



# Declaration on the Fight Against Foreign Bribery - Towards a New Era of Enforcement



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## Background Information

The Declaration on the Fight Against Foreign Bribery - Towards a New Era of Enforcement was adopted on 16 March 2016 on the occasion of the OECD Council Meeting at Ministerial Level. The Meeting provided a unique platform to discuss measures to strengthen implementation of the Anti-Bribery Convention, to exchange ideas on combating foreign bribery and emerging issues. The Declaration invites the OECD to carry out several horizontal studies that will benefit all forms of anti-corruption and encourage the Working Group on Bribery to collaborate more with other OECD bodies, in particular to study the economic impact of foreign bribery and develop further analysis of foreign bribery and corruption as well as to consider major emerging issues in the related global anti-corruption agenda. Finally the Declaration recognises the importance of appealing to non-Parties that are major exporters and foreign investors to accede to and implement the Anti-Bribery Convention.

## Preamble

**WE, THE MINISTERS AND REPRESENTATIVES OF** the Parties to the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (“Anti-Bribery Convention”) and other participating Ministers and Representatives, met at the Organisation for Economic Co-operation and Development (OECD) in Paris, France on 16 March 2016, united in the global fight against foreign bribery and corruption.

## Implementation of the Anti-Bribery Convention

The Anti-Bribery Convention has been in force for 17 years. In this time, there has been an increase in membership to 41 Parties. We express appreciation for the OECD Working Group on Bribery in International Business Transactions (“Working Group”) and its vital and leading role in monitoring and promoting the full implementation of the Anti-Bribery Convention. We recognise the strong achievements of the first three phases of the monitoring process for the Convention’s implementation. All Parties to the Anti-Bribery Convention (“Parties”) now criminalise foreign bribery and most have changed their laws to make it possible to hold companies liable for foreign bribery and have explicitly prohibited the tax deductibility of bribes. Almost half of the Parties have investigated and prosecuted foreign bribery cases to a conclusion. Many others have recently stepped up enforcement efforts and are currently investigating cases. Consequently, the Parties have made great progress towards the goal of establishing a level playing field for business and a more fair and transparent global economy.

The Parties remain strongly committed to the Working Group’s evaluation process and are pleased to formally launch the fourth phase of country evaluations. For this new phase, the Parties emphasise the crucial importance of monitoring law enforcement activity, detection of foreign bribery and corporate liability as well as identifying and promoting good practices in these areas. The Parties also support the Working Group conducting in-depth thematic work to better understand and tackle emerging issues in the fight against foreign bribery. The Parties remain dedicated to consulting and cooperating with non-Parties, other international organisations, business and civil society with a view to fostering transparency and dialogue towards more effective implementation of frameworks to combat foreign bribery.

Recognising that much more remains to be done, the Parties reaffirm their commitment to continued implementation of the Anti-Bribery Convention and call for robust enforcement of their laws implementing the foreign bribery offence. The Parties note, in particular, the need for enhancing enforcement of their laws implementing the foreign bribery offence against legal persons, including state-owned or controlled enterprises. The Parties call for greater efforts to fight foreign bribery and corruption and for effective international cooperation between all countries in these cases. The Parties recognise the importance of appealing to non-Parties that are major exporters and foreign investors to accede to and implement the Anti-Bribery Convention, and support ongoing consultations to promote wider participation in the Anti-Bribery Convention.

We, the Ministers and Representatives of all the States joining this Declaration, commit to advance the fight against foreign bribery into a new era of enforcement to vigorously fight those who engage in corruption. We are committed to staying abreast of new and future challenges in combating foreign bribery and corruption so that appropriate and timely countermeasures can be developed and implemented.

