Working Group on Bribery in International Business Transactions

TENTH ANNIVERSARY OF THE OECD CONVENTION ON COMBATING BRIBERY OF FOREIGN PUBLIC OFFICIALS IN INTERNATIONAL BUSINESS TRANSACTIONS

Rome, Italy, 20-21 November 2007

Ministers and other senior officials from State Parties to the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions reaffirmed their commitment to enforcing the OECD Anti-Bribery Convention and pledged their support for continued joint action against foreign bribery during the High Level Conference on “The Tenth Anniversary of the OECD Anti-Bribery Convention – Its Impact and Its Achievements”, held on 21 November 2007 in Rome (Italy).

Ministers and high level officials’ final Statement on the Shared Commitment to Fight Against Foreign Bribery adopted during the High Level Conference in Rome is enclosed; the agendas of the different events i.e. the High Level Conference and the associated Prosecutor’s and Experts’ meetings are annexed.

For further information, please contact Mrs. Nicola Ehlermann-Cache, Policy Analyst (E-mail: nicola.ehlermann-cache@oecd.org; Tel.: +(33-1) 45 24 17 48) or Patrick Moulette, Head, Anti-Corruption Division (E-mail: patrick.moulette@oecd.org; Tel.: +(33-1) 45 24 91 02).
Statement

Shared Commitment to Fight Against Foreign Bribery

Tenth Anniversary of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions

Rome, Italy, 21 November 2007

Preamble

On the occasion of the tenth anniversary celebration of the adoption of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (the Convention),

We, the Ministers and senior officials of the 37 Parties to this Convention, gathered in Rome, Italy, on 21 November 2007, reaffirm our commitment to fight bribery of foreign public officials in international business transactions. While acknowledging progress, we are also aware that combating this crime has to remain one of our most important tasks to promote sustainable development and ensure a level playing field in worldwide business.

Standards and Practices to Fight Bribery in International Business Transactions

In adopting the Convention, all Parties pledged to combat bribery of foreign public officials in international business transactions through effective criminal sanctions and related obligations. They also endorsed a unique monitoring process by peers to ensure effective implementation of the Convention's standards;

We wish to affirm that all Parties to this Convention have established the bribery of foreign public officials in international business transactions as a criminal offence and have endeavoured to apply effective investigative and prosecutorial methods and means to prevent, detect and punish the foreign bribery offence;

We endorse the excellent work carried out by the OECD Working Group on Bribery in International Business Transactions, including through the rigorous and systematic peer review mechanism of the Convention. We look forward to the completion next year of the current round of assessments of the enforcement of anti-bribery legislation by Parties;

We are pleased to assert that efforts to enforce the Convention have increased overall in the last decade. In addition, we welcome the adherence to the Convention and its application by new Parties, the sustainable cooperation with non-member economies, the fruitful collaboration with international organisations concerned with combating bribery and the enhanced contributions of business and civil society organisations involved in promoting good governance. Nevertheless, we realise that enforcement of the Convention still requires serious efforts to overcome any obstacles faced by the Parties.
## Going Forward

We therefore pledge to intensify our efforts to fight individually and collectively and in an effective manner bribery of foreign public officials. To that effect, and building further on the work by the OECD Working Group on Bribery in International Business Transactions, we commit to:

- Vigorously and comprehensively implement our obligations under the Convention;

- Ensure that the standards of the Convention remain at the forefront of the global fight against foreign bribery and that their enforcement continues to be monitored by a systematic, effective and adequate review mechanism;

- Ensure enforcement of the Convention’s standards throughout Parties’ governments;

- Use all means and take all necessary actions, to effectively investigate and prosecute those who bribe foreign public officials, notably by facilitating international cooperation and mutual legal assistance;

- Continue to raise public awareness of the Convention in collaboration with civil society and the private sector;

- Continue to encourage and support initiatives by the business sector to prevent and detect foreign bribery, through, for instance corporate compliance programmes;

- Encourage major emerging economic players not parties to adhere to the Convention’s standards and further develop partnerships with countries not parties to the Convention;

- Deepen collaboration with international and regional organisations combating bribery and corruption, in particular multilateral development banks;

- Actively support the ratification and implementation of the United Nations Convention Against Corruption by all countries.

