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Speaking Notes:

OECD Roundtable on Corporate Responsibility:

2011 Update of the OECD Guidelines for Multinational Enterprises

Session IV: The Proactive Agenda

A sincere thank you to the Investment Committee, the Working Party and most of all to its dynamic and dedicated secretariat for recognizing, that **the real test of the updated and improved Guidelines will be in its implementation.**

The German saying “Es gibt nichts Gutes außer man tut es“, roughly translated means there will be nothing good unless you do it. This certainly applies to the Guidelines. I sincerely hope that we are finally embarking on the road taking us towards realizing the unique potential of the Guidelines for promoting continuously growing acceptance of corporate responsibility.

I will focus first on the question of what further work should be done to support acceptance of the updated chapter on bribery and what additional assistance might be required to initiate the necessary changes in the behavior of all concerned.

Subsequently, I would very much like to bring to your attention at least one overarching concern which applies to the entirety of the Guidelines, namely the altogether inadequate public awareness of the Guidelines existence and thus far too small impact.

Now to the key question or questions:

What further work needs to be done to help translate the improvements in Chapter VII, “Combating Bribery, Bribe Solicitation and Extortion”, into effective implementation?

We suggest assigning a high priority to the **development of detailed operational guidance for companies on exercising due diligence to counteract the risks of bribery and corruption in all their business transactions and in their relations to thirds parties, private and public.**

According to the present state of the art, **tackling bribery and corruption risks proactively** requires addressing a company's behavior in its entirety:

- from the formulation of **anti- bribery and corruption policies** and **managements' public commitment** to these
- all the way through to company **internal and external accountability** for the effective implementation of the necessary measures to achieve the formulated aims.

The **updated Chapter VII constitutes a positive improvement** over the 2000 GL version.

By including key elements of the OECD's 2009 "Recommendations on further Combating Bribery in International Business Transactions", the **scope of recommendations** in the 2011 Chapter on combating bribery was enlarged and technically improved.

Further positive effects can be expected from the introduction of the general principle of requiring companies to **exercise due diligence** to avoid, counteract, or mitigate bribery and its adverse impacts on people and companies.

Despite these improvements, the **updated chapter falls short** of existing,

- farther reaching international standards and
- known state of the art implementation measures.

We note and regret the following **omissions** in the updated Chapter:

- The requirement of country by country reporting;
- Recommendations for combating specific forms of bribery;
- The need for board oversight and management reviews;
- The need to establish human resources practices to support a company's commitment to counter bribery and corruption, including whistleblower protection.

We hope thus that in the course of further work on pro-active support to implementation, these regrettable **omissions will come to be discussed and ultimately included in the detailed operational guidance** that we propose be developed for assisting companies to comply with Guideline recommendations.

A broader issue than the individual omissions mentioned is why the **Guidelines do not reach beyond bribery to apply to broader acts of corruption** and thus fail to align with UNCAC or even the Global Compact's Principle 10 which states that "Business should work against corruption in all its forms ..."

The corruption challenge is much broader, more complex and more subtle than paying bribes.

Corruption risks inside the enterprise include, among many others, corporate fraud, manipulating of accounts and insider trading. In the wider market environment it may include such abuses as collusion with competitors and the formation of cartels, hurting markets and consumers. And last but not least, at the societal level, corporate power can be abused to dodge laws and regulatory oversight, or exercise undue influence on regulations and policy making.

Recommendations for strengthening corporate responsibility therefore must be extended from core bribery issues to broader types of corrupt business practices.

Due to the time pressure during the update process, the **Bribery chapter did not benefit from adequate stakeholder or expert consultation.**

We sincerely hope that this can be rectified in the near future and **practical solutions found for accommodating farther reaching approaches to reducing bribery and corruption in transnational business activity.** A rethink in strategy and stronger action must take place to achieve sustainable corporate integrity.

Now, I would like to look at an overarching issue concerning the entirety of the Guidelines and one which in my view should be tackled immediately.

The Guidelines are little known outside the sphere of those professionally concerned with corporate responsibility.

As a result, **the motivation for corporations to strike a balance between shareholder and stakeholder interests remains insufficient.** This is unfortunate as adherence to standards, especially voluntary ones, works best if those expected to adhere believe that it is to their benefit to do so.

One of the **immediate priorities of the proactive agenda** should thus be to develop a **concerted public awareness campaign** to inform and guide public expectations on ethical business behavior.

The **focus and content of the campaign** should reflect the tenor and direction of the improved Guidelines and leave no room for doubts that this is the standard of behavior the 42 adhering governments expect of globally active enterprises.

Who should lead this task? Thus far information on the Guidelines and promotion of their observance has been left to the adhering governments and their appointed NCPs.

Through the OECD Watch network, we know that in many countries information was initially at best very difficult to find. This has improved somewhat, but **all too often the core of the NCP message overemphasizes the voluntary nature of the Guidelines.**

In the **updated Guidelines adhering countries** underline explicitly their **“binding commitment to implement them”** (preface p. 11)

To be sure, the GL remain voluntary for enterprises but the shift of focus towards governments’ binding commitment is there.

It seems central to the realization of the stronger role for the Guidelines and their practical effectiveness that this shift in focus and the participatory process by which it was developed be communicated widely as legitimate codified expectations. This in turn should help corporations to accept that abiding by them is in their own best interest.

Again, who should lead this task?

I propose for the Working Party to consider assigning the development of a **model communication package** to an inside task force or an outside consultant. Needless to say the model should be developed in collaboration with the relevant stakeholders and be available to governments to use and adapt to their country's needs as appropriate.

As a **follow-up** to the proposed common communication policy and information baseline, further **specific guidance** might need to be developed **to help NCPs** improve their promotion of the Guidelines, a key NCP task.