BETTER POLICIES FOR BETTER LIVES
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OECD FORUM 2011 BACKGROUND NOTE

RESTORING TRUST & STRENGTHENING GOVERNANCE

GENERAL INTRODUCTION FOR SESSION

The crisis revealed serious gaps in the world economy, and failures in governance and regulation, leading to a loss of public trust in the system as a whole. A massive joint effort by the world's governments averted a possible depression, but for a sustainable recovery to take hold they must now restore that trust both in government and in the business sector.

Stronger governance, improved regulation and a focus on ethical business are essential if citizens are to regain their confidence in the system. Many of the right promises have been made and changes are under way, but they will have to deliver results to restore people's trust and rebuild credibility.

Governance is an issue for everyone – government, business and citizens – in achieving sustainable recovery and efficient, affordable public services. Governments collect tax to help fund infrastructure and public services such as roads, schools, clean water systems, public transport. Tax dodging, corruption and inefficient systems reduce the amount of money available and mean poorer service for everyone. This is particularly true of developing countries, where financial resources are particularly scarce, but in the wake of the crisis public finances in the developed world are also under unprecedented strain and every cent has to be made the most of.

Good governance ensures that all of a country's resources are harnessed effectively and fairly to translate into improved quality of life for its people. Every arena, from healthcare to the environment, from education to infrastructure, is affected by the quality and nature of governance.

Such governance needs to go beyond national boundaries. In a globalised economy, money has no passport and can be moved around to evade the law, whether tax evasion or the fruit of bribery. International instruments such as the OECD Anti-Bribery Convention and the Guidelines for Multinational Enterprises, as well as the international efforts on tax transparency and exchange of information, are valuable weapons in the international governance armoury.

But rules only work if people know they exist and know that there is a system in place to ensure that they are followed. The economic and financial crisis brought about a new look at the existing international rulebook and the realisation that while some of the existing instruments needed updating, many were perfectly adequate in the rules they set out; where they fell down was in the implementation.

It is essential to encourage businesses, officials and citizens to see the benefits of following, not flouting the rules. Good governance is key to generating and maintaining that trust.

PANEL 1: ANTI-BRIBERY CONVENTION AND TAX HAVENS

Corruption and tax evasion deprive government of revenues, warp economic activity and fuel inequality and underdevelopment. Fighting bribery and tax evasion are thus vital elements in good governance.

Bribing foreign public officials to win contracts comes at the taxpayer's expense – the project is likely to cost more and be of inferior quality than in a fair competition. And a government that functions on bribery will be less efficient overall. But in practical terms, cleaning up a corrupt system is difficult, as nobody wants to admit guilt and beneficiaries have a vested interest in protecting the corrupt system.

The OECD Anti-Bribery Convention, criminalizing the bribery of foreign public officials to win a contract, was introduced in 1997 and has 38 signatories, and was followed by the United Nations Convention against Corruption. A number of high-profile cases and prosecutions have hit the headlines, but new cases keep on coming.

Tax avoidance and tax evasion also take billions of euros and dollars from government revenue every year – and that means those who do play by the rules pay an unfairly high share of the cost of public services such as roads, healthcare, or education.

The financial and economic crisis has put government finances under pressure and made it all the more essential to ensure that taxes are paid and that corruption does not undermine the system.

In the last couple of years, more progress toward full and effective exchange of information has been made than in all of the previous decade. Tax transparency and the fight against cross-border tax evasion have been key topics at G20 Summits in Washington, London, Pittsburgh, Toronto and Seoul and the OECD is helping to develop exchange of information networks through the Global Forum on Transparency and Exchange of Information for Tax Purposes. But having information available is only the first step; governments need to use the information, and tax evaders have to believe they will be caught if things are to change.

But where does legitimate competition for business end and corruption begin? When does making your business' case for a change in regulations because officials do not understand your needs and problems become an attempt to exert undue influence on government decisions?

How to be sure that officials are adequately trained to deal with complex financial crimes? Or that national compliance regulations are not so different that they become a burden for multinational business, undermining their ability to operate efficiently? And are regulations in different jurisdictions complementary, repetitive or even contradictory?

All of these issues need to be addressed. One thing is sure – corruption is an issue that will not go away. As new rules arise, criminals find new ways to cheat the system, and regulators need to remain permanently alert to keep up. This is an issue for all stakeholders – government, business and taxpayers.

Questions for discussion

1. *How to balance the need for adequate anti-corruption legislation at international level and multinational businesses' need to remain competitive in all markets?*
2. *How to ensure that government remains vigilant on pursuing tax evasion as public finances recover?*
3. *How to ensure that governments provide adequate staff, and training, to pursue corruption and tax evasion at a time of public spending cuts?*

PANEL 2: MNE GUIDELINES

In a globalised economy, businesses based on one side of the planet may be employing people, either directly or through suppliers, at the opposite end of the planet. How to be sure that foreign subsidiaries or contractors are treating their workers fairly, that their basic labour rights are respected? Child labour may be long forgotten in the headquarters country, but still tolerated in other areas where the business sources material or sets up subsidiaries.

Who is responsible for deciding what the basic ground rules are for multinational companies in these circumstances? And how to be sure that the rules are being followed? How can companies show shareholders and customers at home that they are behaving ethically abroad?

The OECD Guidelines for Multinational Enterprises are the sole international instrument covering all areas of business ethics, developed multilaterally with input from business, labour and civil society and agreed by governments. They include general principles but also recommendations such as promoting compliance with laws; protecting consumer interests; respecting human rights; caring about employment, industrial relations; and protecting the environment.

But the Guidelines are voluntary, and it can seem difficult for a complainant on the other side of the world to bring their problem to the attention of a national contact point in the headquarters country. For companies, there is also the question of how far they can be expected to investigate the practices of sub-contractors to suppliers of part-owned subsidiaries hundreds of thousands of miles away?

The economic and financial crisis raised questions as to whether existing safeguards such as the Guidelines were wanting. Much had changed since the previous review in 2000, and new issues such as climate change and new ways of looking at development had come to the fore, in addition to the undermining of confidence in open markets brought about by the crisis. The 42 signatory countries agreed in 2010 to update the Guidelines to ensure their continued role as a leading international instrument for the promotion of responsible business conduct. That update is due to be completed in 2011.

Companies are under pressure from consumers and shareholders not just to "talk the talk" of social responsibility, but to "walk the walk" too wherever they operate. But the real question is how to do this and remain competitive in a global market.

Questions for discussion

1. *Are consumers prepared to pay more for goods to be sure that the rights of the workers that produced them are protected?*
2. *How far can business be expected to set higher standards than the laws of the countries where they operate?*
3. *How far can voluntary Guidelines be an effective* guarantee of corporate social responsibility?