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Anti-corruption agenda of the G20: Bringing order without law

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WORKING PAPER

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Anti-Corruption Agenda of the G20:

Bringing Order without Law

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Table of Content

Abstract ..... **i**

1. Introduction **1**

2. Global Governance Initiatives to Address Corruption **3**

3. Scope and Coverage Anti-Corruption Issues under the G20 ..... **6**

4. India's Progress and Contribution **17**

5. Key Observations **19**

References **21**

List of Tables

Table 1: List of Anti-Corruption Action Plans and their Coverage 8

Table 2: List of Documents released by ACWG since 2010 12

Table 3: Comparative Ranks of G20 Members on Corruption Perception Index in 2010 and 2019 16

List of Figure

Figure 1: Score of G20 Countries on Transparency International Corruption Index in 2019 (Out of 10) 15

Abstract

The G20 has emerged as a premier deliberative forum, involving leaders of some of the largest, systematically important countries of the world. Over the years, the G20 agenda has evolved to include pertinent issues for both developed countries and the emerging market economies. After the G20 Summits were launched, certain global concerns that required collective action became permanent features of the G20 agenda. Tackling corruption was one of them. Corruption is being characterised as an international problem requiring collective corrective action. The G20 established an Anti-Corruption Working Group as early as in 2010, at the fourth summit in Toronto, which sets the Anti-Corruption Action Plan for the G20 members. Over the years, the issues under the Working Group have evolved to capture continuous and emerging challenges for the G20 members. India has been actively involved in the anti-corruption agenda of the G20 and has periodically submitted its implementation reports to the G20. More recently, India has also contributed to the anti-corruption agenda by making suggestion on significant issues for G20 members.

This paper discusses the evolution of the anti-corruption agenda globally and within the G20, and India's progress and contribution in furthering this agenda. While the objective of this paper is to report the progress of the G20 members including India, the paper also makes observations regarding the G20 as a multilateral body for addressing anti-corruption issues. The paper is based on a review of the G20 documents and discussions with experts in the area.

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Anti-Corruption Agenda of the G20: Bringing Order without Law*

Tanu M. Goyal#

1. Introduction

With the growing integration and economic interdependence among the world economies, corruption is being addressed as a global governance problem. The extent of concerns that require corrective action have grown beyond the boundaries of sovereign nations and are becoming international in their character. This requires collective action by countries involved and affected by the act of corruption.

Consequently, two intersecting changes have taken place with respect to anti-corruption movements. One, there is a move from sovereign governance mechanism towards international institutions and two, there has also been a greater role for civil societies, businesses and non-state actors (Hansen, 2011). At the same time, the global anti-corruption movement faces difficulties with respect to the tension between the generalisation of the anti-corruption norm and its contextualisation for specific and local application (Gephart, 2009). As a result, universal implementation of international rules and norms to address corruption remains a challenge.

Traditionally, corruption has been defined in a microeconomic context, within a broad public choice paradigm. A majority of the existing definitions of corruption emphasise of the behavioural aspect of the agents involved in the act of corruption, largely associated with an abuse of power or position. The rational choice theory explains corruption as a political problem (Gephart, 2009).

Transparency International, for instance, defines corruption as 'misuse of entrusted power for private gain'.[1] Giving the reverse perspective, Rose (2015), characterised corruption as the exercise of improper influence over those entrusted with power. Hansen (2011) extends the definition to present the implication of abuse of power, defining corruption as the misuse of public office or other forms of entrusted power for private or organisational gain. Hindess (2005) emphasises on the 'agents' of corruption, making reference to the behavioural aspects of officials in the public sector, politicians and government officials in which they make financial gains by misusing power. Thus, the definition links corruption to the financial gains or rent-seeking behaviour associated with corrupt practices. Corruption is also defined by its type – incidental and institutional, or degree, grand or petty corruption (Brown & Cloke,

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* The title of this paper is inspired by Robert C. Ellickson's book, "Order without Law: How Neighbors Settle Dispute", published by Harvard University Press in 1991; See Ellickson (1991).

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1 https://www.transparency.org/en/what-is-corruption (accessed on 21 October 2020).

2004). Wang and Rosenau (2001) point out that corruption is the collaboration between public and private actors, for private gains in contravention of the public interest.

The cost of corruption is enormous. According to an estimate, the global cost of corruption is at least USD2.6 trillion, or 5 per cent of the global gross domestic product (GDP), adding that, according to the World Bank, businesses and individuals pay more than USD1 trillion in bribes every year. [2] Thus, the total cost of corruption is approximately USD3.6 trillion.[3] Apart from the financial cost imposed on the world economy, corruption can also hinder growth and be politically destabilising (Rose, 2015). Corruption can also be detrimental to public finances. It is argued that revenues are higher in less corrupt countries as the least corrupt countries collect 4 per cent of GDP more in taxes than those with same level of economic development but with higher level of corruption (see Mauro et al, 2019). In fact, it is argued that corruption works as an unofficial tax on investments (Hindess, 2005). Overall, corruption adversely affects efficiency, investment climate, and overall level of growth (Brown & Cloke, 2004).

While the burden is felt by both the public and the private sector, the interest to counter corruption originally emerged amongst the business community of developed countries such as the United States (US) [Rose, 2015; Hansen, 2011]. To address the concerns, countries adopted rules and norms to tackle corruption domestically. For instance, in the case of the US, the Foreign Corrupt Practices Act (FCPA) of 1977 was an early milestone (Gephart, 2009) enacted to prevent bribery of foreign officials in exchange of private gains.[4] While the Act was enacted locally, its scope was international. The Act was an outcome of the Watergate hearing[5], which involved of other countries in the act of corruption in the US. The primary objective of the FCPA was to reduce or eliminate illicit bribes made by US firms to foreign officials (Bixby, 2010). Subsequently, in the 1980s and 1990s, the US government sought international cooperation to suppress issues such as bribery (Hansen, 2011). Indeed, initially it was the US that informally pushed to incorporate ant-corruption in the G 20 agenda.

