

# 2017 Enforcement of the Anti-Bribery Convention

## Special focus: What happened to the public officials in sanctioned foreign bribery schemes?

OECD Working Group on Bribery

November 2018



### HIGHLIGHTS

- 560 individuals and 184 entities have received criminal sanctions for foreign bribery between the time the Convention entered into force in 1999 and the end of 2017.
- At least 172 of the sanctioned individuals have been sentenced to prison for foreign bribery, including at least 11 for prison terms exceeding 5 years.
- For the 97 individuals for whom information is available on the length of (non-suspended) prison terms, 11 were for more than 5 years, 41 were in the 2-5 year range, 26 in the 1-2 year range and 19 were less than 1 year.
- Over 500 investigations are ongoing in 30 Parties.
- At least 155 criminal proceedings (against 146 individuals and 9 entities) are ongoing for foreign bribery in 11 Parties.

### 2017 IN A NUTSHELL

- Three countries adopted law reforms designed to support more effective anti-bribery law enforcement. Reforms include the lengthening the statute of limitations (Italy), creating corporate liability for corruption (Argentina) and reinforcing laws on anti-money laundering laws and confiscation of the proceeds of foreign bribery (Japan).
- Three Parties joined the list of jurisdictions that are known to have sanctioned foreign bribery: Brazil, Spain and Australia. This brings to 23 the total number of Parties to the Convention that have sanctioned foreign bribery at least once, but it also means that 21 Parties have never sanctioned foreign bribery.

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-2017. More information about the implementation and enforcement of the Anti-Bribery Convention is available online at [www.oecd.org/corruption](http://www.oecd.org/corruption).

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The Parties have committed to enforcing their foreign bribery laws and to cooperating with each other in the fight against foreign bribery. This report looks at whether and how they have been living up to these commitments.

The report begins with a review of law reforms relevant for foreign bribery enforcement that were made by Parties to the Convention in the course of 2017 (Section A). It then reviews the enforcement experiences of the Parties over the period starting with the entry into force of the Anti-Bribery Convention in 1999 to the end of 2017 (Section B). The report draws on a database on foreign bribery enforcement that the OECD Working Group on Bribery (WGB) has been developing since 2009. Section C provides tables summarising the enforcement data contributed by the 43 WGB members whose legislation implementing the Convention had entered into force by the end of 2017.<sup>1</sup>

The report's overall finding on enforcement continues to be one of highly variable outcomes, with some Parties showing active enforcement and others essentially none. Nevertheless, although progress is slow and uneven, a growing number of countries are now enforcing their foreign bribery laws.

Section D provides a special focus on the 'flip side' of enforcement actions sanctioning the supply-side of bribery. Specifically, it looks at what happened to the public officials who were on the receiving end of 55 foreign bribery cases in which supply-side sanctions were imposed by WGB members. The section shows that, although a considerable number of investigations and prosecutions targeting public officials took place, only 20% of the 55 cases ended with sanctions on one or more public officials.

## **A. Strengthening the legal foundations for anti-bribery enforcement**

The Convention provides a robust legal foundation for countries' fight against foreign bribery. Over the past 20 years, monitoring by the WGB has motivated countries to take concrete action to fight foreign bribery and corruption, including refining anti-foreign bribery laws and enforcement practices.

A fundamental step in this process involves putting in place laws that permit effective enforcement of foreign bribery laws. If countries do not have laws that allow them to investigate and successfully prosecute perpetrators of this complex, multi-jurisdictional crime, then active and effective enforcement will not be possible. Adequate laws – including in such areas as the definition of the offence, the scope of liability for both individuals and entities (e.g. corporations), jurisdiction and statutes of limitations – are a necessary pre-condition to effective enforcement.

Although not the focus of the present report, these laws nevertheless form an essential part of the backdrop for the enforcement outcomes reported here. Box 1 highlights relevant legal reforms in Argentina, Italy and Japan that were adopted in the course of 2017. The new laws aim to strengthen the legal foundations for anti-bribery enforcement. These laws – like all of the laws relevant for foreign bribery of the Parties to the Convention – will be subjected to monitoring by the OECD WGB.

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<sup>1</sup> Peru became the 44<sup>th</sup> Party to the Convention on 27 July 2018. For more information, see OECD Convention on Ratification Status: [www.oecd.org/daf/anti-bribery/WGBRatificationStatus.pdf](http://www.oecd.org/daf/anti-bribery/WGBRatificationStatus.pdf).

