

2015 Data on Enforcement of the Anti-Bribery Convention

OECD Working Group on Bribery
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HIGHLIGHTS

- 397 individuals and 133 entities have been sanctioned in criminal proceedings for foreign bribery in 17 Parties between the time the Convention entered into force in 1999 and the end of 2015.
- At least 115 of the sanctioned individuals were sentenced to prison for foreign bribery.
- At least 51 individuals and 77 entities have been sanctioned in administrative and civil proceedings for foreign bribery in 4 Parties.
- At least 116 individuals and 209 entities have been sanctioned in criminal, administrative and civil cases for other offences related to foreign bribery, such as money laundering or false accounting, in 9 Parties.
- Approximately 302 investigations are ongoing in 28 Parties. Prosecutions are ongoing against 115 individuals and 13 entities in 11 Parties for offences under the Convention.

2015 IN A NUTSHELL

- 37 individuals and 7 entities were sanctioned under criminal proceedings for foreign bribery in 2015. At least 8 individuals and 6 entities were sanctioned in administrative and civil proceedings for foreign bribery in 2015.
- At least 25 of the sanctioned individuals were sentenced to prison for foreign bribery.
- At least 16 individuals and 9 entities have been sanctioned in criminal, administrative and civil cases for other offences related to foreign bribery, such as money-laundering or accounting, in 3 Parties.

By ratifying the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (the Anti-Bribery Convention), the Parties to the Convention pledge to work together to fight foreign bribery. Based on information provided by Parties to the Convention, this report reviews the enforcement efforts until end-2015. More information about the implementation and enforcement of the Anti-Bribery Convention is available online at www.oecd.org/corruption.

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Key Findings

To date, almost all Parties to the Convention have provided data on their enforcement activities. The data covers countries that account for more than 63.1% of world trade.

The data indicate that 24 of the 41 Parties to the Convention have never sanctioned an individual or an entity for foreign bribery since the Convention entered into force in 1999.

The data also show that 397 individuals and 133 entities have been sanctioned under criminal proceedings for foreign bribery in 17 Parties between the time the Convention entered into force and the end of 2015. Out of these 17 Parties, 10 have sanctioned both companies and individuals, 6 have sanctioned only individuals, and 1 has sanctioned only companies.

4 parties have sanctioned 51 individuals and 77 entities in administrative and civil proceedings for foreign bribery.

9 Parties have also sanctioned individuals or legal persons for other offences related to foreign bribery in international business transactions (e.g. offences under Articles 7 and 8 of the Anti-Bribery Convention, including accounting offences, breach of trust, or money laundering).

Parties to the Convention have also voluntarily provided additional information not included in the tables below, including: the number of ongoing investigations, ongoing criminal proceedings, and exclusions or limitations on access to public procurement contracts or benefits. This voluntary information shows the following:

- **Ongoing investigations:** There are over 302 ongoing investigations in 29 Parties to the Anti-Bribery Convention. No investigation is ongoing in 5 other Parties. The 8 remaining Parties have not provided information. It is worth noting that each country has its own definition of what constitutes an investigation.
- **Criminal proceedings:** Over 128 criminal proceedings (against 115 individuals and 13 entities) are ongoing in 11 Parties. Fourteen Parties have reported that no criminal proceedings are ongoing. The 16 remaining Parties have not provided information.
- **Prison terms:** Out of the 397 individuals sanctioned for foreign bribery under criminal proceedings, at least 115 individuals have been sentenced to prison terms in 11 Parties.

The data for the year 2015 show that 37 individuals were sanctioned during the year under criminal proceedings for foreign bribery. At least 25 of the sanctioned individuals received prison sentences. At least 8 individuals and 6 entities were sanctioned in administrative and civil proceedings for foreign bribery. At least 16 individuals and 9 entities have been sanctioned in criminal, administrative and civil cases for other offences related to foreign bribery, such as money laundering or accounting, in 3 Parties.

About the Working Group on Bribery Enforcement Data

Official data on the enforcement efforts of the Parties to the Anti-Bribery Convention were made public for the first time in the 2009 Annual Report of the Working Group.

As part of this effort, the Working Group has been collecting data from its members on investigations, proceedings, and sanctions, distinguishing sanctions upon conviction (or a similar finding of culpability for administrative and civil proceedings, where applicable) from agreements to resolve proceedings without a conviction (or a similar finding of culpability for administrative and civil proceedings, where applicable) with or without court approval. The data collected distinguishes foreign bribery misconduct from other related offences—in particular accounting misconduct related to the bribery of foreign public officials or concealing bribery—and, where relevant, tracks enforcement data related to cases against individuals and entities separately.

