



OECD ANTI-CORRUPTION AND INTEGRITY GUIDELINES FOR STATE-OWNED ENTERPRISES

DRAFT FOR PUBLIC COMMENT

This document presents a draft text of the OECD Anti-Corruption and Integrity Guidelines for State-Owned Enterprises (“ACI Guidelines”), which is being developed by the OECD Working Party on State Ownership and Privatisation Practices in co-operation with other OECD bodies.

The draft is a work in progress. It is available online to solicit input from business and labour representatives, civil society, the OECD’s partner countries and other interested stakeholders. Its content is without prejudice to the final text that will eventually be agreed by the OECD.

Goal of the ACI Guidelines: to support the state as enterprise owner in improving the transparency, efficiency and accountability of SOEs. This complements the goals of the OECD Guidelines on Corporate Governance of State-Owned Enterprises (last revised in 2015). The introduction section of this document provides further information on the goals and basic premises that underpin them.

Intended audience of the ACI Guidelines: The Guidelines are directed at the state in its role as enterprise owner (e.g. the part of the state responsible for the ownership function, or the exercise of ownership rights in SOEs). Any references to other government functions is explicit.

Process of the ACI Guidelines: The Annex provides further information about the process and parties participating in the development of the ACI Guidelines.

Have your say

Please send your comments directly to alison.mcmeekin@oecd.org and anne.nestour@oecd.org by **Monday 31 January, 2019**. Any comments received after this date will not be considered. All comments will be made publicly available (name and position) unless justifiably requested.

INTRODUCTION

A significant and reportedly growing part of the world's largest companies are state-owned. State-owned enterprises (SOEs) are mostly concentrated in key sectors including public utilities, natural resource, extractive industries and finance. Moreover, the operations of SOEs have important fiscal implications and may give rise to liabilities, including in legal terms, to the government that may be ultimately responsible for their finances.

Good governance of SOEs is critical for fair and open markets, for the functioning of their domestic economies where SOEs are active and for the delivery of public services to the general public. The OECD Guidelines on Corporate Governance of State-Owned Enterprises ("SOE Guidelines") were revised in 2015, against the background of significant progress in a number of countries in professionalising the ownership of SOEs and improving the governance of individual companies.

However, corruption or other irregular practices that occur in and around SOEs are a major obstacle to good corporate governance. Not only can it damage brand and company reputation and affect SOE performance, it can lead to an erosion of public trust, degrade the national and international investment climate and directly impact the delivery of public services to citizens. Corruption in and around SOEs may not be a problem solely for the SOEs in question. In some cases it is endemic to or reflective of a lack of integrity in the public sector. Preventing corruption and promoting integrity in SOEs requires mutually-reinforcing approaches from the state and SOEs, relying first on the integrity of the state and its faithful execution of ownership responsibilities and, second, on good practices of the SOE sector that can both signal and support legitimate state ownership. These ACI Guidelines will elucidate what can be done in both respects.

Risks of corruption in SOEs may or may not be qualitatively different from private firms, but high standards of integrity in SOEs may in practice depend on the manner in which the state exercises its ownership rights. Moreover, a 2018 OECD study found that SOEs in some cases appear less able or less willing than private firms to avoid known high-risk activities.¹ Moreover, analysis of concluded cases of bribery between 1999 and 2014 shows that SOE officials were more often bribed than other public officials. The risk of SOEs being deliberately used by high-level public officials for irregular practices must be considered. SOEs are at risk in the case of (i) a general lack of integrity in the public sector; (ii) a lack of professionalism in the exercise of state ownership; (iii) risk management and corporate controls that are insufficient or ignored, and; (iv) weak enforcement or undue protection from legal enforcement and other disciplining forces².

The implementation of the SOE Guidelines is an essential part of improving integrity in SOEs and integrity of markets in which SOEs compete. Key elements addressed by both the SOE Guidelines and the ACI Guidelines include: (i) professionalising the state ownership; (ii) making SOEs operate with similar efficiency, transparency and accountability as best-practice private companies; and (iii) ensuring that competition between SOEs and private enterprises, where it occurs, is conducted on a level playing

¹ See "State-Owned Enterprises and Corruption: what are the risks and what can be done?"

² OECD's 2014 *Foreign Bribery Report* found that the majority of concluded foreign bribery cases between 1999 and 2014 were promised, offered or given to SOE Officials more so than any other public official, totalling over 80% of the value of all public-sector bribes.

field. The ACI Guidelines are intended to supplement and complement the SOE Guidelines, by providing guidance to the state on fulfilling its role as an active and informed owner in the specific area of anti-corruption and integrity.

As the ACI Guidelines are directed at the state as owner, any recommendations that bear on management and operations of the SOE are meant as the state's expression of its priorities, which could be conveyed to the SOEs through owner's expectations, ownership policy, objectives-setting or in communication with SOEs' governance bodies. The ACI Guidelines assume that the ownership of an SOE is justified and thus, as a prerequisite, that ownership alternatives have been weighed for their efficiency in the allocation of resources [SOE Guidelines, I].

The ACI Guidelines were developed with the understanding that the state, in its role as enterprise owner, should adhere to four fundamental principles similar to those espoused by the SOE Guidelines. The first principle is that state ownership is exercised in a rules-based economic environment, where each economic actor derives their authority from, and behaves in line with, applicable laws. The second principle is one of a strict separation of roles between the state as an owner and the management of the SOE (the state allowing SOEs full operational autonomy). The third premise is the need for a clear distinction between the state's role as an owner and its other roles (e.g. regulatory, policy-making and prosecutorial). Fourthly, SOEs should not be unfairly advantaged by their proximity to the state, nor should they be overburdened with regulations and controls compared to private firms.

The ACI Guidelines explore how key responsibilities of the state as owner can be leveraged as tools for promoting integrity in SOEs. Chief among them is the state's role in the appointment or proposal of board members and the establishment of financial and non-financial objectives, as well as engaging in regular and structured dialogues with boards.

While the ACI Guidelines are intended to complement and supplement the SOE Guidelines, they also draw on the following OECD legal instruments:

- The [*OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*](#) (hereafter referred to as “the Anti-Bribery Convention”); the *OECD Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions* (2009), (hereafter referred to as “the 2009 Recommendation”) and its *Annex II: Good Practice Guidance on Internal Controls, Ethics, and Compliance* (hereafter referred to as “the Good Practice Guidance”);
- The [*OECD Recommendation of the Council on Public Integrity*](#) (2017) (hereafter referred to as “the Public Integrity Recommendation”);
- The [*G20/OECD Principles of Corporate Governance*](#) (2015) (hereafter referred to as “the G20/OECD Principles”); and,
- The [*OECD Declaration on International Investment and Multinational Enterprises*](#), and the [*Guidelines for Multinational Enterprises*](#) (2011) (hereafter referred to as “the MNE Guidelines”).

