



DIRECTORATE FOR FINANCIAL, FISCAL AND ENTERPRISE AFFAIRS  
COMMITTEE ON INTERNATIONAL INVESTMENT AND MULTINATIONAL ENTERPRISES

Working Group on Bribery in International Business Transactions (CIME)

SUMMARY RECORD

Meeting of the Working Group held on 26-28 April 2000

*This summary record is submitted to delegates for approval at the meeting of the Working Group to be held on 6-8 June 2000 (item 2 of the agenda).*

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**1. Adoption of the Agenda**

The Working Group adopted the agenda [DAFFE/IME/BR/A(2000)3].

**2. Approval of the Summary Record of the meeting held on 22-24 March 2000**

The Working Group approved the summary record [DAFFE/IME/BR/M(2000)2].

**3. National actions to ratify and implement the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and to implement the 1997 Revised Recommendation**

Countries reported on the steps taken since the last meeting to ratify and implement the Convention and the 1997 Recommendation.

*The Working Group:*

- Noted that no additional country had deposited its instruments of ratification with the Secretariat since the 22-24 March “tour de table”. In total, 20 countries have deposited instruments with the Secretary-General.
- Noted that some countries continue to make progress towards completing approval of implementing and ratification legislation and that a few additional countries might do so before the June Ministerial.
- Agreed that countries not having yet adopted implementing and ratifying legislation be represented at the Working Group’s meetings or submit details in writing on national actions to ratify and implement the Convention.
- Expressed concern that several countries remain very slow in presenting draft legislation to Parliament and that too great a gap in ratifying the Convention can endanger one of the Convention objectives which is to secure a level playing field for international business.

**4. Follow-up to Outreach Activities**

*The Working Group:*

- Discussed the note by the Secretariat DAFFE/IME/BR(2000)11, “A Draft Action Plan”, setting out the philosophy, aim and methodology for developing an Anti-Corruption Declaration open to non-members who would wish to associate themselves with OECD efforts to combat international bribery and corruption.
- Agreed to the proposal to develop a Declaration which would send a positive signal that countries are committed to meeting international anti-corruption standards, provided it remains a flexible instrument which does not entail a burdensome follow-up process. Furthermore, adherence to the Declaration would not be considered as a “fast-track”, or short-cut, for accession to the Convention and the Working Group.
- Listened to the views and comments by delegates, regarding the possible target countries to be invited to a meeting with non-members and the implications of adhering to the

Declaration, including participation in a Liaison Group to follow-up on progress made to meet the goals of the Declaration.

- Invited the Secretariat to revise, in consultation with the Chairman of the Accession sub-group, the draft action plan and to prepare, on the basis of the revised note, a proposal for an Anti-Corruption Declaration to be discussed at the 5 June information meeting with non-members.
- Agreed to reflect the results of the 5 June discussion in the Report to Ministers, in particular the steps to be taken in developing the Declaration that takes account of the views of non-members.

## **5. Off-Shore Financial Centres: measures to prevent the use of financial centres in bribery and corrupt transactions**

### *The Working Group:*

- Discussed, on the basis of the note by the Secretariat DAF/IME/BR(2000)15, recommendations for Ministers' consideration in June 2000, following proposals that emerged from the Group's discussions on mechanisms to prevent the use of off-shore financial centres in bribery and corrupt transactions.
- Noted the intervention by Japan concerning its Government's reservation on the recommendation to make bribery, as defined in the Convention, a predicate offence for money laundering.
- Noted the statement by Spain, and its request that the statement be reflected in the minutes of the meeting, as follows:
 

“As Spain has indicated on other occasions both in the OECD and at meetings of subsidiary bodies, Spain is not in a position to accept the participation of representatives of Gibraltar at OECD meetings, or meetings of subsidiary bodies, as an independent delegation taking part as an observer or as a non-member jurisdiction of OECD. Such representation can be accepted as part of the United Kingdom delegation and denominated as “Gibraltar, Overseas Territory of the United Kingdom”. As concerns communications between the OECD, or its Member countries, and Gibraltar, Spain considers that these should be conducted through the United Kingdom and not directly with the local authorities since Spain does not recognise the international foreign relation competence of these authorities.”<sup>1</sup>
- Invited the Secretariat to reflect the comments of Delegations in revising the paragraphs concerning off-shore financial centres in the Draft Report to Ministers to be examined by the Group for approval at its June meeting.

