



GOBIERNO DE CHILE
MINISTERIO DE RELACIONES EXTERIORES



Banco Interamericano
de Desarrollo



Conference on

**Detection, investigation and prosecution of
bribery**

**27 September 2006
Santiago de Chile, Chile**

Draft Outline

**Organisation for Economic Co-operation and Development
and the Government of Chile**

in co-operation with

the Inter-American Development Bank

**and the contribution by
the Organization for American States, as well as
the United Nations Office for Drugs and Crime**

Detection, investigation and prosecution of bribery

Objectives

The purpose of this Conference is, ultimately, to determine elements ensuring effective prevention and prosecution of bribery, including of trans-national bribery. To achieve this, participants will:

1. Share experience and knowledge on the anti-corruption standards resulting from the international anti-corruption instruments applicable in Latin America, including the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the Revised OECD Recommendation, the Inter-American Convention against Corruption and the UN Convention against Corruption;
2. Review the effectiveness of domestic anti-corruption policies and regulations, including anti-corruption reform projects, in terms of detection, investigation and prosecution of bribery, in particular trans-national bribery;
3. Assess the roles and functions of different key public authorities involved in working towards effective detection, investigation and prosecution of bribery;
4. Determine the role of non-government actors, including development banks, the private sector, civil society, and trade unions and the media, in uncovering bribery.

Background

This Conference is organised in the framework of the Latin American OECD Anti-corruption Programme, which is designed to strengthen implementation and enforcement of the regional anti-corruption conventions and to promote integrity in Latin America. Argentina, Brazil, Chile and Mexico, the Latin American Parties to the "Convention on Combating Bribery of Foreign Public Officials in International Business Transactions", play a leading role as a natural bridge between the OECD and the Organization of American States.

Following an initial period focusing on the implementation of both the OECD Convention and the Inter-American Convention Against Corruption (OAS Convention), recent efforts seek to ensure the effective enforcement of the regional anti-corruption instruments, including the United Nations Convention against Corruption (UNCAC). Annual regional meetings hosted by Parties to the Convention offer a platform for exchange between representatives from a wide range of ministries, government.

This event is organised by the government of Chile and OECD Anti-Corruption Division. It builds on earlier events in the region, including the 2004 "Conference on Implementation and Enforcement of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions" hosted by Brazil and the 2005 "Specialised Training on Anti-Corruption Case Work" for prosecutors and investigators from Latin America hosted by Argentina. It benefits from the co-operation of the Inter-American Development Bank and the contribution from the Organisation of American States and the United Nations Office on Drugs and Crime (UNODC). The World Bank and the United Nations Interregional Crime and Justice Research Institute (UNICRI) also participate.



Target Audience

To ensure full benefit of the Conference for the Americas, public and private sector representatives are invited to the Conference.

The Conference will bring together representatives from countries Party to the OECD Anti-Bribery Convention both from the region i.e. Chile, Argentina, Brazil, Mexico but also from other State Parties to the OECD Anti-bribery Convention. Other Latin American countries will also be invited to send representatives involved in anti-corruption.

Government representatives concerned may be from the Ministry of Foreign Affairs, Ministry of Justice, the Ministry of the Interior, the Ministry of Public Administration, Ministry of Finance; Ministry of Economy; the Judiciary; the Public Prosecutor's Office; the Republic's General Comptroller's Office; the Central Bank; the State Defense Council, the Government General Internal Audit Council, Specialised anti-corruption offices, etc.

Methodology

The one day program will take the form of presentations and general discussions.

Presentations by speakers should allow time for discussion.

Translation will be provided in English and Spanish.

Venue

Hotel Plaza el Bosque Park & Suites
www.plazaelbosque.cl
Ebro 2828, Las Condes, Santiago de Chile
Telephone: 56 2 498 1800

Draft Outline

9:00 - 9:30	REGISTRATION
9:30 – 10:00	<p>OPENING SESSION</p> <p><i>Mr. Alejandro Foxley, Minister of Foreign Affairs</i></p> <p>Keynote Speech <i>Professor Mark Pieth, Professor for Criminal Law, University of Basel, Switzerland</i></p> <p>Significant regional anti-corruption instruments were negotiated and adopted about ten years ago and an international anti-corruption convention came into force in December 2005. Parties to those different instruments have collectively and individually taken multi-faceted anti-corruption actions.</p> <p>Professor Pieth will put the various measures adopted over the last decade at domestic and international level into the longer term perspective. He will in so doing try to assess the progress achieved and the effectiveness of actions on the fight against corruption, in particular in the Americas. He may also draw attention to the main challenges to making the fight against corruption fully effective in the years ahead.</p>
10:00 – 11:00	<p>SESSION 1</p> <p>STANDARDS RELATING TO DETECTION, INVESTIGATION AND PROSECUTION OF BRIBERY RESULTING FROM THE INTERNATIONAL ANTI-CORRUPTION CONVENTIONS</p> <p>Chair: <i>Ambassador Luis Winter, Director, Special Politics, Ministry of Foreign Relations, Chile</i></p> <p>Speakers:</p> <p><i>Patrick Moulette, Head, Anti-Corruption Division, Directorate for Financial and Enterprise Affairs, OECD</i></p> <p><i>Jorge Garcia Gonzalez, Chief, Office of Legal Cooperation, Department of International Legal Affairs, Organization of American States</i></p> <p><i>Sandra Valle, Senior Interregional Advisor, Legal Advisory Section, Division for Treaty Affairs, United Nations Office on Drugs and Crime</i></p> <p>The OECD, the OAS and the United Nations have adopted Anti-Bribery Conventions which establish legally binding standards to criminalise bribery of public officials and provide a basis for effective international judicial co-operation. These key provisions are complemented by additional non-criminal measures.</p>

