

## UK ANTI-CORRUPTION SUMMIT - 12 MAY 2016

### SOUTH AFRICA COUNTRY STATEMENT

- South Africa thanks the United Kingdom and Prime Minister Cameron for convening and hosting this Summit on anti-corruption matters. Our country welcomes this addition to the global discourse on countering corruption. We appreciate the efforts by the UK to open additional channels of communication and for the initiatives to strengthen partnerships aimed at addressing corruption, which is critical to securing our shared future prosperity.
- The South African Government supports the efforts of the United Nations and its partner organisations to curb corruption in particular with regard to giving effect to the United Nations Convention against Corruption (UNCAC) as adopted by the General Assembly in 2003 and to which South Africa is a signatory. South Africa is committed to firstly preventing, and then to exposing and rooting out corruption domestically and internationally, and our country will remain an active partner to countries who share this ambition.
- South Africa is confident that the outcome of this Summit, as documented in the Communiqué, shall serve to complement, and to remind us of the wide-ranging anti-corruption measures that we have already committed ourselves to under established international anti-corruption fora created by UNCAC and other international agreements, and the resulting global standards.
- As a country, we will continue working with other G20 members in the context of the G20 Working Group on Anti-Corruption to address corruption and to actively pursue a joint international agenda. We stand by the commitment of our leaders at the G20 Summit in Antalya in November 2015 where G20 Leaders indicated that, “in support of our growth and resilience agenda, we remain committed to building a global culture of intolerance towards corruption through effectively implementing the 2015-2016 G20 Anti-Corruption Action Plan.”
- In line with our domestic policy framework, as set out in our National Development Plan (NDP) and implemented through the Medium-Term Strategy Framework, as well as international commitments to review and improve our policies and approaches to countering corruption, South Africa is presently engaged in a diagnostic assessment that will contribute to a redrafting of a National Anti-Corruption Strategy.
- We are confident that our revised National Anti-Corruption Strategy will allow us to make further inroads towards rooting out corruption within our country. This strategy will be based on international best-practice models, many of which have been discussed at this Summit, and will focus on ensuring a structured, consolidated and coordinated governmental and societal approach to fight corruption and foreign bribery.
- It will serve to complement the existing integrated, inter-related programmes and legislation we have instituted domestically, and which we are currently implementing. Towards developing the resilient anti-corruption system required by our NDP, we have already diversified the strategic and operational scope from a primary focus on investigations towards improving inter-sectoral cooperation; improving government communication and public awareness; intelligence coordination, integrated policy & strategy development; public sector capacity development; and more focussed interventions in sectors vulnerable to corruption.

Below is a list of some of the key national legislation that has been promulgated to address corruption:

**Extradition Act, 1962 (Act No. 67 of 1962):**

The Act provides for the extradition of persons accused or convicted of certain offences.

**Public Protector Act, 1994 (Act 23 of 1994):**

This Act emanated from the provisions of section 110 to 114 of the Interim Constitution, which provided for the establishment of the Public Protector. In terms of these constitutional provisions the powers and functions of the Public Protector include, among others, to investigate, on his or her own initiative or on receipt of a complaint:

- any alleged—maladministration in connection with the affairs of government at any level;
- abuse or unjustifiable exercise of power or unfair, capricious, discourteous or other improper conduct or undue delay by a person performing a public function;
- improper or dishonest act, or omission or corruption, with respect to public money;
- improper or unlawful enrichment, or receipt of any improper advantage, or promise of such enrichment or advantage, by a person as a result of an act or omission in the public administration or in connection with the affairs of government at any level or of a person performing a public function; or
- act or omission by a person in the employ of government at any level, or a person performing a public function, which results in unlawful or improper prejudice to any other person.

The Public Protector Act, 1994, provides for matters incidental to the office of the Public Protector as contemplated in the Constitution, for example the appointment of the Public Protector and his or her Deputy and personnel, on how matters are reported to the Public Protector, on the investigations of the Public Protector and the like.

**Special Investigating Units and Special Tribunals Act, 1996 (Act 74 of 1996):**

The Act provides for the establishment of Special Investigating Units for the purpose of investigating serious malpractices or maladministration in connection with the administration of State institutions, State assets and public money, as well as any conduct which may seriously harm the interests of the public. It further provides for the establishment of Special Tribunals so as to adjudicate upon civil matters emanating from investigations by Special Investigating Units. In terms of section 2(2) of the Act the President may establish a Special Investigating Unit on, *inter alia*, the ground of alleged corruption in connection with the affairs of any State institution or any unlawful or improper conduct by any person which has caused or may cause serious harm to the interests of the public or any category thereof.