This data has been divided into two categories: information provided by Parties on a *mandatory* basis and a *voluntary* basis. The mandatory data consists of the number of criminal, administrative and civil cases of foreign bribery that have resulted in a final disposition, such as a criminal conviction or

acquittal, or similar findings under an administrative or civil procedure. The voluntary data includes: 1) data on investigations (e.g. ongoing investigations, investigations that have been discontinued, investigations that have led to criminal prosecutions or administrative proceedings); 2) data on criminal, administrative and civil proceedings that have not resulted in a final court disposition (e.g. ongoing court proceedings, proceedings that have been discontinued, and out-of-court settlements); and 3) data on sanctions (e.g. prison sentences, monetary penalties including fines, confiscation and forfeiture, and collateral consequences such as debarment from public procurement). The enforcement data provided on a voluntary basis also includes data on concluded criminal, administrative and civil proceedings for other offences related to foreign bribery, such as accounting and money laundering offences.

Comparative Tables on Enforcement Data Collected from the 41 Parties to the Anti-Bribery Convention

The data distinguishes foreign bribery from other related offences—in particular accounting misconduct related to the bribery of foreign public officials or concealing bribery. Enforcement data on cases against individuals and entities are recorded separately. The Annex provides further information on the methodology of data collection.

Table 1A. Decisions on Criminal Foreign Bribery Cases
(1999 to December 2015)

Number of individuals and legal persons sanctioned or acquitted					
Party to the Convention	% share of world exports ¹	Sanctioned		Acquitted	
		Individual	Legal Person	Individual	Legal Person
Argentina	0.3	0	0	0	0
Australia	1.1	0	0	0	0
Austria	0.9	0	0	0	0
Belgium	1.7	4 (+4 under appeal)	2	4 (+1 under appeal)	0
Brazil	1	0	0	0	0
Bulgaria	0.1	1	0	0	0
Canada	2.3	1	3	0	0
Chile	0.3	0	0	0	0
Colombia	0.2	0	0	0	0
Czech Republic	0.7	0	0	1	0
Denmark	0.7	0	0	0	0
Estonia	0.1	0	0	0	0
Finland	0.4	2 under appeal	1 under appeal	16	3
France	3.5	7(+1 under appeal)	0	4	1
Germany	7.4	56 (+171 agreed sanctions) ²	12 ³	3	0
Greece	0.3	0	0	0	0
Hungary	0.5	26	0	2	0
Iceland	0	0	0	0	0
Ireland	1.4	0	0	0	0
Israel ⁴	0.4	0	0	0	0
Italy	2.6	10, including plea agreements ⁵ + 1 under appeal	4, including plea agreements ⁵ + 1 under appeal	4	0

Party to the Convention	% share of world exports ¹	Sanctioned		Acquitted	
		Individual	Legal Person	Individual	Legal Person
Japan	3.7	10	2	0	0
Korea	3	16	4	0	0
Latvia	0.1	0	0	0	0
Luxembourg	0.5	2	0	0	0
Mexico	1.9	0	0	0	0
Netherlands	2.9	0	2 agreed sanctions	0	0
New Zealand	0.2	0	0	0	0
Norway	0.7	2 (+3 decisions of "påtaleunntatelse" ⁶)	3, including penalty notices ⁷	2	1
Poland	1.1	1	0	0	0
Portugal	0.4	0	0	0	0
Russian Federation	1.8				
Slovak Republic	0.4	0	0	0	0
Slovenia	0.2	0	0	0	0
South Africa	0.5	0	0	0	0
Spain	1.9	0	0	0	0
Sweden	1	5	0	0	0
Switzerland ⁸	1.9	2 (+3 reparation procedures ⁹)	1(+1 reparation procedure ⁹)	0	1
Turkey	0.9	0	0	1	0
United Kingdom	3.7	10	2+1DPA	7	0
United States ¹⁰	10.4	67, including plea agreements, (+1 under appeal)	37, including plea agreements (+59 DPAs/NPAs ¹¹)	4	0
TOTAL	63.1	397 persons sanctioned, including plea agreements and agreed sanctions (+ 9 persons sanctioned under appeal)	133 legal persons sanctioned, including plea agreements and DPAs/NPAs (+ 2 under appeal)	48	6

¹ 2015 export data provided by the OECD Economics Directorate.

² Sanctions ordered by the application of paragraph 153a of the German Code of Criminal Procedure.

³ In Germany, the liability of legal persons is an administrative liability but legal persons are sanctioned in connection with a criminal offence in the context of a criminal case.

⁴ The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

⁵ The applicable procedure is called patteggiamento.

⁶ Prosecutorial decisions of "påtaleunntatelse" taken in application of paragraph 69 of Norway's CPA. A decision of "påtaleunntatelse" is a penal sanction according to Norwegian Penal law and implies an admission of guilt from the accused person. There are no monetary sanctions, confiscation measures, or prison sentences attached to these decisions.

