International Standards for Business Integrity: OECD contribution

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Outline

• OECD anti-corruption and integrity standards (www.cleangovbiz.org)
  – Public sector integrity principles
  – Corporate governance standards
  – Convention against foreign bribery

• Business integrity in the MENA countries
  – Obstacles and incentives
  – MENA-OECD work to promote business integrity
Public Sector Integrity

• Recommendations on Ethical Conduct in Public Service
• Guidelines on Managing Conflict of Interest in Public Service, asset declarations
• Recommendations on Transparency and Integrity in Lobbying
• Principles for Integrity in Public Procurement
• whistleblowers, budget transparency
Corporate governance and ethics

- OECD Guidelines for Multi-National Enterprises (disclosure, human rights, employment, environment, bribery, consumers, science and technology, competition, taxation) and National Contact Points

- OECD Principles of Corporate Governance and Guidelines for state owned enterprises (shareholders, boards, disclosure)
OECD Foreign Bribery Convention

• History
  ➢ U.S. Foreign Corrupt Practices Act (1977)
  ➢ came into force 15 February 1999

• Main provisions (17 articles)
  ➢ criminal responsibility for promise, offer or giving a bribe to a foreign public official for any undue advantage, directly or through intermediaries
  ➢ by any person, physical or legal
  ➢ sanctions, debarment, confiscation
  ➢ independence of prosecution; jurisdiction and statute of limitation
  ➢ monitoring by Working Group on Bribery, publication
A foreign Bribery Case

- **Briber Company (U.S.)**
  - **Joint Venture (Portugal)**
  - **Consultant (UK)**
    - **Swiss Account**
    - **Monaco Account**
      - **Official X (Nigeria)**
      - **Trading Co. (Japan)**
      - **Official Y (Nigeria)**

Connections:
- Agreement
- Payment
  - Briber Company (U.S.) to Joint Venture (Portugal)
  - Joint Venture (Portugal) to Consultant (UK)
  - Consultant (UK) to Swiss Account
  - Consultant (UK) to Monaco Account
  - Monaco Account to Official X (Nigeria)
  - Monaco Account to Trading Co. (Japan)
  - Trading Co. (Japan) to Official Y (Nigeria)

Payment flows:
- From Briber Company (U.S.) to Joint Venture (Portugal)
- From Joint Venture (Portugal) to Consultant (UK)
- From Consultant (UK) to Swiss Account
- From Consultant (UK) to Monaco Account
- From Monaco Account to Official X (Nigeria)
- From Monaco Account to Trading Co. (Japan)
- From Trading Co. (Japan) to Official Y (Nigeria)
Related Standards

- OECD Recommendation on tax measures
- OECD Recommendation on bribery and officially supported export credits
- OECD Anti-Corruption Proposals for bilateral aid procurement
- FATF standards on anti-money laundering
Parties to the Convention

39 States Parties
- 35 OECD members and 4 non-members (Argentina, Brazil, Bulgaria, Russia, South Africa)
- 2/3 world exports (2011)
- G20 Anti-Corruption Action Plan calls on its members to joint the Convention, 15 out of 19 are already parties (20th is the EU)

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Enforcement and Impact

- 199 individuals and 91 entities criminally sanctioned in 13 Parties
- 54 prison sentences
- EUR 1.24 billion fine in one case
- 120 individuals and 20 entities charged in 5 Parties
- 260 investigations in 15 Parties
  + Debarments

- Compliance programmes, incl. supply chains
- Disclosure of bribery by companies
National and International Standards and Business Self-Regulations

- National laws, e.g. UK Bribery Act 2010
- Debarment by Multi-Lateral Development Banks
- Business self-regulations (ICC, UN Global Compact, WEF, TI, EITI, others)
Good practice guidelines on internal controls, ethics and compliance programmes

- Non-binding guidelines by OECD members to companies and business associations
- Company compliance programmes
  - Commitment and tone from the top
  - Clear policy/code/prohibitions, incl. for 3rd parties
  - Training, reporting, enforcement, sanctions
- Support by business associations
  - Information, training, advice
  - Especially for SMEs
Framework for business integrity in Middle East and North Africa

- Costs of bribery (for SMEs) and unfair competition with ‘connected’ companies
- Risk of domestic prosecution when UNCAC standards are enforced
- MENA companies reputation vis-a-vis citizens/consumers
- Opening for international business, modernisation of corporate governance, integrity requirements from MNE, foreign markets
MENA-OECD Business Integrity Network

• Public-private dialogue
• Strengthening the capacity of private sector and business associations
• Regional review of good practice
  ➢ Joint efforts of governments and businesses, e.g. sectors with risk, reporting channels, etc.
  ➢ Compliance programmes by companies
  ➢ Collective and other actions supported by business associations
THANK YOU

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