### Box 1. Key law reforms adopted in 2017

Key law reforms adopted by Working Group members that are expected to enhance anti-foreign bribery law enforcement include:

- **Argentina -- legal person liability.** In November 2017, Argentina adopted a new law establishing corporate criminal liability for corruption for the first time. As defined under the law, corruption includes domestic and foreign bribery and influence peddling, as well as creating false accounts in order to hide these crimes. Companies incur liability for corruption when it is committed, directly or indirectly, with their intervention or on their behalf, in their interest or for their benefit. The Law provides for a range of sanctions: 1) fines of up to 5 times the improper benefit obtained; 2) the suspension of commercial activities; 3) loss of eligibility to participate in public tenders or bids; and 4) loss of public advantages. It also provides for a special statute of limitations of 6 years to initiate criminal action. Factors to be considered when imposing sanctions include the appropriateness of company's compliance program (whose design should reflect specific business risks); its size and economic capacity; and the amount of money involved. Furthermore, the company can completely avoid liability and administrative consequences if it spontaneously self-reports, has an adequate compliance and returns the illegal proceeds of the offense. The Law entered into force in March 2018.
- **Italy -- statute of limitations.** In June 2017, Parliament approved a law on statutes of limitation under which the first 18 months after an initial conviction will not be part of the limitations period, nor will the 18 months after a conviction is upheld if the defence takes the case to the final court of appeal.
- **Japan – proceeds of crime and money laundering.** The bill to amend the Anti-Organised Crime Law (AOCL) was adopted in June 2017 and entered into force 20 days after its adoption. The AOCL grants judges the power to confiscate proceeds of crime pertaining to serious offenses that carry a maximum penalty of four years or more imprisonment, which includes foreign bribery. The AOCL also makes it an offence to launder the proceeds of serious crimes, including the proceeds of foreign bribery.

## B. Key findings on enforcement activities<sup>2</sup>

In 2017, three Parties joined the list of jurisdictions that are known to have sanctioned foreign bribery: Brazil (which sanctioned 25 individuals and 1 legal person) and Spain (which sanctioned two individuals) and Australia (which sanctioned five individuals and two legal persons). This brings to 23 the total number of WGB members that have sanctioned foreign bribery at least once.

In spite of this progress, the data indicate that 21 of the 43 Parties whose implementing legislation had entered into force by 1 January 2018 have never sanctioned an individual or an entity for foreign bribery.

The data also show that 560 individuals and 184 entities have received criminal sanctions for foreign bribery in 23 Parties between the time the Convention entered into force and the end of 2017. Out of these 23 Parties, 13 have sanctioned both companies and individuals, 8 have sanctioned only individuals, and 2 have sanctioned only companies.

Five parties have sanctioned 84 individuals and 102 entities in administrative and civil proceedings for foreign bribery.

Eleven Parties have also sanctioned 35 individuals and 97 legal persons for other offences related to foreign bribery in international business transactions (e.g. accounting offences, breach of trust, or money laundering).

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<sup>2</sup> Changes were made to the methodology used to calculate Germany's enforcement data in order to align these data with those presented in the Phase 4 report. For this reason, 2017 data are not fully comparable with those of earlier years.

Although many countries limit or prohibit sharing information about investigations, some WGB members have provided estimates and additional information about investigations of the crime of foreign bribery and related offences (e.g. the number of ongoing investigations and ongoing criminal proceedings). Some also provide information on sanctions, including the size range of fines and prison terms and exclusions or limitations on access to public procurement contracts or benefits. This information, which is provided on a voluntary basis, shows the following:

- **Ongoing investigations:** In 2017, 30 Parties reported more than 500 ongoing investigations of foreign bribery and related offences in 30 Parties to the Convention. It is worth noting that each country has its own definition of what constitutes an investigation and that many countries' law enforcement authorities are barred from reporting detailed information on investigations.
- **Ongoing proceedings:** At least 155 criminal proceedings (against 146 individuals and 9 entities) are ongoing for foreign bribery in 11 Parties. In addition, there are 3 administrative proceedings involving foreign bribery for individuals and 6 involving entities.
- **Criminal sanctions for foreign bribery:** Out of the 560 individuals who received criminal sanctions for foreign bribery, details on the nature of these sanctions are available for 312 individuals<sup>3</sup>. Of these, 90 received mixed sanctions involving both prison terms and monetary penalties, 140 received only monetary penalties and 82 received only a prison term.
- **Length of prisons terms:** For the 97 individuals for whom information is available on the length of (non-suspended) prison terms, 11 were for more than 5 years, 41 were in the 2-5 year range, 26 in the 1-2 year range and 19 were less than 1 year. In addition, at least 60 individuals and 101 entities have been sanctioned in administrative and civil proceedings for foreign bribery in 4 Parties.
- **Administrative sanctions for foreign bribery:** Administrative sanctions were imposed on 84 individuals and 102 entities.