⁷ These legal persons have been sanctioned (to both a fine and confiscation measures) through penalty notices under Chapter 20 of the Criminal Procedure Act (CPA). Acceptance of a penalty notice has the same effect as a final court judgement under paragraph 258 of the CPA

⁸ In Switzerland, data is not collected at the federal level, and the Office of the Attorney General of Switzerland (OAG) does not have the authority to require the cantons to report the relevant data to the OAG. The number of sanctions relates to cantonal foreign bribery cases as far as reported by the competent cantonal authorities (and therefore known at the federal level). There may be other investigations underway, which the cantons have not reported following a survey conducted in 2011

⁹ Article 53CC provides that when the defendant has compensated the damage or taken all efforts that could be reasonably expected to rectify the wrong that he or she has caused, the competent authority will desist from prosecution, from bringing the matter to a trial or from punishment: a) if the conditions for suspension sentence are satisfied (article 42) and b) if the public interest and the interest of the victim in a criminal prosecution of the defendant are insignificant.

¹⁰ This row records the number of criminal cases prosecuted by the US Department of Justice either for violations of the anti-bribery provisions of the FCPA, or for violations of both the anti-bribery provisions and the books and records and internal controls provisions of the FCPA. Therefore, criminal sanctions that have been imposed exclusively for violations of the books and records and internal controls provisions of the FCPA are not captured.

¹¹ "DPAs" and "NPAs" are "Deferred Prosecution Agreements" and "Non Prosecution Agreements" that have been entered into between the US DoJ and the persons sanctioned

Table 1B. Decisions on Administrative and Civil Foreign Bribery Cases¹
(1999 to December 2015)

Number of individuals and legal persons sanctioned or found not liable					
Party to the Convention	% share of world exports ²	Sanctioned		Found not liable	
		Individual	Legal Person	Individual	Legal Person
Germany	7.4	2	2	0	0
Japan	3.7	0	6	0	0
United Kingdom	3.7	0	1	0	0
United States ³	10.4	49, including settlements ⁴	68, including settlements ⁴	0	0
TOTAL	---	51, including settlements	77, including settlements	0	0

¹ Only those countries that have reported additional sanctions ordered under administrative and/or civil procedures have been listed under the "Administrative and Civil Cases".

² 2015 export data provided by the OECD Economics Directorate.

³ This row records the number of administrative and civil actions of the US Department of Justice and the US Securities and Exchange Commission (SEC) that have led to sanctions either for violations of the anti-bribery provisions of the FCPA, or for violations of both the anti-bribery provisions and the books and records and internal controls provisions of the FCPA. Therefore, civil sanctions that have been imposed exclusively for violations of the books and records and internal controls provisions of the FCPA are not captured by the Table.

⁴ Several persons sanctioned in civil proceedings have also been sanctioned in criminal proceedings.

Table 2A. Decisions on Criminal Cases for Other Offences Related to Foreign Bribery¹
(1999 to December 2015)

Number of individuals and legal persons sanctioned or acquitted					
Party to the Convention	% share of world exports ²	Sanctioned		Acquitted	
		Individual	Legal Person	Individual	Legal Person
Australia	0.9	1	0	0	0
Finland	0.4	4	0	0	1
Germany	7.4	20 (+12 agreed sanctions)	3	1	0
Italy	2.6	2	1, including plea agreement	0	0
Netherlands	2.9	0	1 agreed sanction	0	0
Sweden	1	1	0	0	0
Switzerland	1.9	1 (+13 settlements)	0	0	0
United Kingdom	3.7	0	1	0	0
United States	10.4	4, including plea agreements	20, including plea agreements (+57 DPAs/NPAs)	2	0
TOTAL	10.4	4, including plea agreements	20, including plea agreements (+57 DPAs/NPAs)	2	0

¹ Only those countries that have reported criminal sanctions for offences related to foreign bribery have been listed under the "Criminal Sanctions for Other Offences Related to Foreign Bribery". "Other offences related to foreign bribery" include offences falling under Articles 7 (Money Laundering) and Article 8 (Accounting) of the Convention. Examples include books and records violations, failure to implement sufficient internal controls, *abus de biens sociaux* (misuse of company assets), and *Untreue* (breach of trust based on a failure to supervise).

² 2015 Export data provided by the OECD Economics Department.

