

## Fighting Bribery in International Business

### WHY THE OECD ANTI-BRIBERY CONVENTION MATTERS

- ▶ Bribery of foreign public officials distorts markets and raises the costs of doing business, impedes economic development, and undermines the rule of law.
- ▶ The OECD Anti-Bribery Convention criminalises such bribery, by making it an offence to offer, promise or give a bribe to a foreign official in an international business transaction.
- ▶ Countries that adopt the Convention commit to prevent, detect, prosecute and sanction bribery of foreign officials.
- ▶ Under the Convention, law enforcement must be bolstered and cases prosecuted with sufficient resources to deal with increasingly sophisticated bribery-related crimes.
- ▶ The G20 has called on more countries to consider adopting the OECD Anti-Bribery Convention.

#### What's the issue?

Bribery is a threat to good governance, sustainable economic development, democracy and people's welfare. The corrosive effects of bribery can spread across borders, affecting economies and societies everywhere. The ability to address bribery, both domestically and internationally, is impaired by a lack of transparency, accountability and integrity in the public and private sectors. Weak criminal legislation and anti-corruption mechanisms, and inadequate international co-operation also thwart efforts to combat bribery. No economic sector is immune from bribery, though the most affected industries are construction, mining, telecommunications, medical and pharmaceutical sectors, transportation, and infrastructure projects.

Two developments present specific challenges in the global context of fighting bribery:

- Increased global economic activity combined with systemic weaknesses within individual countries—weak government capacity, poorly paid public sector officials, lack of transparency and accountability, ineffective law

enforcement—has increased both the incentives and opportunities for corruption.

- Outsourcing, privatisation and public-private partnerships can also create new opportunities for bribery.

#### Why is this important?

The World Bank estimates that more than US\$ 1 trillion dollars are squandered every year on bribes paid to public officials in exchange for advantages in international business. The cost of doing business in a country with medium or high levels of corruption compared to a country with low levels of corruption is equivalent to a 20% tax on foreign business. Bribery corrupts bidding for public procurement, leading for instance to unfinished roads, crumbling schools and crippled health systems. Bribery erodes public confidence in political institutions and leads to contempt for the rule of law.

Everyone pays the price of bribery. Local businesses pay when they cannot compete against bribe-paying competitors. Developing economies pay when growth is slowed because foreign companies fear for their investments in a corrupt environment. Shareholders pay when the reputations of the companies in which they invest suffer from bad publicity. The countries hosting companies involved in bribery pay when their tarnished reputations deter investors. But above all, citizens pay when corrupt business dealings endanger vital public services, such as access to clean water, safe streets and basic health services, putting lives at risk.

#### What should policymakers do?

Until 1999, foreign bribery was, in most countries, business as usual. In fact, bribes were often tax-deductible. That ended with the entry into force of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. Today, all OECD member countries

#### Fighting corruption



See [www.oecd.org/video](http://www.oecd.org/video)

“The OECD Anti-Bribery Convention: a milestone in global efforts to encourage responsible and accountable governance.”

Hillary Clinton

# USD 1 Trillion

Amount squandered each year on bribes paid to public officials.

WORLD BANK ESTIMATES

# 20%

The extra cost of doing business in countries with mid-high corruption levels.

OECD ESTIMATES

# 41 Countries

Have criminalised bribery in international business under the OECD Anti-Bribery Convention.

OECD

and seven partner countries (Argentina, Brazil, Bulgaria, Colombia, Latvia, Russia and South Africa) are Parties to the Anti-Bribery Convention.

The Anti-Bribery Convention is the only international, legally binding instrument to focus exclusively on the *supply* of bribery: it targets the person or entity promising or giving a bribe to a foreign official. By adopting the Convention, countries commit to investigate and, where appropriate, prosecute those who offer, promise or give bribes to foreign public officials and to subject those who bribe to heavy penalties.

Countries also accept the OECD Recommendation on Combating Bribery in International Business Transactions, which includes new provisions for combating small facilitation payments, protecting whistleblowers, and improving communication between public officials and law enforcement authorities.

**Signatory countries must implement and enforce the OECD Anti-Bribery Convention.** The OECD Working Group on Bribery uses a rigorous peer-review monitoring system, which Transparency International calls the “gold standard” of monitoring. Between 1999 and 2013, 111 companies and 333 individuals were sanctioned under criminal proceedings for foreign bribery. Eighty seven individuals were sentenced to prison. However, more than half the countries Party to the Convention have yet to prosecute successfully a foreign bribery case.

**Governments must raise private sector awareness.** Many companies, especially small and medium-sized firms, are

unaware of the risks they run at home by offering a bribe abroad, including stiff fines, possible blacklisting from public procurement contracts and imprisonment. Educating business leaders on the financial, legal and social risks of foreign bribery is crucial. Governments must help the private sector understand that clean business strengthens markets and boosts investor confidence. The 2010 Good Practice Guidance on Internal Controls, Ethics and Compliance shows companies how they can prevent corruption in their business dealings and understand better how their governments expect them to behave.

**Encourage citizen involvement.** It is important for everyone to understand that foreign bribery hurts people in real ways. The more everyone knows about this crime and the greater public condemnation it receives, the less likely public officials are to take or solicit bribes.

**Equip law enforcement with the expertise, knowledge and skills to fight this crime.** Foreign bribery is complex and involves intricate business transactions, deals and contracts. It usually involves many different actors across many different borders. Law enforcement agencies from different countries should be allowed to co-operate across borders free of any kind of restriction.

## What's next?

The OECD's efforts are focused on strengthening implementation by the current Parties to the Convention and expanding the reach of the Convention. The Saint Petersburg Leaders' Declaration in 2013 and the 2012 Anti-Corruption Action Plan call on G20 countries not Party to the Convention to consider ratifying it. The OECD is working actively with China, India and Indonesia, all of which have either drafted or enacted their own foreign bribery legislation. A further 80 countries participate in regional anti-corruption initiatives to align themselves more closely with the OECD anti-corruption disciplines.

The OECD's Working Group on Bribery will continue to ensure rigorous implementation of the Convention by closely monitoring signatories that have not fulfilled their commitment to eradicate foreign bribery. The OECD will also continue to collaborate with the other multilateral organisations involved in fighting corruption, in particular the United Nations Office on Drugs and Crime (UNODC) and the World Bank.



## Sources

OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions: Implementing the OECD Anti-Bribery Convention  
See [www.oecd.org/corruption](http://www.oecd.org/corruption)