

THE ANTI-CORRUPTION SUMMIT

**DEFINING SUCCESS, AMBITION AND IMPACT AT THE
LONDON ANTI-CORRUPTION SUMMIT ON MAY 12, 2016**

Transparency International is a global movement with one vision: a world in which government, business, civil society and the daily lives of people are free of corruption. Through more than 100 chapters worldwide and an international secretariat in Berlin, we are leading the fight against corruption to turn this vision into reality.

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This briefing provides policy recommendations to the world leaders participating in the London Anti-Corruption Summit held on 12 May 2016 by the Government of the United Kingdom. The recommendations are aimed at tackling the systemic global problems that enable corrupt individuals to exploit company and legal entity ownership secrecy and so evade critical examination of the corrupt sources of their wealth, make extravagant luxury purchases without proper scrutiny and evade prosecution through the lack of mutual legal assistance across multiple legal jurisdictions.

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DEFINING A SUCCESSFUL SUMMIT

Corruption has a corrosive global impact on prosperity, growth, security, and the fight against extreme poverty. It exacerbates inequality; it ruins lives. High-profile scandals – from the many heads of state accused of siphoning off public money to the hundreds of elites exposed in the Panama Papers – show us that our national and international anti-corruption systems are far from effective. When the corrupt divert money, someone, somewhere suffers and too often it is the most vulnerable.

All too often gatherings of global leaders have corruption low down on the agenda. But this Summit is different. UK Prime Minister David Cameron pledged in a speech in Singapore¹ in July 2015 to host an anti-corruption summit that would “put fighting corruption at the heart of our international institutions.”

BUT WHAT DOES THIS MEAN IN PRACTICE

For Transparency International the London Anti-Corruption Summit, taking place on May 12, 2016, provides a unique opportunity for global leaders to adopt concrete, ambitious commitments that can be implemented over the next five years.

This briefing sets out just some of the most important specific actions and agreements that are needed for the Summit to be a success. The Summit is also expected to put forward additional initiatives that may help ensure that a comprehensive approach is taken to

tackling corruption. At the very least, the summit must deliver on:

- preventing corruption
- ending impunity for those who benefit from corrupt acts and
- empowering and supporting citizens to report corruption

World leaders must guarantee the commitments will be implemented over a defined period of time and that progress (or the lack of it) will be monitored. Once the dust has settled, global leaders cannot be allowed to walk away with yet another lofty communique of high principled intent and no game plan for implementation.

A key prerequisite for a successful Summit is that the host Government of the United Kingdom (UK) gets its own house in order to ensure credibility on the global stage. The UK has many challenges with domestic corruption to address, including risks identified in areas such as political funding, peer appointments, police corruption, procurement and local government. The UK should also require its own Overseas Territories and Crown Dependencies, which host hundreds of thousands of secret companies and legal entities, to publish time-bound plans of action for publishing registries that show the names of the real people – beneficial owners – of the companies and legal entities incorporated there.

¹ <https://www.gov.uk/government/speeches/tackling-corruption-pm-speech-in-singapore>

1. PREVENTING CORRUPTION

WHAT'S NOT WORKING?

Today the corrupt can use a global web of use anonymous companies, trusts and other legal entities situated across multiple jurisdictions to transfer and hide their illicitly sourced funds. These structures shroud the identity of the individuals who own and control companies and other legal entities. Governments do not fully implement the current global standards on anti-money laundering set by the Financial Action Task Force recommendations. Illicit money is laundered and then used to fund luxury lifestyles.

WHAT'S THE EVIDENCE?

Transparency International's research in the United Kingdom found that 75 per cent² of properties whose owners are under investigation for corruption made use of offshore corporate secrecy to hide their identities. That amounted to £180 million worth of property suspected to have been bought with the proceeds of corruption since 2004. This is only the tip of the iceberg.

