

Methodology for data on enforcement of the Anti-Bribery Convention

OECD Working Group on Bribery

November 2017

This document explains the methodology used to collect the data on enforcement of the Anti-Bribery Convention www.oecd.org/corruption/data-on-enforcement-of-the-anti-bribery-convention.htm

Tables 1A and 1B of the main report 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. 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 report 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 2016. 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 by countries concerning the number of foreign bribery cases that have been resolved through an agreement between 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 of time on condition that the accused person 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 individuals or companies 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, private-to-private bribery or 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.

About the enforcement data

Official OECD Working Group on Bribery (WGB) 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 WGB.

As part of this reporting process, the WGB collects 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 distinguish 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 analogous 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.

Methodology for collection of mandatory and voluntary enforcement data

Date of data provision. For nearly all countries, data were last provided in December 2016. The exception is the Russian Federation (which does not contribute data to this exercise).

Accuracy. The OECD Secretariat has endeavoured to verify the accuracy of this information, including by using it in Working Group [Phase 2-4 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 cover 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 are not included from before 1999 on enforcement of the United States’ Foreign Corrupt Practices Act, which came into force in 1977.