The Convention constitutes the foundation of our commitment to fight bribery of foreign public officials. For this reason, we should apply it rigorously and faithfully so that the efforts we make today will be rewarded in the future.
Annex 1

High-Level meeting
The OECD Anti-Bribery Convention: Its Impact and Its Achievements
21 November 2007

Agenda

9:00-9:30 Welcoming and opening remarks

Welcoming remarks

Mr. Romano Prodi,
Prime Minister, Italy

Mr. Clemente Mastella,
Minister of Justice, Italy

Mr. Giovanni Maria Flick,
Former Minister of Justice, Vice Presidente Corte Constituzionale, Italy

Opening remarks

Mr. Angel Gurría,
OECD Secretary-General

9:30-11:30 State Parties’ commitment to fight foreign bribery

Chair:

Mr. Angel Gurría,
OECD Secretary-General

Speakers:

Ms. Geraldine Fraser-Moleketi,
Minister for the Public Service and Administration, South Africa

Dr. Maria Berger,
Minister of Justice, Austria

Ms. Alice S. Fisher,
Assistant Attorney General, United States

Mr. Kunio Hatoyama,
Minister of Justice, Japan

Mr. Jong Baek Lee,
Chairman, Korea Independent Commission against Corruption, Republic of Korea

Mr. Jorge Hage Sobrinho,
Ministro de Estado do Controle e da Transparência, Brazil

Mr. Sotirios Hatzigakis
Minister of Justice, Greece

Mr. Mehmet Ali Şahin,
Minister of Justice of the Republic of Turkey

Lord Davidson of Glen Clova,
Advocate General for Scotland, United Kingdom

Mr. Rafael Morgan,
Under Secretary for Public Administration, Mexico
### 9:30-11:30  
**State Parties’ commitment to fight foreign bribery (cont’d)**

Mr. Atle Leikvoll,  
*Deputy Secretary General of the Ministry of Foreign Affairs, Norway*

Dr. Matei Hoffmann,  
*Ambassador, Germany, Delegation to the OECD*

Mr. Phillipe Marland  
*Ambassador, France, Delegation to the OECD*

*Presentations will address:*

1. The importance of the Convention and government actions and achievements over the last decade to prevent, detect and sanction foreign bribery.
2. Political will to intensify efforts to fight bribery of foreign public officials by all means individually and collectively.
3. Desire to continue working together as well as with business and civil society to enhance joint efforts to effectively enforce the Convention.
4. Encourage major emerging economic players not party to the Convention to adhere to its standards.

### 11:30 – 11:45  
**Adoption of the 10th Anniversary Statement**

Presentation of the 10th Anniversary Statement  

Prof. Mark Pieth,  
*Chairman of the OECD Working Group on Bribery*

### 11:45 – 12.15  
**Break**

### 12:15-13:00  
**International Co-operation and major emerging economies**

**Chair:**  
Mrs. Thelma Askey,  
*OECD Deputy Secretary-General*

**Speakers:**  
Mr. Cui Hairong,  
*Director General of the Fourth Investigation Department of the Ministry of Supervision of P. R. China*

Mr. Taufiequrachman Ruki,  
*Chairman, Corruption Eradication Commission, Indonesia*

Prof. Daniel Friedmann,  
*Minister of Justice, Israel*

Mr. Alexander Yakovenko,  
*Deputy Minister of Foreign Affairs, Russia*
Presentations will address:

1) Significant regional and international anti-corruption instruments in force worldwide.

2) Identification of practices, mechanisms and strategies to facilitate and enhance international co-operation based on the worldwide commitments to fight corruption.

3) How to enhance adherence by emerging non-Parties to the OECD anti-bribery standards.