Over the years, there has been a trans-nationalisation of corruption, encouraging concerted efforts to address the issue. There have been initiatives by the Organisation for Economic Development and Co-operation (OECD), the United Nations and the World Bank, among others to collaborate and cooperate in the fight against corruption. More recently, the Group of Twenty (G20), joined the existing international initiatives against corruption. The Anti-

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2 World Economic Forum and the World Bank, quoted at the United Nations Security Council Meeting, accessible at https://www.un.org/press/en/2018/sc13493.doc.htm (accessed on 22 September 2020).

3 https://www.weforum.org/agenda/2018/12/the-global-economy-loses-3-6-trillion-to-corruption-each-year-says-u-n#:~:text=Corruption%20exerts%20an%20enormous%20economic%20cost%20on%20countries%20around%20the%20world.&text=The%20annual%20costs%20of%20international,%2DCorruption%20Day%2C%20December%209 (accessed on 22 September 2020).

4 See https://fas.org/sgp/crs/misc/IF11588.pdf (accessed on 22 September 2020).

5 Watergate scandal was a case of attempted burglary in the headquarters of Democratic National Committee (DNC), which was linked to the 37th United States President, Richard Nixon's administration and illegal contributions made to his reelection campaign (see Bixby 2010).

Corruption Working Group (ACWG) was established under the Canadian Presidency, in the year 2010 to make practical and valuable contributions to international efforts to combat corruption.[6] Since then various issues have been discussed under aegis of the ACWG, in collaboration with international organisations, business community and civil society, among others. The G20, due to its design and approach has set-up a unique mechanism for collective action against corruption.

With this background, this paper examines the contribution of the G20 in facilitating global cooperation against corruption. In doing so, the paper discusses the current global governance mechanism to address corruption, highlighting their role and significance in shaping the anti-corruption agenda. The paper then investigates the scope and coverage of anti-corruption issues under the G20. This is based on the G20 documents released over the years and discussions with experts involved in the G20 process. Following this, the paper assesses India's progress and contribution with respect to the G20's anti-corruption agenda. Finally, the paper makes key observations regarding the contribution of the G20 in addressing corruption at a multilateral level.

2. Global Governance Initiatives to Address Corruption

Existing studies point out to the role and importance of the global governance mechanism to address the issue of corruption (Eigen, 2003). One of the first collaborative initiatives at an international level manifested through the International Anti-Corruption Conference (IACC), which is a global forum that brings together heads of state, civil society and the private sector, among other stakeholders to deliberate on issues and challenges posed by corruption.[7] The first conference was held in 1983 in the US and since then the IACC takes place once in two years. A Council was established in 1996 to oversee the IACC and Transparency International serves as the Secretariat to the IACC Council.[8] The IACC has participation from more than 100 countries.

While the IACC is basically contextualised as a forum for interaction, in 1989, on the initiative of the Group of Seven (G7) members[9] an inter-governmental organisation called the Financial Action Task Force (FATF) was established to address issues such as money laundering. In October 2001, the mandate of FATF was expanded to include terrorist financing and in 2012, it added financing of weapons of mass destruction to its mandate.[10] The objective of the FATF is to set standards and promote their implementation.

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6 For details see G20 Anti-Corruption Action Plan
G20 Agenda for Action on Combating Corruption, Promoting Market Integrity, and Supporting a Clean Business Environment, released under the South Korean Presidency, accessible at http://www.g20.utoronto.ca/2010/g20seoul-anticorruption.html (accessed on 23 October 2020).

7 See https://iaccseries.org/ (accessed on 22 September 2020) and Wang and Rosenau (2001). Till date, 18 IACC conferences have been concluded and the 19th Conference is scheduled in December 2020.

8 For details see https://iaccseries.org/about/ (accessed on 23 September 2020).

9 G7 includes Canada, France, Germany, Italy, Japan, United Kingdom (UK) and the United States.

10 See the FATF website, accessible at https://www.fatf-gafi.org/about/ (accessed on 23 September 2020).

In the year 1990, the FATF developed 40 recommendations, which set the international standard for anti-money laundering norms. It is argued that US had a strong role to play in these recommendations (Rose, 2015). Since then, the recommendations have been revised several times and the latest revision took place in 2012. At present, FATF has 37 member jurisdictions including India and two regional organisations and the FATF secretariat is at the Organisation for Cooperation on Economic Development (OECD). To ensure implementation, the FATF also established a compliance mechanism for tracking progress of members countries. However, the FATF had a limited mandate, and until 2019 it operated with a fixed lifespan, operating under specific decisions made by the Secretariat. It was only in April 2019, that the ministers adopted a more open-ended mandate for the task force.[11]

At an institutional level, the OECD and the United Nations (UN) are the champions of the international anti-corruption agenda. The OECD work on bribery began in 1989 (Khaghaghordyan, 2014) and it established a Working Group on Bribery in International Business Transactions in 1994. Subsequently, in 1997, the OECD adopted the Anti-Bribery Convention, which entered into force in the year 1999. Existing studies highlight the role of large business enterprises and civil societies in propelling the anti-corruption agenda of the OECD (Wang & Rosenau, 2001; Eigen, 2013; Rose, 2015).

The Convention establishes legally binding standards for criminalising bribery of foreign public officials in international business transactions, defining responsibilities of legal persons and other rules related to sanctions, jurisdiction and enforcement, among others.[12] In addition to the Convention, in 2009 the OECD also released documents listing a) Recommendations of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions[13] along with b) Good Practice Guidance on Internal Controls, Ethics and Compliance[14] and c) Recommendation of the Council on Tax Measures for Further Combating Bribery of Foreign Public Officials in International Business Transactions.[15]

These recommendations were built on the Convention and made further suggestions on criminalisation of bribery of foreign public officials, disallowing tax deductibility on bribes, reporting foreign bribery, steps on accounting requirements, external audits, internal controls, ethics, and public advantages, including public procurement.

The OECD Convention has been ratified by 44 countries, including 37 OECD members and Argentina, Brazil, Bulgaria, Costa Rica, Peru, Russia and South Africa.[16] There is an overlap

[11] See https://www.fatf-gafi.org/publications/fatfgeneral/documents/fatf-mandate.html (accessed on 26 September, 2020).