In carrying out its ownership responsibilities states can also benefit from following OECD standards that are instrumental in supporting integrity and fair play in the private and public sectors, including inter alia: the *Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* (2016); the *Recommendation of the Council on Public Procurement* (2015); the *Recommendation of the Council on Fighting*

Bid Rigging in Public Procurement (2012); the *Recommendation of the Council on Principles for Public Governance of Public-Private Partnerships* (2012); the *Recommendation of the Council on Guidelines for Managing Conflict of Interest in the Public Service* (2003), as well as the OECD's work on publicly-owned commodity trading. In seeking to minimise the adverse impacts that SOEs could have on economies, societies and social progress, including as a result of corruption, states are encouraged to consult the *OECD Due Diligence Guidance for Responsible Business Conduct* (2018).

In addition to OECD instruments and auxiliary guidance, the ACI Guidelines benefit from the *United Nations Convention Against Corruption* (UNCAC) (2005), and Transparency International's *10 Anti-Corruption Principles for State-Owned Enterprises* (2017).

Draft for public consultation

APPLICABILITY AND DEFINITIONS

These Anti-Corruption and Integrity (“ACI”) Guidelines are addressed to government officials charged with exercising the ownership of state enterprises on behalf of the public. They provide recommendations regarding the integrity of individual SOEs and of the state ownership entity, and regarding the overall ownership structure. The definitions of public sector and corporate bodies applied in this document are based on and consistent with the OECD Guidelines on Corporate Governance of State-Owned Enterprises (“SOE Guidelines”).

The ACI Guidelines are applicable to all SOEs pursuing economic activities, either exclusively or together with the pursuit of public policy objectives or the exercise of governmental authority or a governmental function. The ACI Guidelines are generally not intended to apply to entities or activities whose primary purpose is to carry out a public policy function, even if the entities concerned have the form of a joint-stock company or similar. Some of the detailed provisions in the Guidelines may go beyond what can be implemented for particularly small SOEs, in which case flexibility and proportionality may need to be exercised in their implementation. As a guiding principle, those entities responsible for the ownership functions of enterprises held at sub-national levels of government should seek to implement as many of the recommendations in the ACI Guidelines as applicable.

As different legal and administrative traditions may call for different arrangements for promoting integrity and preventing corruption, the ACI Guidelines do not provide a ‘one size fits all’ solution for eradicating corruption in the SOE sector. They provide a comprehensive set of outcomes that the state ownership should aim for, leaving leeway for the state to determine how best to achieve them. Certain recommendations may be oriented mainly towards particular types of SOE (e.g. listed companies or those subject largely to public administration legislation). Moreover, in the remainder of this document “the state” refers to the state *in its role as SOE owner*, unless stated otherwise. Many of the definitions used for the ACI Guidelines come from and are aligned with those of the SOE Guidelines³.

State-owned enterprises. Countries differ with respect to the range of institutions that they consider as state-owned enterprises. Consistent with the SOE Guidelines, any corporate entity recognised by national law as an enterprise, and in which the state exercises ownership or control, should be considered as an SOE. This includes joint stock companies, limited liability companies and partnerships limited by shares. Moreover statutory corporations, with their legal personality established through specific legislation, should be considered as SOEs if their purpose and activities, or parts of their activities, are of a largely economic nature.

Ownership and control. The ACI Guidelines apply to enterprises that are under the control of the state, either by the state being the ultimate beneficial owner of the majority of voting shares or otherwise exercising an equivalent degree of control. Examples of an equivalent degree of control would include, for instance, cases where legal stipulations or corporate articles of association ensure continued state control over an enterprise or its

³ The few differences are explicitly noted. The definitions for independent board member, corruption, integrity, internal control(s), external audit and internal audit are added for the purposes of the ACI Guidelines.

board of directors in which it holds a minority stake. Some borderline cases need to be addressed on a case-by-case basis. For example whether a “golden share” amounts to control depends on the extent of the powers it confers on the state. Also, minority ownership by the state can be considered as covered by the ACI Guidelines if corporate or shareholding structures confer effective controlling influence on the state (e.g. through shareholders’ agreements). Conversely, state influence over corporate decisions exercised via bona fide regulation would normally not be considered as control. Entities in which the government holds equity stakes or voting rights of less than ten percent (consistent with the SOE Guidelines) that do not confer control and do not necessarily imply a long-term interest in the target company, held indirectly via independent asset managers such as pension funds, would also not be considered as SOEs. Entities which are owned or controlled by a government for a limited duration arising out of bankruptcy, liquidation, conservatorship or receivership, would normally not be considered as SOEs. Different modes of exercising state control will also give rise to different governance issues. Throughout the ACI Guidelines, the term “ownership” is understood to imply control.

The governance bodies of SOEs. Most, but not all SOEs, are headed by governance bodies commonly referred to as boards. Some SOEs have two-tier boards that separate the supervisory and management function into different bodies. Others only have one-tier boards, which may or may not include executive (managing) directors. In the context of this document “board” refers to the corporate body charged with the functions of governing the enterprise and monitoring management. A chief executive officer (CEO) is the enterprise’s highest ranking executive officer, responsible for managing its operations and implementing corporate strategy. The CEO is accountable to the board.

Independent board member. Many governments include “independent” members in the boards of SOEs, but the scope and definition of independence varies considerably according to national legal context and codes of corporate governance. Broadly speaking, an independent board member is taken to mean independent from both the enterprise (non-executive board member) and from the state (neither civil servant, public official nor elected official). Independent board members, where applicable, should be free of any material interests or relationships with the enterprise, its management, other major shareholders and the ownership entity that could jeopardise their exercise of objective judgement [SOE guidelines, VII.D].

Ownership entity. The ownership entity is the part of the state responsible for the ownership function, or the exercise of ownership rights in SOEs. “Ownership entity” can be understood to mean either a single state ownership agency, a co-ordinating agency or a government ministry responsible for exercising state ownership. Not all adherents to the ACI Guidelines have necessarily assigned one government institution to play a predominant ownership role, and this needs not affect the implementation of the remainder of the recommendations.

Corruption. Corruption refers to “the abuse of public or private office for personal gain” [adapted from OECD’s (2008) “Corruption: A Glossary of International Standards in Criminal Law”].

Integrity. Integrity refers to the consistent alignment of, and commitment and adherence to, shared ethical values, principles and norms for upholding and prioritising the public interest over private interests [adapted from the Public Integrity Recommendation].