2 <http://www.transparency.org.uk/publications/corruption-on-your-doorstep/>

Globally, the scale of the theft and laundering of assets is huge. The UN Office on Drugs and Crime (UNODC) estimates that between US\$800 billion and US\$2 trillion is laundered each year.³ Corrupt politicians used secret companies to obscure their identity in 70 per cent of more than 200 cases of grand corruption surveyed by the World Bank.⁴ Illicit money was channelled through shadowy secret companies in a quarter of the 400+ bribery cases across 41 countries reviewed by the Organisation for Economic Co-operation and Development (OECD).⁵

3 UNODC, "Money Laundering and Globalization", www.unodc.org/unodc/en/money-laundering/globalization.html.

4 The Puppet Masters: How the Corrupt Use Legal Structures to Hide Stolen Assets and What to Do About It <https://star.worldbank.org/star/publication/puppet-masters>

5 OECD, "OECD Foreign Bribery Report: An Analysis of the Crime of Bribery of Foreign Public Officials", 2014, www.oecd-ilibrary.org/governance/oecd-foreign-bribery-report_9789264226616-en;jsessionid=53ermoqtje3gp.x-oecd-live-03

POOR SHOW: WHERE G20 COUNTRIES CURRENTLY STAND ON ACCESS TO BENEFICIAL OWNERSHIP INFORMATION

Do competent authorities[†] have timely access to adequate, accurate and current information regarding the beneficial ownership of legal persons?

- Good access to beneficial ownership information
- Moderate access to beneficial ownership information
- Little or no access to beneficial ownership information



[†] including law enforcement and prosecutorial authorities, supervisory authorities, tax authorities and financial intelligence units

Source: Transparency International (2015) *Just for Show? Reviewing G20 Promises on Beneficial Ownership*

WHAT SHOULD THE SUMMIT DO?

All governments should join the UK, Norway, Netherlands and the Ukraine, who have pledged to require companies incorporated in their jurisdictions to collect and publically disclose their beneficial ownership information in a central register. If only a few countries sign up, it will remain difficult to track international financial flows.

Governments attending the Summit should:

- 1. Champion full transparency of company and legal entity ownership and control information.** Governments should set out clear timelines for establishing public, central registries containing beneficial ownership information.
- 2. End the use of secret companies to bid for public contracts and purchase real estate.** Governments should require that any company, incorporated domestically or abroad, publicly disclose its beneficial ownership

information when bidding for a public contract or purchasing and selling property.

- 3. Support the multi-stakeholder-led initiative to create a Global Public Beneficial Ownership Registry⁶.** A global public registry will aggregate information from government registries as well as collate information disclosed by proactive companies and via sectoral initiatives such as the Extractives Industries Transparency Initiative (EITI). This global registry could also be a welcome solution for smaller states to save them the cost of collecting information from scratch, while allowing companies to publish the information once, rather than multiple times.

⁶ For more information on this multi-stakeholder initiative, please see: <https://blog.opencorporates.com/2016/04/04/press-release-new-global-register-to-shine-light-on-anonymous-companies-a-root-cause-of-corrupt-illegal-activities/>

PANAMA PAPERS CASE STUDY: MEXICAN BUSINESSMAN MOVES MILLIONS WHILE UNDER INVESTIGATION

The Panama Papers leaks indicated that prominent Mexican businessman Juan Armando Hinojosa reportedly transferred about US\$100 million from companies incorporated in Nevis Island and the British Virgin Islands to New Zealand, just days after the Mexican government started to investigate what they believed might be a conflict of interest in his handling of a public works bid. Advisors to Hinojosa wrote in 2015 to Mossack Fonseca, the legal firm at the center of the leaks, for help in creating trusts in New Zealand in the name of the businessman's mother. New Zealand does not require the disclosure of the names of the beneficiaries and taxes only profits generated in New Zealand, not transfers from abroad.



THE PUBLIC SUPPORTS STRONG ACTION AGAINST CORRUPT CAPITAL

In a global poll* commissioned by Transparency International, we spoke to over 60,000 people across 60 countries for their opinions about corrupt cash coming into their countries from abroad.

The majority of people in 58 out of the 60 countries surveyed said their government should not allow corrupt foreign politicians and business people to spend the proceeds of corruption in their country. Only in Panama and Colombia was there a majority who said the money should be allowed.

In 59 of the 60 countries people supported the public listing of the real owners of companies and wanted an end to secrecy. Only in Japan was there resistance.

* All figures are from Win/Gallup International Association partners' survey, conducted in October and November 2014. In total 60,779 adults were surveyed across the 60 countries.

CASE STUDY: COMPANY SECRECY COST TRINIDAD AND TOBAGO \$105 MILLION

The government of Trinidad and Tobago estimated that fraud related to the construction at its busiest airport using secret companies cost the Trinidadian people \$105 million,[†] a sum equivalent to 10% of the country's education budget.[‡] In one instance, the government paid \$15 million more for x-ray scanners and other equipment than it should have because of collusion between two companies that bid for the contract. Both companies were based in Florida and both shared the same corporate officers and directors. Neither company disclosed the relationship to the Trinidadian government which ended up picking the cheaper of the two bids. If it had been mandatory to list the beneficial owners of the companies during the bidding process, the government could have spotted the corruption.

