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**Document submitted by Transparency International, a  
non-governmental organization in consultative status with  
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## Transparency International Statement to the UNCAC Implementation Review Group

### Recommendations for robust action to ensure transparency in company ownership

Grand corruption, the trafficking of people and drugs, terrorism, tax and sanctions evasion, environmental crime, and money laundering are perpetrated or enabled on a global scale through the creation and use of anonymous companies and trusts.

The United Nations Office on Drugs and Crime estimates that up to 5 per cent of global GDP – between US\$800 billion and US\$2 trillion – is laundered each year.<sup>1</sup> Secrecy around ownership and control of legal entities makes it easy for the perpetrators to hide their connection to the corrupt or criminal source of funds, and hard for law enforcement to follow the money trail.

The UN Convention against Corruption (UNCAC) identifies transparency among private entities as a key prevention measure. It also calls on States Parties to collect and record beneficial ownership information on corporate entities for anti-money laundering purposes. States are also supposed to require financial institutions to verify such information, particularly for high-value accounts and transactions.<sup>2</sup>

Countries are increasingly aware of this challenge. The UNCAC Conference of States Parties (CoSP) has referenced this issue in several resolutions. The G20 leaders adopted Beneficial Ownership Principles in 2014<sup>3</sup> building upon the Financial Action Task Force (FATF) recommendations, which set the current global standards for anti-money laundering, and the 2013 G8 action plan principles to prevent the misuse of companies and legal arrangements.<sup>4</sup> More recently, a large proportion of the more than 600 commitments made by more than 40 countries at the Anti-Corruption Summit held in London in 2016 were on enhancing beneficial ownership transparency.<sup>5</sup> In the Open Government Partnership (OGP), 21 countries have already used their national action plans to declare and implement major initiatives on beneficial ownership.<sup>6</sup> Finally, the Fifth EU Anti-Money Laundering Directive is an important step, requiring all EU Member States to establish public beneficial ownership registers by January 2020.<sup>7</sup>

Recent grand corruption scandals also demonstrate how the lack of beneficial ownership transparency allows companies and officials not only to hide and launder funds, but also to operationalise corrupt deals, using shell companies and offshore accounts to make bribe payments, illegally finance electoral campaigns or buy influence.

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<sup>1</sup> UN Office on Drugs and Crime, Money Laundering and Globalization, [www.unodc.org/unodc/en/money-laundering/globalization.html](http://www.unodc.org/unodc/en/money-laundering/globalization.html), 2011.

<sup>2</sup> Article 12 (2) (c) of the UNCAC calls on states to “Promot[e] transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities.” Article 14 (1) (a) extends this requirement to include keeping a record of beneficial ownership information and applying these rules to service providers. Article 52 (1) states that government should require financial institutions to verify the beneficial ownership information for high-risk accounts, including PEPs and their close associates and family members and high-value accounts.

<sup>3</sup> G20, G20 High-Level Principles on Beneficial Ownership, 2014. [https://g20.org/wp-content/uploads/2014/12/g20\\_high-level\\_principles\\_beneficial\\_ownership\\_transparency.pdf](https://g20.org/wp-content/uploads/2014/12/g20_high-level_principles_beneficial_ownership_transparency.pdf).

<sup>4</sup> G8, G8 action plan principles to prevent the misuse of companies and legal arrangements, [www.gov.uk/government/publications/g8-action-plan-principles-to-prevent-the-misuse-of-companies-and-legal-arrangements/g8-action-plan-principles-to-prevent-the-misuse-of-companies-and-legalarrangements](http://www.gov.uk/government/publications/g8-action-plan-principles-to-prevent-the-misuse-of-companies-and-legal-arrangements/g8-action-plan-principles-to-prevent-the-misuse-of-companies-and-legalarrangements), 2013.

<sup>5</sup> TI UK, Was it worth it? Assessing Governments Promises at the 2016 Anti-Corruption Summit. <https://www.transparency.org/whatwedo/publication/7386>.

<sup>6</sup> <https://www.opengovpartnership.org/wp-content/uploads/2019/05/Beneficial-Ownership-Fact-Sheet-May-2019.pdf>.

<sup>7</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018L0843>.

- The conglomerate Odebrecht admitted to paying bribes to politicians and public officials to win public procurement contracts at home and abroad and to influence policy-making.<sup>8</sup> The company operated a web of shell companies and offshore accounts that were used to pay bribes to domestic and foreign officials. The scheme was only possible thanks to the support of many enablers along the way: corporate service providers; financial institutions which allegedly turned a blind eye or failed to verify the beneficial owner of accounts and report suspicious transactions; and lawyers who served as a front to politically exposed persons so that bank accounts could be opened to channel illicit funds without raising red flags.<sup>9</sup>
- Similarly, in the “Laundromat” scheme in a Central Asian country, the Organized Crime and Corruption Reporting Project (OCCRP) uncovered a network that used reputable banks, including the Baltic branch of Danske Bank, and anonymous companies to funnel illicit payments from a US\$2.9 billion slush fund to buy political influence and launder that country’s international image, as well as to buy luxury goods and launder money.<sup>10</sup>

These recent cases confirm that it remains crucial for countries to implement their commitments on beneficial ownership transparency.

