OECD Foreign Bribery Report

AN ANALYSIS OF THE CRIME OF BRIBERY OF FOREIGN PUBLIC OFFICIALS

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An analysis of the crime of bribery of foreign public officials

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PREFACE

Corruption, and the perception of corruption, erodes trust in governments, businesses and markets. In the aftermath of the greatest financial crisis of our time, we need to rebuild that trust more than ever before. Corruption also undermines growth and development. On the one hand, businesses forego innovation and competitiveness for bribery. On the other hand, individuals within governments divert funds for their own personal use that should be used to promote the well-being of people. By ending impunity and holding corrupt people to account, we can begin to restore faith in our institutions and industries.

The OECD has an arsenal of legal instruments and recommendations for fighting corruption in its many forms, including through criminalising bribery in international business, promoting responsible business conduct, protecting whistleblowers and insisting on integrity and transparency in public procurement processes. The OECD *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* is the cornerstone of OECD efforts to combat corruption. Accession to the OECD Anti-Bribery Convention obligates its 41 State Parties to make bribery in international business a serious crime, and to enforce it, thus tackling head on this scourge on economic growth and development.

However, in order to fight corruption and win, we have to know our enemy. Until now, there have been very few successful attempts to measure this complex and covert crime. We have been fighting in the dark. Often disguised through a series of offshore transactions, multiple intermediaries and complex corporate structures, the detection, investigation and sanctioning of foreign bribery requires expertise, time and co-operation.

The OECD Foreign Bribery Report brings us, for the first time, face to face with our foe. This report endeavours to measure, and to describe, transnational corruption based on data from the 427 foreign bribery cases that have been concluded since the entry into force of the OECD Anti-Bribery Convention in 1999. We have learned that bribes are being paid across sectors to officials from countries at all stages of economic development. Corporate leadership is involved, or at least aware, of the practice of foreign bribery in most cases, rebutting perceptions of bribery as the act of rogue employees. Intermediaries, both agents and corporate vehicles, are used in most corrupt transactions while the majority of bribes are paid to obtain public procurement contracts. With bribes averaging 10.9% of the total transaction value, and combined monetary sanctions ranging from 100 to 200% of the proceeds of the corrupt transaction in 41% of cases, the business case against corruption is clear.

With this report, I challenge governments, business and society to change the incentives. The corrupt must be brought to justice; the prevention of business crime should be at the centre of corporate governance policies; and public procurement needs to be synonymous with integrity, transparency and accountability. Collective action is needed to win the war against corruption and we are now better equipped than ever to prevent, detect and punish this crime and give the fight against foreign bribery the priority it deserves.

Angel Gurría
OECD Secretary-General

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ACKNOWLEDGEMENTS

Parties to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and members of the G20 Anti-Corruption Working Group have committed to combat foreign bribery. The OECD Anti-Bribery Convention is the first and only international, legally binding instrument focused exclusively on the supply of bribes by individual entrepreneurs and companies to foreign public officials. Parties to the Convention must make it illegal for their citizens and businesses to bribe foreign public officials while doing business abroad and G20 countries have committed to adhere to these standards. Making foreign bribery a crime is an important step forward to holding businesses responsible for this particularly insidious form of corruption.

The starting point for the research behind the OECD Foreign Bribery Report was therefore to address the enforcement challenge, by illustrating the crime of foreign bribery in real terms. Drawing on cases of bribery of foreign public officials by individuals and companies concluded between the entry into force of the OECD Anti-Bribery Convention on 15 February 1999 and 1 June 2014, this report provides a clearer picture of a crime that, until now, we have only been able to talk about in general terms.

The report was prepared by Ms. Leah Ambler, Legal Analyst, OECD Anti-Corruption Division, with the assistance of Ms. Samantha Bloch and Mr. Martin Grande, Research Assistants, OECD Anti-Corruption Division and Dr. Caroline Roulet, Economist, OECD Directorate for Financial and Enterprise Affairs. This report is intended to form the basis of ongoing work as additional foreign bribery cases are concluded and made public, providing further information for analysis.

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ABOUT THE OECD FOREIGN BRIBERY REPORT

The OECD Foreign Bribery Report presents an analysis of all foreign bribery[1] enforcement actions that have been completed since the entry into force of the OECD *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* (OECD Anti-Bribery Convention). In presenting data obtained from law enforcement authorities in the 17 countries that have successfully concluded a foreign bribery case in their jurisdiction to date, this report seeks to paint a clearer picture of the crime of foreign bribery. It demonstrates that enforcement of anti-bribery laws has drastically increased since the entry into force of the Convention. This report not only tells the story of how bribes are paid, where they are paid, and to whom, but also who is being sanctioned for this offence and how.

DEFINITION OF FOREIGN BRIBERY

For the purposes of this report, foreign bribery is defined in accordance with Article 1 of the OECD Anti-Bribery Convention, as "to offer, promise or give any undue pecuniary or other advantage, whether directly or through intermediaries, to a foreign public official, for that official or for a third party, in order that the official act or refrain from acting in relation to the performance of official duties, in order to obtain or retain business or other improper advantage in the conduct of international business".

This report has been prepared with the aim of assisting the OECD Working Group on Bribery in International Business Transactions (OECD WGB) and the G20 Anti-Corruption Working Group (G20 ACWG) in their efforts to combat transnational bribery. The OECD WGB is made up of representatives from the 41 Parties to the OECD Anti-Bribery Convention. Sixteen OECD WGB members are also members of the G20 ACWG.