4) Suggestions for closer collaboration with the Working Group on Bribery, the body responsible for monitoring the enforcement of the OECD Anti-Bribery Convention.

13:00-13:30  Changes in the global business environment

Chair:  Mrs. Thelma Askey,  
OECD Deputy Secretary-General

Speakers:  Mr. Juan Jose Daboub,  
Managing Director, World Bank

Mrs. Huguette Labelle,  
Chair, Transparency International

Presentations will address:

1) The OECD Anti-Bribery Convention’s impact on business.

2) Changes over the last 10 years. Has worldwide business become more fair and what remains to be done to improve awareness and grant the effectiveness of international anti-bribery standards.

3) Need for governments and non-government partnerships to monitor foreign bribery risk, especially in corruption-prone areas.

13:30-13:45  Closing of the High Level Conference

Mr. Achille Serra,  
High Commissioner Against Corruption, Italy

Following conclusions, a picture of all High Level representatives and participants in the Conference has been taken to commemorate the 10th Anniversary of OECD Anti-Bribery Convention
### Annex 2

**Prosecutors’ meeting**

Detection, Investigation and Prosecution of Foreign Bribery  
20 November 2007

**Agenda**

<table>
<thead>
<tr>
<th>Time</th>
<th>Session</th>
</tr>
</thead>
<tbody>
<tr>
<td>9:00-9:20</td>
<td>Registration of prosecutors from countries Party to the Convention</td>
</tr>
</tbody>
</table>
| 9:20-9:30| **Welcoming remarks**  
**Mr. Alberto Maritati,**  
*Under Secretary of State for Justice, Italy* |
| 9:30-15:20| **PART I. ENHANCING DETECTION, INVESTIGATION AND PROSECUTION OF FOREIGN BRIBERY**  
(Session for prosecutors only) |
| Chair: | **Mr. Francesco Greco,**  
*Deputy Prosecutor of the Milan Public Prosecutor’s Office, Italy* |
| 9:40-11:10| Detection of bribery of foreign public officials  
Chair: **Mr. José Ipohorski Lenckiewicz,**  
*Anti-Corruption Office, Argentina*  
**Rapporteur:** **Mr. Tony Farries,**  
*Head, Vetting Standards and Overseas Corruption Unit, United Kingdom*  
**Speakers:**  
Mrs. Monica Nicida Garcia,  
*Federal Prosecutor, Brazil*  
Mr. Hernán Fernández Aracena,  
*Deputy Director of the Specialized Unit for Offences by Officials and Public Probity, Chile*  
**Questions and answers to:**  
1. Identify the most effective means to detect foreign bribery,  
2. Identify hindrances in detection,  
3. Identify practices, mechanisms and strategies to enhance detection of foreign bribery, including proactive detection measures. |
<p>| 11:10-11:30| <strong>Break</strong> |</p>
<table>
<thead>
<tr>
<th>Time</th>
<th>Session</th>
<th>Chair</th>
<th>Rapporteur</th>
<th>Speakers</th>
</tr>
</thead>
<tbody>
<tr>
<td>11:30-13:00</td>
<td>Investigation of bribery of foreign public officials</td>
<td>Mr. Michel-André Fels, <em>Deputy Prosecutor General, Switzerland</em></td>
<td>Adv. Gerhard Nel, <em>Deputy Director of Public Prosecutions, South Africa</em></td>
<td>Mr. Michel-André Fels, <em>Deputy Prosecutor General, Switzerland</em></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ms. Cornelia Gaedigk, <em>Public Prosecutor, Staatsanwaltschaft Hamburg, Germany</em></td>
<td>Dr. Barna Miskolcsi, <em>Public Prosecutor, Hungary</em></td>
<td>Mr. Michel-André Fels, <em>Deputy Prosecutor General, Switzerland</em></td>
</tr>
<tr>
<td>12:00-13:00</td>
<td>Questions and answers to</td>
<td></td>
<td></td>
<td>Mr. Michel-André Fels, <em>Deputy Prosecutor General, Switzerland</em></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Mr. Michel-André Fels, <em>Deputy Prosecutor General, Switzerland</em></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Mr. Michel-André Fels, <em>Deputy Prosecutor General, Switzerland</em></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Mr. Michel-André Fels, <em>Deputy Prosecutor General, Switzerland</em></td>
</tr>
<tr>
<td>13:00-14:00</td>
<td>Break</td>
<td></td>
<td></td>
<td>Mr. Michel-André Fels, <em>Deputy Prosecutor General, Switzerland</em></td>
</tr>
<tr>
<td>14:00-15:20</td>
<td>Prosecution of bribery of foreign public officials</td>
<td>Mr. Mark F. Mendelsohn, <em>Deputy Chief, Fraud Section, Criminal Division Department of Justice, United States</em></td>
<td>Dr. Michael Weber, <em>Public Prosecutor, Braunschweig Office of Public Prosecutor, Germany</em></td>
<td>Mr. Michel-André Fels, <em>Deputy Prosecutor General, Switzerland</em></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mr. Jacques Rayroud, <em>Federal Prosecutor, Switzerland</em></td>
<td></td>
<td>Mr. Michel-André Fels, <em>Deputy Prosecutor General, Switzerland</em></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mr. William Jacobson, <em>Assistant Chief, Fraud Section, Criminal Division, Department of Justice, United States</em></td>
<td></td>
<td>Mr. Michel-André Fels, <em>Deputy Prosecutor General, Switzerland</em></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mr. Philippe Bourion, <em>Deputy-Prosecutor, Tribunal of Paris, France</em></td>
<td></td>
<td>Mr. Michel-André Fels, <em>Deputy Prosecutor General, Switzerland</em></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mr. Corrado Lembo, <em>Prosecutor of the Procura Nazionale Antimafia, Italy</em></td>
<td></td>
<td>Mr. Michel-André Fels, <em>Deputy Prosecutor General, Switzerland</em></td>
</tr>
</tbody>
</table>
14:45-15:20  **Questions and answers to:**

