

The 2021 Recommendation on **ANTI-BRIBERY**

The OECD Anti-Bribery Convention was adopted in 1997 to combat bribery of foreign public officials in international business transactions and its negative effect on good governance, economic development and a level playing field. The OECD Working Group on Bribery in International Business Transactions, made up of the 44 countries Party to the Anti-Bribery Convention, is responsible for monitoring the implementation and enforcement of the Convention.

The 2021 Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions (the Anti-Bribery Recommendation) was adopted by the OECD Council on 26 November 2021. With this Recommendation, the Parties to the Anti-Bribery Convention agree to put in place new measures to reinforce their efforts to prevent, detect and investigate foreign bribery.

The 2021 Anti-Bribery Recommendation updates and expands upon the 2009 Recommendation to strengthen the implementation of the Convention and further enhance the fight against foreign bribery. It is one of five OECD Recommendations which make up a wide-ranging anti-corruption framework that also covers tax, official development assistance, export credits and state-owned enterprises.

About the OECD Anti-Bribery Convention

The Anti-Bribery Convention establishes legally binding standards to criminalise bribery of foreign public officials in international business transactions and provides for a host of related measures that make this effective, including requiring countries to hold their companies liable; to impose effective, proportionate and dissuasive sanctions; and to co-operate internationally in foreign bribery cases. The Convention is the first and only international anti-corruption instrument focused on the “supply side” of the bribery transaction.

Since the adoption of the Convention, monitoring by the Working Group on Bribery has established the Convention as the most rigorously enforced international anti-corruption instrument. Under the Convention, Parties are subject to review by their peers. This process motivates countries to ensure the highest level of compliance with the Anti-Bribery Convention and accompanying Recommendation, and to take concrete action to fight foreign bribery and corruption. All of the country evaluation reports and recommendations are made public on the OECD website.

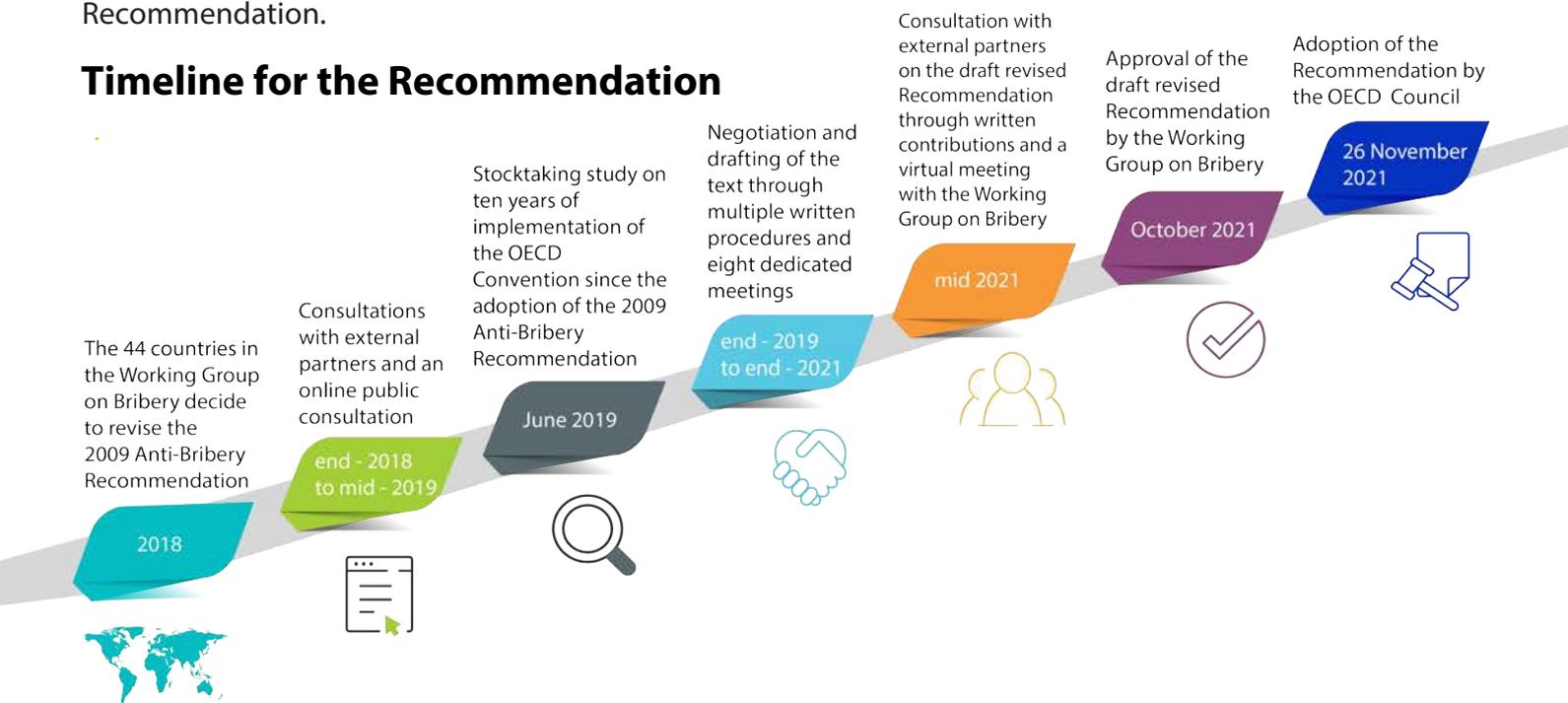
Rationale for developing the Recommendation

Twenty years after the adoption of the Anti-Bribery Convention, all Parties to the Convention had criminalised foreign bribery, adopted legislation on the liability of legal persons and taken various further steps as required by the Convention and related OECD anti-bribery Recommendations.

In 2009, monitoring and enforcement of the Anti-Bribery Convention was strengthened by a Recommendation that put in place new measures to reinforce efforts to prevent, detect and investigate foreign bribery. In 2018, the countries in the Working Group on Bribery considered that the time had come to update the 2009 Recommendation.

Monitoring and enforcement activities throughout the intervening years had provided the Working Group on Bribery with rich evidence of emerging trends and challenges, allowing them to identify both good practices and obstacles to the effective fight against foreign bribery. During this time, the Working Group on Bribery conducted thematic studies on cross-cutting issues, such as international co-operation, the detection of foreign bribery, the liability of legal persons, non-trial resolutions and the demand side of bribery.

Timeline for the Recommendation



Key Elements of the Recommendation

- Promote a holistic approach to fighting foreign bribery through new measures to enhance awareness-raising and training of, as well as detection by, key government agencies, including foreign representations, financial intelligence units, tax authorities and official development assistance agencies.
- Strengthen enforcement of foreign bribery laws, including through proactive detection and investigation of foreign bribery, more effective international co-operation among law enforcement authorities and co-operation in multi-jurisdictional cases.
- Address the demand side of foreign bribery cases by calling on countries to address the solicitation and acceptance of bribes and better support companies facing bribe solicitation risks.
- Introduce provisions on the key principles and features of non-trial resolutions.
- Ensure comprehensive and effective protection of whistleblowers in the public and private sectors.
- Encourage countries to incentivise enterprises to develop internal controls, ethics and compliance programmes or measures to prevent and detect foreign bribery.