Internal control(s). Internal control is a process, effected by an entity’s board of directors, management, and other personnel, designed to provide reasonable assurance regarding the

achievement of objectives relating to operations, reporting, and compliance [Committee of Sponsoring Organisations of the Treadway Commission].

External audit. An audit by profit-making external auditors that reside outside of the SOE being audited, are independent of the SOE and of the state and are in most cases appointed by the company's annual general meeting. The text is explicit when it instead refers to an "external audit" conducted by the national body that is mandated to oversee the execution of public budget and holds constitutional guarantees of functional and organisational independence (hereafter referred to as "Supreme Audit Institutions").

Internal audit. Internal audit is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes [the Institute of Internal Auditors].

Assessments of applicability. Given the differing compositions of SOEs from one country to another, and due to the lack of one universally-accepted definition of an SOE, fact-specific inquiries can help to determine whether an entity is indeed an SOE. That analysis should include consideration of an entity's ownership, control, status, and function. While entities may not fall cleanly into the above definition of an SOE, the state could consider whether they stand to benefit from applying relevant recommendations in the ACI Guidelines. Governments also differ in how they are structured and, in some cases, may have other instrumentalities of government carrying out other governmental functions. Such instrumentalities must also be aware of heightened risks of corruption in the SOE sector. These guidelines may be useful to those instrumentalities, whether or not entities in question are technically SOEs.

I. INTEGRITY OF THE STATE

State-owned enterprises are autonomous legal entities overseen by governments and high-level public officials and subject to the general rule of law in their countries of operation. The state should commit fully to good practices and high standards of behaviour, on which integrity in SOEs is contingent⁴.

A. Applying high standards of conduct to the state

1. Those responsible for exercising ownership on behalf of the state (hereafter, the state) should prioritise the public interest and be responsive to integrity concerns in and around the SOEs they own [adapted from Public Integrity Recommendation, 4]. This includes, inter alia, encouraging a culture of transparency across the whole of government, where ethical dilemmas, public integrity concerns, and errors can be discussed freely, and, where appropriate, with employee representatives, and where leadership is responsive and committed to providing timely advice and resolving relevant issues [Public Integrity Recommendation, 9].

2. High standards of conduct should be applied to the state, setting an example for conduct in SOEs and exhibiting integrity to the public as the ultimate owner. In addition, those exercising ownership on behalf of the state should⁵:

- i. Undergo processes for hiring, retention, training, retirement and remuneration that are underpinned by principles of efficiency, transparency, and pre-determined criteria such as merit, equity, aptitude and integrity [UNCAC, Art 7.1].
- ii. Be subject to conflict of interest rules that sufficiently address conflicts that may arise directly in the governance of particular SOEs or portfolios of SOEs, or that may arise as a result of activities conducted by the SOE or matters relating to the sector in which the SOE operates. Such rules may restrict the ability of certain public servants, such as employees of the ownership entity, to hold shares in an SOE or in the sector of SOEs' operations (e.g. competitors or suppliers), or to become involved in the corporate governance of private sector companies.
- iii. Be subject to provisions on handling sensitive information to mitigate risks of insider trading.
- iv. Have clear rules and procedures for reporting concerns, in good faith and on reasonable grounds, about real or encouraged illegal or unethical practices that come to their notice in the performance of their ownership functions. Procedures should include, as needed and where appropriate, reporting to competent

⁴ This recommendation promotes the full implementation of the OECD Public Integrity Recommendation (2017) with regards to integrity in the public sector, and thereby its application to the ownership entity. The mention of certain provisions of the Public Integrity Recommendation does not give priority to any one provision over another.

⁵ The state exercises the ownership of SOEs in the interest of the general public. The state should hold themselves to high standards of integrity and lead by example for SOEs. The provisions provided here build from the OECD Public Integrity Recommendation 4, which calls for countries to “set high standards of conduct for public officials”, tailored to take into account the requirements imposed by the SOE Guidelines on those exercising ownership on behalf of the state.

authorities that are removed from the ownership function and that have the mandate and capacity to conduct investigations free from undue influence⁶. Those reporting *bona fide* concerns should be protected in law and in practice against all types of unjustified treatments as a result [Public Integrity Recommendation 9b].

3. The ownership entity should be held accountable to the relevant representative bodies, including the national legislature [SOE Guidelines, II.E].

B. Establishing ownership arrangements that are conducive to integrity

1. Appropriate steps should be taken by the government to prevent the abuse of SOEs for personal or political gain, including by:

- i. Taking the measures necessary to establish that applicable laws criminalising bribery of public officials apply equally to the representatives of SOE governance bodies, management and employees where these are legally considered as public officials [adapted from the Anti-Bribery Convention, Article 1].
- ii. Taking the measures necessary to prohibit use of SOEs as vehicles for financing political activities. SOEs themselves should not make political campaign contributions [SOE Guidelines, V.E].

2. Ownership arrangements should be conducive to integrity, which implies:

- i. Clearly identifying the exercise of ownership rights within state administration as centralised in a single ownership entity or, if impossible, by a co-ordinating body that has the capacities and competencies to effectively carry out its duties [adapted from SOE Guidelines, II.D].
- ii. Separating ownership from other government functions to minimise conflict of interest, and opportunities for political intervention (non-strategic or operational in nature) and other undue influence by the state, serving politicians or politically-connected third parties in SOEs. Where ownership functions are vested in ministries with other functions related to SOEs, adequate measures should be taken to separate the two [SOE Guidelines, III.A]⁷.
- iii. Clarifying and making publicly available information about the ownership structure, including linking the SOEs owned by the state to the respective entity or entities responsible for exercising ownership of said SOEs. This could include, for instance, recording SOEs in beneficial ownership registers.

⁶ The OECD Public Integrity Recommendation (9c) recommends for the public sector to offer “alternative channels for reporting suspected violations of integrity standards, including when appropriate the possibility of confidentially reporting to a body with the mandate and capacity to conduct an independent investigation”. The United Nations Convention Against Corruption (UNCAC) (Art.8.4) calls for State Parties [to the Convention] to have systems to facilitate reporting of corruption when acts arise in the performance of their functions.

⁷ There should be a clear separation between the state’s ownership function and other state functions that may influence the conditions for state-owned enterprises, particularly with regard to market regulation. In implementing effective separation between the different state roles with regard to SOEs, both perceived and real conflicts of interest should be taken into account

- iv. Clarifying and making publicly available⁸ the roles of other (non-ownership) state functions vis-à-vis SOEs that may interact, whether infrequently or frequently, with SOEs in the execution of their functions – including inter alia regulatory agencies and audit or control institutions.
- v. Encouraging professional dialogue between those responsible for the exercise of ownership on behalf of the state and state authorities responsible for the prevention of corruption or other irregular practice, when appropriate and permitted by the legal system.
- vi. Setting an appropriate framework for communication that includes maintaining accurate records of communication between the ownership function(s) and SOEs⁹.
- vii. Maintaining high standards of transparency and disclosure when SOEs combine economic activities and public policy objectives regarding their cost and revenue structures, allowing for an attribution to main activity areas [SOE guidelines, III.C].
- viii. Ensuring that the state is equipped to regularly monitor, review and assess SOE performance, and oversee and monitor their compliance with applicable corporate governance standards - including those related to anti-corruption and integrity¹⁰.