1. Identify the most effective means to prosecute foreign bribery.
2. Identify hindrances or obstacles to foreign bribery prosecutions, including loopholes or weaknesses in the foreign bribery offence.
3. Identify practices, mechanisms and strategies to enhance prosecution of foreign bribery.

14:45-15:20  **Registration of public officials from countries Party to the Convention**

15:30 – 18:00  **PART II. OUTCOME OF THE PROSECUTORS’ MEETING**

15:30-15:40  **Introductory remarks**

**Mrs. Carolyn Ervin,**  
*Director, OECD Directorate for Financial and Enterprise Affairs*

15:40-18:00  **Key findings of the prosecutors meeting**

**Chair:**  
**Mr. Francesco Greco,**  
*Deputy Prosecutor of the Milan Public Prosecutor’s Office, Italy*

15:40-16:10  **Mr. José Ipohorski Lenckiewicz,**  
*Anti-Corruption Office, Argentina*

Presentation of the discussions on detection followed by questions and answers

16:10-16:40  **Mr. Michel-André Fels,**  
*Deputy Prosecutor General, Switzerland*

Presentation of the discussions on investigations followed by questions and answers

16:40-17:00  **Break**

17:00-17:30  **Mr. Mark F. Mendelsohn,**  
*Deputy Chief, Fraud Section, Criminal Division, Department of Justice, United States*

Presentation of the discussions on prosecutions followed by questions and answers.

