



Working Group on Bribery: 2012 Data on Enforcement of the Anti-Bribery Convention

Highlights from the Working Group on Bribery Enforcement Data, as of December 2012

- 221 individuals and 90 entities have been sanctioned under criminal proceedings for foreign bribery in 13 States Parties between the time the Convention entered into force in 1999 and the end of 2012.
- At least 83 of the sanctioned individuals were sentenced to prison for foreign bribery.
- At least 85 individuals and 120 entities have been sanctioned in criminal, administrative and civil cases for other offences related to foreign bribery, such as money-laundering or accounting, in 5 States Parties.
- Approximately 320 investigations are ongoing in 24 States Parties to the Anti-Bribery Convention. Prosecutions are ongoing against 148 individuals and 18 entities in 15 Parties for offences under the Convention.

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. Again this year, the Parties have again agreed to publish official data for the 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).

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 other offences related to foreign bribery, such as accounting and money laundering offences.

In Short: Working Group on Bribery Enforcement Data¹

To date, all States Parties to the Convention have provided enforcement data. According to data as of December 2012, 221 individuals and 90 entities have been sanctioned under criminal proceedings for foreign bribery in 13 States Parties between the time the Convention entered into force in 1999 and the end of 2012. Out of these 13 States Parties, 9 have sanctioned both companies and individuals, and 4 have sanctioned only individuals.

According to voluntarily provided data, at least 83 of the sanctioned individuals were sentenced to prison for foreign bribery. Five States 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, such as accounting offences, breach of trust, or money laundering).

Approximately 320 investigations are ongoing in 24 States Parties to the Anti-Bribery Convention.

Methodology and Content of the Comparative Table of Enforcement Data Collected from the 39 States Parties to the Anti-Bribery Convention – Decisions on Foreign Bribery Cases from 1999 to December 2012

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 in international business transaction and for failures to prevent a proven case of bribing a foreign public official in international business transactions (Articles 1 and 2 of the Anti-Bribery Convention) in the 39 States Parties to the Anti-Bribery Convention from its entry into force to December 2012. (Colombia did not become a Party to the Anti-Bribery Convention until January 2013 and is therefore not included in this year's WGB enforcement data.)

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 the number of sanctions for the commission of the offence of bribing a foreign public official in international business transactions and for failures to prevent a proven case of bribing a foreign public official in international business transactions. It does *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. The Table also does not

1. The WGB enforcement data represents data collected from 39 States Parties to the OECD Anti-bribery Convention. As of December 2012, there were 38 States Parties to the Anti-Bribery Convention. Russia became the 39th State Party to the OECD Anti-Bribery Convention in April 2012. In January 2013, Colombia became the 40th State Party.

record the number of sanctions that may have been ordered in the 39 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 Colombia because the Anti-Bribery Convention was not in force during the entire 2012 calendar year for that Party.

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.

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 39 Parties to the Anti-Bribery Convention
Decisions on Foreign Bribery Cases from 1999 to December 2012¹**