⁸ Good practice calls for the use of web-based communications to facilitate access by the general public (SOE Guidelines, VI.C).

⁹ Accurate record-keeping and the transparency it creates may have preventative effects and may facilitate investigations if needed.

¹⁰ As in the SOE Guidelines (II), “the responsibilities of the boards of state-owned enterprises”, gives the ownership entity a prime responsibility to “regularly monitor, audit and assess SOE performance, and oversee and monitor their compliance with applicable corporate governance standards”.

II. EXERCISE OF STATE OWNERSHIP FOR INTEGRITY

The state should act as an active and engaged owner, holding SOEs to high standards of performance and integrity, while also refraining from unduly intervening in the operations of SOEs or direct control of their management. Ownership entities should have the legal backing, the capacity and the information necessary to hold SOEs to high standards of performance and integrity. They should make their expectations regarding anti-corruption and integrity clear¹¹.

A. Ensuring clarity in the legal and regulatory framework and in the State's expectations for anti-corruption and integrity

1. There should be clarity in the legal and regulatory framework regarding the operation and accountability of state-owned enterprises, whereby provisions such as corporate liability, accounting and audit consistent with private-sector best practices apply to SOEs. The legal and regulatory framework should facilitate a level playing field in the marketplace where SOEs undertake economic activities¹².
2. The state should clearly specify SOE objectives and avoid redefining these objectives in a non-transparent manner. The state's broad mandates and objectives for SOEs should be revised only in cases where there has been a fundamental change of mission¹³.
3. The government should publicly disclose and specify in which areas and types of decisions the state is competent to give instructions (SOE Guidelines, II.B annotations). When the state gives instructions that fall outside of its competencies, including assignment

¹¹ As provided in the SOE Guidelines (II.B annotations), "the government should allow SOEs full operational autonomy to achieve their defined objectives and refrain from intervening in SOE management. It means that the ownership entity's authority to give direction to the SOE or its board should be limited to strategic issues and public policy objectives. The state should not be involved in operational decision-making, such as directing the SOE's hiring decisions.

¹² Regulatory frameworks and legal forms of SOEs differ by country. As a guiding principle, SOEs undertaking economic activities should not be exempt from the application of general laws, tax codes and regulations. Laws and regulations should not unduly discriminate between SOEs and their market competitors. SOEs' legal form should allow creditors to press their claims and to initiate insolvency procedures (SOE Guidelines, III.E). When SOEs engage in public procurement, whether as bidder or procurer, the procedures involved should be competitive, non-discriminatory and safeguarded by appropriate standards of transparency (SOE Guidelines, III.G) – annotations: where an SOE is fulfilling a governmental purpose, or to the extent that a particular activity allows an SOE to fulfil such a purpose, the SOE should adopt government procurement guidelines that ensure a level playing field for all competitors, state-owned or otherwise. State-owned monopolies should follow the same procurement rules applicable to the general government sector.

¹³ While it may sometimes be necessary to review and subsequently modify an SOE's objectives, the state should refrain from modifying them too often and should ensure that the procedures involved are transparent (SOE Guidelines, II.B annotations). Setting objectives is a responsibility as per the SOE Guidelines, and here we emphasise its importance to avoid changing directions for personal interest.

of new objectives in an informal or non-transparent manner, SOEs should be able to seek advice or to report it through established reporting channels¹⁴.

4. The state should clearly set and consistently communicate high expectations regarding anti-corruption and integrity through, amongst others, the processes of:

- i. Identifying and expressing its expectations related to high-risk areas that could include, inter alia: investment and divestment by the state; human resource management; procurement of goods and services; board and senior/top management remuneration; conflict of interest; political contributions; facilitation payments, solicitation and extortion; favouritism, nepotism or cronyism; offering and accepting gifts; hospitality and entertainment, and; charitable donations and sponsorships.
- ii. Periodically reviewing state expectations regarding anti-corruption and integrity, based on a comprehensive analysis of existing and emerging corruption-related risks.

B. Acting as an informed and active owner with regards to anti-corruption and integrity in state-owned enterprises

1. The state should act as an informed and active owner with regards to anti-corruption and integrity in the companies it owns. Its respective and prime responsibilities regarding anti-corruption and integrity in SOEs should include, but are not limited to:

- i. Setting up reporting systems that allow the ownership entity to regularly monitor and assess SOE performance against established objectives and pre-determined benchmarks, assess their compliance with applicable corporate governance standards and assess their alignment with the state's expectations with regards to integrity and anti-corruption [adapted from SOE Guidelines, II.F.4]. Sources used in monitoring and assessment should facilitate a sufficient and comprehensive understanding of SOEs' corruption-risk management.
- ii. Developing capacity in the areas of risk and control in order to best monitor and assess SOEs' application of relevant standards and owner expectations, and engaging in discussions about corruption-risk mitigation efforts with SOE boards.
- iii. Developing a disclosure policy that identifies what information SOEs should publicly disclose, the appropriate channels for SOE disclosure and SOE mechanisms for ensuring quality of information¹⁵. With due regard for SOE capacity and size, the types of disclosed information should follow as closely as possible to that suggested in the SOE Guidelines and could additionally include integrity-related disclosures such as beneficial ownership of non-state shareholders and of SOEs' subsidiaries¹⁶.

¹⁴ See Chapter III on reporting and advice channels for SOEs.

¹⁵ The process through which an ownership entity can develop a disclosure policy is elaborated upon in SOE Guidelines (II.F.5 annotations): "the ownership entity should communicate widely and effectively about the transparency and disclosure framework for SOEs, and also encourage implementation and ensure quality of information at the enterprise level."