[12] See full text of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, accessible at https://www.oecd.org/daf/anti-bribery/ConvCombatBribery_ENG.pdf (accessed on 26 September 2020).

[13] http://www.oecd.org/corruption/anti-bribery/OECD-Anti-Bribery-Recommendation-ENG.pdf (accessed on 26 September 2020).

[14] http://www.oecd.org/daf/anti-bribery/44884389.pdf (accessed on 26 September 2020).

[15] https://www.oecd.org/ctp/crime/2009-recommendation.pdf (accessed on 26 September 2020).

[16] http://www.oecd.org/corruption-integrity/explore/oecd-standards/anti-bribery-convention/ (accessed on 26 September 2020). Apart from China, India, Indonesia and Saudi Arabia, all the other G20 members have

between the membership of the OECD Anti-Bribery Convention and the FATF (Rose, 2015). It is argued that before the OECD convention, there was a legal vacuum with respect to international bribery and there was a change, particularly in developed countries after the ratification of the OECD Convention (Khaghaghordyan, 2014). The binding character of the Convention played a pivotal role in the achievement of its objective (Rose, 2015). However, there is no independent or third-party enforcement mechanism through establishment of a tribunal. The responsibility of implementation and enforcement lies with member states and there is a peer review mechanism for putting pressure on the members (Hansen, 2011).

Given the large extent of international corruption activities, the scope of the OECD Convention is limited to the criminalisation and tax deductions with respect to international bribery. Moreover, the OECD lacks developing country participation, which are emerging corruption hotspots. While some developing countries have ratified the OECD Convention, yet, the participation is still limited. It is argued that the incidence of corruption is rising significantly in emerging market economies, which have transitioned from centralised planning structures to the market mechanism, thereby opening unprecedented avenues of corruption (Wang & Rosenau, 2001).

In December 2000, the UN General Assembly established an ad hoc committee for negotiating an instrument against corruption. The recommendations of the committee along with other corruption-related resolutions resulted in the adoption of the UN Convention on Corruption (UNCAC) in 2003, which entered in force in December 2005. The UNCAC is a universal, legally binding instrument on anti-corruption covering different forms of corruption.[17] It includes provisions to promote and strengthen measures to prevent and combat corruption, facilitate international cooperation and promote integrity, accountability and management of public affairs and property.[18] The UN Office on Drugs and Crime (UNODC) serves as the Secretariat for the UNCAC.

Apart from criminalisation of bribery, the convention also includes trading in influence, abuse of functions and other acts of corruption in the private sector.[19] In addition, it has provisions for facilitating international cooperation by including rules on extradition, mutual legal assistance, transfer of sentenced persons and joint and special investigations, among others. There are also provisions on asset recovery and technical assistance and information exchange between the members. Moreover, the Convention also includes provisions on settlement of disputes related to interpretation and application of the Convention. The implementation of the Convention lies with States and it has to be done in accordance with the principles of domestic law and as permitted by their own legal system. It therefore allows

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ratified, entered into force and are implementing legislation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions

17 See https://www.unodc.org/unodc/en/corruption/tools_and_publications/UN-convention-against-corruption.html (accessed on 26 September 2020).

18 See Chapter 1, General Provisions of the UNCAC accessible at https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf (accessed on 26 September 2020).

19 https://www.unodc.org/unodc/en/corruption/tools_and_publications/UN-convention-against-corruption.html (accessed on 24 September 2020).

the member states discretion with respect to its implementation. As a result, it is argued that the UNCAC establishes a 'soft law' rather than hard law (Rose 2015). Till date, 140 member states have signed the UNCAC.

In addition to this, the World Bank and the UNODC together launched the Stolen Asset Recovery (StAR) initiative in the year 2007, focusing on asset recovery and ending safe havens for corrupt funds. A key purpose of the StAR initiative was also to promote the ratification and implementation of UNCAC provisions relating to asset recovery.[20] It partners with different organisations and provides assistance for return of stolen assets.[21]

Apart from this, there are some other sector-specific organisations and initiatives, for instance the Extractive Industries Transparency Initiative (EITI), a multi stakeholder initiative, which is the global standard to promote open and accountable management for oil, gas and mineral resources.[22] It was formed in 2003 and the Secretariat is located in Norway. Similarly, there is a Construction Sector Transparency Initiative (CoST), which is a global initiative for improving transparency and accountability in public infrastructure[23] and there is International Partnership Against Corruption in Sports (IPACS), a multi stakeholder network launched in 2017 to eliminate corruption and promote a culture of good governance in sports.[24]

3. Scope and Coverage Anti-Corruption Issues under the G20

There has been continuous engagement of developed countries through their membership of the Group of Eight (G8)[25] and the OECD, in conceptualising and developing international rules and norms for fighting corruption. One of the earliest engagements of emerging markets and developing countries[26] in the global anti-corruption agenda in an inclusive an organised manner was through the introduction of anti-corruptions issues under the G20.

Corruption issues were initially discussed under the Finance Track of the G20 to promote integrity in the financial markets.[27] In this context of the global financial crisis, to induce transparent practices, reference was made to address issues such as tax havens and non-cooperative jurisdictions. Finance Track discussions highlighted the need for international cooperation for addressing issues such as money laundering and countering terror financing. Infact during the first G20 Summit in Washington in 2008, the Finance Ministers stressed on improving tax revenue. In this regard, the role of global governance institutions such as the OECD, the FATF and the World Bank's StAR initiative was recognised.

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20 For details see the Asset Recovery Handbook released by the UNODC and the World Bank accessible at https://www.unodc.org/documents/corruption/Publications/StAR/StAR_Publication_-_Asset_Recovery_Handbook.pdf (accessed on 25 September 2020).

21 https://star.worldbank.org/ (accessed on 25 September 2020).

22 https://eiti.org/who-we-are (accessed on 25 September 2020).

23 http://infrastructuretransparency.org/ (accessed on 25 September 2020).

24 https://www.ipacs.sport/ (accessed on 25 September 2020).

