

## OECD CONTRIBUTION TO UNGASS 2021

1. On 17 December 2018, the General Assembly adopted resolution 73/191 entitled “Special session of the General Assembly against corruption”. With some 270 legal and non-legal instruments<sup>1</sup> promoting integrity and good governance, the OECD has been a key partner of the United Nations in the global fight against corruption. In 2018, to help strengthen the impact of these standards, the Organisation issued a “Strategic Approach to Combating Corruption and Promoting Integrity”, in which it endeavoured to: 1) conduct more evidence-based analysis; 2) break down silos between areas of expertise; 3) continue to expand the global application and implementation of standards; 4) explore the application of OECD standards at sub-national government and sectoral levels; and 5) strengthen engagement with non-government stakeholders. The implementation of the Strategic Approach is promoted by the OECD Anti-Corruption and Integrity Project and the Anti-Corruption and Integrity Hub helping countries address the multidimensional risks of corruption.
2. Alongside the UNCAC, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Anti-Bribery Convention) has been a key component of the arsenal to prevent and combat corruption globally. Since its entry into force in 1999, the Anti-Bribery Convention has been a driving force of legal and institutional reforms to enhance the fight against foreign bribery, thanks to a rigorous peer-review monitoring process. Particularly, the OECD Working Group on Bribery (WGB), being the conference of the parties to the Anti-Bribery Convention, has been at the forefront of this review mechanism and the overall fight against corruption. Potential synergies between the WGB and other review mechanisms could be explored further by the UNGASS 2021.
3. The Organisation — through active engagement with member and partner economies, other international organisations, and global governance fora like the G7, G20 and APEC — works with over 130 governments and jurisdictions in Africa, Asia, Eurasia, Middle East, Latin America and the Caribbean. Such global engagement helps foster a convergence of views and promotes the practical application of OECD standards by economies of all sizes globally.
4. To foster a better understanding of the impact and effectiveness of anti-corruption policies and to build the case for continued efforts in the fight against corruption, the OECD provides data and analysis, and works with the international community to strengthen its own and countries’ measurement capacity and to share evidence-based studies and contributions. UNGASS 2021 could contribute to encouraging global coordination to design and improve anticorruption and integrity measurement frameworks. Additionally, the OECD has been at the forefront of providing support and a deep engagement with developing countries in the fight against corruption, particularly given there is no sustainable development without tackling corruption (SDG 16).
5. The OECD further recognises that the global fight against corruption needs to be strengthened and further coordinated to ensure economic prosperity and social welfare, and re-establish trust in institutions, the rule of law and business around the world. This is all the more relevant in the context of the global Covid-19 crisis where the resilience and strengthening of our societies is being put to the test and fighting corruption, in particular in the area of public procurement, will increase the potential for a faster and better recovery.

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<sup>1</sup> Among those, the OECD has legal instruments such as the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and related instruments: the Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions, the Recommendation of the Council on Bribery and Officially Supported Export Credits, the Recommendation of the Council on Tax Measures for Further Combating Bribery of Foreign Public Officials in International Business Transactions and the and the Recommendation of the Council for Development Co-operation Actors on Managing the Risk of Corruption. Similarly, it has developed public sector integrity recommendations such as the Recommendation of the Council on Public Integrity, the Recommendation of the Council on Public Procurement, and the Recommendation of the Council on Improving the Environmental Performance of Public Procurement. Finally, there are guidelines and other tools such as the Recommendation of the Council on Guidelines on Anti-Corruption and Integrity in State-Owned Enterprises, the Recommendation of the Council on Principles for Transparency and Integrity in Lobbying and the Decision of the Council on the OECD Guidelines for Multinational Enterprises.

6. Similarly, corruption constitutes a serious threat to development, and the OECD recognises that the consequences of corruption go far beyond the loss of financial resources, with potentially significant economic, social and security impacts on developing countries. The OECD is a strong advocate and acts to support developing countries in the fight against corruption. It has established a number of capacity building activities, other initiatives and standard setting instruments to further this objective, particularly in Official Development Assistance (ODA).