[†] http://star.worldbank.org/corruption-cases/sites/corruption-cases/files/documents/arw/Steve_Ferguson_US_Florida_Circuit_Court_Civil_Complaint_Apr_13_2007_Part1_of_5.pdf

[‡] http://www.news.gov.tt/content/budget-20132014-highlights#.U-nTD_mSySo



2. ENDING IMPUNITY FOR CORRUPTION

WHAT'S NOT WORKING?

The professional services that facilitate the deals to move and use money, and to set up companies and other legal entities are not doing all they should to find out where the money comes from. These include lawyers, accountants, banks, trust and company service providers and real estate professionals. While not necessarily actively participating in the origins of the corrupt activity, institutions or professionals that accept money without asking the right questions and are at risk of actively facilitating corrupt activity and the culture of impunity by concealing illicit funds.

WHAT'S THE EVIDENCE?

In researching the legal requirements placed upon the banking, real estate and accountancy industries, Transparency International found that in many countries attending the

Summit, reasonable measures such as the banking rules on “Know Your Customer” are absent.

Serious concerns were raised in a review of the 34 members of the Organisation for Economic Cooperation and Development (OECD) in 2013⁷ about the poor customer due diligence being performed by those providing corporate services in setting up and managing companies. Company service providers in more than half (52%) of all OECD countries were non-compliant with the recommended standard for scrutiny; only 3% were compliant. Transparency International believes that each person in these industries has a part to play: ending impunity can mean professionals speaking out when witnessing illicit transactions and justice has not been served.

⁷ OECD, ‘Measuring OECD responses to illicit financial flows from developing countries’ 2013. <http://www.oecd.org/dac/governance-development/IFFweb.pdf>

ARE PROFESSIONALS REQUIRED TO CHECK THE ORIGINS OF CLIENTS' CASH?

Are financial institutions and Designated Non-Financial Businesses and Professions[†] required to identify and take reasonable measures to verify the beneficial ownership of their customers (know your customer)?

- Strong Know Your Customer regulations
- Moderate Know Your Customer regulations
- Weak Know Your Customer regulations

- | | | | |
|-------------|-------------|----------------|---------------|
| ● Argentina | ● France | ● Japan | ● South Korea |
| ● Australia | ● Germany | ● Mexico | ● Turkey |
| ● Brazil | ● India | ● Russia | ● UK |
| ● Canada | ● Indonesia | ● Saudi Arabia | ● US |
| ● China | ● Italy | ● South Africa | |

[†] Designated Non-Financial Businesses and Professions, such as lawyers, accountants, trust and company service providers, and real estate agents.

Source: Transparency International (2015) *Just for Show? Reviewing G20 Promises on Beneficial Ownership*

WHAT SHOULD THE SUMMIT DO?

Those who regulate and manage money flows must work together to end global money laundering. They must implement standards and procedures and if these are not followed governments must use deterrents – debarment, fines, prosecutions – that will ensure banks, real estate brokers and luxury goods sellers do proper due diligence on suspect clients. World leaders should agree that their national banks, business and civil society will actively share and act on intelligence, as it relates to the risks and suspicions of corruption.

Governments attending the Summit should:

1. Promote professionalism among those at risk of enabling corruption.

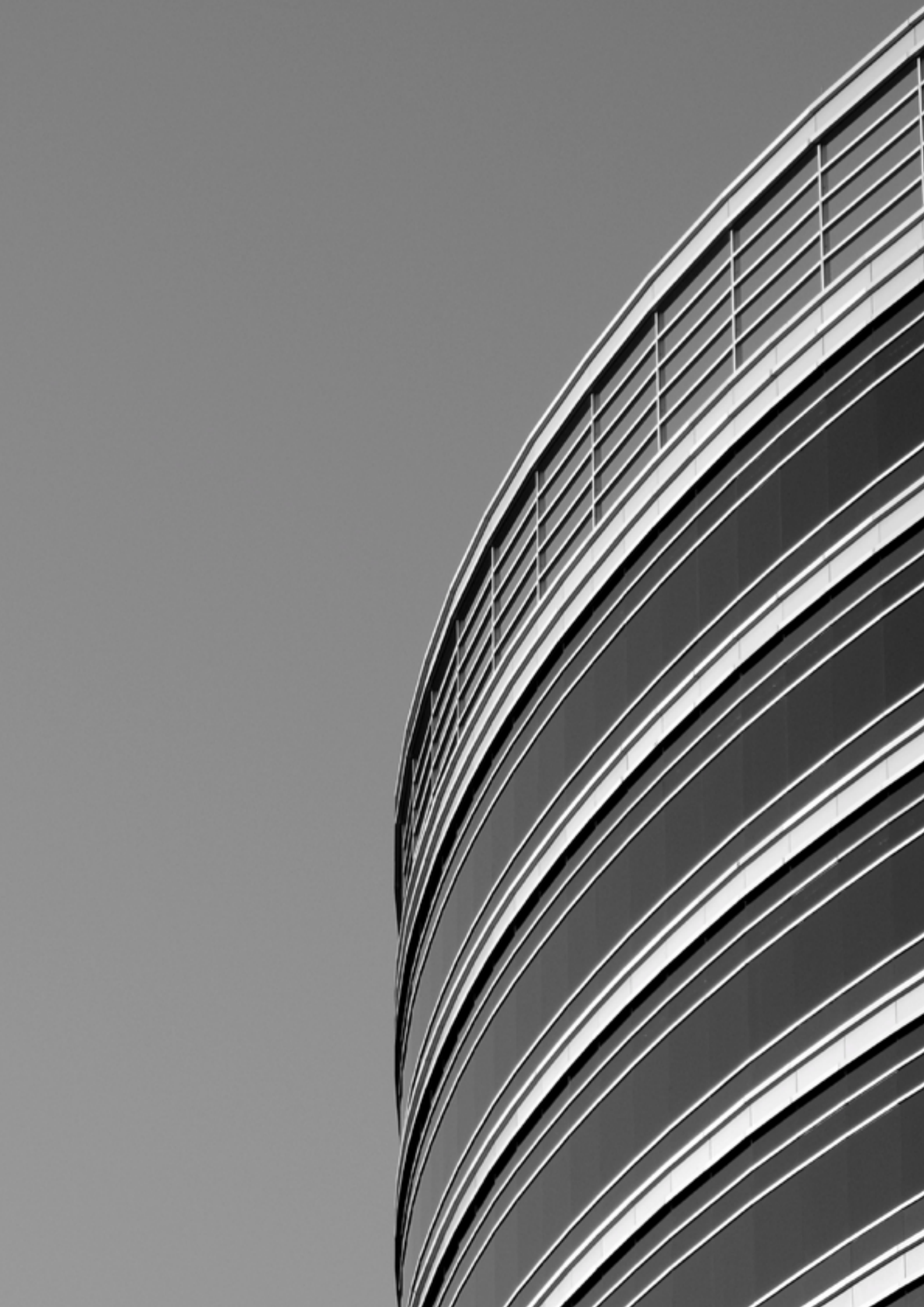
Governments should require professionals in law and accountancy, real estate, as well as company formation agents and bankers to have in place anti-money laundering checks and promote mandatory reporting on suspicions of money laundering. Governments should establish more effective administrative sanctions by encouraging professional bodies to withdraw professional licenses from those implicated in such cases.

2. Exclude the corrupt from getting new government contracts.

Governments should establish a common debarment system to exclude companies from being awarded public contracts due to allegations of fraud, mismanagement, and corruption. Leaders can agree to a joint effort to adopt and apply of administrative sanctions and publicly list debarred companies, similar to the World Bank's online Listing of Ineligible Firms & Individuals.

Strengthen law enforcement cooperation and information sharing between jurisdictions.

World leaders should improve the mechanisms for sharing financial intelligence on the corrupt jet-set between law enforcement agencies in different jurisdictions and coordinate regional or international law-enforcement operations. These mechanisms should ensure whistleblowers and civil society can share information in a safe and secure way.





3. EMPOWER CITIZENS TO REPORT CORRUPTION

WHAT'S NOT WORKING?

Corruption is by its nature secret. To bring corruption to light requires access to information and in many cases courageous acts by whistleblowers. Too often citizens cannot easily get the information they need to hold governments to account because less than 100 countries have access to information laws.⁸ In addition, in both the public and the private sectors the witnesses to corruption – whistleblowers – face lawsuits, dismissal, threats and even physical

violence when they want to speak up against unfair treatment and dishonest dealings. Their actions carry high personal risks.

WHAT'S THE EVIDENCE?