25 Members are Canada, France, Germany, Italy, Japan, Russia, United Kingdom and United States.

26 Apart from the UNCAC, to which many developing countries and emerging markets are signatories.

27 See the Declaration of the Summit on Financial Markets and the World Economy, First G20 Summit held in Washington D.C. in November 2008, accessible at http://www.g20.utoronto.ca/2008/2008declaration1115.html (accessed on 27 September 2020).

The subsequent Summits in London (April 2009) and Pittsburgh (September 2009) also focused on these issues, specifically highlighting the need for tax transparency and exchange of information. With the intention to put bank secrecy to an end, the OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes was restructured to include developing country participation and for implementation of transparency initiatives, countering offshore tax invasion and exchange of information standards around the world through a peer-reviewed process.[28]

The decision to establish the Anti-Corruption Working Group (ACWG) was taken by the Canadian Presidency in 2010. The scope of G20 engagement in anti-corruption was broadened in terms of the agenda items or issues covered. With the increased scope of the discussion beyond financial sector issues, anti-corruption issues were discussed under the Sherpa's Track. Since then, the ACWG has been actively engaged in responding to and dealing with different forms of corruption. Working Group meetings are held every year. Once in two years, the ACWG releases an Anti-Corruption Action Plan, setting out the G20 agenda for countering corruption. The highlights of the priorities set under the different Action Plans are tabulated in Table 1.

[28] http://www.oecd.org/tax/transparency/ (accessed on 27 September 2020).

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

Presidency	*Action Plan*	*Coverage*
South Korean Presidency, November 2010	First Anti-Corruption Action Plan titled, 'G20 Agenda for Action on Combating Corruption, Promoting Market Integrity, and Supporting a Clean Business Environment'	Prioritised ratification and full implementation of the UNCAC; adoption and enforcement of laws against international bribery and engagement with OECD's Working Group and Convention and the UNCAC; prevention of corrupt persons from accessing the financial system, prevention of money laundering, along with FATF; denial of entry and safe haven to corrupt persons, international cooperation; asset recovery in line with the UNCAC; whistle-blower protection; protection of anti-corruption bodies and prevention of corruption in public sector and management of public finances
Mexican Presidency, June 2012	Second Anti-Corruption Action Plan for 2013-14	Apart from reiterating the priorities set under the South Korean Presidency, the Mexican Presidency focused specifically on two aspects – effective enforcement of legislation against both domestic and foreign bribery and prevention of corruption in the public sector. Moreover, civil society and business engagement was prioritised.
Australian Presidency, November 2014	Third Anti-Corruption Action Plan for 2015-16	In addition to earlier priorities, it accorded high priority to issues like beneficial ownership transparency while following FATF standards, combating bribery in line with the OECD convention, identified high-risk sectors, public and private sector integrity and transparency and international cooperation.
Chinese Presidency, September 2016	Fourth Anti-Corruption Action Plan for 2017-18	The Action Plan was linked to UN's sustainable development agenda. Stressing on the existing priorities, the Chinese Presidency also focused on practical cooperation, promoting concrete and practical action to achieve active enforcement. In addition, the Action Plan highlighted the role of capacity building initiatives.
Argentine Presidency, December 2018	Fifth Anti-Corruption Action Plan for 2019-21	Charted out an implementation strategy and along with the existing priorities, highlighted issues such as identifying opportunities and risks of new technologies, other crimes related to corruption, issues like measurement of corruption and linkages between gender and corruption.

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

Going beyond the concerns related to the banking sector, the first Anti-Corruption Action Plan broadened the scope of discussion to include a wide range of issues, linked to the ongoing discussions and initiatives by global governance institutions. To that end, no significantly new forms were identified under the first Action Plan, beyond the existing issues, rather, the focus was on supporting a common approach for an effective global anti-

corruption regime.[29] One of the key goals set for the G20 members was to 'lead by example' and be accountable for their commitments. This ambition of the G20 defined its perspective towards implementation of actions set under the plans.

Each G20 Presidency, thus, made an attempt to report progress of the members. The ACWG under the French Presidency released its First Monitoring Report on individual and collective progress made in the implementation of the Anti-Corruption Action Plan released under the South Korean Presidency.[30] Apart from reporting collective progress, the Monitoring Report compiled a cross-tick table of G20 members and the commitments made under the First Anti-Corruption Action Plan, marking the country-wise achievements and failures. Based on the collective and individual progress made by countries, the ACWG made recommendations to the leaders to scope for further action. Thus, the ACWG focused on 'Action' taken by G20 members through domestic policy interventions.

Additionally, new issues were identified under subsequent Action Plans, which were aligned with the broad priority of the host country. Some of these issues were also highlighted during the primary interactions.

For instance, the Mexican Presidency (2012) was keen on targeting domestic corruption and laid specific emphasis on corruption in the public sector. Consequently, apart from foreign bribery, the issue of domestic bribery was prioritised, and the need for pursuing specific problems related to public procurement, financial and asset disclosure systems and management of public sector finances was highlighted. The business community through their representation in the B20 engagement group had a significant role in shaping these priorities. In addition, supporting public-private-partnerships, the Mexican Presidency made reference to the role of EITI and CoST for combating corruption in specific sectors.

Similarly, the Russian Presidency (2013) proposed inclusion of corruption in sporting, cultural and major international events in the list of sectors vulnerable to corruption. Corruption emerging due to privatisation of state-owned assets was also proposed to be included in the agenda of the ACWG. Moreover, Russia launched digital tax payment to cut down corruption in its own country. The Russian Presidency invited Transparency International to participate in the meeting to represent views of the civil society through C20 engagement.

The Australian Presidency (2014), linked the priorities of the ACWG with the growth agenda of the G20. Under the third Anti-Corruption Action Plan 2015-16, greater attention was accorded to issues such as transparency of beneficial ownership of legal persons, combating foreign bribery and asset recovery. In this regard, the Presidency made reference to the

[29] G20 Anti-Corruption Action Plan released under the South Korean Presidency in the November 2010 titled, 'G20 Agenda for Action on Combating Corruption, Promoting Market Integrity, and Supporting a Clean Business Environment, accessible at http://www.g20.utoronto.ca/2010/g20seoul-anticorruption.pdf (accessed on 27 September 2020).