### C. Comparative tables on enforcement outcomes

This section provides more detailed enforcement data by WGB member country. The data distinguish 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 on Methodology' provides further information on the data.

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<sup>3</sup> WGB members report this number on a voluntary basis and not all members provide details on sanctions. This figure covers both imposed and agreed sanctions.

**Table 1A. Decisions on criminal foreign bribery cases**  
(1999 to December 2017)

Number of individuals and legal persons sanctioned or acquitted					
Party to the Convention	% share of world exports <sup>1</sup>	Sanctioned (agreed or imposed)		Acquitted	
		Individual	Legal Person	Individual	Legal Person
Argentina	0.32	0	0	0	0
Australia	1.52	5	2	0	0
Austria	0.99	1	0	4	0
Belgium	2.02	8	2	16	5
Brazil	1.17	25	0	0	0
Bulgaria	0.14	1	0	0	0
Canada	2.45	1	3	3	0
Chile	0.38	1	1	0	0
Colombia	0.24	0	0	0	0
Czech Republic	0.82	0	0	0	0
Denmark	0.83	0	0	0	0
Estonia	0.09	0	0	0	0
Finland	0.43	0	0	18	4
France	3.66	15	2	4	1
Germany <sup>2</sup>	7.85	316	11	3	0
Greece	0.32	0	0 <sup>3</sup>	0	0 <sup>3</sup>
Hungary	0.63	26	0	2	0
Iceland	0.04	0	0	0	0
Ireland	1.68	0	0	0	0
Israel <sup>4</sup>	0.39	0	2	0	0
Italy <sup>5</sup>	2.73	12	6	5	0
Japan	4.21	10	2	0	0
Korea	3.04	10	5	5	0
Latvia	0.08	0	0	0	0
Lithuania	0.17	0	0	0	0
Luxembourg	0.58	1	0	0	0
Mexico	1.88	0	0	0	0
Netherlands	3.24	0	7	0	0
New Zealand	0.22	0	0	0	0
Norway <sup>6</sup>	0.77	3	3	5	1
Poland	1.23	1	0	0	0
Portugal	0.42	0	0	0	0
Russian Federation	2.17	No information	No information	No information	No information
Slovak Republic	0.44	0	0	0	0
Slovenia	0.17	0	0	0	0

South Africa	0.54	0	0	0	0
Spain	2.02	2	0	0	0
Sweden	1.18	6	0	2	1
Switzerland <sup>7</sup>	1.97	3	4	0	0
Turkey	0.99	0	0	1	0
United Kingdom <sup>8</sup>	3.47	14	7	8	0
United States <sup>9</sup>	9.51	99	125	4	0
<b>TOTAL</b>	<b>66.96</b>	<b>560 persons sanctioned, including plea agreements and agreed sanctions</b>	<b>184 legal persons sanctioned, including plea agreements and DPAs/NPAs</b>	<b>80</b>	<b>12</b>

<sup>1</sup> 2017 export data provided by the OECD Economics Department.

<sup>2</sup> For Germany: Due to a change in methodology that aligned the enforcement data in this report with the data in the Phase 4 report, the German data for 2017 are not comparable to the data reported in earlier years. Also to be noted: 1) 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. 2) Two acquittals are under appeal. 3) Sanctions 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).

<sup>3</sup> 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 of 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.

<sup>4</sup> For Israel: In addition to the sanctioned legal person, an additional legal persons was sanctioned in a case involving foreign bribery-related facts, but which was resolved with an NPA under securities law. Also to note: 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.

<sup>5</sup> For Italy: Sanctions include those imposed via non-trial resolutions. The applicable procedure for plea agreements is called “patteggiamento”. In addition to these cases, Italy 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 the 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. Also to note: 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.

<sup>6</sup> 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 CPA. In addition to the sanctions on individuals, 3 prosecutorial decisions of “påtaleunntatelse” were made in application of paragraph 69 of Norway’s CPA. A decision of “påtaleunntatelse” is a penal sanction according to Norwegian Penal law under which guilt is deemed to be proven. There are no monetary sanctions, confiscation measures, or prison sentences attached to these decisions.