I. As we formally launch the fourth phase of country evaluations, the Ministers and Representatives of the Parties to the Anti-Bribery Convention<sup>1</sup>:

1. **REAFFIRM** our commitment to the continued implementation of the Anti-Bribery Convention, including the establishment of the liability of legal persons, and robust

enforcement of the laws implementing the foreign bribery offence by all Parties. The Parties reiterate their commitment that investigations and prosecutions of the bribery of foreign public officials shall not be influenced by considerations of national economic interest, the potential effect upon relations with another State or the identity of the natural or legal persons involved.

2. **ENCOURAGE** the Working Group to address law enforcement challenges in foreign bribery cases, including issues relating to proactive detection, enforcement, resources, and mutual legal assistance, with the purpose of increasing detection, investigation and prosecution of these cases.
3. **ENCOURAGE** all Parties to support each other's law enforcement efforts and explore innovative methods to combat foreign bribery.
4. **RECOGNISE** that the Working Group's biannual Meetings of Law Enforcement Officials provide a valuable forum to discuss good practices and horizontal issues relating to the investigation and prosecution of the bribery of foreign public officials.
5. **ENCOURAGE** the Parties to increase the involvement of their law enforcement representatives in the Working Group's plenary sessions, country monitoring and other relevant activities.
6. **RECOGNISE** that the Working Group, together with relevant committees including the OECD Public Governance Committee, promotes strong and effective whistleblower protection frameworks, including by way of the Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions ("2009 Recommendation"). In this regard, we welcome the launch of the OECD Report "Committing to Effective Whistleblower Protection".
7. **EXPRESS** our appreciation for the Working Group's detailed analysis of issues regarding voluntary disclosure of foreign bribery allegations, negotiated settlement and anti-corruption compliance programs and its accompanying recommendations that have emerged from its three phases of country evaluations. We encourage the Working Group to study good practices related to these issues.
8. **RECOGNISE** the importance of appealing to non-Parties that are major exporters and foreign investors to accede to and implement the Anti-Bribery Convention, and providing for ongoing consultations with countries which have not yet adhered, in order to promote adherence to and implementation of the Anti-Bribery Convention, the 2009 Recommendation and their follow-up.
9. **INVITE** the Working Group to continue to provide technical support to Parties and non-Parties to the Anti-Bribery Convention in close coordination with other international organisations.
10. **ENCOURAGE** the OECD to conduct a study on the economic impact of foreign bribery and develop further analysis of foreign bribery and corruption in collaboration with other relevant OECD bodies.
11. **ENCOURAGE** the Working Group to continue to leverage and coordinate with other OECD bodies with respect to their fight against foreign bribery and corruption, and to consider major emerging issues in the related global agenda. In this context, we invite the Working Group to identify topics for collaboration with other OECD bodies.

12. **ENCOURAGE** the Working Group to continue to consult and collaborate with international organisations, business and civil society organisations active in the fight against foreign bribery and corruption.
13. **ENCOURAGE** the Working Group to explore opportunities for greater collaboration with the private sector on its role in fighting corruption, as the private sector is an indispensable partner in this fight.

II. The Ministers and Representatives of all the States joining this Declaration<sup>2</sup>, united in the global fight against foreign bribery and corruption:

1. **REAFFIRM** our commitment to fight foreign bribery and corruption in all its forms.
2. **AGREE** that such a fight requires robust legislative frameworks, strong coordination amongst law enforcement authorities, and effective and proactive detection, investigation and prosecution.
3. **AFFIRM** our commitment to providing timely and effective international cooperation in cases of foreign bribery and corruption.
4. **ENCOURAGE** the Working Group to continue to afford law enforcement officials from both Parties and non-Parties to the Anti-Bribery Convention opportunities to actively engage with one another.
5. **AFFIRM** the need to effectively protect those who report corruption in good faith and on reasonable grounds, so that we can better prevent, detect, investigate and prosecute wrongdoing.
6. **ACKNOWLEDGE** that many countries still do not have in place effective legal frameworks to protect those who report wrongdoing, whether in the public or private sector, from discriminatory or retaliatory action and that this impedes the detection, investigation and prosecution of foreign bribery and corruption cases.
7. **RECOGNISE** that whistleblower protection frameworks need to be upheld and enforced to ensure that they provide real, effective protection.
8. **ENCOURAGE** further dialogue on possibilities for the adoption of voluntary disclosure and settlement procedures and reiterate the Working Group's call for countries to make the outcome of settlement procedures available to the public, where appropriate and in accordance with applicable national law.
9. **INVITE** the business community to increase its cooperation with governments in the fight against foreign bribery and corruption and encourage wide implementation of the OECD 2010 Good Practice Guidance on Internal Controls, Ethics and Compliance developed by the Working Group.
10. **ENCOURAGE** ongoing international efforts to identify and promote good practice in prevention of foreign bribery and corruption, which may include promoting the use of anti-corruption compliance measures, codes of conduct, and appropriate safeguards in public procurement processes such as those related to organising major international events.