## **6. Synoptic Table of Phase I Examinations**

The Working Group agreed to drop this item from its agenda for possible re-consideration at a later date.

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1. Provisional translation from statement submitted in French by Spain.

## **7. Review of evaluations (General Remarks)**

### *The Working Group*

- Discussed the Secretariat note DAF/IME/BR(2000)13 setting out proposals for harmonising the presentation of the General Remarks sections of the country evaluations carried out by the Group, as well as other proposals by delegations for harmonising the texts.
- Concluded that the exercise of trying to present harmonised General Remarks sections of the evaluations might create the risk of re-opening difficult and sensitive discussions.
- Agreed that the evaluations as approved by the Working Group, with the limited changes made necessary by the removal or deletion of brackets and other presentational modifications, would be the final evaluations adopted by the Group for inclusion in the country reports to be transmitted to Ministers in June.

Invited the Secretariat to make the agreed changes in the evaluations that would be made available to the Group at its June meeting as DAF/IME/BR/WD(2000)20/REV1.

- Invited the Secretariat to develop a Preface to the country reports, as proposed by one Delegation, setting out the methodology for the country reports and evaluations and including a disclaimer that harmonisation of the reports has not been carried out. The Preface would be examined by the Group at its June meeting.

## **8. Draft Report to Ministers**

### *The Working Group*

- Discussed the draft Report to Ministers [DAFFE/IME/BR(2000)14] and noted the views and comments by delegations.
- Reiterated the principal that quotes from country reports, or direct references to the conclusions of the Working Group on country evaluations, should not be made public before being formal transmission to the OECD Council.
- Invited the Secretariat to revise the draft report in the light of the Group's discussion and to submit it for finalisation to the June meeting. Noted that the final report will have to be transmitted to the CIME for adoption by written procedure prior to submission to the Ministerial meeting on 26-27 June.

## **9. Follow-up to Consultations with Representatives of the Private Sector and Civil Society**

### *The Working Group*

- Noted that the primary focus of the consultations with the private sector, TUAC, and civil society on 27 April was on the ongoing work of the Working Group, especially the Phase 2 monitoring procedure, solicitation, and whistle-blowing, as well as other topics calling for further attention by the Group including implementation of the accounting and auditing provisions, and some of the five outstanding issues relating to corruption mandated by the OECD Council.

- Concerning the monitoring procedures for Phase 2 under consideration by the Working Group, there was a reiterated request that access to country replies to the Phase 2 questionnaire be made available to the OECD Advisory bodies and civil society representatives. The Group took note that if such access were provided, the replies should be made available prior to the on-site evaluation visit.
- Noted the discussion on whistle-blowing and solicitation and agreed that these issues need further joint consideration by the Working Group and consultation partners, including their treatment in the context of the upcoming review of the 1997 Recommendation.
- Noted the views of the representatives of BIAC, ICC, TUAC, and TI that foreign bribery should be a predicate offence for money laundering legislation in all Convention countries and not only in those where domestic bribery is a predicate offence.
- Thanked Transparency International for its review of current practices and requirements of 16 of the Convention signatory countries concerning implementation of article 8 of the Convention and part V of the 1997 Recommendation on accounting and auditing. The Group noted several issues of interest that need further discussion and agreed that the Group should consider when it could take them up again after Fall 2000.
- Recalled that it has not yet completed its review of those issues relating to corruption mandated by the Council [C(97)240/FINAL]. Having placed special emphasis on corruption issues relating to offshore financial centres in 1999 and 2000, the Group should address other issues relating to corruption particularly bribery in relation to political parties, or candidates, and the role of foreign subsidiaries in bribery transactions in the Fall.

## **10. Recent developments in other International Organisations or Institutions**

### *The Working Group*

- Heard the intervention by the representative of the IMF on the Financial Stability Forum (FSF) Working Group on Offshore Financial Centres (OFCs) which was convened to consider the significance of OFCs in relation to financial stability and which released its findings and conclusions in March 2000.
- Welcomed the statement that a more detailed report on the FSF initiative could be made by the IMF at a future meeting of the Group.

## **11. Other Business**

The Working Group discussed the question of budgetary resources and its impact on the servicing of the Working Group. It noted the statement by the Secretariat that a note on Future Activities (Programme of Work) would be submitted to the Group for its consideration in June.

**Meeting of the Working Group on Bribery  
in International Business Transactions**

*22-24 March 2000*  
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