

Presentation of findings of the OECD Foreign Bribery Report

Leah Ambler, Legal Analyst, OECD Anti-Corruption Division

Minister Taubira, Secretary-General, Your Excellencies, Ladies and Gentlemen,

I am honoured to present to you the findings of the first OECD Foreign Bribery Report. The starting point for the research behind this report was to measure a phenomenon that has, to date been described only in terms of perception surveys, estimations or allegations that are not evidence-based.

So, how to measure a crime that is by its very nature, complex and covert?

[Slide 1] This was done by analysing the 427 cases in which individuals and entities have been sanctioned for the specific offence of bribery of foreign public officials over the 15 years since the entry into force of the OECD Anti-Bribery Convention in 1999. This exercise, of course, had its limitations. Many of the court decisions and settlement arrangements that formed the basis of this analysis did not contain all relevant information. Some were not even made available in their entirety. The lack of data and the large number of 'unknown' fields in this report leads to one of its key messages – the need to make information on concluded foreign bribery cases publicly available to the greatest possible extent.

Now what could be extrapolated from the data?

[Slide 2] Fifteen years, seventeen countries, USD 5.4 billion in combined monetary sanctions, and 80 people behind bars. This is the balance-sheet of efforts to combat a crime that, 15 years ago, was not even illegal in some countries. We have seen an increase in concluded foreign bribery cases since 1999. That being said, cases are taking longer to conclude. This could explain the downturn in the number of sanctions since its peak in 2011.

It is clear that an enforcement gap remains – only 17 out of the 41 States Parties to the OECD Anti-Bribery Convention have ever successfully concluded a foreign bribery case. Nevertheless, there are signs that this could improve further, with 390 foreign bribery investigations (almost as many as the total 427 cases concluded to date) underway in 24 countries.

[Slide 3] From these concluded cases we can see both how and why bribes are paid. The OECD Foreign Bribery Report confirms our suspicions that intermediaries are involved in almost all transnational bribery schemes, and these are mostly agents or corporate vehicles. This data should

help focus government and business approaches to address loopholes created by such intermediaries.

[Slide 4] We can now also categorically say that bribery is not good for business. With bribes equalling 10.9% of the total value of the transaction and monetary sanctions ranging from 100% to 200% of the proceeds of the corrupt transaction in 41% of cases, the business case against corruption is clear. On the basis of these figures alone, let alone the numerous other reputational and business costs involved in a foreign bribery enforcement action, it clearly does not pay to bribe.

From this snapshot of the data emerging from the OECD Foreign Bribery Report, we can see that many of our assumptions about this crime have been confirmed: these cases involve intermediaries funnelling bribes to help obtain mainly public procurement contracts; they are often brought to light through self-reporting and resolved via settlement procedures. On the other hand, the report challenges some pre-conceived ideas: developing countries, Heads of State and politicians are not the only ones on the receiving end of bribes; bribery cannot be blamed on rogue employees; and cases are not being brought to the attention of law enforcement authorities by whistleblowers.

The question now, is what do we do with this information?

[Slide 5] The report concludes with proposals for both governments and business. For governments: to make information on concluded foreign bribery cases publicly available, including settlement arrangements; to strengthen and harmonise whistleblower protection mechanisms; to do more to prevent and sanction both sides of bribery in public procurement processes. For business: to ensure that corporate executives lead by example in implementing their companies' anti-bribery policies; to conduct extensive due diligence on intermediaries and to ensure that whistleblowers within the company can report without fear of reprisals. The report also highlights areas for future work and deeper analysis, like the role of SOEs as both bribe givers and bribe takers and the fate of the public official on the receiving end of the bribery in each transaction. Most importantly, it is hoped that this will be the first of many OECD Foreign Bribery Reports.

Finally, I would like to thank you for your attention and say that I am humbled by your interest in this Report. My hope is that the first OECD Foreign Bribery Report will be a meaningful contribution to the fight against corruption and that its words will translate into action.