## Conclusion

The Ministers and Representatives of Parties to the Anti-Bribery Convention collectively reaffirm our resolve to address the challenge of effective enforcement of foreign bribery laws, promote the Anti-Bribery Convention's principles in each of our countries, and encourage non-Parties to collaborate

closely with the Working Group towards the goal of enhancing enforcement worldwide. We endorse the work of the Working Group in leading the global fight against foreign bribery and look forward to progress made in advancing the goals of this Declaration, towards a new era of enforcement.

The Ministers and Representatives of all the States joining this Declaration, call on all countries to fully implement their international obligations with respect to foreign bribery and corruption. We praise the efforts of the Working Group in advancing this goal.

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<sup>1</sup> Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, Colombia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Latvia, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Russia, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, United Kingdom and United States.

<sup>2</sup> Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, India, Ireland, Israel, Italy, Japan, Korea, Latvia, Lithuania, Luxembourg, Mexico, Mozambique, Netherlands, New Zealand, Norway, Peru, Poland, Portugal, Romania, Russia, Sao Tome and Principe, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Thailand, Timor-Leste, Turkey, United Kingdom and United States.

## About the OECD

The OECD is a unique forum where governments work together to address the economic, social and environmental challenges of globalisation. The OECD is also at the forefront of efforts to understand and to help governments respond to new developments and concerns, such as corporate governance, the information economy and the challenges of an ageing population. The Organisation provides a setting where governments can compare policy experiences, seek answers to common problems, identify good practice and work to co-ordinate domestic and international policies.

The OECD Member countries are: Australia, Austria, Belgium, Canada, Chile, Colombia, Costa Rica, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Latvia, Lithuania, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Türkiye, the United Kingdom and the United States. The European Union takes part in the work of the OECD.

## OECD Legal Instruments

Since the creation of the OECD in 1961, around 460 substantive legal instruments have been developed within its framework. These include OECD Acts (i.e. the Decisions and Recommendations adopted by the OECD Council in accordance with the OECD Convention) and other legal instruments developed within the OECD framework (e.g. Declarations, international agreements).

All substantive OECD legal instruments, whether in force or abrogated, are listed in the online Compendium of OECD Legal Instruments. They are presented in five categories:

- **Decisions** are adopted by Council and are legally binding on all Members except those which abstain at the time of adoption. They set out specific rights and obligations and may contain monitoring mechanisms.
- **Recommendations** are adopted by Council and are not legally binding. They represent a political commitment to the principles they contain and entail an expectation that Adherents will do their best to implement them.
- **Substantive Outcome Documents** are adopted by the individual listed Adherents rather than by an OECD body, as the outcome of a ministerial, high-level or other meeting within the framework of the Organisation. They usually set general principles or long-term goals and have a solemn character.
- **International Agreements** are negotiated and concluded within the framework of the Organisation. They are legally binding on the Parties.
- **Arrangement, Understanding and Others:** several other types of substantive legal instruments have been developed within the OECD framework over time, such as the Arrangement on Officially Supported Export Credits, the International Understanding on Maritime Transport Principles and the Development Assistance Committee (DAC) Recommendations.