

## OECD SOUTH-EAST ASIA REGIONAL FORUM

### Lunchtime Speech on the OECD Anti-bribery Convention

Carolyn Ervin, Director, OECD Directorate for Financial and Enterprise Affairs

➤ **Background on Convention:**

- The Convention entered into force in 1999 with 35 signatories. It has now grown to 38 Parties – i.e. the 30 OECD countries and 8 non-OECD countries which account for a significant proportion of exports and outward FDI (e.g. Argentina, Brazil, Chile and South Africa). Israel is the most recent country to ratify the Convention (2009).
- Four of the Parties are in Asia-Pacific (Japan, Korea, Australia and New Zealand).

➤ **Focus:** The Convention focuses on bribery of foreign public officials in international business transactions. It is therefore more focused and specialised than the UNCAC. The Convention's focus is relevant to Thailand and other ASEAN countries because they are increasingly active in international business as follows:

- ASEAN countries' regional integration scheme has succeeded in attracting significant inward foreign direct investment (in particular from OECD countries). This is very good news, but of course this increases opportunities for exposure to corruption.
- Compliance with international anti-foreign bribery norms would further increase the attractiveness of the region for secure and sustainable investment from outside ASEAN, and help prevent corrupt behaviour by companies from outside the region when doing business in the region.
- Outward foreign direct investment by the ASEAN is mostly interregional as well as to China. Thus compliance with international anti-foreign bribery norms would further strengthen the security and sustainability of interregional investment.
- Since the ASEAN governments are also trying to increase competitiveness by expanding their markets further abroad, a clear commitment to following international anti-foreign bribery norms will make this expansion easier as companies from ASEAN will be seen as a safe bet.

➤ **Implementation of the Convention:** Non-compliance with the OECD Anti-Bribery Convention has a direct impact on fair access to foreign markets. It is therefore imperative that Parties to the Convention ensure each other's compliance with the Convention through an effective mechanism to monitor the implementation of the Convention.

- This is done through a **peer review process** in the Working Group on Bribery, which is essentially a conference of the Convention's Parties. The Group meets 4 times per year.
- There have been two rounds of peer review. The third round is expected to begin in 2010.
- The meetings also allow law enforcement officials to meet, discuss cases, and enhance co-operation in investigations.

➤ **Success of the Convention:**

- All 38 Parties punish foreign bribery with imprisonment and often substantial fines.
- Most have corporate liability for foreign bribery
- The vast majority criminalise foreign bribery when committed wholly abroad by a national
- No Party permits tax deductibility of bribes to foreign public officials
- More than 130 convictions for foreign bribery, with maximum fine of USD 1.6 billion

➤ **Thailand's and Indonesia's interest in closer cooperation with the Working Group:** The Working Group is pleased that Thailand's National Anti-Corruption Commission (NACC) has expressed interest in closer cooperation with the Working Group. More recently, Indonesia's Corruption Eradication Commission (KPK) also expressed interest. Thailand and Indonesia bring much to the table, as leaders in the region on fighting corruption.

- **OECD cooperation in the Region:**
  - The OECD cooperates with other organizations in the region involved in anti-corruption activities, such as ASEAN, Asian Development Bank and APEC.
  - One important initiative is the **ADB/OECD Anti-Corruption Initiative for Asia-Pacific** (“Initiative”), of which Thailand has been a member since 2005 and regularly attends the Initiative’s meetings and events. Cambodia, Indonesia, Malaysia, Philippines, Singapore and Vietnam are also highly committed members.
  - Thailand and Indonesia have been particularly proactive in ensuring that the introduction of a country voluntary review mechanism for the Initiative is successful, by seriously considering volunteering to be reviewed under the pilot program.
  
- **Conclusion:** As a key player in FDI and trade, ASEAN has much to gain and contribute by increasing cooperation with the OECD. Regional integration has increased the competitive advantage of ASEAN’s members in the world market. Integration will also facilitate the adoption of international anti-foreign bribery standards under the OECD Anti-Bribery Convention. The OECD therefore welcomes the leadership that Thailand is taking in the region on the fight against transnational bribery.