

2018 Enforcement of the Anti-Bribery Convention

Investigations, proceedings, and sanctions

OECD Working Group on Bribery

December 2019

HIGHLIGHTS

From the entry into force of the Anti-Bribery Convention in 1999 to 31 December 2018, Parties to the Convention have:

- convicted or criminally sanctioned at least 615 individuals and 203 entities for foreign bribery;
- sanctioned at least 86 individuals and 108 entities for foreign bribery through administrative or civil proceedings;
- convicted or criminally sanctioned at least 53 individuals and 96 entities for related offences (false accounting or money laundering); and
- sanctioned at least 70 individuals and 165 entities for related offences (false accounting or money laundering) through administrative or civil proceedings.
- 28 countries reported having had 528 ongoing investigations;
- 12 countries reported having had ongoing criminal proceedings for foreign bribery against 157 individuals and 5 entities; and
- 2 countries reported having had ongoing administrative or civil proceedings for foreign bribery against 6 entities.

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. This report contains an overview of the Parties' enforcement efforts between the Convention's entry into force in February 1999 until 31 December 2018. More information about the implementation and enforcement of the Anti-Bribery Convention is available online at www.oecd.org/corruption.

The following tables provide an overview of the enforcement data reported by Parties to the Anti-Bribery Convention. The data distinguish foreign bribery from other related offences covered by the Anti-Bribery Convention, in particular accounting misconduct and money laundering related to the bribery of foreign public officials. Enforcement data on cases against individuals and entities are recorded separately.

The Annex “Methodology for Enforcement Data” provides further context for the data presented.

Table 1A. Decisions on criminal foreign bribery cases
(1999 to December 2018)

Number of individuals and legal persons sanctioned or acquitted						
Party to the Convention	% share of world GDP ¹	% share of world exports ¹	Sanctioned (agreed or imposed)		Acquitted	
			Natural persons	Legal Persons	Natural persons	Legal Persons
Argentina	0.56	0.30	0	0	0	0
Australia	1.68	1.32	6	2	0	0
Austria	0.54	1.03	2	0	4	0
Belgium	0.63	1.81	8	2	16	5
Brazil	2.25	1.11	25	0	0	0
Bulgaria	0.08	0.18	1	0	0	0
Canada	2.04	2.20	1	3	3	0
Chile	0.35	0.35	2	1	0	0
Colombia	0.40	0.21	0	0	0	0
Costa Rica	0.07	0.08	0	0	0	0
Czech Republic	0.29	0.78	0	0	0	0
Denmark	0.42	0.80	0	0	0	0
Estonia	0.03	0.09	0	0	0	0
Finland	0.33	0.43	0	0	18	4
France	3.29	3.52	22	5	11	4
Germany ²	4.75	7.59	326	11	2	0

¹ The 2018 data on world GDP and world exports were provided by the Investment Division within the OECD Directorate for Financial Affairs as well as the OECD Economics Department.

² For **Germany**: Due to a change in methodology to align the enforcement data in this report with the data in Germany’s Phase 4 evaluation report, the German data before 2017 are not comparable to the data reported for 2017 or thereafter. Furthermore, the sanctions reported include those imposed in the context of proceedings terminated after the accused or indicted accused complied with the conditions and instructions (e.g. payment of a sum of money to a non-profit-making institution) imposed by the public prosecution office or the court (Section 153a(2) Code of Criminal Procedure – CCP (Strafprozessordnung). As of Germany’s Phase 3 evaluation, it was not possible to identify which sanctions imposed under Section 153a CCP were for foreign bribery and foreign bribery-related offences. Therefore, the data includes sanctions imposed under that provision for both foreign bribery and foreign bribery-related offences. Data also include sanctions imposed under section 299 CC in foreign bribery cases (since the entry into force of the Convention). 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.