17:30-18:00  **Conclusions**

**Mr. Francesco Greco,**  
*Deputy Prosecutor of the Milan Public Prosecutor’s Office, Italy*

**Mr. Mark F. Mendelsohn,**  
*Deputy Chief, Fraud Section, Criminal Division, Department of Justice, United States*
Annex 3

Experts' meeting
The OECD Anti-Bribery Convention: The Road Ahead
21 November 2007

Agenda

15:00-15:20 Welcoming remarks
Professor Mark Pieth,
Chairman of the OECD Working Group on Bribery

15:20 – 16:30 PART I. ENHANCED INTERNATIONAL CO-ORDINATION AND CO-OPERATION

Chair: Professor Mark Pieth,
Chairman of the OECD Working Group on Bribery

Panellists:
Adv. Gerhard Nel,
Deputy Director of Public Prosecutions, South Africa
(report of the Prosecutors' meeting’s conclusions)

Mr. Jean-Bernard Schmid*,
Investigating Magistrate, Financial Section, Switzerland

Mr. Ulrich Busch,
Senior Public Prosecutor, Head of Department for prosecution of bribery
and crimes against competition, Prosecutor's Office Frankfurt, Germany

Mr. Stefano Mogini,
Chief of Cabinet, Ministry of Justice, Italy

Ms. Rebecca Li*,
Assistant Director of Operations, Independent Commission Against Corruption, Hong Kong

Issues for discussion:
The bribery of foreign public officials frequently involves multiple jurisdictions due to
the increasingly complex nature of international business transactions. Factors that
contribute to the complexities of foreign bribery cases can include involvement of
local agents or consultants, subcontracting and sub-subcontracting, and transactions
via offshore centres and foreign subsidiaries. The problem of multiple-jurisdictions is
magnified when consortiums are involved in foreign bribery.

The need for effective cross-jurisdictional co-operation and information sharing is
therefore a critical issue for the effective implementation of the OECD Anti-Bribery
Convention. Through such actions, Parties to the Convention can allocate investigative
and prosecutorial resources more effectively, address conflicts of jurisdiction
constructively, and ensure that multiple investigations do not unduly restrict the
rights and interests of defendants, victims and witnesses.

This session will explore how to enhance judicial co-ordination and co-operation
between State Parties to the OECD Anti-Bribery Convention as well as with non-
parties.
### 16:45-17:45  PART II. ENHANCING THE IMPACT OF THE CONVENTION

**Chair:**
Professor Maria Gavouneli,  
*Vice-Chair of the OECD Working Group on Bribery*

**Panellists:**
- **Mr. Nicola Bonucci,**  
  *Director, OECD Legal Directorate*
- **Mr. Puk van der Linde,**  
  *Ministry of Economic Affairs, The Netherlands*
- **Mr. Eugenio Curia***,  
  *Ambassador to Austria and the International organisations in Vienna,  
  Vice-Chairman of the Conference of States Parties-UNCAC, Argentina*
- **Mr. Anatoly Sementsov,**  
  *Deputy Director, Department of Economic Cooperation, Ministry of Foreign Affairs, Russia*
- **Ms. Rita Marino,**  
  *Chief, Internal Audit, ENI, Italy*
- **Dr. Alessandro Napolitano,**  
  *Division Director, Legal, Corporate & Compliance, SACE Spa, Italy*

**Issues for discussion:**
Experience shows that it is essential to monitor and evaluate countries’ implementation and enforcement of their anti-bribery standards, commitments and practices. The rigorous peer review process of the OECD Working Group on Bribery indeed has produced significant results in the fight against bribery of foreign public officials in international business transactions.

Major emerging economies are committed to the fight against bribery and corruption. However, they are not all subject to in-depth review or evaluation of their laws and practices by peers. Progress could be significantly enhanced through the involvement of all key economic partners in specialised fora and related mechanisms assessing the application of anti-corruption and integrity standards as defined in international conventions and frameworks.

Building on the participation of representatives of the People’s Republic of China, Israel, Indonesia and Russia, including during the High Level Conference, this session will examine how the Working Group on Bribery may develop its cooperation with these major emerging economies. Participants may also discuss concrete suggestions to develop a policy dialogue on best practices and monitoring mechanisms.

### 17:45-18:00  Closing

**Professor Giorgio Sacerdoti,**  
*Bocconi University, Chairman of the Appellate Body of the WTO, Former Vice-Chair of the OECD Working Group on Bribery, Italy*

*Note: *Experts invited in their personal capacities*