



## Working Group on Bribery: *2011 Data on Enforcement of the Anti-Bribery Convention*

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### About the Working Group on Bribery 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. This year, the Parties have again agreed to publish official data for the 2011 Annual Report.

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 information provided on 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). In 2011, the enforcement data provided on a voluntary basis and published in the annual report also includes data on concluded criminal, administrative and civil proceedings for accounting misconduct related to foreign bribery.

### In Short: Working Group on Bribery Enforcement Data

*Note to the reader:* This data has been compiled and published by the OECD Secretariat on the basis of statistics, data and information provided by the States Parties to Convention in order to provide a realistic picture of the level of enforcement in the jurisdiction of each of the States Parties. The OECD Secretariat has endeavoured to verify the accuracy of this information, including through the Phase 3 evaluations completed to date. This verification has resulted in corrections for some data since the publication of the 2010 Annual Report. Most of these corrections reflect the erroneous inclusion of sanctions based on offences that do not fall within the Convention or a mis-categorisation of certain offences. However, the responsibility for the provision and accuracy of information rests solely with the individual Parties.

To date, all States Parties to the Convention have provided enforcement data. According to data as of December 2011, 210 individuals and 90 entities have been sanctioned under criminal proceedings for foreign bribery in 14 States Parties between the time the Convention entered into force in 1999 and the end of 2011. Out of these 14 States Parties, seven have sanctioned both companies and individuals, one has sanctioned only a company, and six have sanctioned only individuals.

According to the data, at least 66 of the sanctioned individuals were sentenced to prison for foreign bribery. Five States Parties have also sanctioned individuals or legal persons for accounting misconduct related to foreign bribery.



Approximately 300 investigations are ongoing in 26 States Parties to the Anti-Bribery Convention.

### **Methodology and Content of the Comparative Table of Enforcement Data Collected from the 38 Parties to the Anti-Bribery Convention**

#### ***What the Table includes***

The Table below contains all data that the States Parties to the Anti-Bribery Convention have agreed to provide on a *mandatory* basis as part of the data-collection exercise on the enforcement of the Anti-Bribery Convention described above (*i.e.* 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 procedure). It records the number of sanctions that have been imposed on individuals and entities in criminal, administrative and civil proceedings for the offence of foreign bribery, failures to prevent a proven case of bribing a foreign public official, or other offences related to the bribery of a foreign public official (Articles 1, 2, 7 and 8 of the Anti-Bribery Convention) in the 38 States Parties to the Anti-Bribery Convention from its entry into force to December 2010.

Additionally, the Table includes data provided on a *voluntary* basis by certain countries concerning the number of foreign bribery cases that have been resolved through an 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 cooperation in the investigation of others allegedly involved in the same case.

#### ***What the Table does not include***

It should be underlined that the Table shows sanctions for the commission of the offence of bribing a foreign public official and for failures to prevent a proven case of bribing a foreign public official, *not* other offences that might also apply to this form of conduct in certain circumstances, such as trading in influence or United Nations embargo violations. The Table also does not record sanctions that may have been ordered in the 38 States Parties to the Convention against foreign public officials for receiving bribes, as this offence is not covered by the Anti-Bribery Convention. Finally, the Table does not include data from Russia and Colombia because the Anti-Bribery Convention was not in force during the entire 2011 calendar year for these Parties.

#### ***Methodology used and limits***

For the purposes of completing the Table below, cases have been counted per person. This methodology implies that several sanctions recorded by the same State 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

The Table includes data on foreign bribery cases that have resulted in a final disposition, such as a criminal conviction or acquittal, or similar findings under an administrative procedure. The data does not identify cases that might be under appeal. This implies that the numbers could change depending on the outcome of possible appeals against the decisions reported in the Table.

Readers should also note that, while the Table tracks data back to 1999—the year the Convention entered into force—a number of States 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.



**Comparative Table of Enforcement Data Collected from 38 States Parties to the Anti-Bribery Convention  
Decisions on Foreign Bribery Cases from 1999 to December 2011<sup>1</sup>**