Number of individuals and legal persons sanctioned or acquitted						
Party to the Convention	% share of world GDP ¹	% share of world exports ¹	Sanctioned (agreed or imposed)		Acquitted	
			Natural persons	Legal Persons	Natural persons	Legal Persons
Greece ³	0.26	0.32	0	0	0	0
Hungary	0.18	0.54	26	0	2	0
Iceland	0.03	0.05	0	0	0	0
Ireland	0.43	1.89	0	0	0	0
Israel ⁴	0.43	0.44	0	2	0	0
Italy ⁵	2.46	2.65	13	6	5	0
Japan	5.98	3.71	10	2	0	0
Korea	1.95	2.89	24	9	5	0
Latvia	0.04	0.09	0	0	0	0
Lithuania	0.06	0.16	0	0	0	0
Luxembourg	0.08	0.61	1	0	0	0
Mexico	1.41	1.95	0	0	0	0
Netherlands	1.07	3.11	1	7	0	0
New Zealand	0.24	0.23	0	0	0	0
Norway ⁶	0.52	0.67	3	3	5	1
Peru	0.27	0.23	Not reported	Not reported	Not reported	Not reported
Poland	0.65	1.32	1	0	0	0
Portugal	0.28	0.42	0	0	0	0
Russian Federation	1.86	2.05	0	0	0	0
Slovak Republic	0.13	0.41	0	0	0	0
Slovenia	0.06	0.19	0	0	0	0
South Africa	0.44	0.44	0	0	0	0
Spain	1.69	2.01	2	0	0	0

³ For **Greece**: 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. On 12 December 2017 a revised version of Article 51 of the AML law came into force. It sets out a regime of liability of legal persons and which Greek authorities report as being a system of criminal liability for legal persons.

⁴ For **Israel**: In addition to the sanctioning a legal person for foreign bribery through a plea agreement, Israel has sanctioned another legal persons in a case involving foreign bribery-related facts, but which was resolved with an NPA under securities law. As a disclaimer, 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 For **Italy**: Sanctions include those imposed via non-trial resolutions known as "patteggiamento". Although not reported in this table, Italy also initiated 16 prosecutions against natural persons and 16 prosecutions against legal person in connection with violations of the U.N. Oil-for-Food Programme. Of those 16 actions initiated against natural persons, 12 prosecutions were discontinued without sanction, 1 was discontinued with sanctions, and 3 resulted in acquittals. Of the 16 prosecutions initiated against legal persons, 12 prosecutions were discontinued without sanctions, 1 was discontinued with sanctions, and 3 resulted in acquittals. In Italy, the liability of legal persons is administrative liability, but legal persons are sanctioned in connection with a criminal offence in the context of a criminal case.

⁶ For **Norway**: All sanctions on legal persons were imposed using a non-trial resolution procedure called a penalty notice. Acceptance of a penalty notice has the same effect as a final court judgement under paragraph 258 of the Criminal Procedure Act (CPA). Although not reported in this table, Norway also issued "påtaleunntatelse" decision for three natural persons under paragraph 69 of Norway's CPA. The "påtaleunntatelse" decision is a penal resolution by which guilt is deemed to be proven. There are no monetary sanctions, confiscation measures, or prison sentences attached to these decisions.

Number of individuals and legal persons sanctioned or acquitted						
Party to the Convention	% share of world GDP ¹	% share of world exports ¹	Sanctioned (agreed or imposed)		Acquitted	
			Natural persons	Legal Persons	Natural persons	Legal Persons
Sweden	0.65	1.03	6	0	2	1
Switzerland ⁷	0.84	1.89	4	4	0	0
Turkey	0.84	0.92	0	0	1	0
United Kingdom ⁸	3.31	3.46	23	10	16	1
United States ⁹	24.18	10.14	108	136	4	0
TOTAL	68.08	65.64	615 natural persons sanctioned, including plea agreements and agreed sanctions	203 legal persons sanctioned, including plea agreements, NPAs, DPAs, and declinations with disgorgement	94	16

⁷ In **Switzerland**, data are 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 thus reflects only the cantonal foreign bribery cases that have been reported by cantonal authorities to the federal level. In addition, the numbers reported here do not take into account exemptions from punishment under Article 53 of the Swiss Criminal Code.

⁸ For the **United Kingdom**: The sanctions reported for legal persons include those imposed through a deferred prosecution agreement (DPA).

⁹ For the **United States**: 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. "DPAs" and "NPAs" are "Deferred Prosecution Agreements" and "Non Prosecution Agreements" that have been entered into between the US Department of Justice and the persons sanctioned. The data also reflects declinations with disgorgement concluded under the DOJ's FCPA Corporate Enforcement Policy.