<sup>7</sup> 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 relates to cantonal foreign bribery cases as far as reported by the competent cantonal authorities (and therefore known at the federal level). In addition, the numbers reported here do not take into account the exemption from punishment according to Art. 53 of the Swiss Criminal Code (SCC) that are a means of dismissing proceedings.

<sup>8</sup> For the United Kingdom: Three of the 7 sanctions on legal persons were imposed by means of a deferred prosecution agreement (DPA).

<sup>9</sup> 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.

**Table 1B. Decisions on administrative and civil foreign bribery cases<sup>1</sup>**  
(1999 to December 2017)

Number of individuals and legal persons sanctioned or found not liable					
Party to the Convention	% share of world exports <sup>2</sup>	Sanctioned		Found not liable	
		Individual	Legal Person	Individual	Legal Person
Brazil	1.17	24	1	0	0
Germany	7.85	7	5	0	0
Japan	4.21	0	6	0	0
United Kingdom	3.47	0	10	0	0
United States <sup>3,4</sup>	9.51	53	80	0	0
<b>TOTAL</b>	16.71	<b>84</b>	<b>102</b>	<b>0</b>	<b>0</b>

<sup>1</sup> Only those countries that have reported additional sanctions ordered under administrative and/or civil procedures have been listed under the "Administrative and Civil Cases". Note that some countries have criminal and administrative/ civil sanctions for foreign bribery.

<sup>2</sup> 2017 export data provided by the OECD Economics Directorate.

<sup>3</sup> 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.

<sup>4</sup> Several persons sanctioned in civil proceedings have also been sanctioned in criminal proceedings. For Brazil, all 24 individuals sanctioned under administrative/civil proceedings were also sanctioned in criminal proceedings (see Table 1A).

**Table 2A. Decisions on criminal cases for other offences related to foreign bribery<sup>1</sup>**  
(1999 to December 2017)

Number of individuals and legal persons sanctioned or acquitted					
Party to the Convention	% share of world exports <sup>2</sup>	Sanctioned		Acquitted	
		Individual	Legal Person	Individual	Legal Person
Australia	1.52	2	0	0	0
Belgium	2.02	0	0	1	0
Brazil	1.17	1	0	0	0
Finland	0.43	1	0	4	0
Germany <sup>3</sup>	7.85	2	2	0	0
Italy	2.73	7	2	0	0
Netherlands	3.24	1	1	0	0
Norway <sup>4</sup>	0.77	1	1	0	0
Portugal	0.42	1	1	0	0
Sweden	1.18	1	0	0	0
United Kingdom	3.47	0	1	0	0
United States	9.51	20	88	2	0
<b>TOTAL</b>	<b>34.31</b>	<b>36</b>	<b>96</b>	<b>7</b>	<b>0</b>

<sup>1</sup> 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” 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).

<sup>2</sup> 2017 export data provided by the OECD Economics Department.

<sup>3</sup> 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.

<sup>4</sup> 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 bribery<sup>1</sup>**  
(1999 to December 2017)

Number of individuals and legal persons sanctioned or found not liable					
Party to the Convention	% share of world exports <sup>2</sup>	Sanctioned		Found not liable	
		Individual	Legal Person	Individual	Legal Person
Brazil	1.17	1	1	0	0
United States	9.51	65	150	0	0
<b>TOTAL</b>	<b>10.68</b>	<b>66</b>	<b>151</b>	<b>0</b>	<b>0</b>

<sup>1</sup> 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).

<sup>2</sup> 2017 export data provided by the OECD Economics Department.



#### D. Special focus: What happened to the public officials who were on the receiving end of these supply-side cases?

Fighting corruption in all its forms is a top priority of the international community in general and of the OECD in particular. The OECD Working Group on Bribery (WGB) plays its part in this fight by helping its members to enact effective laws and to build enforcement capacity to combat the supply-side of foreign bribery. To have a globally effective enforcement system, however, both the sides of the bribery transaction – that is, the supply-side (i.e. the bribers) and the demand-side (i.e. the public officials) – must face genuine risks of detection, prosecution and sanctions.

