

OECD SYMPOSIUM ON THE GOVERNANCE OF INFRASTRUCTURE

TRANSPARENCY AND INTEGRITY - GUARDING AGAINST CORRUPTION AND FRAUD

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Conscious of the great expectations towards the private sector in the fight against corruption, BIAC engaged early on in the OECD work and in activities around the implementation of the OECD Anti-Bribery Convention, which we see as a landmark in the global fight against corruption. But the OECD Convention focuses only on the supply side of a bribery transaction and does not address the demand side, i.e. bribe solicitation and extortion by public officials. Including the demand side of bribery effectively in OECD work through ambitious integrity programs represents a significant step towards a more corruption-free business environment. This is the reason why BIAC is actively engaged in both pillars of the OECD Trust Agenda: Trust and Business and Trust in Public Institutions. We welcome further discussions on transparency and integrity in the governance of large projects involving the private sector.

Measures aiming to strengthen the integrity of the public sector are the necessary counterpart to the fight against misconduct by the private sector, and it has become a cornerstone of good public governance. BIAC is committed to partnering with the OECD to identify measures and develop recommendations that will support more integrity and ethics in its interactions between private and public actors. We also stand ready to contribute to the exchange of good practice and experience drawn from private-sector compliance efforts.

Integrity and Transparency

For a number of years, the OECD has intensified efforts to curb corruption, focusing a large amount of attention on issues such as good governance and capacity-building in developing countries. Unfortunately, at national level, discussions on specific company failures have not always been balanced with the broader picture, and in some instances the very positive role the private sector can play in the analysis of existing regulations, in the assessment of relevant measures and as a key provider of expert advice, has been disregarded.

Entire industries are sometimes perceived as being particularly prone to unethical business practices. Against this background, some of them have identified the need to respond constructively with concrete commitments and actions to the various misconceptions and simplistic assumptions which unjustifiably cast a bad light on their activities without acknowledging the fact that they themselves have been often the victim of extortion and other types of unethical requests.

BIAC believes that the policy approach of sanctions for private sector misconduct should be balanced with incentives for compliance and with ambitious plans for public sector integrity. Efforts should be

made to include the creation of a transparent, consistent and comprehensive procurement and PPP framework fostering on all levels a fair competition in infrastructure tenders.

One of the lessons drawn from private sector efforts in the fight against corruption is that tick-box approaches should be avoided if the aim is to create a more ethical culture and more trust amongst groups of individuals. Compliance should be understood not just as adherence to the law and to the rules of a specific organization, be in private or public, but as a key component of integrity. Both private and public organizations should be encouraged to invest in well-functioning anti-corruption and compliance systems and support projects that work towards the creation of incentives for good performers, based on three pillars of work: awareness, rewards, and protection. Compliance efforts should be duly recognized, and individuals aiming to demonstrate support should be encouraged. Compliance incentive systems should be implemented in national legislations, rewarding voluntary self-disclosure. True compliance efforts should also be recognized in any sanction decisions.

Furthermore, we believe that good regulatory practice is one of the keys to a healthier regulatory environment, and can also be a useful tool to achieve more integrity and ethics in public decision-making mechanisms. The OECD itself recognizes that cutting red tape will contribute to reaching that goal.

Focus on Good Projects Preparation

In discussions with Multilateral Development Banks (MDBs) for the last decade, the private sector had numerous opportunities to outline how good project preparation could be a powerful tool in particular to help combat fraud and corruption. Good project preparation is in the interest of the project itself and eventually benefits all stakeholders, including authorities in charge, the public at large, as well as the contractors and consultants involved. Good project preparation can aim to make infrastructure projects acceptable to citizens and to meet initial deadlines and budgets. Well-prepared projects reduce project risks, right from the development stage, which are indicators of possible corruption such as poor material quality, delays, cost overruns and possible unethical behaviour associated with ensuing change orders. One additional benefit that can be drawn from good project preparation is that it can help curb down fraud and corruption by reducing technical uncertainties and ensuing opportunities for possible change orders and unethical behaviour, by adopting adequate procurement strategy in order to improve competition and by informing interested stakeholders and civil society about the justification and accurate definition of the project.

While good project preparation can bring huge benefits in the global interest of the project, notably by ensuring that deadlines and budgets will be met, additional benefits can be achieved with respect to fraud and corruption issues. The preparation of the technical elements of the project is key, typically those that are included in tender documents for works definition. As regards project delivery strategy, adequate strategies can help reduce risks associated with fraud and corruption. And sharing non-confidential project related information can help civil society to better understand projects and play an important role in curbing down fraud and corruption.