Table 1B. Decisions on administrative and civil foreign bribery cases¹
(1999 to December 2018)

Number of individuals and legal persons sanctioned or found not liable						
Party to the Convention	% share of world GDP ²	% share of world exports ²	Sanctioned		Found not liable	
			Individual	Legal Person	Individual	Legal Person
Brazil ³	2.25	1.11	24	2	0	0
Germany	4.75	7.59	7	7	0	0
Japan	5.98	3.71	0	6	0	0
United Kingdom	3.31	3.46	1	10	0	0
United States ⁴	24.18	10.14	54	83	2	0
TOTAL	40.47	26.01	86	108	2	0

¹ Only those countries that have reported additional sanctions ordered under administrative and/or civil procedures have been listed in Table 1B concerning "Administrative and Civil Cases". Note that some countries have criminal and administrative/ civil sanctions for foreign bribery, and in some cases persons sanctioned in civil proceedings have also been sanctioned in criminal proceedings.

² The 2018 data on world GDP and world exports were provided by the Investment Division within the OECD Directorate for Financial Affairs as well as the OECD Economics Department.

³ For **Brazil**: All 24 individuals sanctioned under administrative/civil proceedings were also sanctioned in criminal proceedings (see Table 1A).

⁴ For the **United States**: 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, this Table does not reflect civil or administrative sanctions that have been imposed exclusively for violations of the books and records and internal controls provisions of the FCPA.

Table 2A. Decisions on criminal cases for other offences related to foreign bribery¹
(1999 to December 2018)

Number of individuals and legal persons sanctioned or acquitted						
Party to the Convention	% share of world GDP ²	% share of world exports ²	Sanctioned		Acquitted	
			Individual	Legal Person	Individual	Legal Person
Australia	1.68	1.32	3	0	0	0
Belgium	0.63	1.81	0	0	1	0
Brazil	2.25	1.11	1	0	0	0
Finland	0.33	0.43	1	0	4	0
Germany ³	4.75	7.59	4	3	0	0
Italy	2.46	2.65	7	2	0	0
Norway ⁴	0.52	0.67	1	1	0	0
Sweden	0.65	1.03	1	0	0	0
United States	24.18	10.14	35	90	2	0
TOTAL	37.45	26.75	53	96	7	0

¹ Only those countries that have reported criminal sanctions for offences related to foreign bribery have been listed in Table 2A concerning "Criminal Sanctions for Other Offences Related to Foreign Bribery". "Other offences related to foreign bribery" includes 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 The 2018 data on world GDP and world exports were provided by the Investment Division within the OECD Directorate for Financial Affairs as well as the OECD Economics Department.

³ For **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 For **Norway**: Sanctions on the individual and legal persons are for the offence of "trading in influence".

Table 2B. Decisions on administrative/civil cases for other offences related to foreign bribery¹

(1999 to December 2018)

Number of individuals and legal persons sanctioned or found not liable						
Party to the Convention	% share of world GDP ²	% share of world exports ²	Sanctioned		Found not liable	
			Individual	Legal Person	Individual	Legal Person
Brazil	2.25	1.11	1	1	0	0
United States	24.18	10.14	69	164	2	0
TOTAL	26.43	11.25	70	165	2	0

¹ Only those countries that have reported administrative/civil sanctions for offences related to foreign bribery have been listed under Table 2B concerning 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).

² The 2018 data on world GDP and world exports were provided by the Investment Division within the OECD Directorate for Financial Affairs as well as the OECD Economics Department.

ANNEX: METHODOLOGY FOR ENFORCEMENT DATA

Collection and presentation of enforcement data

Tables 1A and 1B present data that the Parties to the Anti-Bribery Convention have agreed to provide on a *mandatory* basis as part of its law enforcement data collection exercise. 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 a non-criminal 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 44 Parties to the Anti-Bribery Convention from its entry into force in February 1999 to December 2018. 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.** Unless otherwise indicated, 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 imposed by the 44 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.

Supplementary information about the methodology used to collect the data on enforcement is available here: www.oecd.org/daf/anti-bribery/Methodology-Enforcement-Data.pdf.

www.oecd.org/corruption