**The OECD provides the following remarks to the 2021 UN General Assembly Special Session on corruption:**

*Preventive measures against corruption*

7. Considering that integrity is the cornerstone of good governance and a safeguard to democratic institutions and the rule of law, the OECD stresses the importance of placing public integrity at the core of strategic and sustainable responses to corruption. The OECD Recommendation on Public Integrity provides a vision for a public integrity strategy, including a risk-based approach with an emphasis on setting a culture of integrity. **The OECD considers essential that the prevention of corruption through a coherent integrity system is made a priority by UNGASS 2021.**
8. Managing conflicts of interest in public office and preserving the soundness of public procurement are key components to safeguard integrity in the public sector. The OECD therefore reiterates its determination to reinforce policy tools regulating the interaction of lobbying groups with public officials, and to build resilience in public procurement systems. OECD legal instruments such as the Principles for Integrity and Transparency in Lobbying (2010) and the Guidelines for Managing Conflict of Interest in the Public Service (2003) have proved to be central tools in encouraging countries to modernise their approach for managing conflict of interests and address risks related to the influence of private interests on policy-making processes. Recognising the multitude of ethical and corruption risks affecting the entire public procurement cycle, the 2015 OECD Recommendation on Public Procurement provides a guiding framework for countries to implement reforms of their procurement systems. **Integrity risk management in public procurement should be a priority by the UNGASS 2021.**
9. On par with preserving public integrity, the ability to identify persons who own or control legal entities is a powerful preventive measure as it complicates the concealment of ill-gotten assets. To deter and prevent the misuse of legal persons and arrangements, the Financial Action Task Force and the OECD-hosted Global Forum on Transparency and Exchange of Information for Tax Purposes apply a standard on availability of information on legal and beneficial ownership in their respective peer reviews, but overall its implementation is weak. **The OECD calls for strengthening efforts to ensure effective implementation of the beneficial ownership standard, including in developing countries, to increase transparency.**

*Criminalisation and law enforcement*

10. The OECD Anti-Bribery Convention is at the forefront of the fight against foreign bribery and is the only instrument focusing on the supply-side of bribery. The OECD recognises that the Anti-Bribery Convention and the UNCAC are complementary instruments with mutually reinforcing effects. **Thus, the OECD strongly supports efforts to co-ordinate with the UNODC and share information that could increase the enforcement capacity and action of all parties to the UNCAC.**
11. Article 16 of the UNCAC and the OECD Anti-Bribery Convention make the criminalisation of bribery of foreign public officials a priority across the globe. Bribery in international business transactions is now a criminal offence in all 44 countries Party to the Anti-Bribery Convention. **The OECD encourages all Parties to the UNCAC to criminalise the bribery of foreign public officials, and ensure the active enforcement of foreign bribery laws. The OECD reiterates that the prevention and detection of bribery through tax, official development**

**aid and official export credit agencies as well as accounting and auditing systems remain a priority and should be addressed by the UNGASS 2021.** The detection role of these gatekeepers of significant financial data and transaction records should be enhanced through awareness-raising and capacity-building initiatives to empower staff to identify and report suspicions of bribery and corruption. Enhanced inter-agency coordination is also critical to ensure that agencies report suspicions of corruption and bribery to the appropriate domestic law enforcement authorities.