	<p>Representatives from the different organisations in charge of the implementation and enforcement of the mentioned instruments will put the respective standards and objectives in perspective and highlight overall results and progress achieved. They will place a particular focus on the provisions relating not only to the sanctioning of natural but also legal persons, the background to these provisions as well as the key questions raised in connection with their enforcement. They may also identify common key elements included in the different instruments and try to determine whether these create overlapping or conflicting requirements for national implementing laws. They will complement the discussions by providing information on possible future developments.</p> <p>These interventions will be followed by a questions and answers session. Participants will also be able to give consideration to creative avenues of co-ordination in the application of the international anti-corruption frameworks to ensure optimal cooperation within national governments and between them.</p>
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11:00 – 11:30 **Coffee break**

<p>11:30 – 13:00</p>	<p>SESSION 2</p> <p>TAKING STOCK OF PROGRESS IN DETECTING, INVESTIGATING AND PROSECUTING BRIBERY IN THE REGION</p> <p>Chair: <i>Steve Zimmermann</i>, Chief, Office of Institutional Integrity, Inter-American Development Bank</p> <p>Speakers: <i>Mr. Isidro Solís Palma</i>, Minister of Justice of Chile <i>Mr. Luiz Guilherme Mendes De Paiva</i>, Diretor de Processo Legislativo, Secretaria de Assuntos Legislativos, Ministério da Justiça, Brazil <i>Dr. Juan Carlos Dure</i>, Coordinator for Investigations, the Anti-Corruption Office, Argentina <i>Mr. Luis Silva García</i>, Head of the Transparency Networking Unit, Ministry of Public Administration, Mexico <i>Kathrin Plangemann</i>, Public Sector Specialist, Latin America & the Caribbean, The World Bank</p> <p>This session will provide an overview of the anti-corruption steps taken in recent years by Latin American countries. Speakers will focus their presentations on the implementation and enforcement of the international conventions. They may mention the strategies developed to detect, investigate and prosecute bribery of domestic and foreign public officials. These strategies may include some awareness-raising components, in particular of investigators and law enforcement authorities. However speakers will mostly describe the investigative powers of different services involved, the resources allocated as well as procedures applicable to the detection, investigation and prosecution of corruption offences, including transnational bribery.</p>
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	<p>Speakers will aim at assessing the strength of the system their governments put in place to detect, investigate and prosecute bribery cases. They may also highlight main achievements – including in terms of alleged bribery cases prosecutions - or shortcomings - in view of determining areas where future action is needed. Speakers may also address the role and effectiveness of international cooperation within the region and outside the region in bringing forward bribery investigations and prosecutions.</p> <p>During the regional anti-corruption events co-sponsored by the OECD in Brazilia (2004) and Buenos Aires (2005) a key message was that although corruption remains to be an issue of major concern throughout the region, the level of tolerance has significantly decreased. It was underlined that laws were in place, governments were strengthening enforcement mechanism, business integrity programmes were developing and there was increasing attention in the media and civil society at large. Regarding business, a strong focus was placed on encouraging the further development and enforcement of integrity programmes abiding with the law and voluntary commitments. Finally, the need to foster regional cooperation was identified as essential to effectively fight corruption.</p>
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13:00 –14:30