[30] The Report is accessible at https://www.bmjv.de/SharedDocs/Downloads/EN/G20/First%20Monitoring%20Report%20the%20G20%20Anti-Corruption%20Working%20Group.pdf?__blob=publicationFile&v=1 (accessed on 3 October 2020).

initiatives of the World Bank StAR programme. The Presidency also laid focus on new methods for eradicating corruption. For instance, discussions were held around establishing open data principles for promoting transparency.

Economic resilience of the financial system was a priority for the Turkish Presidency (2015). Moreover, the Turkish Presidency laid greater emphasis on corruption in the private section, which included promotion of transparency and integrity in the private sector. Linked with the broader priority of inclusiveness, to tackle the issue of corruption faced by small and medium enterprises (SMEs), a few new issues were added to the anti-corruption agenda. For instance, addressing corruption in the custom clearance process was added on the recommendation on the B20 to assist SMEs. Further, to improve transparency, along with open data principles the Turkish Presidency recommended creation of a digital economy.

The Anti-Corruption Action Plan 2017-18 released under the Chinese Presidency (2016) focused on practical cooperation and concrete action, rather than putting forward any substantially new issues. The Chinese Presidency picked up the recommendation on the digital economy and proposed the use of innovative solutions and new technologies. The priorities of the ACWG were also linked to the UN's Sustainable Development Agenda.

Under the Germany Presidency (2017), anti-corruption issues garnered special attention as other G20 priorities such as trade and climate change were surrounded by contention.[31] Various issues were discussed and prioritised and the Presidency stressed on practical cooperation and technical assistance for implementation of the Action Plan. A B20 Cross Thematic anti-corruption task force was established under the German Presidency with representation from the business community to act upon the recommendation.[32]

The Argentine Presidency (2018) released the fifth Anti-Corruption Action Plan 2019-21, focusing on an implementation strategy for G20 members. Aligned with the broader priorities of the Argentine Presidency, issues such as corruption in infrastructure provisions, state-owned enterprises and gender-related corruption were included into the agenda. The B20, C20 and W20 (Women 20), made recommendations on gender-related corruption. The Working Group also focused on measurement of corruption and developing tools for the same.

No significantly new issues were discussed under the Japanese Presidency (2019), and it continued the discussion on gender-related corruption and infrastructure issues, among others. The civil society and the L20 (Labour 20) under the Japanese Presidency recommended squaring the principles for whistle blower protection making specific recommendations. The principles were ultimately released under the Presidency.

Under each of the Presidency, the ACWG convened once or more than once during the run-up to the Summit. There has been involvement by international organisations such as the UN,

[31] With reference to the US-China trade issues and US's reservations regarding the Paris Agreement.

[32] https://www.b20germany.org/fileadmin/user_upload/documents/B20/b20-ctg-rbac-fs.pdf (accessed on 2 October 2020)

the OECD, the FATF and the World Bank on relevant issues. There has also been continuous involvement of the business community, civil society and other groups, by their participation via the engagement groups.

Apart from enabling a smaller group interaction and discussion between the relevant ministries, international organisations and relevant communities, the G20 also facilitated two broad outcomes – one, in the form of high-level principles/guiding principles relevant to each issue for the members to follow and align their domestic policies and two, in the form of monitoring and compliance tracking. A list of issue-wise outcome documents released by the G20 under the ACWG is given in Table 2.

Table 2: List of Documents released by ACWG since 2010

Issue/Challenge	*Document (Presidency/Year)*	*Coverage*
Prevention of bribery	Guiding Principles on Enforcement of the Foreign Bribery Offence (Russian Presidency, 2013)	Derived from the best practices of many countries in their enforcement of the foreign bribery offence, in line with UNCAC and OECD Anti Bribery Convention.
	Guiding Principles to Combat Solicitation (Russian Presidency, 2013)	Building on the UN's Convention Against Corruption, these principles provided a reference to countries wishing to step up their actions against solicitation, encouraging in particular actions in partnership with the private sector or collective action by G20 countries.
Prevention of money laundering and terror financing	Annual meetings are hosted by the FATF in collaboration with the Presidency to discuss the issue.	
Extradition and asset recovery	High Level Principles on Mutual Legal Assistance (Russian Presidency, 2013)	The OECD in collaboration with the UNODC put together six principles to enable countries to use them within their institutional and legal constraints.
	High-Level Principles on Cooperation on Persons Sought for Corruption & Asset Recovery (Chinese Presidency, 2016)	Drawn in accordance to the UNCAC they build upon the 2012 Common Principles for Denial of Safe Haven and 2013 Principles on MLA. The principles are centred on zero tolerance, zero loopholes in institutions and zero barriers and were proposed by China.
Denial of entry and safe haven	Common Principles for Action: Denial of Safe Haven (Mexican Presidency, 2012)	Draw on the offences listed under the UNCAC and other corruption instruments to support the process and cooperation among members to prevent corrupt officials from being able to travel abroad with impunity and for G20 members to establish a cooperative framework for denying safe haven.
Protection of whistle blower	High-Level Principles for the Effective Protection of Whistle blowers (Japanese Presidency 2019)	Principles for establishing and implementing clear laws and policies for protection of whistle blowers, laying down the scope and procedures of protected disclosures, remedies and effective protection against retaliation and effective enforcement and evaluation of legal frameworks.
Prevention of corruption in public sector	High-Level Principles on Asset Disclosure of Public Officials (Mexican Presidency, 2012)	Based on the Asia-Pacific Economic Cooperation (APEC) Principles for Financial Asset Disclosure by Public Officials and consistent with the UNCAC, OECD's OECD Guidelines for Managing Conflict of Interest in the Public Service and World Bank's and StAR's analysis.
	Principles for Promoting Integrity in Public Procurement (Turkish Presidency, 2015)	Focused on ease of accessibility and understandability of public procurement laws, improving effectiveness of the system, streamlining processes, adequacy of complaint mechanism, among others.