Country	Date of latest information supplied	% share of world exports (2011) <sup>2</sup>	Number of individuals (I) and legal persons (LP) sanctioned or acquitted/found not liable			
			Sanctioned		Acquitted	
CRIMINAL CASES			I	LP	I	LP
Argentina	December 2011	0.4	0	0	0	0
Australia	December 2011	1.5	0	0	0	0
Austria	December 2008	1.1	0	0	0	0
Belgium <sup>3</sup>	December 2011	2.0				
Brazil	December 2009	1.3	0	0	0	0
Bulgaria	December 2011	0.1	1	0	0	0
Canada	March 2009	2.4	0	2	0	0
Chile	December 2011	0.4	0	0	0	0
Czech Republic	December 2011	0.7	0	0	1	0
Denmark	December 2011	0.8	0	0	0	0
Estonia	December 2011	0.1	0	0	0	0
Finland	December 2011	0.5	0	0	0	0
France	December 2011	3.4	4	0	2 <sup>4</sup>	0
Germany	December 2011	8.2	14 (plus 59 agreed sanctions) <sup>5</sup>	0	0	0
Greece	December 2011	0.3	0	0	0	0
Hungary	December 2011	0.6	26	0	0	0
Iceland	December 2011	0.04	0	0	0	0
Ireland	December 2011	1.1	0	0	0	0
Israel <sup>6</sup>	December 2011	0.4	0	0	0	0
Italy	December 2011	2.9	10, including 9 plea agreements <sup>7</sup>	3, all plea agreements <sup>7</sup>	2	0
Japan	December 2011	4.1	6	1	0	0
Korea	December 2011	2.9	16	4	0	0
Luxembourg	December 2011	0.4	0	0	0	0
Mexico	December 2010	1.7	0	0	0	0
Netherlands	December 2011	3.2	0	0	1	0
New Zealand	December 2011	0.2	0	0	0	0
Norway	December 2011	0.9	5	1	2	0
Poland	December 2011	1.1	0	0	0	0
Portugal	June 2009	0.4	5	0	0	0
Slovak Republic	December 2011	0.4	0	0	0	0
Slovenia	December 2011	0.2	0	0	0	0
South Africa	December 2011	0.5	0	0	0	0
Spain	December 2011	2.1	0	0	0	0
Sweden	December 2011	1.2	2	0	0	0
Switzerland <sup>8</sup>	December 2011	1.5	1	1	1	0
Turkey	December 2011	0.8	0	0	1	0
United Kingdom	December 2011	3.6	3	2	0	0
United States <sup>9</sup>	December 2011	9.6	58, including 22 plea agreements	28 plea agreements (+ 48 DPAs/NPAs <sup>10</sup> )	1	0
<b>TOTAL</b>	December 2011	63.24	151 persons sanctioned, including 22 plea agreements (plus 59 agreed sanctions)	42 legal persons sanctioned, including 30 plea agreements (+ 48 DPAs/NPAs)	11	0
ADMINISTRATIVE AND CIVIL CASES <sup>11</sup>			Sanctioned		Found Not Liable	
			I	LP	I	LP
Germany	December 2011	8.2	0	3	0	0
Japan	December 2011	4.1	0	1	0	0
United States <sup>12</sup>	December 2011	9.6	39 settlements <sup>13</sup>	51, including 50 settlements <sup>13</sup>	0	0
<b>TOTAL</b>	December 2011		39 settlements	55 (including 50 settlements)	0	0



1. Export data provided by OECD Economic Outlook No. 88 (December 2010), except for the export data of Argentina and Bulgaria, which are from the 2009 edition of the IMF World Economic Outlook. (More recent information for these countries was not available at the time of printing.)
2. Belgium reported that it had several convictions of individuals and legal persons for foreign bribery to report, but was not able to provide specific data at this stage, as data on domestic and foreign bribery cases have not, to date, been counted separately.
3. In these two cases, the individuals were acquitted of the offence of foreign bribery, but were sanctioned for other offences.
4. The 2009 enforcement data table included data on convictions and acquittals in Germany in the years 2008 and 2009 only, and not since the entry into force of the Convention in Germany. At the time of the publication of this the 2010 enforcement data table, Germany was still in the process of collecting updated data in all German Länder. The data provided in the this year's table was compiled in the context of Germany's Phase 3 evaluation (March 2011) and may not fully reflect all completed proceedings in 2010. In 2010, Germany imposed sanctions on 2 individuals and an agreed sanction on 1 individual.
5. Sanctions ordered following the application of paragraph 153a of the German Code of Criminal Procedure.
6. 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.
7. The applicable procedure is called *patteggiamento*.
8. Switzerland reported it could not complete the last two columns of the Table. 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).
9. This row records the number of criminal cases prosecuted by the US Department of Justice (DoJ) 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 by the Table. The US reports that 14 entities and 2 individuals have been subject to criminal sanctions exclusively for books and records and internal controls violations under the FCPA since 1999.
10. "DPAs" and "NPAs" are "Deferred Prosecution Agreements" and "Non Prosecution Agreements" that have been entered into between the US DoJ and the persons sanctioned.
11. Only those countries that have reported additional sanctions ordered under administrative and/or civil procedures have been listed under the "Administrative and Civil Cases".
12. 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.
13. A number of persons that have been sanctioned in civil proceedings have also been sanctioned in criminal proceedings.



