

CORRUPTION

ANTI-CORRUPTION AGENDA OF THE G20: BRINGING ORDER WITHOUT LAW

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Key Highlights

- Tackling corruption requires collective corrective action
- The G20 Anti-Corruption Working Group (ACWG) has aligned its priorities with international initiative on corruption and priorities of host country
- Two significant contributions of the G20 - one, high-level principles/guiding principles for the members to align their domestic policies and two, monitoring and compliance tracking
- Despite the efforts, performance of a majority of the G20 member countries on international indices is unsatisfactory - the issue of domestic implementation of international rules
- Over last decade India has aligned its domestic policies with international rules and Conventions
- India's Presidency in 2022 is a unique opportunity for India to prioritise the areas of concern and gather momentum to foster cooperation

EXECUTIVE SUMMARY

The G20 agenda has evolved over the years, to include pertinent issues for both developed countries and the emerging market economies. Tackling corruption is one of them. Globally, corruption is being recognised as a problem requiring collective corrective action. The G20 established an Anti-Corruption Working Group as early as in 2010, which sets the Anti-Corruption Action Plan for the G20 members. This paper discusses the evolution of the anti-corruption agenda globally and within the G20, and India's progress and contribution in furthering this agenda.

GLOBAL INITIATIVES TO TACKLE CORRUPTION

Traditionally, corruption has been defined in a microeconomic context, within a public choice paradigm. The definitions link corruption to misuse of power, linking corruption to financial gains or rent-seeking behaviour. The cost of corruption is enormous. According to the World Bank and the World Economic

Forum, the global cost of corruption is at least USD2.6 trillion, or 5 per cent of the global gross domestic product (GDP), adding that, according to the World Bank, businesses and individuals pay more than USD 1 trillion in bribes every year. Thus, the total cost of corruption is approximately USD 3.6 trillion.

The interest to counter corruption originally emerged amongst the business community. To address the concerns, countries adopted rules and norms to tackle corruption domestically. Initially it was the US that informally pushed to incorporate anti-corruption in the G 20 agenda. Over the years, there has been a trans-nationalisation of corruption, encouraging concerted efforts to address the issue.



One of the first collaborative initiatives at an international level manifested through the International Anti-Corruption Conference (IACC) followed by the Financial Action Task Force (FATF).

At an institutional level, Organisation for Cooperation on Economic Development (OECD) and the United Nations (UN) are the champions of the international anti-corruption agenda. The OECD Convention has been ratified by 44 countries, including 37 OECD members and Argentina, Brazil, Bulgaria, Costa Rica, Peru, Russia and South Africa. The UN Convention on Corruption (UNCAC) entered in force in December 2005. Till date, 140 member states have signed the UNCAC. While the UNCAC establishes legally binding principles, it is often argued that it is soft law rather than hard law as the implementation lies with the States.

There are various other international initiatives such as the Stolen Asset Recovery (StAR) initiative of the World Bank and other multi-stakeholder initiatives for specific sectors such as the Extractive Industries Transparency Initiative (EITI), Construction Sector Transparency Initiative (CoST) and

International Partnership Against Corruption in Sports (IPACS).

COVERAGE ANTI-CORRUPTION ISSUES UNDER THE G20

Corruption issues were initially discussed under the Finance Track of the G20 to promote integrity in the financial markets. The decision to establish the Anti-Corruption Working Group (ACWG) was taken by the Canadian Presidency in 2010. Since then, the Working Group meetings are held every year. Once in two years, the ACWG releases an Anti-Corruption Action Plan, setting out the G20 agenda for countering corruption (See Table 1).

The Actions Plans are linked to the ongoing discussions and initiatives by global governance institutions. To that end, no significantly new forms of corruption were identified under the first Action Plan, beyond the existing issues, rather, the focus was on supporting a common approach for an effective global anti-corruption regime. Over the years, new issues were identified under subsequent Action Plans, which were aligned with the broad priority of the host country.

Since the beginning, one of the key goals set for the G20 members was to

'lead by example' and be accountable for their commitments. Apart from enabling a smaller group interaction and discussion between the relevant ministries, international organisations and relevant communities, the G20 also facilitated two broad outcomes – one, in the form of high-level principles/guiding principles relevant to each issue for the members to follow and align their domestic policies and two, in the form of monitoring and compliance tracking.