¹⁶ Disclosure is an important tool for improving transparency and accountability. Recalling that the SOE Guidelines suggest the disclosure policy could include: A clear statement to the public of enterprise objectives and their fulfilment (for fully-owned SOEs this would include any mandate

- iv. Disclosing all financial support by the state to SOEs in a transparent and consistent fashion.
- v. Using, as appropriate, benchmarking tools to assess the overall risk exposure of the state through its ownership of SOEs. Where appropriate, such tools could also be used to encourage improvements in corruption-risk management amongst SOEs.

elaborated by the state ownership entity); Enterprise financial and operating results, including where relevant the costs and funding arrangements pertaining to public policy objectives; The governance, ownership and voting structure of the enterprise, including the content of any corporate governance code or policy and implementation processes; The remuneration of board members and key executives; Board member qualifications, selection process, including board diversity policies, roles on other company boards and whether they are considered as independent by the SOE board; Any material foreseeable risk factors and measures taken to manage such risks; Any financial assistance, including guarantees, received from the state and commitments made on behalf of the SOE, including contractual commitments and liabilities arising from public-private partnerships; Any material transactions with the state and other related entities. Additional disclosures could include information about: SOE holdings and beneficial ownership [TI, 3.3]; asset disclosures; donations; internal controls, ethics and compliance measures (or programmes)¹⁶; governance structures and policies, in particular, the content of any corporate governance code or policy and its implementation process; and disclosure of the identities of the SOE's major contractors and partners, including the beneficial ownership of such entities.

III. PROMOTION OF INTEGRITY AND PREVENTION OF CORRUPTION AT THE ENTERPRISE LEVEL

The state ownership policy should fully reflect that a cornerstone of promoting integrity and preventing corruption in and around SOEs is effective company internal controls, ethics and compliance measures to detect, prevent or mitigate and enforce rules on corruption-related risks. The state should ensure that SOEs are overseen by effective and competent boards of directors who are empowered to oversee company management and to act autonomously from the state as a whole.

A. Encouraging integrated risk management systems in state-owned enterprises

1. The state should encourage that SOE boards and oversight bodies oversee, and that management implements, risk management systems commensurate with state expectations and where appropriate in line with requirements for listed companies. To this end, the state should encourage SOEs to take a risk-based approach and to adhere, to the extent feasible, to good practices, such that¹⁷:
 - i. The risk management system is treated as integral to the company's strategy and the achievement of pre-determined objectives. It thus embodies a coherent and comprehensive set of internal controls, ethics and compliance measures that are developed and maintained in response to regular and tailored risk assessments.
 - ii. The risk management system is regularly monitored, re-assessed and adapted to the SOEs' circumstances, with a view to establishing and maintaining the relevance and performance of internal controls, policies and procedures¹⁸.
 - iii. There is a segregation of duties between those that take ownership of and manage risks, those that oversee risks and those that provide independent assurance within the SOE¹⁹.
 - iv. The risk management system includes risk assessments that: (i) are undertaken regularly²⁰; (ii) are tailored to the SOE; (iii) take into account inherent internal and

¹⁷ Tailored to SOEs and expanded from common elements of corporate risk management, including those aggregated in the Anti-Corruption Ethics and Compliance Handbook for Business (OECD, 2013), and Transparency International's 10 Anti-Corruption Principles (2017). Common industry standards include: the Committee of Sponsoring Organisations of the Treadway Commission *Enterprise Risk Management – Integrated Framework* and International Organisation for Standardization, *ISO 31000 – Risk Management* (2018).

¹⁸ Adapted from the Good Practice Guidance (A), and, according to Committee of Sponsoring Organisations of the Treadway Commission *Enterprise Risk Management – Integrated Framework*, "Monitoring is accomplished through ongoing management activities, separate evaluations, or both".

¹⁹ As espoused by the "Three Lines of Defense" Model of the Institute of Internal Auditors.

²⁰ Ideally on an annual basis to allow for regular and consistent discussion between the board and the state.

external risks for their likelihood of occurrence and the impact of occurrence²¹ on the achievement of SOE objectives, as well as residual risks; (iv) explicitly treat a comprehensive set of corruption-related risks, considering high-risk areas and intra- and inter-personal aspects (e.g. human behaviour and interactions between the SOE board and government); and (v) integrate different perspectives, including those from within the company and key stakeholders (representing different levels of authority in the company, jurisdictions and different parts of the business).

- v. SOE representatives responsible for risk assessments within the company should have sufficient authority to gather meaningful contributions, to identify risks, to select appropriate risk responses and to react in a measured way in face of problematic findings.
- vi. SOEs, wherever possible, publicly disclose information about material integrity-related risks, the risk management system and measures taken to mitigate risks.

B. Promoting internal controls, ethics and compliance measures in state-owned enterprises

1. The state should, without intervening in the management of individual SOEs, take all appropriate steps to encourage integrity in SOEs, expecting and respecting that SOE boards and top management promote a “corporate culture of integrity” throughout the corporate hierarchy through, inter alia: (i) a clearly articulated and visible corporate policy prohibiting corruption; (ii) facilitating the implementation of applicable anti-corruption and integrity provisions through strong, explicit and visible support and commitment from boards and management to internal controls, ethics and compliance measures (hereafter referred to as “integrity mechanisms”); (iii) encouraging an open culture that facilitates and recognises organisational learning and encourages good governance and integrity; and (iv) leading by example in their conduct²².

2. The state should encourage that integrity mechanisms are applicable to all levels of the corporate hierarchy and all entities over which a company has effective control, including subsidiaries. In line with state’s expectations and applicable legal provisions, and to the extent feasible, integrity mechanisms should:

²¹ Likelihood is the possibility/probability that a risk event may occur in, or involve, your company. Impact is the affect that the risk event would have on achievement of your company’s desired results or objectives. For instance, high impact would have a severe impact on achieving desired results, such that one or more of its critical outcome objectives will not be achieved. Low impact would have little or no impact on achieving outcome objectives (Georgetown University, 2017).

²² The “steps” are tailored from and expanded upon common elements found in corporate control systems of anti-corruption and integrity programmes, such as those aggregated in the OECD Anti-Corruption Ethics and Compliance Handbook for Business (OECD, World Bank and UNODC). The SOE may choose to include these elements in a specific anti-corruption programme, or anti-bribery compliance function. This sub-section draws notably on the 2009 Recommendation and the Good Practice Guidance, without making judgements on the order or importance of provisions within. The OECD Good Practice Guidance calls for a clearly articulated policy prohibiting bribery and explicit and visible support and commitment from senior management. The OECD Public Integrity Recommendation encourages an open culture.

