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**OECD GOVERNMENTS AGREE TO COMBAT BRIBERY**

OECD governments today agreed to take collective action to tackle the problem of bribery in international business transactions. The OECD Recommendation on Bribery in International Business Transactions is the first multilateral agreement among governments to combat the bribery of foreign officials and represents a breakthrough in a difficult area. While nearly all countries have laws against the bribery of their own officials, most do not provide legal sanctions for the bribery of foreign officials by their nationals or their domestic enterprises.

Bribery presents moral and political challenges and, in addition, exacts a heavy economic cost, hindering the development of international trade and investment by raising transaction costs and distorting the operation of free markets. It is especially damaging to developing countries since it diverts needed assistance and increases the cost of that assistance.

The Recommendation calls on Member countries to take effective measures to deter, prevent and combat bribery of foreign public officials. Such measures include reviewing their criminal, civil and administrative laws and regulations and taking "concrete and meaningful steps" to meet this goal, as well as strengthening international co-operation. The Recommendation appeals to non-Member countries to join with OECD Members in their efforts to eliminate bribery in international business transactions. It also provides for a follow-up mechanism to monitor implementation.

The OECD believes that this initiative could act as a catalyst for global action and could help companies refuse to engage in such practices in host countries by setting standards of behaviour to which they could refer. Combatting bribery through firm and joint actions by Member countries can also strengthen the multilateral system for trade and investment by ensuring equitable competitive conditions. The Recommendation will also help to promote good governance.

The full text of the Recommendation is attached.

For further information, please contact Mrs Enery Quinones, OECD Directorate for Financial and Fiscal Affairs (tel. 33 1 45 24 91 02 - fax. 33 1 45 24 78 52).

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**RECOMMENDATION OF THE COUNCIL OF THE OECD**

**On Bribery In International Business Transactions**

**THE COUNCIL,**

**Having regard** to Article 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14th December 1960;

**Having regard** to the OECD Guidelines for Multinational Enterprises which exhort enterprises to refrain from bribery of public servants and holders of public office in their operations;

**Considering** that bribery is a widespread phenomenon in international business transactions, including trade and investment, raising serious moral and political concerns and distorting international competitive conditions;

**Considering** further that all countries share a responsibility to combat bribery in international business transactions, however their nationals might be involved;

**Recognising** that all OECD Member countries have legislation that makes the bribing of their public officials and the taking of bribes by these officials a criminal offence while only a few Member countries have specific laws making the bribing of foreign officials a punishable offence;

**Convinced** that further action is needed on both the national and international level to dissuade both enterprises and public officials from resorting to bribery when negotiating international business transactions and that an OECD initiative in this area could act as a catalyst for global action;

**Considering** that such action should take fully into account the differences that exist in the jurisdictional and other legal principles and practices in this area;

**Considering** that a review mechanism would assist Member countries in implementing this Recommendation and in evaluating the steps taken and the results achieved;

On the proposal of the Committee on International Investment and Multinational Enterprises;

**General**

I. **RECOMMENDS** that Member countries take effective measures to deter, prevent and combat the bribery of foreign public officials in connection with international business transactions.

II. **CONSIDERS** that, for the purposes of this Recommendation, bribery can involve the direct or indirect offer or provision of any undue pecuniary or other advantage to or for a foreign public official, in violation of the official's legal duties, in order to obtain or retain business (1).

#### **Domestic Action**

III. **RECOMMENDS** that each Member country examine the following areas and, in conformity with its jurisdictional and other basic legal principles, take concrete and meaningful steps to meet this goal. These steps may include:

- i) criminal laws, or their application, in respect of the bribery of foreign public officials;
- ii) civil, commercial, administrative laws and regulations so that bribery would be illegal;
- iii) tax legislation, regulations and practices, insofar as they may indirectly favour bribery;
- iv) company and business accounting requirements and practices in order to secure adequate recording of relevant payments;
- v) banking, financial and other relevant provisions so that adequate records would be kept and made available for inspection or investigation; and
- vi) laws and regulations relating to public subsidies, licences, government procurement contracts, or other public advantages so that advantages could be denied as a sanction for bribery in appropriate cases.

#### **International Co-operation**

IV. **RECOMMENDS** that Member countries in order to combat bribery in international business transactions, in conformity with their jurisdictional and other basic legal principles, take the following actions:

- i) consult and otherwise co-operate with appropriate authorities in other countries in investigations and other legal proceedings concerning specific cases of such bribery through such means as sharing of information (spontaneous or "upon request"), provision of evidence, and extradition;

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1. The notion of bribery in some countries also includes advantages to or for members of a law-making body, candidates for a law-making body or public office and officials of political parties.

- ii) make full use of existing agreements and arrangements for mutual international legal assistance and where necessary, enter into new agreements or arrangements for this purpose;
- iii) ensure that their national laws afford an adequate basis for this co-operation.

#### **Relations with Non-Members and International Organisations**

V. **APPEALS** to non-Member countries to join with OECD Members in combating bribery in international business transactions and to take full account of the terms of this Recommendation.

VI. **REQUESTS** the Secretariat to consult with international organisations and international financial institutions on effective means to combat bribery as an aid to promote the policy of good governance.

VII. **INVITES** Member countries to promote anti-corruption policies within and beyond the OECD area and, in their dealings with non-Member countries, to encourage them to join in the effort to combat such bribery in accordance with this Recommendation.

#### **Follow-up Procedures**

VIII. **INSTRUCTS** the Committee on International Investment and Multinational Enterprises to monitor implementation and follow-up of this Recommendation. For this purpose, the Committee is invited to establish a Working Group on Bribery in International Business Transactions and in particular:

- i) to carry out regular reviews of steps taken by Member countries to implement this Recommendation, and to make proposals as appropriate to assist Member countries in its implementation;
- ii) to examine specific issues relating to bribery in international business transactions;
- iii) to provide a forum for consultations;
- iv) to explore the possibility of associating non-Members with this work; and
- v) in close co-operation with the Committee on Fiscal Affairs, to examine the fiscal treatment of bribery, including the issue of tax deductibility of bribes.

IX. **INSTRUCTS** the Committee to report to the Council after the first regular review and as appropriate thereafter, and to review this Recommendation within three years after its adoption.

