify potential issues during the tendering phase before they manifest as corruption or unfair business practices.**

#### **Fostering compliance in state-owned enterprises: the Compliance without Borders project**

The Compliance without Borders project involves free mentoring by private-sector compliance experts to compliance officers in state-owned enterprises (SOEs). The project is jointly supported by the Basel Institute on Governance and the OECD. It is open to privately owned companies and SOEs that would like to build their internal compliance capacities.

→ **Good practice: Governments can demonstrate leadership by incorporating Collective Action into the compliance programmes of their SOEs. This helps to ensure SOEs are engaging in sectoral or country-wide anti-corruption initiatives, as is recommended by the OECD in their Guidelines on Anti-Corruption and Integrity in State-Owned Enterprises. Exchanging experience and mentorship with compliance officers from the private sector through the Compliance without Borders project can help SOEs to build capacity.**

## Find out more and get involved

This guidance is published by the Basel Institute on Governance and developed in collaboration with members of the Network of Corruption Prevention Authorities (NCPA).

It will be updated on a regular basis to continue the discussion around government and private-sector engagement on issues of corruption.

If you are interested in finding out more about existing initiatives and approaches, or would like to propose additional examples to be included in the guidance, please contact: [scarlet.wannenwetsch@baselgovernance.org](mailto:scarlet.wannenwetsch@baselgovernance.org)

For additional information on the topic and initiatives mentioned, please consult the annexed resource list.

To find out more about the possibility of joining the Network of Corruption Prevention Authorities (NCPA), please consult the [NCPA website](#).

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The Basel Institute's participation in developing these guidelines is funded by the [Siemens Integrity Initiative](#).

## ANNEX: Additional resources

This short resource list provides links to further information on initiatives mentioned in the guidance and offers some additional examples to complement the guidance.

For more comprehensive information about Collective Action, including a database of initiatives around the world, see the B20 Collective Action Hub at [www.collective-action.com](http://www.collective-action.com). This global go-to centre for anti-corruption Collective Action is developed and maintained by the Basel Institute on Governance. It includes a free [helpdesk service](#) for specific questions on anti-corruption Collective Action.

| Category  | Links  |
|---|--|
| <b>Public procurement initiatives</b>                           | <p><a href="#">High Level Reporting Mechanism resources</a></p> <ul style="list-style-type: none"> <li>- <a href="#">HLRM Colombia</a></li> <li>- <a href="#">Business Ombudsman Council, Ukraine</a></li> </ul> <p>Integrity Pacts</p> <ul style="list-style-type: none"> <li>- <a href="#">EU Integrity Pacts – Civil Control Mechanism for Safeguarding EU Funds project.</a></li> </ul> <p>Other procurement-focused initiatives</p> <ul style="list-style-type: none"> <li>- <a href="#">Open Contracting Partnership</a></li> <li>- <a href="#">Open Government Partnership</a></li> <li>- <a href="#">Infrastructure Transparency Initiative</a></li> </ul> |
| <b>Certification initiatives</b>                                | <p><a href="#">Thai Private Sector Collective Action Against Corruption (Thai CAC)</a></p> <p><a href="#">Collective Action Coalition against Corruption Indonesia</a></p> <p><a href="#">Corporate Governance Rating System (CGRS), Nigeria</a></p> <p><a href="#">BnEI (Banknotes Ethics Initiative)</a></p> <p><a href="#">Ukrainian Network of Integrity and Compliance (UNIC)</a></p>   |
| <b>Initiatives with a strong focus on facilitation payments</b> | <p><a href="#">Maritime Anti-Corruption Network (MACN)</a></p> <p><a href="#">Fight Against Facilitation Payments Initiative (FAFPI)</a></p>   |

