

Business at OECD (BIAC) contribution to the UNGASS 2021

November 2020

Business at OECD (BIAC) appreciates the opportunity to contribute to the UN Special session of the General Assembly against corruption thanks to the inclusive preparatory process that has been put in place ahead of the meeting in 2021.

Further to the submissions from the OECD and the OECD Working Group on Bribery, in order to ensure a comprehensive approach to the fight against corruption, we would like to propose a number of additional issues for further consideration as outlined below.

Established in 1962, *Business at OECD* stands for policies that enable businesses of all sizes to contribute to growth, economic development, and societal prosperity. Through *Business at OECD*, national businesses and employers' federations representing over 7 million companies provide and receive expertise via our participation with the OECD and governments promoting competitive economies and better business.

Our Anti-Corruption Committee, strongly supports OECD's efforts to fight bribery and corruption, foster integrity and ensure a global level playing field, including through our active input to the discussions of the OECD Working Group on Bribery.

1. TAKING CONCRETE STEPS TO ADDRESS THE DEMAND SIDE OF BRIBERY

Corruption can only be fought effectively if it is addressed at every level and if both private-sector representatives on the supply side and public officials on the demand side soliciting or accepting bribes face a credible risk of being sanctioned. A 2018 OECD study¹ revealed that public officials taking bribes from OECD-based companies run little risk of being punished as in only one fifth of concluded foreign bribery cases formal sanctions were imposed.

The UNGASS may be a good occasion to promote efforts to address the demand side of bribery. In this context, more clarity and guidance is needed on what public authorities can do in order to prevent bribery internally, including by supporting codes of conduct or sound compliance programs. The Covid-19 crisis has further demonstrated the importance of establishing proper integrity and transparency safeguards in emergency procurement processes to ensure that bribery does not impede fairness and the effectiveness of government action. Building Information Modeling (BIM) may also be considered as a novel tool to enhance greater transparency in public procurement.

¹ OECD (2018) [Foreign bribery enforcement: What happens to the public officials on the receiving end?](#)

It will also be important to call on governments to improve the flow of information and support business in communicating bribe solicitation, for instance with the establishment of reporting lines, which can respond quickly and in a non-bureaucratic manner.

2. ENHANCING AND INCENTIVIZING COMPLIANCE

Companies establish anti-corruption compliance programs not only to ensure that they act in line with the rules and regulations, but also because they view them as strategic investment in the company's long-term viability and success. Such business actions, however, should be complemented by government efforts to set up a conducive and enabling policy environment.

Governments can provide incentives for business to establish compliance programs, for instance by taking the existence of such programs into consideration when awarding public contracts, recognizing that there is no one size fits all. Another way to support corporate compliance efforts is to encourage self-disclosure and self-cleaning by offering reduced penalties and leniency programs, and allowing the re-inclusion of firms which have come clear in public tenders. Companies can further be encouraged to consider the application of emerging technologies (such as artificial intelligence or blockchain) for monitoring and due diligence purposes through the provision of dedicated incentives.

In addition, governments are encouraged to promote efficient whistleblowing systems, including the provision of rapid and easy-to-access reporting mechanisms and the establishment of sound whistleblower protection. We also need the promotion of a 'speak up' culture more broadly through effective education. This should be approached through cooperation between business and government, which can help to identify new innovative approaches and solutions. Involving and consulting with the private sector in order to learn about needs and challenges on the ground will help to make policies more practicable and impactful. SMEs might need additional support, especially in times of crisis.

3. ENCOURAGING ADDITIONAL ADHERENCE TO AND IMPLEMENTATION OF INTERNATIONAL STANDARDS

While the United Nations Convention against Corruption (UNCAC) has, as of May 2020, 187 parties, several G20 countries, are not yet adhering to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Anti-Bribery Convention), which could undermine efforts to create a level playing field. The OECD Anti-Bribery Convention is the first and only international anti-corruption instrument focused on the 'supply side' of bribery.

We therefore encourage continued efforts to work closely with major emerging economies to raise their levels of policy standards and ultimately widen participation to international standards, especially the OECD Anti-Bribery Convention.

We also reiterate the call of the OECD Working Group on Bribery that there needs to be full implementation of existing standards. In this context, it is important to foster policy coherence among existing standards and initiatives in order to prevent a proliferation of measures that may ultimately hamper awareness raising, by increasing complexity, and create obstacles for businesses, which are operating on a global scale.

Moreover governments should foster awareness raising with respect to the wide range of integrity and anti-corruption instruments and tools, including the dissemination of targeted guidance on what is expected from business. We also need strengthening the focus on ethics and integrity in education at schools and universities.