In terms of the Presidency-wise outcome, a majority of these principles were released under the German Presidency. In terms of issue-wise outcome, the greatest number of principles were released for prevention of corruption in the public sector, followed by prevention of corruption in the private sector. These was engagement of the business community and civil society in the working of the ACWG. As regards the major progress made, all G20 members are now parties to the UNCAC.

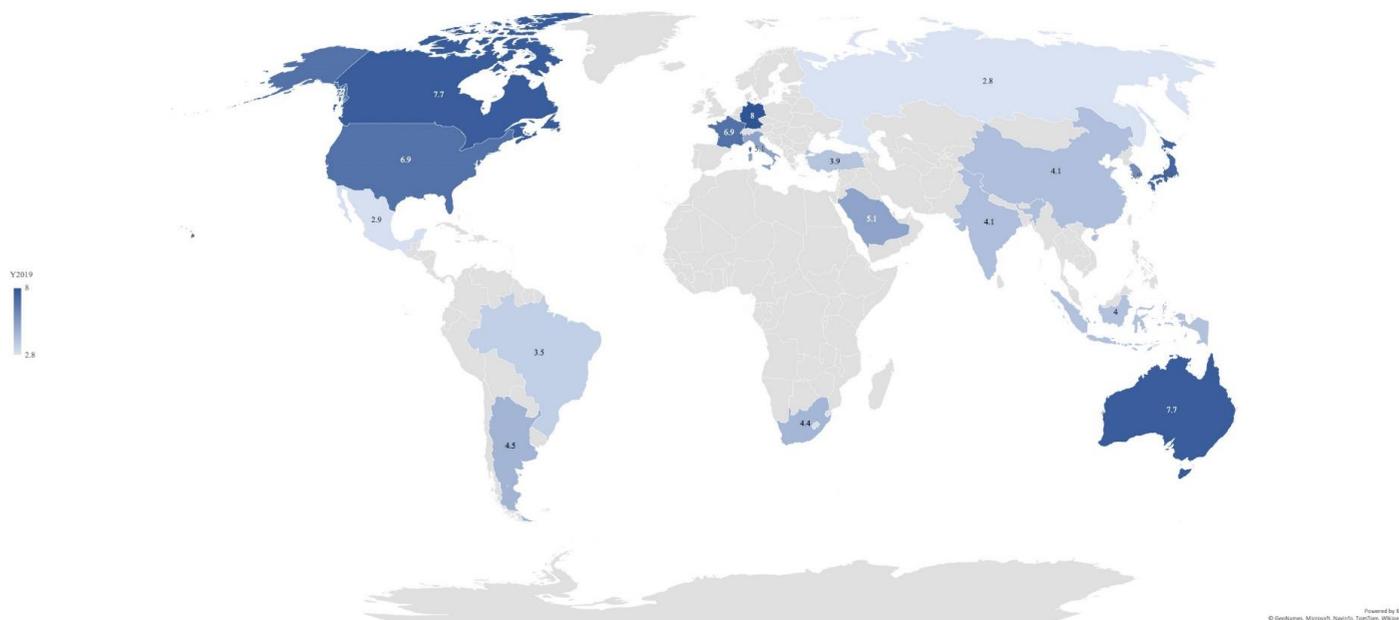
The other important contribution of the G20 was in terms of monitoring and reporting the progress of the G20 members on these issues. Each Presidency released accountability or monitoring reports summarising

Table 1: List of Anti-Corruption Action Plans and their Coverage

Presidency	Action Plan	Coverage
South Korean Presidency, November 2010	First Anti-Corruption Action Plan	Prioritised ratification and full implementation of the UNCAC; laws against international bribery, engagement with OECD's Working Group and Convention, UNCAC and FATF; prevention of corrupt persons from accessing the financial system and money laundering; denial of entry and safe haven to corrupt persons; international cooperation; asset recovery; protection of whistle-blower and anti-corruption bodies and prevention of corruption in public sector and management of public finances. These issues were carried forward by subsequent Presidencies.
Mexican Presidency, June 2012	Second Anti-Corruption Action Plan for 2013-14	Specific focused on effective enforcement of legislation against domestic and foreign bribery and prevention of corruption in the public sector.
Australian Presidency, November 2014	Third Anti-Corruption Action Plan for 2015-16	Accorded priority to beneficial ownership transparency while following FATF standards, combating bribery, identified high-risk sectors, public and private sector integrity and transparency and international cooperation.
Chinese Presidency, September 2016	Fourth Anti-Corruption Action Plan for 2017-18	Linked to UN's sustainable development agenda. Focused on practical cooperation, promoting concrete and practical action to achieve active enforcement.
Argentine Presidency, December 2018	Fifth Anti-Corruption Action Plan for 2019-21	Charted out an implementation strategy and highlighted issues such as identifying opportunities and risks of new technologies, measurement of corruption and linkages between gender and corruption.