	High-Level Principles on Organizing against Corruption (German Presidency, 2017)	Aimed at organising and structuring public administration in a way that helps identify and minimize corruption risks and detects corrupt behavior, thus making public administration more resilient against corruption.
	High-Level Principles for Preventing and Managing Conflict of Interest in the Public Sector (Argentine Presidency, 2018)	Built on the existing work of UNCAC, OECD, World Bank, StAR program, Council of Europe, Organization of American States, African Union, and APEC, as well as previous G20 High-Level Principles in related area.
	High-Level Principles for Preventing Corruption and Ensuring Integrity in State-Owned Enterprises (Argentine Presidency, 2018)	These include ten principles for ensuring integrity of the state, on ownership and governance and prevention and detection of corruption and response.
Prevention of corruption in private sector	High Level Principles on Beneficial Ownership Transparency (Australian Presidency, 2014)	Concrete actions G20 countries to ensure legal entities are transparent and are not being misused for illicit purposes such as money laundering, tax evasion and corruption.
	High-Level Principles on Private Sector Integrity & Transparency (Turkish Presidency, 2015)	Includes elements such as describing the role of senior management and the Board, compliance supported by auditing and monitoring system, conduct of due diligence, etc.
	High-Level Principles on the Liability of Legal Persons for Corruption (German Presidency, 2017)	Aimed at adopting a robust legal framework for the liability of a legal person, effective, proportionate and dissuasive sanctions, enabling international cooperation and engaging with the private sector.
Protection of vulnerable sectors	High-Level Principles on Combatting Corruption related to Illegal Trade in Wildlife and Wildlife Products (German Presidency, 2017)	Focus on strengthening frameworks to combat corruption linked to illegal trade in wildlife and wildlife products, prevention of such trade, investigation, prosecution and sanctions and self-assessment of progress.
	High-Level Principles on Countering Corruption in Customs (German Presidency, 2017)	Focused on leading by example, implementing appropriate integrity standards, transparency automation, reform and modernization, human resource management, building relationship with private sector and auditing and reporting.
International Cooperation	Open Data Principles (Turkish Presidency, 2015)	Built on three pillars – the progress on increase in amount, sources and quality of available data, transparency through active collaboration and its role in preventing, detecting, investigating and reducing corruption.

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

As shown in the Table 2, a majority these documents are drawn from the existing international principles and recommendations of international organisations. In terms of the Presidency-wise outcome, a majority of these principles were released under the German Presidency. It was pointed out during the primary interactions that since issues such as trade and climate change became contentious under the German Presidency[33], the focus of the Presidency shifted towards achieving outcomes in the areas where consensus-building was easier.

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

The other important contribution of the G20 was in terms of monitoring and reporting the progress of the G20 members on these issues. Each Presidency[34] released accountability or monitoring reports summarising country-wise and issue-wise progress made by the G20 members. These reports are based on self-assessment and information provided by the members to the ACWG. Self-reporting can be an effective mechanism to in certain cases. According to the OECD[35] a majority of the foreign bribery schemes are detected through self-reporting or voluntary disclosures.[36] Thus, there is some merit in the mechanism established by the G20.

While it appears that since the establishment of the ACWG, the G20 members have made significant progress in aligning their domestic policies to the international anti-corruption norms and principles, an independent assessment of Transparency International presents a slightly different view in terms of the performance of the G20 members.

Figure 1 presents the geographical representation of the score of G20 members on the Corruption Perception Index released by Transparency International[37] in the year 2019. The Figure illustrates that with a score of 8 on 10, Germany is the least corrupt countries out of all the G20 members and with a score of 2.8 on 10, Russia is the most corrupt.

[33] Due to the US-China trade issues and US pulling out of the Paris Agreement.

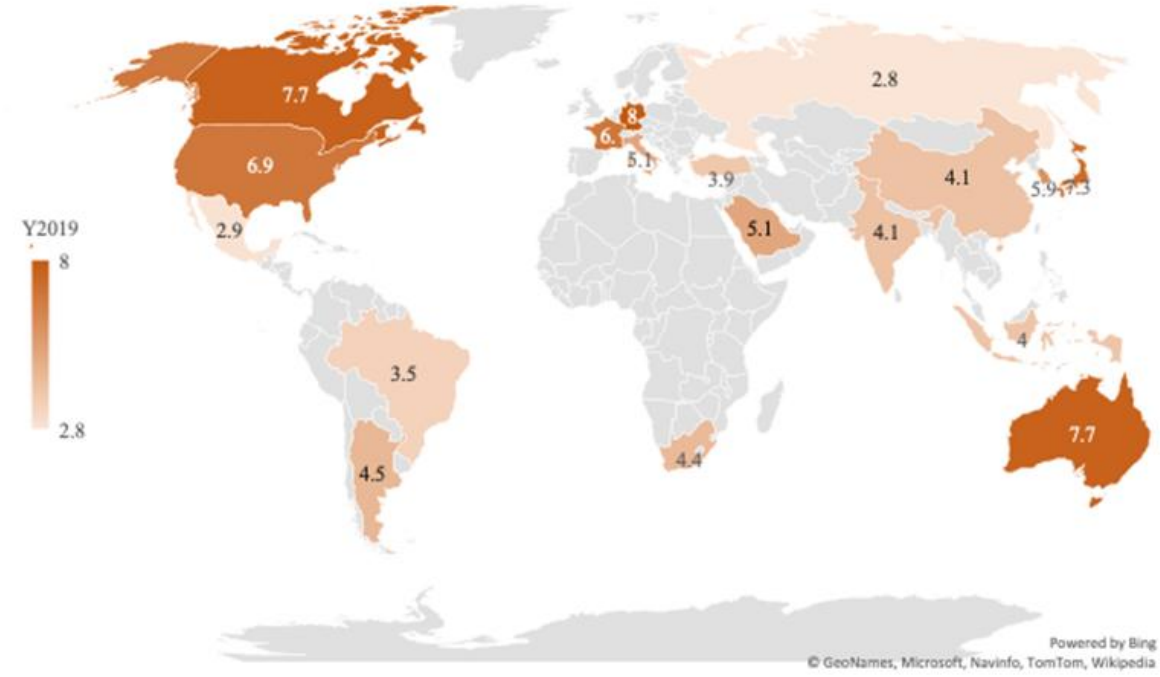
[34] Implementation/Monitoring/Accountability reports are available for all Presidencies since the South Korean Presidency, except for the Japanese Presidency. Documents from the ACWG meeting conducted during the Saudi Presidency are not yet in public domain (as of 13 October 2020).