12. Recognising corruption is a moving target, innovative law enforcement tools deserve closer attention. In 2019, the OECD Working Group on Bribery released a study on “Resolving Foreign Bribery Cases with Non-Trial Resolutions”. This study provides a unique cross-country examination of non-trial resolutions as a prominent means for resolving economic crimes, in particular foreign bribery cases, and could potentially lead the way to more comprehensive legal frameworks. The OECD and its Working Group on Bribery have been at the forefront of strengthening regional and cross-regional law enforcement cooperation networks in the area of anti-corruption in most regions in the world. The Organisation reiterates its interest to reinforce this practice, as a key component of the informal exchange of information among relevant authorities. **The 2021 UNGASS should aim to include recommendations that help streamline formal methods of cooperation and develop informal lines of communication in anti-corruption investigations.**
13. The OECD recognises that whistleblowers can play a significant role in detecting corruption. This is why, along with the recent work carried out by the European Union (2019 EU Directive on the Protection of Persons Who Report Breaches of Union Law) and the G20 (2019 G20 High-Level Principles for the Effective Protection of Whistleblowers), **the OECD has an important role in the promotion of universal standards in the field of protected reporting and the strengthening of legal frameworks in this area should be one of the main priorities of the UNGASS 2021.**

#### *Corporate accountability and private sector engagement*

14. Recognising that liability of legal persons plays a key role in combatting bribery and in line with Article 2 of the Anti-Bribery Convention, **the OECD stresses the importance of incorporating legal and institutional frameworks for effectively holding all entities with legal rights and obligations liable for domestic and foreign bribery.** This includes implementing robust standards to trigger legal person liability, efficiently pursuing enforcement actions and subjecting them to effective, proportionate and dissuasive sanctions.
15. The private sector is a key partner in combatting bribery. **The OECD encourages all countries to promote a culture of business integrity and engage private sector actors in the prevention, detection and response to domestic and foreign bribery.** Key measures to adopt include raising awareness of bribery risks, promoting the adoption of anticorruption and integrity compliance programmes and responsible engagement policies (covering for example lobbying, political financing and post-public employment), including by small and medium companies and state-owned enterprises. Also recognising the need to eliminate corruption and promote a culture of good governance in and around sport, the OECD will continue to contribute to the work carried out by the International Partnership against Corruption in Sport and will continue to engage in the promotion and accountability of sport organisations globally.

#### *International cooperation and asset recovery*

16. Effective international co-operation between countries is crucial for the successful investigation, prosecution and sanctioning of international corruption offences and the recovery of assets. The OECD WGB and its networks of law enforcement officials – at both regional and global levels – provide platforms to facilitate international co-operation to combat corruption. **The OECD therefore calls for greater efforts to fight bribery, dismantle systems of illicit financial flows by providing timely and effective international cooperation between all countries in corruption cases including through effective mutual**

**legal assistance and informal cooperation.** Furthermore, recognising that corruption and transnational illicit financial flows are multidimensional phenomena, **the OECD underlines the importance of effective inter-agency cooperation between anti-corruption authorities, anti-money laundering authorities, financial intelligence units, tax authorities, customs authorities, financial regulators, police, and prosecutors.** In particular, tax authorities face multiple challenges in tracking and combatting illicit financial flows (IFFs) that originate in corruption. It is essential that parties to the UNCAC improve information sharing between agencies for this purpose. Information sharing for non-tax purposes still occurs on ad-hoc basis and lacks a common standardised operational and legal framework agreed on by jurisdictions. In this context, financial account information of non-residents, which is automatically exchanged between tax authorities to tackle tax evasion under the OECD's 'Common Reporting Standard', could be of particular relevance for identifying financial flows linked to corruption by investigative agencies.

17. **The OECD recommends strengthening the links both inside and outside OECD membership,** including at the practitioner and expert levels while aiming to further explore ways in which good practices and expertise could be shared with developing economies, including through peer-to-peer learning networks, such as the OECD Effective Institutions Platform. This also includes co-ordinating engagement across the OECD and via regional initiatives.
18. Finally and equally concerning are the large sums of money transferred out of developing countries illegally, dramatically reducing the resources available for domestic investment. **In light of these challenges as well as the economic pressure, arising from the COVID-19 crisis, tackling IFFs is among the priorities that should be addressed by the UNGASS 2021.**