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The Role of the Private Sector in Promoting Good Governance and Fighting Corruption

Panel Debate (Session III) Good Governance
as a basis for the fight against corruption,
money laundering and the financing of
terrorism

1.- Good Governance.-

- What can the private sector do?
- First get itself organized
- Corporate governance is not only establishing committees of the Board of Directors and appointing independent directors...
- Duty of the Board to 'act on a fully informed basis, in good faith, with **due diligence** and care, and in the best interest of the company and the shareholders'.(G20/OECD Principles of Good Governance, 2015, Principle VI A)

2.- High Ethical Standards.-

- 'The Board should apply **high ethical standards**. It should take into account the interests of stakeholders' (G20/OECD Principles of Good Governance, 2015, Principle VI C)
- The Board has to establish and review:
 - The risk policy/risk profile
 - The ethics and compliance code and program
 - The place of the ethics and compliance function in the corporation
 - Tone at the top

3.- Due diligence.-

- In anti-money laundering, there is the KYC
- In anti-corruption, there is **due diligence**, that is the thorough review of the technical, financial, legal, judicial and ethical profile of the candidate business partners
- Due diligence required from all economic entities
- Criminal law is the same for everybody but prevention duties have to be proportionate to the size and resources of the individual enterprise
- See ICC document :
'Anti-corruption 3rd party due diligence: a Guide for Small and Medium-Size Enterprises'

4.- What use for enterprises?

- Preventing partnering with the wrong businesses
- Avoiding huge risks for the company
- Protecting the company's reputation
- Establishing a corruption-free environment

5.- What use for the public sector?

- Can the Ethics and Compliance program be a test for the suitability of companies bidding for **public procurement**?
- The public sector can also do its own due diligence
- Can it be used as a test not necessarily about the precise content of the provisions of the program but about the genuine character of the bidder's ethical attitude
- If a company, asked to present its E&C program, is totally unable to show anything of significance, it may be considered as not complying with the basic societal expectations