[35] OECD (2017)

[36] Out of the various known sources, around 22 per cent of the detections take place through self-reporting.

[37] https://www.transparency.org/en/ (accessed on 3 November 2020).

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



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

The Figure reflects that emerging market economies have low score on the Corruption Perception Index.

Moreover, over the last decades, the performance of some of the G20 members has improved, while it has deteriorated for others. Table 3 presents a comparative ranking of the G20 members of the Corruption Perception Index.

Table 3: Comparative Ranks of G20 Members on Corruption Perception Index in 2010 and 2019

Country	2010	2019
Germany	15	9
Australia	8	12
Canada	6	12
United Kingdom	20	12
Japan	17	20
France	25	23
United States	22	23
South Korea	39	39
Italy	67	53
Saudi Arabia	50	53
Argentina	105	66
South Africa	54	70
China	78	80
India	87	80
Indonesia	110	85
Turkey	56	91
Brazil	69	106
Mexico	98	130
Russia	154	137

Source: Data extracted from the Transparency International website, accessible at https://www.transparency.org/en/cpi/2019/results (accessed on 12 October 2020).

Note:

Implies decline in rank
Implies an improvement in rank

This indicates that despite the G 20 efforts on anti-corruption a majority of the G20 member countries experienced a decline in their rank on the Corruption Perception Index between 2010 and 2019. India was one of few emerging market economies that experienced a marginal improvement in its rank. Looking specifically at foreign bribery, another report by Transparency International[38] found that a majority of the G20 countries[39] have limited, little or no enforcement of laws against foreign bribery. Among the G20 members, Turkey, Russia, Mexico and India were some of the worst performers on the foreign bribery index.

Thus, despite the existing mechanism and efforts, many G20 members, including India, continue to perform poorly on anti-corruption indices. The next sub-section specifically discusses India's progress and contribution in terms of the anti-corruption measures undertaken by the country and its own assessment submitted to the G20 ACWG.

[38] Accessible at https://www.transparency.org/en/news/foreign-bribery-rages-across-the-globe (accessed on 14 October 2020).

[39] Excluding EU. The Report takes in account 47 countries, including the OECD member countries and some other leading exporters namely China, Hong Kong, Singapore and India.

4. India's Progress and Contribution

As mentioned earlier, the G20 Anti-Corruption Working Group has established a self-assessment mechanism, wherein the G20 members report their progress on certain key issues related to corruption. These include issues such as ratification of the UNCAC, countering foreign bribery, anti-money laundering, denial of entry and safe haven, international cooperation on corruption issues, asset recovery, protection of whistle blower, fostering public sector and private sector integrity and beneficial ownership transparency, among others.

India's self-assessment reports reflect that over the last few years, the country has been actively involved in aligning domestic policies to international rules and norms for addressing corruption. Infact, after the establishment of the ACWG, India was one of the first few countries to ratify the UNCAC in May 2011. As regards the OECD's Anti-Bribery Convention; India is still not a party to the Convention However, as a G20 member, India has participated in the Working Group meetings of the OECD Anti-bribery Convention.

There are various domestic laws in India, which are specifically targeted towards addressing both domestic and foreign corruption. Laws related to corruption in India are governed by Indian Penal Code (1860).[40] Several amendments have been made to the domestic laws to align them to international rules, conventions and the commitments made under the G20.

For instance, the primary legislation for addressing corruption in India is the Prevention of Corruption Act (PCA), 1988. As a part of the implementation package of the UNCAC, India introduced a bill in Parliament criminalizing foreign bribery in March 2011 to amend the PCA, in line with the UNCAC requirements.[41] The bill was passed in both the houses of Parliament in July 2018, resulting in the Prevention of Corruption (Amendment) Act, 2018. The Amendment included definitional clarity both as regards the solicitation and acceptance of undue advantage, extending the scope to include businesses operating or incorporated outside India and setting clear timelines, among other things. India has also established active bribery of Pubic Officials as a standalone offence through this Amendment.[42] This has been one of the most significant reforms to address corruption and part of the success can be attributed to the ongoing process under the G20. In addition to this, The Whistle Blower Protection Bill was passed in 2011 resulting in the Whistle Blower Protection Act of 2011.[43]

Various other bills have been introduced to address the issue of corruption. Some of these are yet to be cleared by the Parliament. Nonetheless, it reflects the intent of the Government to make changes to the current order. For instance, under the Mexican Presidency, India introduced a Public Procurement Bill, 2012.[44] The Bill was revamped by the current government in the year 2015 and the New Public Procurement Bill, 2015 was introduced,

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40 See http://www.nishithdesai.com/fileadmin/user_upload/pdfs/Research_Papers/Overview-of-Anti-Corruption-Laws-in-India-Web1.pdf (accessed on 13 October 2020).

41 First Anti-Corruption Monitoring Report released under the French Presidency in 2011.

42 See the Accountability Assessment Report submitted by India under the Argentine Presidency in 2018.

43 This was later renamed the Whistle Blower Protection Act, 2014.

44 See http://sps.iitd.ac.in/PDF/PPB.pdf (accessed on 14 October 2020). This Bill has lapsed.

which further streamlined the processes involved in public procurement. However, there has been no progress on this Bill. The Prevention of Bribery of Foreign Public Officials and Officials of Public International Organizations Bill, 2011 was introduced in the Lok Sabha in March 2011 covering both, active and passive bribery. But it lapsed with the dissolution of Parliament in May 2015.[45] A new proposal was made to reintroduce the 2011 Bill with certain suggested amendments and recommendations as the Prevention of Bribery of Foreign Public Officials and Officials of Public International Organisations Bill, 2015[46], but there has not been any progress.