- i. Require high standards of conduct through clear and accessible codes of conduct, ethics or similar policies²³ that address, inter alia: procurement of goods and services; board and senior/top management remuneration; conflicts of interest; hospitality and entertainment; political contributions; charitable donations and sponsorships; gifts; favouritism, nepotism or cronyism, and; facilitation payments, solicitation and extortion [adapted from Good Practice Guidance, A.5].
- ii. Ensure that high standards of conduct are supported and implemented through human resources policies and procedures, where processes are sufficiently designed to ensure hiring, maintenance and firing of employees based on a set of objective, pre-determined criteria²⁴.
- iii. Be linked to the system of financial and accounting procedures, supported by the risk management system and related internal controls and reasonably designed to ensure the maintenance of fair and accurate books, records, and accounts [adapted from Good Practice Guidance, A.7]²⁵.
- iv. Ensure that SOEs do not seek or accept exemptions not previously contemplated in the statutory or regulatory framework, including related to human rights, environment, health, safety, labour, taxation and financial incentives [adapted from the MNE Guidelines, II.5].
- v. Be applied to third parties such as agents and other intermediaries, consultants, representatives, distributors, contractors and suppliers, consortia, and joint venture partners (hereinafter “business partners”), reinforced by properly documented risk-based due diligence pertaining to their hiring or contracting, as well as the appropriate and regular oversight of business partners. In addition, SOEs may inform business partners of the company’s commitment to abiding by laws on anti-corruption and integrity, and of the company’s integrity mechanisms, and seek a reciprocal commitment from business partners [adapted from Good Practice Guidance, A6].
- vi. Be monitored by corporate bodies that are independent of management [2009 Recommendation, C.IV].

²³ As provided for in the SOE guidelines (VI.C annotations), such codes should apply to the SOEs as a whole and to their subsidiaries. They should give clear and detailed guidance as to the expected conduct of all employees and compliance programmes and measures should be established. It is considered good practice for these codes to be developed in a participatory way in order to involve all the employees and stakeholders concerned. These codes should benefit from visible support and commitment by the boards and senior management. SOEs’ compliance with codes of ethics should be periodically monitored by their boards. The codes of ethics should also comprise disciplinary measures, should the allegations be found to be without merit and not made in good faith, frivolous or vexatious in nature.

²⁴ Mitigating the presence of favouritism, nepotism and cronyism. For further information see Transparency International’s 10 Anti-Corruption Principles – namely Principle 4 “ensure human resources policies and procedures support the anti-corruption programme”.

²⁵ Minimising the likelihood that they are used for the purpose of corrupt or other irregular acts, particularly: (a) The establishment of off-the-books accounts; (b) The making of off-the-books or inadequately identified transactions; (c) The recording of non-existent expenditure; (d) The entry of liabilities with incorrect identification of their objects; (e) The use of false documents; and (f) The intentional destruction of bookkeeping documents earlier than foreseen by the law (UNCAC).

3. The state should encourage that corporate measures exist to provide positive support for the observance of integrity mechanisms by all levels of the corporate hierarchy and to mitigate opportunistic behaviour²⁶. This includes training for all levels of the company, and subsidiaries, on relevant legal provisions, state expectations and on company integrity mechanisms, with the possibility of measuring the degree of understanding throughout the hierarchy²⁷.
4. The state should encourage appropriate channels for oversight and reporting at the enterprise level. This would, to the extent feasible, include:
- i. Expecting that internal audit, where it exists, has the capacity, autonomy and professionalism needed to duly fulfil its function²⁸.
 - ii. Encouraging the establishment of specialised board committees where appropriate, particularly in the areas of risk management, audit, remuneration and public procurement when relevant, each with a minimum of one and ideally a majority of independent board members [G20/OECD, VI.E.1].
 - iii. Encouraging that there are effective measures for providing guidance and advice to directors, officers, employees, and, where appropriate, business partners, on complying with the company's integrity mechanisms, including when they need urgent advice on difficult situations [2009 Recommendation. A.11.I]²⁹.
 - iv. Encouraging the establishment of clear rules and procedures for employees to report concerns to the board, in good faith and on reasonable grounds, about real or encouraged illegal or unethical practices in or around SOEs (including subsidiaries or business partners). In the absence of timely remedial action or in the face of a reasonable risk of negative employment action, employees are encouraged to report to the competent authorities.³⁰ They should be protected in law and practice against all types of unjustified treatments as a result of reporting *bona fide* concerns [Public Integrity Recommendation 9b].
5. The state should expect that SOEs apply high standards of transparency and disclosure akin to good practice listed companies, or to firms in like circumstances, and in

²⁶ The OECD Good Practice Guidance (A.9) calls for companies to provide positive support for the observance of ethics and compliance programmes or measures against foreign bribery. Positive support should foster employee confidence in the SOE. This could include awareness-raising campaigns, or recognition of good behaviour.

²⁷ Training could illustrate how objectives are to be met and how integrity mechanisms are to be implemented. It should be adaptable to evolving circumstances (e.g. new business operations or partners) and to emerging risks (e.g. new digital innovations or cybersecurity threats). The degree of understanding could be measured, for instance, through the use of key performance indicators.

²⁸ Taken as a given that internal audit exists in large SOEs (at minimum) in line with the SOE Guidelines (VII.J) which calls for SOEs to “develop efficient internal audit procedures and establish an internal audit function that is monitored by and reports directly to the board and to the audit committee or the equivalent corporate organ”.

²⁹ This could include, for instance, an Ombudsman within the enterprise.

³⁰ SOEs could offer multiple reporting channels and should be managed by individuals or units that are adequately staffed for improvement of the protected reporting framework and for appropriate action in response to such reports. Common practice amongst SOEs is that reporting channels allow for anonymity, at minimum, and confidentiality of reporting.

line with the state's disclosure policy [SOE Guidelines, VI.A]³¹. In addition, the state could encourage disclosure of the organisational structure of the SOE, including of its joint ventures and subsidiaries.

6. Where applicable, the state should expect that SOEs adhere to laws related to lobbying, for example declaring a meeting in the appropriate registry.

7. The state should expect that disciplinary procedures exist and that they address, among other things, violations, at all levels of the company, of relevant laws or company's integrity mechanisms [Good Practice Guidance, A.10].

C. Safeguarding the autonomy of state-owned enterprises' decision-making bodies

1. It is a prime responsibility of the state to ensure that boards have the necessary authority, diversity, competencies and objectivity to autonomously carry out their function with integrity. The corporate governance framework should ensure the board is accountable to the company and to the shareholders and, where legislated, subject to parliamentary control, recognising citizens as the ultimate shareholder. This includes, inter alia, that³²:

- i. Politicians who are in a position to influence materially the operating conditions of SOEs should not serve on their boards. This does not imply that civil servants and other public officials should not serve on boards [SOE Guidelines, VII.E annotations]. A pre-determined "cooling-off" period could be applied to former politicians.
- ii. An appropriate number of independent members – non-state and non-executive – should be on each board and sit on specialised board committees [SOE Guidelines, III.D]³³.
- iii. Any collective and individual liabilities of board members should be clearly defined. All board members should have a legal obligation to act in the best interest of the enterprise, cognisant of the objectives of the shareholder. All board members should have to disclose any personal ownership they have in the SOE and follow the relevant insider trading regulation [SOE Guidelines, VII.A and II.C annotations].
- iv. Members of SOE boards and executive management should make declarations regarding their investments, activities, employment, and benefits from which a potential conflict of interest could arise.
- v. Board members should be selected on the basis of personal integrity and professional qualifications, using a clear, consistent and predetermined set of criteria for the board as a whole, for individual board members and for the chair, and subject to transparent procedures that should include diversity, background

³¹ See Chapter I for more information on the state's role in setting and monitoring the disclosure policy.