Table 2B. Decisions on Administrative/Civil Cases for other Offences Related to Foreign Bribery¹
(1999 to December 2015)

Number of individuals and legal persons sanctioned or found not liable					
Party to the Convention	% share of world exports ²	Sanctioned		Found not liable	
		Individual	Legal Person	Individual	Legal Person
Germany	7.4	4	0	0	0
United Kingdom	3.7	0	9		
United States	10.4	54, including settlements	117, including settlements	0	0
TOTAL					

¹ Only those countries that have reported administrative/civil sanctions for offences related to foreign bribery have been listed under the "Administrative/Civil Sanctions for Other Offences Related to Foreign Bribery". "Other offences related to foreign bribery" include offences falling under Articles 7 (Money Laundering) and Article 8 (Accounting) of the Convention. Examples include books and records violations, failure to implement sufficient internal controls, *abus de biens sociaux* (misuse of company assets), and *Untreue* (breach of trust based on a failure to supervise).

²¹ 2015 export data provided by the OECD Economics Department.

Collection and Presentation of WGB Enforcement Data

Tables 1A and 1B present all data that the Parties to the Anti-Bribery Convention have agreed to provide on a *mandatory* basis as part of the data collection exercise described above. That is it shows the number of criminal cases (in Table 1A) and administrative and civil cases (in Table 1B) of foreign bribery that have resulted in a final court disposition, such as a criminal conviction or acquittal, or similar findings under an administrative procedure. The Tables record the number of sanctions that have been imposed on individuals and entities in criminal, administrative and civil proceedings for foreign bribery and for failures to prevent a proven case of foreign bribery in the 41 Parties to the Anti-Bribery Convention from its entry into force to December 2015. The following additional points about these tables should be noted:

- **Agreements between law enforcement authorities and the accused.** The Tables also include data provided on a voluntary basis concerning the number of foreign bribery cases that have been resolved through agreement between the law enforcement authorities and the accused person or entity, with or without court approval. In some cases the proceedings may have been terminated or deferred for a certain period on condition that the accused agrees to certain conditions, such as implementation of corporate reforms, the payment of fines, restitution, and/or full co-operation in the investigation of others allegedly involved in the same case.
- **What is not included in the Tables.** The Tables do *not* include other offences that might also apply to this form of conduct in certain circumstances, such as trading in influence, United Nations embargo violations, or bribery to obtain a benefit outside of an international business transaction. They also do not record the number of sanctions that may have been ordered in the 41 Parties against foreign public officials for receiving bribes, as this offence is not covered by the Convention.

Tables 2A and 2B present the enforcement data provided on a *voluntary* basis by Parties regarding sanctions in criminal, administrative and civil cases for other offences related to foreign bribery. These include non-bribery offences that are covered by Articles 7 (Money Laundering) and 8 (Accounting) of the Convention. The specific offences vary by jurisdiction, but all relate to misconduct associated with foreign bribery in international business transactions, such as books and records violations, failure to implement internal controls, *abus de biens sociaux* (misuse of company assets), and breach of trust based on a failure to supervise. As with Tables 1A and 1B, this data set does *not* cover other offences that fall outside the Convention, such as trading in influence, United Nations embargo violations, or bribery to obtain a benefit outside of an international business transaction.

ANNEX

Methodology for collection of mandatory and voluntary enforcement data

Date of data provision. For nearly all countries, data was last provided in December 2015. Exceptions are: Austria (data last provided in December 2012); Belgium (December 2014), Bulgaria (December 2014), Chile (December 2014), Iceland (December 2012) and Korea (December 2013), Luxembourg (December 2014), Norway (December 2014), the Russian Federation, Slovenia (December 2014), Spain (December 2014) and Switzerland (December 2014).

Accuracy. The OECD Secretariat has endeavoured to verify the accuracy of this information, including by using it in Phase 3 evaluations completed to date. However, the responsibility for the provision and accuracy of information rests solely with the individual Parties.

Cases are counted per person, not per bribery scheme. For both the mandatory and voluntary data, cases have been counted per person (either an individual or a legal person). This means that several sanctions recorded by the same Party may concern one “case” (e.g. in one case, a parent company, its subsidiary and a manager may have been sanctioned) or one person (e.g. one person may have been subject to, and sanctioned in, both criminal and civil proceedings). In addition, several sanctions recorded by several countries may concern the same person or entity, where they all had jurisdiction.

It is not possible to aggregate mandatory and voluntary data. Readers should note individuals and legal persons could be sanctioned for multiple offences and thus the number of persons sanctioned in the voluntary data cannot be aggregated with the mandatory enforcement data included above.

Number of countries included in the sample. The data covers countries that are Parties to the Convention and the number of Parties has increased over the data collection period. While the Table tracks data back to 1999—the year the Convention entered into force—a number of Parties joined the Convention and started enforcement against foreign bribery offences later. In addition, data is not included from before 1999 on enforcement of the United States’ Foreign Corrupt Practices Act (FCPA), which came into force in 1977.