To check the incidence of corruption in the private sector, amendments have been made by the Ministry of Corporate Affairs under Companies Act 2013 to capture issues suggested by the ACWG, such as Beneficial Ownership. The concept of Beneficial interest was introduced under the Companies Act vide the Companies (Amendment) Act, 2017 and Companies (Significant Beneficial Owners) Amendment Rules 2019[47], which provides the disclosure requirements for significant beneficial owners in a company in line with the FATF recommendations.

Additionally, the Prevention of Money Laundering Act (PMLA), 2002 of India criminalises the illegal flow of money through the attachment and confiscation of property. India has reportedly taken several legislative, administrative and regulatory measures to implement the revised FATF standards by making changes to the PMLA.[48] For instance, in 2019, the definition of 'Proceeds of Crime' was clarified on the basis of the observations of FATF. For further enabling practical cooperation in the field of corruption in 2018, India introduced the Fugitive Economic Offenders Bill, 2018. The Bill was passed in the Parliament and led to the Fugitive Economic Offenders Act, 2018, that provide for measures to deter fugitive economic offenders from evading the process of law in India by staying outside the jurisdiction of Indian courts.[49] It also empowers any special court the right to confiscate properties and assets of economic offenders. India has also signed agreements with countries on real-time exchange of information on black money, including an Inter-Government Agreement with the United States to implement the Foreign Account Tax Compliance Act.

For fostering international cooperation to tackle the issue of corruption and denial of entry and safe haven, according to the assessment report submitted by India, the Bureau of Immigration in India provides the updated information of persons/foreign officials charged with or convicted of corruption/offences and they are blacklisted for dealing with any official

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45 For status of the Bill see https://www.prsindia.org/billtrack/ (accessed on 3 November 2020).

46 See the Report No. 258 of the Law Commission on, "Prevention of Bribery of Foreign Public Officials and Officials of Public International Organisations—A Study and Proposed Amendments", accessible at http://lawcommissionofindia.nic.in/reports/Report258.pdf (accessed on 14 October 2020)

47 https://www.mca.gov.in/Ministry/pdf/CompaniesOwnersAmendmentRules_08020219.pdf (accessed on 30 July 2020).

48 India's response to the Accountability Assessment Questionnaire, released under the Australian Presidency in 2014.

49 Full text of the Act is accessible at http://legislative.gov.in/sites/default/files/A2018-17.pdf (accessed on 15 October 2020).

in India.[50] In addition to this, to overcome transnational corruption India also follows the guidelines released under the Mexican Presidency for providing mutual legal assistance to G20 member countries.

To streamline the process of public procurement, India has deployed technology for transparency and accountability. A Central Public Procurement Portal (CPP Portal)[51] has been set up for providing comprehensive information and data relating to public procurement. The Indian Government has also established an internal, Government e-marketplace platform[52] for integrating buyers from across the government. To facilitate the transition and operation of this new mechanism, the amendment of General Financial Rules was done to make the use of this portal mandatory.[53]

During the Argentine Presidency, India took the lead and suggested a nine-point agenda for fugitives for building cooperation, implementation of UNCAC principles, arriving at a definition and establishing a common platform, among other things. It is worth mentioning that this is one of the few areas, where a proposal has been submitted by India. This is one of the issues that India can lead during its G20 Presidency in the year 2022.

Several other domestic regulations have been amended to meet the objectives and commitments set by the ACWG.[54] Thus, India's self-assessment reports reflect that a reasonable amount of progress and contribution has been made in terms of establishing rules and aligning domestic policies with international norms to counter corruption in a cooperative manner. Over the years, India has also collaborated with international organisations such as the OECD, International Anti-Corruption Academy (IACA) and the ADB in organising events, training sessions and workshops. Given India's progress and contribution to the G20 on corruption issues, India's Presidency in 2022 is a unique opportunity for the country to prioritise the areas of concern and gather momentum to foster cooperation on these issues.

5. Key Observations

The discussion in this paper highlights four broad things.

One, over the years, the issue of corruption has become international in character and thus requires collective action. Two, various international institutions have developed norms and rules to address corruption. These rules are either issue-specific or constitutional in nature. Three, in the last one decade, the G20 has played an active role countering corruption by establishing an endogenous or informal governance mechanism for addressing corruption, bringing together sovereign nations, international institutions, civil society and the business

[50] India's response to the Accountability Assessment Questionnaire, released under the Australian Presidency in 2014.

[51] https://eprocure.gov.in/eprocure/app (accessed on 15 October 2020).

[52] https://www.india.gov.in/spotlight/government-e-marketplace-procurement-made-smart#tab=tab-1 (accessed on 15 October 2020).

[53] Accountability Assessment Report submitted by India under the Argentine Presidency in 2018.

[54] Benami Transactions (Prohibition) Amended Act, 2016; Direct Benefit Transfer (DBT); linking banks accounts with the national unique identification number, amendments to the Foreign Contribution Regulation Act 2010 (FCRA), etc.

community to cooperate against corruption. This is one of the key contributions of the G20 as a multilateral body. Four, external reviews indicate that between 2010 and 2019, a majority of the G20 member countries experienced a decline in their rank on the Corruption Perception Index, and that most G 20 developing economies, including India, continue to perform relatively poorly on anti-corruption.

The challenge faced by global governance initiatives in tackling concerns such as corruption is the issue of sovereignty and thus, domestic implementation and enforcement of international laws. Domestic policies and their implementation are the prerogative of sovereign nations, and while international agencies and governance institutions can set the broad norm and constitution, the adoption, implementation and enforcement of these rules lie with these nations.

The G20 has established a mechanism, where countries undertake self-assessment, following straightforward targets rather than imprecise goals. Thus, there is an accountability procedure established and the paper found that all countries, including India have periodically submitted their reports to the Working Group. The role of the G20 is circumscribed at this level. The advantage of the G20 mechanism lies in its multi-stakeholder design and approach. The way discussions are organised, there is participation from the civil society, businesses, international organisations and governments of both developed countries and emerging market economies. The G20 set-up a review mechanism, similar to the peer review structure of the other global initiatives, with the only difference that the G20 is a smaller and a closed group. Through its design and approach, the G20 nevertheless infuses a political momentum and transparency into actual practice.

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