**International Co-operation in Criminal Matters Act, 1996 (Act 75 of 1996):**

The Act facilitates the provision of evidence and the execution of sentences in criminal cases and the confiscation and transfer of the proceeds of crime between the Republic and foreign States. In this regard the Act contains the following important provisions.

**Criminal Law Amendment Act, 1997 (Act 105 of 1997):**

This Act, among others, provides for the imposition of minimum sentences in respect of certain serious offences, including corruption. For instance, in terms of this Act a first offender for corruption, involving amounts of more than R500 000, involving more than R100 000 if committed by a syndicate or group of persons, involving more than R 10 000 if committed by a law enforcement officer, must, generally speaking, be sentenced to a minimum of 15 years' imprisonment, a second offender, to a minimum of 20 years' imprisonment, and a third or subsequent offender, to a minimum of 25 years' imprisonment.

#### **National Sport and Recreation Act, 1998 (Act No. 110 of 1998):**

In terms of section 13(4) of the Act the South African Sports Commission may, at any time, of its own accord, cause an investigation to be undertaken to ascertain the truth within a sport or recreation body, where allegations of, among others, any malpractice of any kind or "corruption" offence, as prescribed in the Prevention and Combating of Corrupt Activities Act, 2004, in the administration of sport have been made. The Minister of Sport may approach the President of the Republic to appoint a commission of inquiry referred to in section 84(2) of the Constitution.

#### **Witness Protection Act, 1998 (Act 112 of 1998):**

The object of this Act is to provide for the better protection of witnesses through witness protection programmes, which are administered by a central Office for Witness Protection. It is often difficult to prosecute cases of corruption successfully because of witnesses not coming forward to testify because of intimidation. Offences in respect of which a witness or related person may be placed under witness protection and which have a bearing on corruption directly or indirectly, include, among others, the following:

- Any offence relating to exchange control, corruption, extortion, fraud, forgery, uttering or theft, involving amounts of more than R50 000, involving amounts of more than R10 000 and the offence is committed by a group of persons or by a syndicate or if the offence was committed by a law enforcement officer;
- Any offence referred to in the Prevention of Organised Crime Act, 1998.

#### **Prevention of Organised Crime Act, 1998 (Act 121 of 1998):**

The Act introduces measures to combat organised crime, money laundering and criminal gang activities, often the source of corruption. It prohibits certain activities relating to racketeering, that is the planned, ongoing, continuous or repeated participation or involvement in certain offences, amongst others, corruption. It prohibits money laundering and criminalises certain activities associated with gangs. The Act also provides for the recovery of the proceeds of unlawful activities as well as for the forfeiture of criminal assets that have been used to commit an offence or assets that are the proceeds of unlawful activities.

#### **Protected Disclosures Act, 2000 (Act 26 of 2000):**

The principal objects of the Act are to make provision for procedures in terms of which employees in both the private and the public sector may disclose information regarding unlawful or irregular conduct by their employers or other employees in the employ of their employers. It also provides for the protection of employees who make disclosures, which are protected in terms of the Act.

The Protected Disclosures Amendment Bill, 2015, was introduced into Parliament in December 2015. The Bill aims to amend the Protected Disclosures Act, 2000, so as to extend the application of the Act to any person who works or worked for the State or another

person or who in any manner assists or assisted in carrying on or conducting the business of an employer or client as an independent contractor, consultant, agent or person rendering services to a client while being employed by a temporary employment service. The Bill also aims to amend the principal Act by regulating joint liability of employers and their clients; to introduce a duty to inform employees of any decision to investigate disclosures of information regarding unlawful or irregular conduct; to provide for immunity against civil and criminal liability flowing from a disclosure of information which shows or tends to show that a criminal offence has been committed, is being committed or is reasonably likely to be committed and to create an offence for the disclosure of false information.

**Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004):**

Section 15 creates offences in respect of corrupt activities relating to sporting events and, among others, provides that any person who directly or indirectly carries into effect any scheme which constitutes a threat to or undermines the integrity of any sporting event, including, in any way, influencing the run of play or the outcome of a sporting event, is guilty of the offence of corrupt activities relating to a sporting event.