

# Anti-bribery convention and oecd



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## The Organization for Economic Cooperation and Development (OECD) And the Anti-Bribery Convention

### The International Initiative

- The Anti-Bribery Convention was originally conceived in 1989, it has undergone many changes since its conception, to begin with the group was designed to enable the review in to national legislations and the bribery of officials, in 1994 the review was turned into recommendations for actions and this was eventually replaced by a treaty agreement in 1997.
- The Anti-Bribery conventions main aim is to decrease the amount of corruption in underdeveloped countries, in doing this they can create a fair and level playing field, therefore encouraging sanctions against any form of bribery in International business transactions.

### Things That Are Right

- The Anti-Bribery Convention has developed a set of legally binding standards to criminalize bribery.
- The Anti-Bribery Convention works with all countries to improve the standards of international business transactions.
- The Anti-bribery convention welcomes all countries to join the convention; no one is singled out or excluded as long as they follow the guidelines and legislation recommendations.

### Things That Are Wrong

- The Anti-Bribery convention has no governing authority; the OECD only oversees it.

- The countries involved in the Anti-Bribery convention have the sole responsibility to implement the legislations so that bribery can be criminalized.
- According to the Transparency International report (Hardoon, Heinrich, 2013), at least half the countries that are signed to the Anti-Bribery convention have had only a few and in some cases no prosecutions.

### The Organization for Economic Cooperation and Development (OECD)

- Founded in 1961, The OECD's main headquarters are in Paris, France, To date there are currently 34 member countries, although the OECD do work closely with Russia, China, Brazil, India, Indonesia and South Africa, but they are yet to agree to join the organization.
- Whilst the OECD's main aim is to help improve the social, economic, safety and welfare of people across the globe, they do also maintain relations and work closely with other international organizations like the IMF, World Bank, International Atomic Energy Agency, International Labor Organization and the Food and Agriculture Organization in an effort to promote and improve other aspects of peoples well-being globally.

### The Good Things

- The OECD uses peer reviews to evaluate its work and implement new changes and ideas, giving a wider perspective on the organization.
- The OECD has established a unilateral forum to allow governments to share their issues and experiences and work together to resolve the problems.

- The OECD defies conventional wisdom and works towards a resolution that is beneficial to all.

### Things That Need To Be Changed

- OECD has no authority over the Anti-Bribery convention, it purely oversees it.
- The OECD is not self-executing; it requires the governing country to enforce the legislations and uphold the laws
- Companies using the OECD guidelines aren't bound by them as they aren't compulsory.

### How anti-bribery convention and the OECD affect global politics

#### Example 1

- The OECD has established a unilateral forum to allow governments to share their issues and experiences and work together to resolve the problems. This is a great step for achieving success in global policies because it is an airing point for ideas and resolutions, governments can get together and discuss issue past and present and provide information on how they were able to resolve or work around certain common issues.
- The forum is based on facts and real life experiences and enables governments to proactively take part in the forming of global policies that are beneficial to all. They have the ability to collect data from governments and analyze this for possible trends that could potentially help other countries from avoiding situations like, austerity and unemployment during economic downturns.

- The Anti-bribery convention has established a set of legally binding standards to criminalize bribery; this implementation will boost the transparency of global politics for the member states that are included in the convention. In creating transparency and ensuring everyone is implementing the recommended standards there will be more cohesive trade agreements that will propagate healthy globalization.
- The creating and implementation of these legally binding standards has failed to force member states to follow the implementations, this will have an overall effect on globally policies because other member states will see that this type of implementation can be ignored with no real repercussions. The implementations will only work successfully if the Anti-bribery convention attains the legal jurisdiction to implement these standards. Currently they don't have this and there seems to be no way of getting the jurisdiction so the implementation of legally binding standards is just that, An implementation, There is no law so the member states don't have to implement the standards.
- The anti-bribery convention has placed the responsibility for implementing the legislations solely on the governments, this will have a massive impact on global policies because will still be left up to that country to implement the legislations, a majority of corrupt officials are in the government sectors and will not implement such measures if they feel it could impact on their corrupt enterprises. Such implications could unravel the social and economic standings of that country, they could undermine trade agreements and have a devastating effect on all policies globally, there is always going to be an issue of trust and if

the governments of the countries don't implement the legislations that will undermine this trust element globally.

- The Anti-Bribery Convention has failed to close a massive loophole in the system and is in part facilitating the continuation of bribery amongst public officials. The convention will only truly be successful if they find a way to close this loophole and prevent the continuation of bribery globally.

#### Where it went wrong!

- The emergence of globalization and the vast complexities of international law and relations have grown hugely, member states have now become globally connected, global threats are now ever increasing and cannot be dealt with without the implementation of the international laws, they help develop and force structure into international relations where the law doesn't currently apply.
- The OECD Anti-Bribery Convention has decided that member state countries should be responsible for implementing the laws and regulations as set by the OECD Anti-Bribery Convention. I believe this has left a loop hole in their quest and goals for supporting member states both socially and economically, it leaves rise to member states dictating what rules, laws and legislations they feel are appropriate, there is no set standard when implementation is decided according to the specific member state, violations will occur and laws and regulations will become confusing across the globe.

#### What I would do!

- I feel that a resolution to this loophole would be for the OECD Anti-Bribery Convention to secure legal jurisdiction under the existing title of International Legal Personality to enforce member states to adopt their standards as currently the OECD Anti-Bribery Convention only monitors if the implementations have been made.
- On December 3rd, 1949 the International Court of Justice set a precedent where it agreed that International Organizations (IO's) could be included under the banner of International legal personalities and therefore be party to the rights and obligations under international law. It was decreed that the case subject (The United Nations) should be seen as an International Legal Personality and was therefore capable of having international rights and duties and it should be able to uphold these rights and make a legal claim against any international member state that violates its policies.

#### How I would do it!

- If I was involved in the corporate aspects of The OECD Anti-Bribery Convention I would apply for International Legal Personality status, we would be deemed eligible for it because we are a permanent association with our member states, we hold legal powers and have the power to act on these in the form of the legally binding standards that we currently implicate, we are able to effectively operate on an international scale and fulfill all the required criteria for International Legal Personality status.
- If the OECD Anti-Bribery Convention were to be granted International Legal Personality status, then our convention would have the power to

enact an international claim for reparation against that member state for violating the standards set, and for negating on its statutory international obligations as set out by the OECD Anti-Bribery Convention.

### Citations

- Haroon. D, Heinrich. F. (2013). *Global corruption barometer 2013* . Retrieved from Transparency International website: [http://issuu.com/transparencyinternational/docs/2013\\_globalcorruptionbarometer\\_en](http://issuu.com/transparencyinternational/docs/2013_globalcorruptionbarometer_en)
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