³² This section takes as a given the full implementation of the SOE Guidelines, particularly chapter VII on the *Responsibility of the Boards of State-Owned Enterprises*, as well as provisions related to the state's role as owner of Chapter II. It builds on individual recommendations of the SOE Guidelines particularly pertinent to promoting integrity and preventing corruption.

³³ Common practice is to have one third of the board as independent members, and to have their participation in specialised board committees, notably risk and audit committees.

checks and, as appropriate, mechanisms aimed at preventing future potential conflicts of interest (e.g. use of asset declarations)³⁴.

- vi. Mechanisms should exist to manage conflicts of interest that may prevent board members from carrying out their duties in the company's interest, and to limit political interference in board processes. Potentially conflicting interests should be declared at the time of appointment and the declarations should be kept up to date during board tenure [SOE Guidelines, VII.E].
 - vii. Mechanisms to evaluate and maintain the effectiveness of board performance and independence should be in place. These may include, amongst others, limits on the term of any continuous appointment or the permitted number of reappointments to the board, as well as resources to enable the board to access independent information or expertise [SOE Guidelines, VII.C].
2. The state should express an expectation that the board apply high standards for hiring and conduct of top management and other members of the executive management, who should be appointed based on professional criteria. High standards should include conflict of interest management, such as establishing "cooling-off" periods for high level managers entering from or leaving to related posts – especially regarding positions within the SOE that hold decision-making power on large contracts.

³⁴ The SOE Guidelines assigns the state a prime responsibility in establishing well-structured, merit-based and transparent board nomination procedures in fully- or majority- owned SOEs, actively participating in nomination and contributing to board diversity (II.F.2).

IV. ACCOUNTABILITY OF STATE-OWNED ENTERPRISES AND OF THE STATE

To ensure proper detection of corruption, as well as investigation and enforcement, key processes should be entrusted to independent institutions that are insulated from influence or suppression of said processes or dissemination of public information regarding their conduct. Strong and transparent external auditing procedures are means of ensuring financial probity, informing shareholders about overall company performance and engaging stakeholders.

A. Establishing accountability and review mechanisms for state-owned enterprises

1. Where legislation allows, SOEs may be summoned to report to the national legislature or similar elected bodies of the state. Annual reports on the performance of SOEs and including audited financial statements should be published by SOEs, and the state as an owner should engage in aggregate reporting on its SOE portfolio that is made public.

2. The state should encourage SOEs' financial statements to be subject to annual independent external audit based on internationally recognised standards for listed companies³⁵. The external auditor(s) should have the capacity, professionalism and independence to provide an objective assessment of company accounts, financial statements and internal controls [adapted from the 2009 Recommendation, X.B.II]. The following considerations can apply:

- i. External auditors should be accountable to the shareholders and owe a duty to the company to exercise due professional care in the conduct of the audit [G20/OECD Principles, V.D].
- ii. Procedures should be developed for the selection of external auditors, in line with the SOE Guidelines. It is crucial that the external auditors are independent from the SOE and large shareholders, i.e. the state in the case of SOEs [SOE Guidelines, VI.B. annotations].
- iii. When supreme audit institutions play a role in monitoring SOEs³⁶, the state should require that SOEs be additionally subject to annual external audits that are carried out in accordance with internationally recognised standards. Supreme audit institutions should not substitute for an external auditor. Where additionally present, the supreme

³⁵ External audit is a means of ensuring financial probity and informing shareholders about overall company performance. In reality, SOEs are not systematically subject to external audit and the independence of external audit is not always guaranteed in practice as intended for in legislation.

³⁶ Standards for Supreme Audit Institutions are issued by the International Organisation of Supreme Audit Institutions (INTOSAI). According to INTOSAI, "although state institutions cannot be absolutely independent because they are part of the state as a whole, Supreme Audit Institutions shall have the functional and organisational independence required to accomplish their tasks... the necessary degree of their independence shall be laid down in the Constitution; details may be set out in legislation." It establishes that the rule of law and democracy are essential premises for independent government auditing

audit institution should avoid overlap, fragmentation or duplication with the scope of audits conducted by external auditors.

- iv. External auditors of SOEs should be subject to the same criteria of independence as for external auditors or private sector companies. This requires the close attention of the audit committee or the board and generally involves limiting the provision of non-audit services to the audited SOE as well as periodic rotation of auditors or tendering of the external audit assignment [SOE Guidelines, VI.B. annotations].
 - v. The supreme audit institution, where mandated, could additionally and periodically audit: (i) financial transactions, including subsidies and asset transfers, between the state and SOEs; and (ii) the state's exercise of ownership functions. For SOEs with policy objectives, the supreme audit institution may also assess the adequacy of risk management and integrity measures established to achieve said policy objectives. Audit findings should be deliberated by the legislature in a timely manner that accords with the budgetary cycle and be made public.
 - vi. External auditors should not be expected to investigate corruption or irregular practices as part of the audit scope, unless mandated to do so. However, external auditors should be encouraged to report real or suspected illegal or unethical practices to management and, where appropriate, to corporate monitoring bodies [adapted from the 2009 Recommendation, X.B.III and V].
3. The role of external oversight and control within the public integrity system should be reinforced, in particular through ensuring that oversight bodies, regulatory enforcement agencies and administrative courts are responsive to information on suspected wrongdoings or misconduct received from third parties with regards to SOEs or the state as their owner (such as complaints or allegations submitted by businesses, employees and other individuals) [adapted from the Public Integrity Recommendation, 12].

B. Taking action and respecting due process for investigations and prosecutions

1. The legal and regulatory requirements that affect corporate governance practices should be enforceable [adapted from G20/OECD Principles, I.B]. Ensuring this mostly falls outside the authority of those exercising ownership rights over SOEs, but the ownership function should cooperate fully with the relevant other authorities and under no circumstances take steps to hinder ongoing proceedings.
2. Civil, administrative³⁷ or criminal penalties for corruption or other unlawful acts should be effective, proportionate and dissuasive. They should be applicable to both individuals and legal persons³⁸.

³⁷ Civil or administrative sanctions that might be imposed upon legal persons for corruption may include, aside from non-criminal fines, exclusion from entitlement to public benefits or aid; temporary or permanent disqualification from participation in public procurement or from the practice of other commercial activities; placing under judicial supervision; and a judicial winding-up order (commentaries on the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions).