If both the demand- and supply-sides of bribery face credible enforcement risks, then the overall deterrence effect of the global law enforcement system is enhanced. Both sides are more reluctant to engage in bribery because, in such situations, if one side of the bribe transaction is detected, then detection of the other side will soon follow. Thus, taken together, effective enforcement on both sides of bribery transactions can lead to mutually reinforcing outcomes.

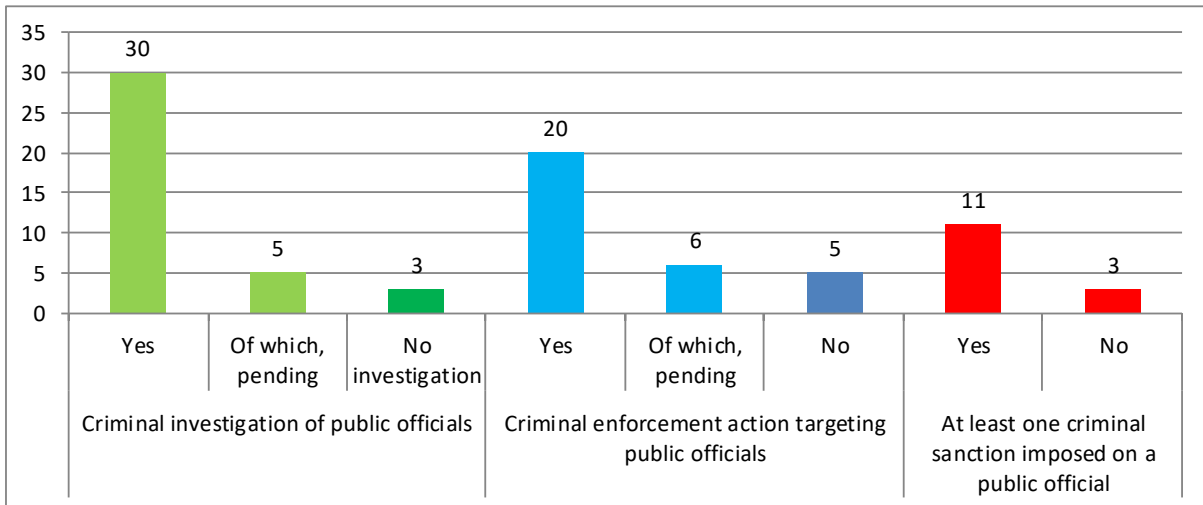
The WGB survey explores the question of whether this situation of mutual reinforcement between supply- and demand-side jurisdictions actually exists. More specifically, it asks whether there is a "flip side" to a set of 55 concluded foreign bribery cases that ended with sanctions being imposed on a supply-side participant (the briber) – that is, were the public officials involved in these schemes also sanctioned or otherwise disciplined? In order to answer this question, questionnaires were sent to members of the WGB whose public officials were on the receiving end of bribes that were sanctioned as supply side offences in other WGB members between 2008 and 2013 and 33 responses to these questionnaires were received.

The main findings of the survey are as follows:

- ***Enforcement actions do take place on the demand side, but public officials are known to have been sanctioned in only one fifth of the 55 schemes covered by the survey.*** The WGB survey shows that public officials are subjected to law enforcement actions in a considerable number of cases (Figure 1). Of the 33 cases for which specific information was provided, 30 cases involving public officials were investigated in the demand-side countries. Criminal enforcement actions (such as prosecutions) targeting at least one official were then undertaken in 20 of these cases and criminal sanctions are known to have been imposed on at least one public official in 11 cases (see Figure 2 for sanctions imposed in these 11 cases). In addition, 11 actions are still pending – five at the investigative stage and 6 at prosecutorial stage.