Country	Date of latest information supplied	% share of world exports (2012) ²	Number of individuals (I) and legal persons (LP) sanctioned or acquitted/found not liable			
			Sanctioned		Acquitted	
CRIMINAL CASES			I	LP	I	LP
Argentina	December 2012	0.4	0	0	0	0
Australia	December 2012	1.4	0	0	0	0
Austria	December 2012	1.1	0	0	0	0
Belgium ³	December 2012	1.9				
Brazil	December 2012	1.3	0	0	0	0
Bulgaria	December 2012	0.1	1	0	0	0
Canada	December 2012	2.5	0	2	0	0
Chile	December 2012	0.4	0	0	0	0
Czech Republic	December 2012	0.7	0	0	1	0
Denmark	December 2012	0.8	0	0	0	0
Estonia	December 2012	0.1	0	0	0	0
Finland	December 2012	0.5	0	0	0	0
France	December 2011	3.2	4	0	2 ⁴	0
Germany	December 2012	7.9	21 (+67 agreed sanctions) ⁵	0	0	0
Greece	December 2011	0.3	0	0	0	0
Hungary	December 2012	0.5	26	0	2	0
Iceland	December 2012	0.04	0	0	0	0
Ireland	December 2012	1.0	0	0	0	0
Israel ⁶	December 2012	0.4	0	0	0	0
Italy	December 2012	2.7	8, including plea agreements ⁷	2, including plea agreements ⁷	3	2
Japan	December 2011	4.0	6	1	0	0
Korea	December 2012	2.9	16	4	0	0
Luxembourg	December 2012	0.4	0	0	0	0
Mexico	December 2012	1.8	0	0	0	0
Netherlands	December 2012	3.0	0	0	1	0
New Zealand	December 2012	0.2	0	0	0	0
Norway	December 2012	0.9	2	1	2	0
Poland	December 2012	1.0	0	0	0	0
Portugal ⁸	June 2009	0.4	0	0	0	0
Russian Federation	N/A	2.7	N/A	N/A	N/A	N/A
Slovak Republic	December 2012	0.4	0	0	0	0
Slovenia	December 2012	0.2	0	0	0	0
South Africa	December 2012	0.5	0	0	0	0
Spain	December 2012	2.0	0	0	0	0
Sweden	December 2012	1.2	2	0	0	0
Switzerland ⁹	December 2012	1.5	1	1	0	1
Turkey	December 2012	0.8	0	0	1	0
United Kingdom	December 2012	3.5	5	2	1	0
United States ¹⁰	December 2012	9.9	62, including plea agreements	29 plea agreements (+ 48 DPAs/NPAs ¹¹)	1	0
TOTAL	December 2012	60.44	221 persons sanctioned, including plea agreements and agreed sanctions	90 legal persons sanctioned, including plea agreements and DPAs/NPAs	14	3
ADMINISTRATIVE AND CIVIL CASES ¹²			Sanctioned		Found Not Liable	
			I	LP	I	LP
Germany	December 2012	7.9	1	7	0	0
Japan	December 2011	4.0	0	1	0	0
United States ¹³	December 2012	9.9	41, including settlements ¹⁴	55, including settlements ¹⁴	0	0
TOTAL	December 2011		42, including settlements	63, including settlements	0	0

- 1 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. The number of convictions and sanctions may decrease from previous years due to appeals and other challenges. However, the responsibility for the provision and accuracy of information rests solely with the individual Parties.
 - 2 Export data provided by the OECD Economics Directorate and includes data through the first nine months for 2012.
 - 3 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.
 - 4 In these two cases, the individuals were acquitted of the offence of foreign bribery, but were sanctioned for other offences.
 - 5 Sanctions ordered by 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 Portugal's Phase 3 report, adopted 14 June 2013, notes that Portugal's foreign bribery enforcement statistics as provided by Portugal and as originally included in the 2013 Working Group on Bribery Annual Report erroneously included cases of bribery of Portuguese officials. These cases do not fall under Article 1 of the Convention for Portugal. The data in this version of the Annual Report has been corrected to rectify this error.
 - 9 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.
 - 10 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.
 - 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.
 - 12 Only those countries that have reported additional sanctions ordered under administrative and/or civil procedures have been listed under the "Administrative and Civil Cases".
 - 13 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.
 - 14 A number of persons that have been sanctioned in civil proceedings have also been sanctioned in criminal proceedings.
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Tables with Voluntary Data on Cases for Other Offences Related to Foreign Bribery

What the data includes

For the second time, 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 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 the data above, it does *not* include 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. The Working Group chose to include this information for the first time last year 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

Similar to the data related to the foreign bribery offence above, the cases have been counted per person in the voluntary data tables below. 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 ¹			Sanctioned		Found Not Liable	
			I	LP	I	LP
Australia	December 2012	1.4	1	0	0	0
France	December 2011	3.2	3	0	0	0
Germany	December 2012	7.9	20 (+8 agreed sanctions)	0	0	0
United Kingdom	December 2012	3.5	0	1	0	0
United States	December 2012	9.9	5, including settlements ²	14, including settlements	2	0
TOTAL			37, including settlements	15, including settlements	2	0

ADMINISTRATIVE/CIVIL SANCTIONS FOR OTHER OFFENCES RELATED TO FOREIGN BRIBERY ²			Sanctioned		Found Not Liable	
			I	LP	I	LP
Germany	December 2012	7.9	4	3	0	0
United Kingdom	December 2012	3.5	0	7		
United States	December 2012	9.9	44, including settlements	95, including settlements	0	0
TOTAL			48, including settlements	105, 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 implement sufficient internal controls, *abus de biens sociaux* (misuse of company assets), and *untreue* (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 implement sufficient internal controls, *abus de biens sociaux* (misuse of company assets), and *untreue* (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 320 ongoing investigations in 24 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 15 in 6 States Parties, and fewer than 5 in 12 States Parties). No investigation is ongoing in 5 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 160 criminal proceedings (against 148 individuals and 18 entities) are ongoing in 15 States Parties. Seven 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 221 individuals sanctioned for foreign bribery under criminal proceedings, at least 83 individuals have been sentenced to prison terms in 7 States Parties.