³⁸ The OECD Anti-Bribery Convention (Article 2) and UNCAC (Article 26) calls on countries to take measures as necessary, in accordance with legal principles to establish the liability of legal persons for bribery of a foreign public official and for corruption, respectively. In the event that criminal responsibility is not applicable to legal persons, governments should ensure that legal persons are

3. Persons willing to report, in good faith and on reasonable grounds, real or encouraged illegal or unethical practices in and around SOEs, including related to the state owner, should be offered protection³⁹ in law and practice against all types of unjustified treatments as a result of reporting *bona fide* concerns [adapted from Public Integrity Recommendation, 9b, and Good Practice Guidance 11.ii].

4. Transparent procedures should be developed to ensure that all detected irregularities, in and around SOEs are investigated and prosecuted when necessary in accordance with domestic legal procedures. Enforcement of provisions in the legal framework should be rigorous and systematic, and ensure that SOEs are not given unfair advantage or protected by their ownership. Furthermore:

- i. Supervisory, regulatory and enforcement authorities should have the authority, integrity and resources to fulfil their duties in a professional and objective manner while guaranteeing due processes and respecting fundamental rights. Moreover, their rulings should be without undue delay and, as appropriate, transparent and fully explained [G20/OECD Principles, I.E].
- ii. Investigation and prosecution of cases of corruption or related unlawful acts involving SOEs should not be influenced by considerations of national economic interest, the potential effect upon relations with another State or the identity of the natural or legal persons involved [Anti-Bribery Convention, Art. 5].
- iii. Relevant state bodies should co-operate fully with investigations involving SOEs or the state as enterprise owner, and they should encourage SOEs to do likewise.

5. When corruption or irregular practice has been detected, the state acting as an owner should have processes for follow-up with SOEs to support the mitigation of recurrence. This could include, inter alia, encouraging the SOE to develop an action plan based on a root-cause analysis, and to communicate lessons learned throughout the SOE hierarchy. The state should consequently assess need for reforms within SOEs or in the exercise of its duties.

C. Inviting the inputs of civil society, the public and press and the business community

1. Transparency and stakeholder engagement should be encouraged at all stages of the state's decision-making process to promote accountability and the public interest [adapted from Public Integrity Recommendation, 13]. This includes that the state leads by example with regards to transparency actively seeking to improve public knowledge about SOEs⁴⁰. Where possible, the state could provide links to SOEs publicly available disclosures.

2. Relevant state bodies should co-operate with stakeholders, trade unions, private sector representatives and the public and press in facilitating the analysis of disclosed information and, where appropriate, highlighting and addressing problems of corruption in and around SOEs.

subject to effective, proportionate and dissuasive non-criminal sanctions (adapted from Anti-Bribery Convention, Article 3.2.)

³⁹ Protection might include, inter alia, offering possibilities for work reassignment or job protection.

⁴⁰ The SOE Guidelines (VI.C) suggests that the ownership entity should publish that annual aggregate report online to facilitate access by the general public. In addition, the state could make available a clarification of the ownership structure and a list of SOEs owned by the state.

3. The state may encourage SOEs to engage with civil society, business organisations and professional associations that may serve to strengthen the development and effectiveness of integrity mechanisms [Good Practice Guidance, B]⁴¹.
4. Stakeholders and other interested parties, including creditors and competitors, should have access to efficient redress through unbiased legal or arbitration processes when they consider that their rights have been violated (SOE Guidelines, III.B)⁴².
5. Representatives of the state and SOEs should refrain from actions that serve to repress or otherwise restrict the civil liberties, including liberties to criticise or investigate, of civil society organisations, trade unions, private sector representatives, the public and the press.

⁴¹ Expanding on the OECD Good Practice Guidance, such engagement platforms could enable (i) dissemination of information on relevant issues, including regarding developments in international and regional forums, and access to relevant databases; (ii) making training, prevention, due diligence and other compliance tools available; (iii) general advice on carrying out due diligence; and (iv) general advice and support on resisting undue influence.

⁴² As provided for in the OECD Guidelines (IIIB annotations) “Stakeholders should be able to challenge SOEs and the state as an owner in courts and/or tribunals and be treated fairly and equitably in such cases by the judicial system. They should be able to do so without having to fear an adverse reaction from the state powers exercising ownership over the SOE that is subject to the dispute.”

ANNEX – FURTHER INFORMATION ON THE DEVELOPMENT OF THE DRAFT ANTI-CORRUPTION AND INTEGRITY GUIDELINES FOR STATE-OWNED ENTERPRISES

The ACI Guidelines are being developed by the Working Party of State Ownership and Privatisation Practices (under the oversight of the Corporate Governance Committee) in close co-operation with the Working Group on Bribery and the Working Party of Senior Public Integrity Officials. The co-ordination amongst relevant OECD committees and subject-matter experts ensures that the draft builds on existing international instruments related to corporate governance and anti-corruption and integrity.

This public consultation draft is the result of an ongoing consultation process undertaken between July and December 2018 amongst OECD bodies and partners.

The following countries have shared comments on previous versions of this document through the aforementioned OECD policy communities:

- Argentina
- Brazil
- Chile
- Costa Rica
- France
- Germany
- Ireland
- Latvia
- Lithuania
- Malaysia
- Mexico
- Morocco
- Norway
- Russia
- Slovak Republic
- Sweden
- Switzerland
- United Kingdom
- United States

The following partners and experts have provided inputs on previous versions:

- Business and Industry Advisory Committee to the OECD
- Trade Union Advisory Committee to the OECD
- Transparency International
- Natural Resources Governance Institute
- European Bank for Reconstruction and Development
- World Bank
- Snam Ltd.

The following OECD policy bodies received presentations the Guidelines (including prior to the actual drafting of the text) and had opportunities to comment:

- Working Group on Bribery (March, June, October and December 2018)
- Working Party of State Ownership and Privatisation Practices (March and November 2018)

- Working Party of Senior Public Integrity Officials (November 2018)
- Corporate Governance Committee (October 2018)

The Guidelines were further made subject to the following OECD-supported policy forums:

- Asia Network on Corporate Governance of State-Owned Enterprises (September 2018)
- Global Anti-Corruption and Integrity Forum (March 2018)
- Latin America Network on Corporate Governance of SOEs (November 2017)

In 2018 the OECD also supported the G20 Anti-Corruption Working Group's process to develop *High-Level Principles for Preventing Corruption and Ensuring Integrity in State-Owned Enterprises*. The OECD has sought to ensure that the high-level messages of the G20 Principles are consistent and reflected in the ACI Guidelines.