4. ENSURING SME BUY-IN FOR THE FIGHT AGAINST CORRUPTION

The fight against corruption is not limited to large, multinational companies engaging with government officials, but should include all sectors and companies of all sizes, including SMEs. SMEs play a crucial role in our economies: Not only are they part of almost any supply chain, but they also represent the majority of businesses in many countries around the world. SMEs, however, often face considerable challenges in establishing comprehensive compliance structures due to a lack of resources. Many SMEs fear therefore that they may be overburdened with the costs of compliance regulations, which are not adapted to their capacities.

It is for the above reasons that SMEs should be given special attention in policy discussions, including at the UNGASS. Generally, governments should make sure that the requirements do not become too complex or too onerous such that they remain practical for SMEs. In addition, governments should establish a dialogue with SMEs and consider how SMEs can be supported in the fight against corruption with capacity building, training and dedicated guidance.

The promotion of private-public partnerships for anti-corruption may also help to cope with the specific vulnerability and exposure of SMEs in public procurement. Broader awareness raising, for instance in the form of informational campaigns, too, can contribute to ensure buy-in of all businesses for the fight against corruption.

5. LEVERAGING TECHNOLOGY IN THE FIGHT AGAINST CORRUPTION

Technology can play a key role in combatting corruption. The use of digital national registers of beneficial ownership data, for instance, can help to reduce illicit financial flows while the digitization of government services and administrative procedures, including licensing, granting of permits, and procurement, can foster transparency and accountability in public sector processes.

Moreover, new technologies such as blockchain, offering transparency and immutability, big data, improving monitoring and supervision, and artificial intelligence, facilitating the analysis of large

data sets for the detection of suspicious activity, may be promising tools to support companies in their fight against corruption.

At present, however, the most significant progress in these areas has been made by large corporations, while many of these new technologies are expensive to scale and develop not only for small but also for larger companies. Collective action is therefore needed to unlock the full potential of digital technologies for compliance and risk management both within supply chains as well as in the broader ecosystems in which companies operate.

Governments can further support the private sector in establishing and implementing new innovative tools and technologies by lowering regulatory barriers. At the same time, due attention must be given to issues such as accessibility, data quality, privacy and security of sensitive information. The UNGASS could play an important role in exploring the role of technology going forward and helping shape a broad-based approach conducive to collective action.

6. ADDRESSING ANTI-CORRUPTION AND INTEGRITY IN SOEs

Today more than a fifth of the world's largest companies are state owned. At the same time, the role of state-owned Enterprises (SOEs) as global competitors is growing, as SOEs are increasingly active as international investors. Unfortunately, SOEs have also been linked to some high-profile scandals. This is reinforced by the findings of a 2018 OECD study², according to which two in five SOE insiders reported to have witnessed corruption or irregularities in the last three years.

In view of these findings, we particularly welcomed the adoption of the 2019 OECD Council Recommendation on the Guidelines on Anti-Corruption and Integrity in State-Owned Enterprises (ACI Guidelines), which constitute the first international instrument to offer the state, in its role as an enterprise owner, support in fighting corruption and promoting integrity. However, more efforts are needed to clearly define expectations towards public institutions and SOEs and establish a level-playing field with private companies. This could also be addressed at the UNGASS.

It is essential that governments lead by example, adhering to sound governance standards in their own operations and processes, in order to promote a broader culture of integrity in support of the fight against corruption and reinforce public trust in public authorities. In addition, it is essential that information is easily accessible, including through dedicated hubs containing information on relevant standards applying to both private and public sectors.

7. EXPLORING THE LINK BETWEEN ANTI-CORRUPTION AND HUMAN RIGHTS

Corruption damages economies and the provision of essential public services, hampers the fight against poverty, undermines the rule of law, erodes peoples' trust in institutions and can also lead

² OECD (2018) [STATE-OWNED ENTERPRISES AND CORRUPTION What are the risks and what can be done?](#)

to human rights violations. At the same time, corruption can only be fought effectively in an environment in which human rights are respected. In addition, corrupt practices and human rights abuses share many of the same root causes and tend to occur in the same structural environments, which generates a correlation between high rates of corruption and poor human rights records.

The special session of the UNGASS could be taken as an opportunity to further explore the interlinkages between the anti-corruption and human right agendas, elaborating on the recently published report by the UN Working Group on Business and Human Rights.³ In September 2020 *Business at OECD* (BIAC) published together with the International Organization of Employers (IOE) a practical guide for business and employers' organisations on '[Connecting the anti-corruption and human rights agendas](#)', providing companies with a set of questions for self-assessment in order to identify areas in which they can foster a more coordinated approach to risk assessments and foster beneficial information sharing between human rights and anti-corruption experts, where feasible and desirable.

States, too, should adopt a more holistic approach to human rights and anti-corruption, which leverages existing synergies. More specifically, governments need to ensure that they have sound governance structures in place, that the rule of law is respected, that they deliver on national human rights roadmaps and that they confront the challenge of prevailing poverty in order to address the common root causes of corrupt actions and human rights violations.

³ UN OHCHR (2020) [Connecting the business and human rights and the anticorruption agendas - Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises*](#)