Source: Compiled from the Action Plans and Declarations of various the ACWG and various G20 summits.

Figure 1: Score of G20 Countries on Transparency International Corruption Index in 2019 (Out of 10)



Source: Created using Bing Maps feature of Office 365. Data extracted from the Transparency International website, accessible at <https://www.transparency.org/en/cpi/2019/results> (accessed on 12 October 2020).

country-wise and issue-wise progress made by the G20 members. These reports are based on self-assessment and information provided by the members to the ACWG. Self-reporting can be an effective mechanism to in certain cases. According to the OECD a majority of the foreign bribery schemes are detected through self-reporting or voluntary disclosures. Thus, there is some merit in the mechanism established by the G20.

PROGRESS OF COUNTRIES

While the G20 members have made significant progress in aligning their domestic policies to the international anti-corruption norms and principles, an independent assessment of Transparency International presents a slightly different view in terms of the performance of the G20 members. Figure 1 presents the geographical representation of the score of G20 members on the Corruption Perception Index released by Transparency International in the year 2019. With

a score of 8 on 10, Germany is the least corrupt countries out of all the G20 members and with a score of 2.8 on 10, Russia is the most corrupt.

Despite the G20 efforts on anti-corruption a majority of the G20 member countries experienced a decline in their rank on the Corruption Perception Index between 2010 and 2019. India was one of few emerging market economies that experienced a marginal improvement in its rank. Looking specifically at foreign bribery, among the G20 members, Turkey, Russia, Mexico and India were some of the worst performers on the Transparency International's foreign bribery index.

INDIA'S PROGRESS AND CONTRIBUTION

India's self-assessment reports reflect that over the last few years, the country has been actively involved in aligning domestic policies to international rules and norms for addressing corruption. Infact, after

the establishment of the ACWG, India was one of the first few countries to ratify the UNCAC in May 2011.

Several amendments have been made to the domestic laws over the years to align them to international rules, conventions and the commitments made under the G20. For instance, India introduced a bill in Parliament criminalizing foreign bribery. The bill was passed in 2018, resulting in the Prevention of Corruption (Amendment) Act, 2018. The Whistle BLOWER Protection Bill was passed in 2011 resulting in the Whistle BLOWER Protection Act of 2011.

To check the incidence of corruption in the private sector, amendments have been made by the Ministry of Corporate Affairs under Companies Act 2013 to capture issues suggested by the ACWG, such as Beneficial Ownership. The concept of Beneficial interest was introduced under the Companies Act vide the Companies (Amendment) Act, 2017 and

Companies (Significant Beneficial Owners) Amendment Rules 2019, which is in line with the FATF recommendations.

In 2019, India has taken several legislative, administrative and regulatory measures to implement the revised FATF standards by making changes to the Prevention of Money Laundering Act (PMLA), 2002. In 2018, the Fugitive Economic Offenders Act, 2018, was enacted to deter fugitive economic offenders from evading the process of law in India by staying outside the jurisdiction of Indian courts.

Apart from these, initiatives have been taken to foster international

cooperation and, in some cases, technology has been deployed to foster accountability and transparency. Under the Argentine Presidency, India took the lead and suggested a nine-point agenda for fugitives for building cooperation. India's Presidency in 2022 is a unique opportunity for the country to prioritise the areas of concern and gather momentum to foster cooperation on these issues.

OBSERVATIONS

Despite the initiative at the global level and by the G20 members, the performance of G20 countries on international corruption index has been unsatisfactory. One of the challenges faced by global governance initiatives

in tackling concerns such as corruption is the issue of sovereignty, and thus, domestic enforcement and implementation of international anti-corruption rules. The G20 has established a mechanism, where countries undertake self-assessment, following straightforward targets rather than imprecise goals. The role of the G20 is circumscribed at this level. Through its design and multi-stakeholder approach, the G20 nevertheless infuses a political momentum and transparency into actual practice.

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