Lunch

<p>14:30 – 16:00</p>	<p>SESSION 3</p> <p>ROLES OF DIFFERENT KEY PUBLIC AUTHORITIES INVOLVED IN WORKING TOWARDS EFFECTIVE DETECTION, INVESTIGATION AND PROSECUTION OF BRIBERY</p> <p>Chair: <i>Professor Mark Pieth</i>, Professor for Criminal Law, University of Basel, Switzerland</p> <p>Speakers:</p> <p><i>Mr. José Grinda Gonzalez</i>, Public Prosecutor, Special Public Prosecutor’s Office for the repression of Economic Crimes Related with Corruption, Spain</p> <p><i>Dr. Günther Puhm</i>, Senior Public Prosecutor, Oberlandesgericht München, Germany</p> <p><i>Mr. Mark Mendelsohn</i>, Deputy Chief, U.S. Department of Justice</p> <p><i>Ms. Ana Tulia Lamboglia</i>, Public Prosecutor of the National Anticorruption Unit, Colombia</p> <p>General discussion</p> <p>Detecting, investigating and prosecuting corruption are particularly difficult endeavours and successes are rare. Bribery and corruption are indeed often characterised by a high degree of sophistication concerning the methods of committing and camouflaging the crimes, making detection and prosecution difficult.</p> <p>Legislative shortcomings can be the root of the problem, including in corruption related areas such as accounting or money laundering. However, other elements are often cited as major constraints that need to be overcome.</p>
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Inadequate institutional provisions, in particular insufficient independence of the law enforcement agencies or unclear lines of co-operation and co-ordination between different law enforcement agencies involved or between prosecution and police services may constitute major obstacles to successfully collecting evidence and bringing about efficient prosecutions of corruption. The lack of verifiable information due to a low reporting level within public administration and by citizens is often cited as a source for a low detection rate. Difficulties of cooperation between law enforcement agencies as well as complicatedness in obtaining evidence from abroad when international bribery is involved is another identified source of low detection rates.

The lack of resources and expertise of law enforcement agencies to dealing with complex crimes such as corruption is another cause cited. This may include technical shortages – access to computerised information, telephone lines and calls etc. In addition, an insufficient number of persons may be assigned to investigating or prosecuting economic and financial crimes, including corruption. Beyond, training in specific relevant matters – forensic accounting, public funds, insider trading to name only a few areas of specialised expertise – may not be provided to those assigned to detecting, investigating and prosecuting corruption crimes.

Prosecutors will present lessons learned through concrete case investigations and prosecutions. They will highlight the key elements which lead to a successful enforcement of anti-bribery legislation. The benefit of a focused approach to the fight against corruption and economic crime with a specialized prosecution service and support units will be highlighted. On the other hand, they will elaborate on how to engage regular prosecutors' services in a relevant manner, including in terms of resources and investigative powers, in the fight against bribery and corruption.

This session will aim, through prosecutors presentations, at identifying possible remedies to shortcomings identified within the context of countries monitoring of the enforcement of the OECD Anti-Bribery Convention or during this and earlier regional meetings. Solutions may to some extent involve actions by legislators. However, the main purpose of the session will be to determine best practices to develop capacities by relevant enforcement agencies allowing investigators and prosecutors to adequately uncover and sanction corruption and bribery crimes.

16:00 – 16:30

Coffee break

<p>16:30 – 17:30</p>	<p>SESSION 4</p> <p><i>MAKING ANTI-CORRUPTION ACTIONS WORK – ENLISTING THE PRIVATE SECTOR, TRADE UNIONS, NGOs, AND THE MEDIA</i></p> <p>Chair: <i>Patrick Moulette</i>, Head, Anti-Corruption Division, Directorate for Financial and Enterprise Affairs, OECD</p> <p>Speakers:</p> <p><i>Nicola Ehlermann-Cache</i>, Policy Adviser, Anti-Corruption Division, OECD <i>Roberto Hernandez Garcia</i>, President, ICC Mexico Anti-corruption Committee, Mexico (to be confirmed) <i>John Evans</i>, Secretary General, Trade Advisory Committee to the OECD <i>Davor Harasic Yaksic</i>, President, Chile Transparente (Transparency International Chile)</p> <p>General discussion</p> <p>There is a growing understanding of the roles that different actors such as international development banks, the private sector, civil society, trade unions, or the press can play in ensuring integrity. Increasing attention is being paid by such actors to questions of integrity, fair dealing, proper accounting, absence of conflict of interests and transparency. Their role in improving awareness, participating in assessing the effectiveness of international standards, raising public ethical standards, introducing corporate governance and initiating other actions to curb corruption has been demonstrated. In certain countries governments and non-government actors engage in partnerships to monitor corruption prone activities, especially in public procurement. Such actions may indeed help prevent bribery and corruption.</p> <p>Additionally, the donor community and non-government actors may uncover bribery. This raises key questions including when and to whom to report what kind of evidence and under what conditions. The question may however also arise whether, and to what extent persons from the corporate sector having important economic influence and able to access means of influencing such as privileged access to the media may prevent alleged bribery cases from being prosecuted.</p>
<p>17:30– 18:00</p>	<p>CONFERENCE CONCLUSIONS</p> <p><i>Professor Mark Pieth</i>, Professor for Criminal Law, University of Basel, Switzerland</p> <p><i>Ambassador Luis Winter</i>, Director, Special Politics, Ministry of Foreign Relations, Chile</p> <p>Closing Remarks on key elements to ensure effective detection, investigation and prosecution of bribery, including international bribery</p>