While there has been some progress, the pace of implementation has been slow. For instance, an assessment conducted by Transparency International in 2018 reveals that more than three years after the G20 Beneficial Ownership Principles were adopted, 11 G20 countries still have weak or average beneficial ownership legal frameworks.<sup>11</sup>

Unfortunately, in most countries enforcement authorities still rely on beneficial ownership information recorded by banks, lawyers, accountants and real estate agents. This is confirmed by TI’s 2018 study, which found that in 15 of the 23 G20 member and guest countries, investigators rely almost solely on the information collected by banks. This is a flawed approach and does not guarantee that authorities will have timely access to accurate and reliable beneficial ownership information.

The challenges are also obvious when looking at the FATF mutual evaluation reports. Implementation of the beneficial ownership standard has been weak across the global network of countries assessed. The vast majority of countries receive low ratings and have inadequate mechanisms to ensure law enforcement authorities have timely access to reliable beneficial ownership information.<sup>12</sup>

It is noteworthy that the countries with better ratings all have beneficial ownership information recorded in at least one register.

A public beneficial ownership register can guarantee timely access to information and help improve the accuracy of the data provided in several ways:

<sup>8</sup> US Department of State, Plea Agreement, Odebrecht, [www.justice.gov/opa/press-release/file/919916/download](http://www.justice.gov/opa/press-release/file/919916/download). Estado de São Paulo, “Moro homologa acordo de leniência da Odebrecht” <http://politica.estadao.com.br/blogs/fausto-macedo/moro-homologa-acordo-de-leniencia-daodebrecht/>

<sup>9</sup> Ministerio Publico Federal. Denuncia David Muino Suarez. <http://www.mpf.mp.br/pr/sala-de-imprensa/docs/denuncia-davidmuino>; <https://www.forbes.com/sites/kerenblankfeld/2016/04/04/law-firm-at-center-of-panama-papers-leak-was-implicated-in-brazilcorruption-scandal-in-january/#297015185b3b>

<sup>10</sup> <https://www.occrp.org/en>; <https://www.theguardian.com> [links redacted in accordance with UNCAC CoSP Resolution 4/6]

<sup>11</sup> [https://www.transparency.org/whatwedo/publication/g20\\_leaders\\_or\\_laggards](https://www.transparency.org/whatwedo/publication/g20_leaders_or_laggards)

<sup>12</sup> Martini, M., 2019. Two Principles Open Government Partnership Needs to Embrace to End Corporate Secrecy. Voices for Transparency, Transparency International. <https://voices.transparency.org/two-principles-open-government-partnership-needs-to-embrace-to-end-corporate-secrecy-e01ccf13bc83>

- Authorities no longer have to request information from the entity, corporate service provider or bank — although if they want to cross-check information, they can still do so.
- Foreign authorities do not need to go through lengthy and complex mutual legal assistance requests.
- Banks, corporate service providers, lawyers and real estate agents, wherever they are located, can easily check information when conducting due diligence.
- The private sector can access information on business partners.
- Civil society and journalists can uncover illicit activity as well as monitor the accuracy of the information registered.

A whole array of measures should be introduced to address secrecy around company ownership. In particular, jurisdictions should:

- **Create and publish a central, open register (in open-data format) of the beneficial owners of all registered corporate entities, including foundations and partnerships.** To be effective, registers of beneficial owners must apply to all types of corporate entities. Registers should include entities registered in foreign jurisdictions that operate within the jurisdiction of the register. Registers must also be fully searchable, regularly updated and contain all historical changes in ownership.
- **Require the registration of both domestic and foreign trusts operating in their country.** Information on all parties to the trust (trustee, settlor and beneficiaries), and the real individuals behind them should be recorded.
- **Ensure that regulations clearly and narrowly define beneficial owners.** Individuals hiding behind anonymous companies may seek to avoid identification by exploiting legal loopholes, such as inadequate ownership threshold or the possibility to list a senior manager as the beneficial owner. Governments must prevent this by adopting regulations that capture the meaning of beneficial ownership in a precise and comprehensive manner.
- **Resource and establish mechanisms to ensure the verification of beneficial ownership information,** such as cross checking the data against other government and tax databases, or conducting random inspections. Financial criminals may seek to provide inaccurate or incomplete information. Robust procedures to collect and verify information prior to publication can help to mitigate this, but they must also be supported by meaningful sanctions – such as the exclusion of a non-compliant individual from exercising their rights within the company (for example, voting or receiving dividends).
- **Undertake national money laundering risk assessments on a regular basis.** These should include an analysis of the risks posed by domestic and foreign legal entities and arrangements. Key stakeholders, including obliged entities and civil society organisations should be consulted and the results of the assessment published.
- **Consider prohibiting nominee shareholders.** If they are allowed, they should disclose their status upon the registration of the company and be registered as nominees. Nominees should be licensed and subject to strict anti-money laundering obligations.

We call on the UNCAC Conference of States Parties to adopt a resolution at its 8th session encouraging States Parties to take these steps. We also call on the Conference of States Parties to place the issue of public registers of beneficial ownership on the agenda of the UN General Assembly Special Session on Corruption due to take place in 2021.

21 August 2019

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