The fight against corruption relies on the ability of citizens to know what their governments are doing in order to hold them to account. For this, it is essential that governments publish relevant data in a timely and open manner so that it is easily accessible by all citizens.⁹

⁸ <http://www.freedominfo.org/2012/10/93-countries-have-foi-regimes-most-tallies-agree/>

⁹ Open Data Index 2015, <http://index.okfn.org/>

HOW OPEN ARE SUMMIT ATTENDEES?

To what extent do countries provide comprehensive access to government data in a range of sectors?

- Open Data rating of 67-100
- Open data rating of 34-66
- Open data rating of 0-33

- | | | | |
|-------------|-------------|----------------|---------------------|
| ● Argentina | ● Georgia | ● Netherlands | ● Spain |
| ● Australia | ● Germany | ● Nigeria | ● Switzerland |
| ● Botswana | ● India | ● Norway | ● Tanzania |
| ● Brazil | ● Indonesia | ● Romania | ● Trinidad & Tobago |
| ● Canada | ● Ireland | ● Russia | ● Tunisia |
| ● Chile | ● Italy | ● Saudi Arabia | ● Turkey |
| ● China | ● Japan | ● Senegal | ● UAE |
| ● Colombia | ● Jordan | ● Singapore | ● UK |
| ● Denmark | ● Kenya | ● South Africa | ● Ukraine |
| ● France | ● Mexico | ● South Korea | ● USA |

Source: Open Data Index (2015). The Open Data Index assesses the openness of 13 government datasets on a scale of 0-100.

Whistleblowers face daunting challenges in the countries whose leaders are attending the London Summit. A number of key leaders have legal regimes that do not afford any

protection to those who would publicly disclose corruption in their company or governmental ministry.

WHAT PROTECTIONS ARE THERE IN PLACE FOR WHISTLEBLOWERS IN COUNTRIES ATTENDING THE SUMMIT?

Is there comprehensive legislation in place to protect whistleblowers in both the public and private sectors?[†]

- Very/quite comprehensive whistleblower law
- Somewhat/partially comprehensive law
- Absent/not at all comprehensive law

● Argentina	● France	● Japan	● South Korea
● Australia	● Germany	● Mexico	● Turkey
● Brazil	● India	● Russia	● UK
● Canada	● Indonesia	● Saudi Arabia	● US
● China	● Italy	● South Africa	

[†] S. Wolfe et al, 2014, Whistleblower Protection Laws in G20 Countries: Priorities for Action

Source: S. Wolfe et al, 2014, Whistleblower Protection Laws in G20 Countries: Priorities for Action

WHAT SHOULD THE SUMMIT DO?

Governments attending the Summit should:

1. **Legislate loophole-free, stand-alone protective measures for whistleblowers** that cover all public and private sector employees.
2. **Support national and international level initiatives for reporting, responding to and seeking redress for corruption complaints**, and provide strong digital security and physical protection measures so that people can take action against corruption without fear of reprisal.
3. **Open up government data to help increase citizen engagement and move from promoting transparency to promoting accountability.** Governments should sign up to and adhere to the Open Contracting Global Principles to make better use of government driven data, as well as adopt the International Open Data Charter. World leaders should agree to adopt effective national asset declaration systems at the Summit to help detect illicit enrichment and conflicts of interest. This will allow civil society to monitor whether people are enriching themselves illegally.





THE BOTTOM LINE

Transparency International urges the world leaders gathered in London to unite in facing the challenge of globalised corruption and the illicit financial flows that undermine economies. We urge them to take action so that corrupt groups and individuals are not able to act with impunity and get away with their crimes.

Business should receive no benefit from taking part in dodgy deals and operating in the darkness. Equally, honest businesses should be rewarded, for example by privileged access to bidding opportunities for public contracts. And the people in their countries who are hurt most by corruption must receive justice. Already there are alliances of government, business and civil society working to stop corruption; this collaboration needs to be sustained to raise standards and achieve sustainable, holistic change.

Our call to action to each global leader attending the 2016 London Anti-Corruption Summit is to adopt ambitious pledges that within the next 5 years their countries will:

- 1. Champion full transparency of company and legal entity ownership and support the multi-stakeholder-led initiative to create a Global Public Beneficial Ownership Registry**
- 2. End the use of secret companies in public contract bidding and for the purchase of property**
- 3. Promote professionalism among those at risk of enabling corruption (bankers, lawyers, estate agents)**
- 4. Strengthen law enforcement cooperation and information sharing between jurisdictions**
- 5. Enact laws that protect activists and whistleblowers and support initiatives for those seeking redress for corruption**
- 6. Open up government data to increase citizen engagement**

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