### New in 2011: Tables with Voluntary Data on Cases for Other Offences Related to Foreign Bribery

#### What the data includes

For the first time this year, the Working Group's enforcement data includes information provided on a *voluntary* basis by certain countries regarding sanctions in criminal, administrative and civil cases for other offences related to foreign bribery (i.e. Articles 7 (Money Laundering) and 8 (Accounting) of the Convention). The specific offences vary by jurisdiction, but are based on misconduct underlying foreign bribery, 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. The Working Group has chosen to include this new information in this year's annual report in order to reflect States Parties' efforts to fight the crime of foreign bribery with as wide an array of legal means as possible.

#### Methodology used and limits

For the purposes of completing the voluntary data tables below, cases have been counted per person. This methodology implies that several sanctions recorded by the same State 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. 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. Finally, as noted above, cases included in this report could be under appeal. Therefore, the numbers could change, depending on the outcome of possible appeals against the decisions reported in the following tables.

CRIMINAL SANCTIONS FOR OTHER OFFENCES RELATED TO FOREIGN BRIBERY <sup>1</sup>			Sanctioned		Found Not Liable	
			I	LP	I	LP
France	December 2011	3.4	3	0		
Germany	December 2011	8.2	6	0	0	0
United Kingdom	December 2011	3.6	0	1	0	0
United States	December 2011	9.6	4, including settlements	14, including settlements	2	0
<b>TOTAL</b>			13, including settlements	15, including settlements	2	0

ADMINISTRATIVE/CIVIL SANCTIONS FOR OTHER OFFENCES RELATED TO FOREIGN BRIBERY <sup>1</sup>			Sanctioned		Found Not Liable	
			I	LP	I	LP
Germany	December 2011	8.2	1	0	0	0
United Kingdom	December 2011	3.6	0	6	0	0
United States	December 2011	9.6	42, including settlements	86, including settlements	0	0
<b>TOTAL</b>			43, including settlements	92, including settlements	0	0

1. Only those countries that have reported criminal sanctions for offences related to foreign bribery have been listed under the "Criminal Convictions for Other Offences Related to Foreign Bribery". This information was voluntarily provided by Member Countries. "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 devise and maintain a system of internal controls, *abus de biens sociaux* (misuse of company assets), and breach of trust based on a failure to supervise.
2. 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". This



information was voluntarily provided by Member Countries. “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 devise and maintain a system of internal controls, *abus de biens sociaux* (misuse of company assets), and breach of trust based on a failure to supervise.

## **Additional Global Enforcement Data**

As explained above, the enforcement data table includes information on the number of sanctions that have been imposed on individuals and entities in criminal, administrative and civil proceedings for the offence of foreign bribery and for failures to prevent a proven case of bribing a foreign public official as well as other offences related to foreign bribery. States Parties to the Convention have also *voluntarily provided additional information* not included in the table, including: the number of ongoing investigations, ongoing criminal proceedings, and exclusions or limitations on access to public procurement contracts or benefits.

- ***Ongoing Investigations on Foreign Bribery Cases***

There are over 300 ongoing investigations in 26 States Parties to the Anti-Bribery Convention (more than 150 in one State Party, between 15 and 50 in 5 States Parties, between 5 and 10 in 4 States Parties, and fewer than 5 in 16 States Parties). No investigation is ongoing in 3 other States Parties. The 11 remaining States Parties have not provided information. It should be noted that each country has its own definition of what constitutes an investigation.

- ***Ongoing Criminal Proceedings on the Grounds of Foreign Bribery Charges***

According to the data submitted, over 170 criminal proceedings (against 158 individuals and 13 entities) are ongoing in 13 States Parties. Nine States Parties have reported that no criminal proceedings are ongoing. The 18 remaining States Parties have not provided information.

- ***Prison Sentences for Foreign Bribery***

Out of the 210 individuals sanctioned for foreign bribery under criminal proceedings, at least 66 individuals have been sentenced to prison terms in 9 States Parties.

*More information about the Anti-Bribery Convention and the work of the OECD Working Group on Bribery is available online at: [www.oecd.org/daf/nocorruption](http://www.oecd.org/daf/nocorruption)*