ANNEX

SELECTED INITIATIVES

FROM THE CONSTRUCTION AND ROAD SECTORS

Here is a non-exhaustive list of documents/projects related to the issue of fight against corruption in the construction sector:

1. FIEC/EIC Statement on Corruption Prevention in the Construction Industry (2009)

FIEC is the European Construction Industry Federation. Through its 30 national member federations in 27 European countries (24 EU & EFTA and Turkey), FIEC represents construction enterprises of all sizes, small and medium-sized enterprises as well as global players, carrying out all forms of building and civil engineering activities.

EIC, the European International Contractors composed of 15 national member federations, represents the interests of the European construction industry in all aspects related to its international activities.

Both associations have taken up the issue of fight against corruption and produced a joint statement on Corruption Prevention in the Construction Industry.

In 2009, FIEC called for “**positive leadership**” from the Governments, public clients and funding agencies to reinforce and complement the initiatives taken by the private contracting companies. At the time, they also deplored what was perceived as a lack of determination on the part of the bilateral, European and international funding agencies, which *in fine* multiplied the difficulties for European construction companies when executing work outside the OECD, where they are not facing a level playing-field.

→ **Please also read:**

- FIEC/EIC [Statement on Corruption Prevention in the Construction Industry](#) (2009)

2. EIC joins CoST initiative

In 2011, the **CoST Initiative** (for Construction Sector Transparency) was launched, an international multi-stakeholder initiative to increase transparency and accountability in the construction sector, supported by the World Bank.

→ **Please also read:**

- EIC joins [CoST initiative](#)

3. CICA joins FIDIC on a position paper on Fighting Corruption; and other CICA initiatives

The presidents of two worldwide associations, Manuel R. Vallarino for **CICA (Confederation of International Contractors' Associations)** and Gregs G. Thomopoulos for **FIDIC (International Federation of Consulting Engineers)** signed a position paper on Fighting Corruption on November 3, 2009 (paper attached).

In addition, CICA has always held the firm view that good project preparation is a powerful tool to limit corruption at all stages of a project. Together with FIDIC and PIARC, CICA has promoted the

concept of "**Well-Prepared Project**" (see for instance attached paper presented by CICA at the 25th PIARC World Road Congress that took place in Seoul in November 2015). All three associations are considering joining the IISS (International Infrastructure Support System) initiative promoted by a number of stakeholders, including multilateral development banks, in order to promote better project preparation.

Finally, CICA and **IFEJI (Institut Français des Experts Juridiques Internationaux – French Institute of Legal International Experts)** promoted the creation of an International Centre of Excellence on « Policies, Laws & Institutions », dedicated to concessions and PPPs, under the aegis of the UN Economic Commission for Europe-UNECE. In this framework, it is contemplated to set up a standard on prevention of corruption when procuring concession or PPP projects.

4. Road sector : PIARC publications

The World Road Association (**PIARC**) was established in 1909. It brings together the road administrations of 121 governments and has members--individuals, companies, authorities and organizations in over 140 countries. PIARC Technical Committees (TCs) unite experts from the public and the private sectors in numerous areas including road safety and design, network operations and maintenance, finance and governance. Regarding this last issue, relevant TCs have taken up the issue of fight against corruption and produced a number of documents, (see below).

In 2011, PIARC released a ***Cycle of Integrity and Toolkit of Anti-Corruption Measures*** in order to effectively and efficiently implement the cycle of integrity within an organization. Division of the essential anti-corruption measures into the relevant fields of prevention, identification and enforcement is characteristic of this overview.

This was followed in 2012 by the release of ***Best Practices of Good Governance – Institutional Integrity*** (2012) presenting 1. key definitions and an analysis of literature pertaining to corruption and institutional integrity; 2. examples of current policies and practices from an international survey; 3. a model of cycle of integrity to counter-act the cycle of corruption together with a set of measures to prevent, detect and punish corrupt behaviour and enforce decisions within an organization (***Institutional Integrity Toolkit*** which reviewed recent changes in successful governance structures and examined different plans, policies and initiatives for successfully ensuring institutional integrity in the road sector); and 4. recommendations for future works.

→ Please also read:

- [Cycle of Integrity and Toolkit of anticorruption measures](#) (2011)
- [Institutional Integrity Toolkit](#) (2012)
- [Best practices of good governance – Institutional Integrity](#) (2012)