

COMMUNICATION ON ENGAGEMENT (COE)



Period covered by this Communication on Engagement [Ideally the two years prior to this report]

From: 1st January 2016

To: 31st December 2017

Part I. Statement of Continued Support by the Chief Executive or Equivalent

Please use the box below to include the statement of continued support signed by your organization's Chief Executive or equivalent.

30th March 2018

To our stakeholders:

I am pleased to confirm that TI-Kenya reaffirms its support to the United Nations Global Compact and its Ten Principles in the areas of Human Rights, Labour, Environment and Anti-Corruption. This is our Communication on Engagement with the United Nations Global Compact. We welcome feedback on its contents. In this Communication of Engagement, we describe the actions that our organization has taken to support the UN Global Compact and its Principles as suggested for an organization like TI-Kenya. We also commit to sharing this information with our stakeholders using our primary channels of communication.

Sincerely,

A handwritten signature in black ink, appearing to read "SK", is written over a horizontal line.

Samuel Kimeu,
Executive Director

Part II. Description of Actions

TI-Kenya has been involved in the following engagements aimed at promoting transparency and accountability in the private sector in the reporting period.

1. **Business Integrity Country Agenda:** TI-Kenya has been implementing the Business Integrity Country Agenda (BICA) project since April 2017. The overall goal of BICA is to create a relevant body of evidence on business integrity in the country, a widely-shared agenda for reform and a collective momentum for change towards more business integrity among key stakeholders. BICA includes an assessment phase involving relevant stakeholders resulting in a country report which includes specific recommendations for a BICA reform agenda, and a collective action phase where the reform agenda will be put into practice through targeted advocacy measures that may last for up to two years or more. TI-Kenya conducted the assessment through a participatory approach that involved key stakeholders from the

government and regulatory agencies, private sector, civil society and professional associations. TI-Kenya also set up a National Advisory Group involving key stakeholders from the aforementioned sectors, that were consulted regularly during the BICA Assessment. TI-Kenya intends to use BICA to:

- help identify major challenges of business integrity in Kenya and, thus, provide credible information for advocacy activities;
- engage stakeholders in a shared diagnosis of the situation;
- act as a baseline against which progress can be subsequently measured.

An action plan to implement the recommendations will be drawn and widely disseminated following the launch of the report, and support sought from key stakeholders in implementation.

2. **Beneficial Ownership Advocacy:** Some of the specific commitments made by the Government of Kenya during the 2016 London Anti-Corruption Summit¹ regarding exposing corruption included taking measures in line with the new Companies' regulatory framework to establish a public central register of company beneficial ownership² information and to ensure that international and domestic law enforcement agencies have full and effective access to beneficial ownership information for companies and other legal entities registered within their jurisdiction. TI-Kenya thus embarked on intensive advocacy for the inclusion of the aforementioned beneficial ownership provisions in the Companies' Act. TI-Kenya's proposals were adopted into the Companies (amendment) Act, 2017. TI-Kenya also conducted an assessment on the current beneficial ownership legal framework in Kenya, a report was prepared, published and launched in 2017. A dissemination meeting was later held with stakeholders resulting in the development of an action plan to guide implementation of the recommendations by various stakeholders.
3. **Development of Bribery Act Regulations:** TI-Kenya is a member of the Steering Committee formed by the Ethics and Anti-Corruption Commission (EACC) with the support of GIZ, to spearhead the process of developing the Regulations to the Bribery Act 2016. The development and advocacy for the law was initiated by the private sector. The Committee has so far overseen the review of the Bribery Act, 2016 and the report shared has recommendations to assist EACC in the implementation of the law. TI-Kenya also supported the validation of a study to guide EACC in coming up with suggested amendments to the Act, and recommendations to the proposed Regulations, Guidelines and Procedures under the Bribery Act, 2016.
4. **Formulation of a national action plan on business and human rights:** TI-Kenya has been among stakeholders involved in the aforementioned process coordinated by the Kenya National Commission on Human Rights. In 2017, TI-Kenya was tasked with leading the thematic group on revenue transparency management and thus steered the development of a background paper on the theme to inform the action planning process. The paper pays focus to public procurement and disposal, public licensing, taxation and human rights, ease of doing business and beneficial ownership. TI-Kenya will continually engage in the process of developing the national action plan.

¹ The London Anticorruption Commitments were made by the country through the Attorney General's office in 2016 and they focused on exposing of corruption, punishing the corrupt and supporting those who have suffered from corruption and driving out the culture of corruption wherever it exists.

² Beneficial Owner is a natural person who ultimately owns or controls a legal person or arrangements or the natural person on whose behalf a transaction is conducted and includes those persons who exercise ultimate effective control over a legal person or arrangement.

5. **Representation in the UN Global Compact Kenya Anti-Corruption Collective Action Advisory Committee:** In August 2016, TI-Kenya was invited by the UN Global Compact Kenya to join an advisory committee for a three year project implemented under the Siemens Integrity Initiative that seeks to provide a framework for the Kenya Network and its business participants to advance meaningful collective action efforts that prevent corruption, increase transparency, and improve the local business environment. Thus in the period under review, TI-Kenya participated in meetings of the advisory committee where the content of activities, timelines and strategies to adapt the project to the local context were discussed.
6. **Participation in Global Compact local events:** TI-Kenya participated in various UN Global Compact Kenya activities including the annual general of the local network.

Part III. Measurement of Outcomes

1. Following TI-Kenya's advocacy on beneficial ownership, Kenya has enhanced its legislative framework on beneficial ownership through the enactment of the Companies (Amendment) Act, 2017. The government also renewed its commitments on beneficial ownership through inclusion of the commitments in the Open Government Partnership Second National Action plan. The 5th commitment in the action plan focuses on ensuring greater transparency around bids and contracts by individuals and companies in Kenya. The specific milestones include initiating an open and transparent multi-stakeholder consultation on the state, perception and legislation on Beneficial Ownership in Kenya and development of an open, accessible and usable Beneficial Ownership Registry. TI-Kenya has also succeeded in creating greater awareness on beneficial ownership among key stakeholders from the government, private sector, civil society and general public.
2. TI-Kenya's engagement in the UN Global Compact events enabled TI-Kenya to form further linkages with the private sector, and establish contacts with private sector representatives engaged in our reported interventions.