

Statement by Ms. Géraldine Fraser-Moleketi,
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*Mr. Angel Gurría, OECD Secretary-General,
Ministers and Deputy Ministers,
Prof. Mark Pieth, Chairperson of the OECD Working Group on Bribery,
Members of the Working Group,
Ladies and Gentlemen,
All protocol observed,*

On behalf of South Africa I am honoured to address you at this momentous occasion of the 10th Anniversary of the OECD Anti-bribery Convention as a member of the OECD Working Group on Bribery in International Business Transactions and also having acceded to the OECD Convention on the Bribery of Foreign Public Officials in International Business Transactions. South Africa is the thirty-seventh member and the first African country, hopefully not the last, to join the OECD Working Group on Bribery in International Business Transactions.

At the outset I wish to convey our sincere appreciation to the Government of Italy and the OECD for hosting this event.

The presence of South Africa here today is a culmination of a long process that started in 1999 at the occasion of the International Anti-corruption Conference held in Durban, South Africa. His Excellency President Thabo Mbeki, at that time Deputy President, signaled to the World that South Africa is tackling its corruption challenge with dedication, and that South Africa is committed to addressing the corruption challenge at national, regional and global levels.

I would like to take this opportunity to express our sincere appreciation to the Secretary-General of the OECD, Mr Angel Gurría, his predecessor, the Chairperson of the Working Group as well as the Director and staff of the Anti-corruption Division of the OECD for the support and encouragement that was provided to South Africa in the process of accession to the OECD Anti-bribery instruments. The efforts of the OECD to include major emerging economic players such as South Africa to become Party to the Convention are commendable.

We are here today as Parties to the OECD anti-bribery instruments, to reaffirm our commitment to fighting bribery of foreign public officials in international business transactions. This event celebrates our collective efforts.

Over the past ten years, as pointed out earlier, the Convention has achieved much in closing down the conditions for the supply side of bribery. This I can assure you is widely welcomed. While acknowledging progress and the achievements of the Convention, we are also aware that combating this offence remains one of the obstacles to promoting sustainable development. Coming from a continent such as Africa where sustainable development remains a key priority and being the victim of the crime however does not give any moral high ground. It does bring perspectives that should be shared today.

There is no doubt that the Working Group has rigorously pursued compliance with the Convention. Its Phase 1 and Phase 2 processes are exemplary in terms of peer review principles. The results of the reviews and the engagements of the Working Group on these results enforce compliance with the requirements of the Convention. The question that we must engage with is whether we place sufficient emphasis on the actual application of our legislative frameworks where foreign bribery is detected. Does the number of self-initiated investigations and prosecutions speak of an active commitment in applying the Convention? Can we really say that we are actively instituting prosecution of the criminals who commit bribery?

The afore-going said we also need to guard against actual prosecutions as the main measure of success. The balance between prevention and law enforcement must be appropriate. The national integrity system of a country must be underpinned by ethical and democratic values that find resonance in the operations of the public, civil society and business sectors. The

vigour in which we are improving our legislative frameworks is a clear indication of commitment on the part of governments. The manner in which matters of integrity are increasingly becoming part of business operations are welcomed. Initiatives such as the UN Global Compact and the Partnering Against Corruption-Principles for Combating Corruption must be supported. But we must also continue reminding ourselves that lofty partnerships require visible and active implementation to be meaningful. We should not forget that the excesses of greed and maladministration in business have been most prevalent in recent years. It is the responsibility of all Governments and businesses to practice corporate governance measures and to remove improper conduct of companies.

The third perspective that is related to my first point is whether countries in which the foreign bribery is committed actually have the preventative and criminal justice infrastructure to detect and report such crimes, and secondly whether such an infrastructure can cooperate in an investigation? Without a process of systematically supporting the creation of the required infrastructure in vulnerable states closing down the supply side on its own will not eradicate foreign bribery. It is in this context where the OECD and the African Development Bank initiative is welcomed. While we all pursue the eradication of all forms of bribery we must recognize that all countries are not equal in terms of the ability to fight corruption and engage in economic activity.

South Africa has invested greatly in its anti-corruption framework and our legislative framework now complies with the material requirements of the UN Convention against Corruption. We are however aware that the fight against corruption will always remain work in progress and that we always strive towards continual improvement.

The review of the OECD anti-bribery instruments comes at a very appropriate and opportune time. In 10 years we have learnt what works and what does not work. This gives us the opportunity to remedy the weaknesses and make the instruments more effective. We should not allow opportunity pass to receive the input from vulnerable governments, civil society and business formations around the World. Our efforts to prevent and combat bribery of foreign public officials will be effective only if we work in partnership with business and civil society.

I wish to highlight some of the outcomes of the Africa Forum on Fighting Corruption and the 5th Global Forum on Fighting Corruption and Safeguarding Integrity which ties well into today's celebrations. This includes the debate on a common understanding of corruption. Various streams of discourse emerged at these forums. These include the following:

- That while corruption manifests itself in the relationship between individuals and institutions, corruption as a practice is rooted in the operation of market forces.
- That corruption is fundamentally undemocratic and undermines the legitimacy and credibility of democratically elected governments, responsible and accountable public officials.
- That corruption is about the interface of political and economic elites at a global, national and regional scale.
- That corruption is systemic and its effects undermine and distort the value systems of all societies and their peoples.
- That the fight against corruption requires leadership from those in the political, economic and civil society spheres and which leadership must manifest in practices and values.
- That the discourse on bribe givers and bribe takers without a thorough understanding of the complexity of social forces, systems, processes and structures that underpin acts of corruption is simplistic to the extent where it distracts from broader development goals.
- That corruption is a direct impediment to Africa's development and her efforts to instill sound political, socio-economic and corporate governance.

It is in this context where the OECD Anti-bribery instruments exist and are applied and where the issue of and discourse on the bribery of foreign public officials in international business transactions is firmly located. The outputs of the OECD Working Group on Bribery of Foreign Officials in particular, and the work of the OECD in general does not only directly impact on how we fight corruption but also on how we understand and participate in the discourse on corruption.

We believe we can gain much from collective experience and knowledge within the OECD Working Group especially those countries that have been members of the Working Group for the past ten years. The intensity of the interaction within the Working Group will assist us to continuously improve our ability to improve our national integrity system in general and the fight against bribery in particular. We also believe that as a member of the OECD Working Group we will draw on the OECD's technical and knowledge resources. At the same time we can contribute towards the collective experience, knowledge and common understanding on the fight against corruption through sharing the South African experience amongst members.

Chairperson, ladies and gentlemen, South Africa is currently preparing for its Phase 1 review towards compliance with the requirements of the OECD Convention. We are looking forward to the outcomes of this review and working with the Working Group on refining our national anti-corruption framework. South Africa remains ready to cooperate with all members on matters of investigating and prosecuting bribery of foreign officials.

Finally, I would like to take this opportunity to commend the OECD for the work that it has done over the past ten years in advancing the fight against corruption especially as it relates to the bribery of foreign public officials. Furthermore, I would like to take this opportunity to reaffirm South Africa's commitment to fighting corruption and its commitment to the work of the OECD Working Group on Bribery in International Business Transaction.

I thank you.