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Spain should introduce full corporate liability and fines to better combat bribery of foreign public officials, says OECD

Spain should rapidly amend its law so that companies can be found directly liable for bribing foreign public officials and sanctioned with serious fines, according to a new report by the OECD Working Group on Bribery.

The 36-country OECD Working Group on Bribery has just completed a review of Spain's enforcement of the OECD Convention on Combating the Bribery of Foreign Public Officials in International Business Transactions.

The main recommendations of the OECD Working Group are that Spain should:

- amend the law to expand the applicable penalties on companies to include dissuasive fines
- increase the penalties on bribery of foreign public officials to obtain favourable discretionary decisions, such as the award of a contract
- expand the definition of foreign bribery to include bribes composed of non-monetary benefits such as giving a job to a relative, and take action to ensure that the foreign bribery offences in Spain do not require the interpretation of any foreign law for their application
- improve the flow of information to prosecutors and judges about possible foreign bribery by Spanish companies
- make explicit the prohibition on the tax deductibility of bribes to foreign public officials

The Working Group also highlighted positive aspects of the fight against foreign bribery by Spanish companies and persons, including Spain's recent decision to give its specialized anti-corruption prosecution service broader responsibilities with regard to the investigation and prosecution of foreign bribery cases. An increased role for this agency, which has dedicated police, tax and other support units, should help ensure effective enforcement of the foreign bribery offence. Spain also recently improved its legislation regarding the confiscation of assets, including those related to foreign bribery. The Working Group also noted Spain's positive practice with regard to allowing tax information exchanged with other countries pursuant to international tax treaties to be used in criminal bribery investigations. The Working Group recognized that Spain is preparing legislation regarding the liability of companies for foreign bribery and urged it to proceed promptly with its adoption.

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The report, available at http://www.oecd.org/corruption, with the full recommendations on pages 50 - 53, also includes an overview of recent enforcement actions and specific legal and policy features in Spain for combating the bribery of foreign public officials. As with all other OECD Working Group reports, Spain will orally report to the Working Group after one year on its actions to implement the Working Group's recommendations. A further report in writing to the Working Group within two years will give rise to a publicly-available evaluation by the Working Group of Spain's implementation of the recommendations.

For further information, journalists are invited to contact David Gaukrodger, Principal Administrator, OECD Anti-Corruption Division (tel. + 33 1 45 24 13 19).