**Figure 1. Investigation, enforcement actions and sanctions: what is the pattern?**

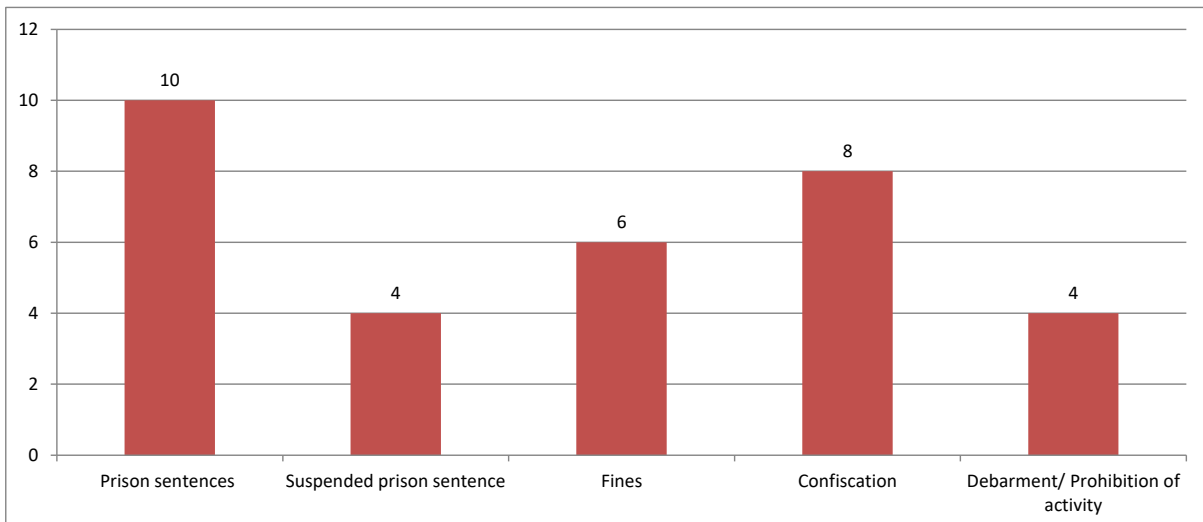
(At least one public official sanctioned of 33 completed questionnaires and a total of 55 questionnaires)



Source: OECD Working Group on Bribery questionnaire-based survey.

**Figure 2. Sanctions imposed in the concluded criminal cases targeting public officials**

(at least one public official was sanctioned in 11 of the 33 completed questionnaires and out of a total of 55 questionnaires)



Source: OECD Working Group on Bribery questionnaire-based survey.

- The information flow between demand- and supply side countries is unreliable and often slow.** The survey generated information about how and when the demand-side countries became aware of 28 cases. In 11 cases, the demand-side country reports becoming aware of the case almost simultaneously (within one month) with the supply-side sanction being imposed. However, the speed of information flow is uneven. For the 5 cases where the demand-side country learned of the supply side sanction after it was imposed, it took an average of 25 months for the demand-side country to become aware of the case. In 11 cases, the demand-side country was aware of the case before the supply-side sanction was imposed.

- ***Exchange of information between demand- and supply-side enforcement authorities was not a source of detection in this survey sample.*** None of the demand-side countries detected the bribes involving their public officials through formal or informal communications with the supply-side enforcement authorities. This could be considered to be a surprising result, given that law enforcement officials in the WGB communicate regularly at the Group's meetings.
- ***The media plays a major role in international information flow as direct communication between supply and demand-side enforcement authorities is rarely a source of detection.*** The media were a major source of detection for the demand-side authorities (they were the source in 14 cases). Other sources of detection on the demand side were: reports by government institutions (4 cases); self-reporting by the offender (2 cases) and whistleblowers (2 cases).
- ***Sanctioning public officials for bribery poses the same enforcement challenges as sanctioning supply-side bribers.*** When public officials were not sanctioned, the survey responses often attribute it to standard problems encountered in criminal law enforcement: insufficient evidence (5 cases) and statute of limitations (4 cases). In one case no sanctions were imposed because the "effects of some offences on society were insignificant" and in another because key documents disappeared from the Ministry associated with the bribe. Finally, in 2 cases, sanctions were not imposed because the payments in question were not deemed to be illegal under the demand-side country's law. Finally, the machinery of justice appears to be quite slow in some countries. As noted above, 5 of the cases are still pending at the stage of investigation and 6 at the stage of prosecution, despite the fact that the cut-off date for the sample was 2013.
- ***Demand-side actions were pursued mainly under criminal law; reported disciplinary actions under administrative law were rare.*** The survey questionnaire also asked about disciplinary actions directed at public officials. In 4 cases, public officials were targeted by non-criminal tax measures, some of which are still pending. In another case, two SOE employees were suspended from their positions, while, in another, a disciplinary procedure is described as pending and awaiting the outcome of criminal proceedings. This comparatively low number (relative to the number of actions taken under criminal law) may reflect more restrictive publication policies for disciplinary actions taken under administrative law or differential access to information on criminal versus administrative action for the individuals filling out the questionnaire.

## ANNEX ON METHODOLOGY FOR ENFORCEMENT DATA

### Collection and presentation of 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. 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 2017. 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.

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](http://www.oecd.org/daf/anti-bribery/Methodology-Enforcement-Data.pdf).

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