The report also supports G20 countries' "determination to combat domestic and foreign bribery", as expressed in the September 2013 St. Petersburg Leaders' Declaration, and the G20 Anti-Corruption Action Plan 2013-2014. Consistent with the St. Petersburg Strategic Framework for the G20 ACWG, the report aims to "develop, promote and support rigorous standards in anti-corruption legislation, regulation and policy and continue to focus on closing the implementation and enforcement gap, including for high-risk sectors".[2]

The report outlines trends in enforcement of the foreign bribery offence which will be useful for anti-corruption policymakers, law enforcement agencies and private sector actors across G20 governments and B20 (business) and C20 (civil society) stakeholders. It concludes with a set of preliminary conclusions and suggestions for a more targeted approach to preventing, detecting and punishing this crime. It is hoped that this report will be the first of a series of future editions as additional foreign bribery cases are concluded and made public, providing further information for analysis.

KEY FINDINGS

The following statistics are based on analysis of the information contained in enforcement actions against 263 individuals and 164 entities for the foreign bribery offence (a total of 427 cases) concluded between the entry into force of the OECD Anti-Bribery Convention (15 February 1999) and 1 June 2014. The data was not always available for all categories in all cases; therefore some percentages may be from a reduced data set. Please refer to the relevant section of the report for a detailed description of the data set for each category.

53%
OF CASES INVOLVED CORPORATE MANAGEMENT OR CEOs

1 IN 3
CASES WERE INSTIGATED BY SELF-REPORTING

57%
OF CASES INVOLVED BRIBES TO OBTAIN PUBLIC PROCUREMENT CONTRACTS

Two-thirds of the foreign bribery cases occurred in four sectors: extractive (19%); construction (15%); transportation and storage (15%); and information and communication (10%).

Almost half of the cases involved bribery of public officials from countries with high (22%) to very high (21%) levels of human development.[3]

In 41% of cases management-level employees paid or authorised the bribe, whereas the company CEO was involved in 12% of cases. In one case, a congressman was convicted of conspiracy to bribe foreign public officials.

Intermediaries were involved in 3 out of 4 foreign bribery cases. These intermediaries were agents, such as local sales and marketing agents, distributors and brokers, in 41% of cases. Another 35% of intermediaries were corporate vehicles, such as subsidiary companies, local consulting firms, companies located in offshore financial centres or tax havens, or companies established under the beneficial ownership of the public official who received the bribes.

Bribes were promised, offered or given most frequently to employees of public enterprises[4] (state-owned or controlled enterprises, SOEs) (27%), followed by customs officials (11%), health officials (7%) and defence officials (6%).

In the majority of cases, bribes were paid to obtain public procurement contracts (57%), followed by clearance of customs procedures (12%). On average, bribes equalled 10.9% of the total transaction value and 34.5% of the profits.

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One in three cases came to the attention of authorities through self-reporting by defendant companies or individuals. The next most common sources were investigations initiated directly by law enforcement authorities (13%) and foreign bribery cases that came to light in the context of formal or informal mutual legal assistance between countries (13%). Whistleblower reports and media coverage very rarely instigated a foreign bribery investigation (2% and 5%, respectively).

Companies that self-reported became aware of the foreign bribery in their international operations primarily through internal audits (31%) and merger and acquisition due diligence procedures (28%).

Prison sentences were handed down to 80 individuals who were found guilty of foreign bribery. The longest combined prison sentence imposed to date in a case involving a conviction for conspiracy to commit foreign bribery is 13 years for one individual.[5] Another 38 individuals received suspended prison sentences.

In total, there were 261 fines imposed on individuals and companies with the highest combined fine against a single company totalling EUR 1.8 billion. The highest monetary sanction imposed against an individual in a foreign bribery case was a forfeiture order amounting to USD 149 million.[6]

In 69% of foreign bribery cases, sanctions were imposed by way of settlement, using procedures including corporate probation (Canada); section 153(a) of the Criminal Procedure Code (Germany); *Patteggiamento* (Italy); Penalty Notice (Norway); *Réparation* under article 53 of the Penal Code (Switzerland); Non-Prosecution Agreements (NPAs), Deferred Prosecution Agreements (DPAs) and Plea Agreements (US).

The United States has sanctioned individuals and entities for the foreign bribery offence in connection with 128 separate foreign bribery schemes since the entry into force of the OECD Anti-Bribery Convention. Germany has sanctioned individuals and entities for the foreign bribery offence in connection with 26 separate schemes; Korea in connection with 11; and Italy, Switzerland and the United Kingdom in connection with 6.

2%
OF CASES WERE INSTIGATED BY WHISTLEBLOWERS

75%
OF CASES INVOLVED PAYMENTS THROUGH INTERMEDIARIES

80
INDIVIDUALS WERE IMPRISONED AFTER A FOREIGN BRIBERY CONVICTION

261
FINES WERE IMPOSED ON INDIVIDUALS AND COMPANIES

69%
OF CASES WERE SETTLED WITH SANCTIONS

ANALYSIS OF CONCLUDED FOREIGN BRIBERY CASES

METHODOLOGY

This report provides an analysis of data emerging from cases of bribery of foreign public officials in international business transactions by individuals and entities, concluded[7] between 15 February 1999 (date of entry into force of the OECD Anti-Bribery Convention) and 1 June 2014. Enforcement actions terminated during this period where the relevant facts occurred beforehand are also included in this analysis. The report is based on research into enforcement actions from all countries that have enacted the offence of bribery of foreign public officials in their domestic criminal law (both members and non-members of the G20 ACWG and OECD WGB). The case information is therefore separate but complementary to the OECD WGB's Data on Enforcement of the OECD Anti-Bribery Convention.[8]

The data in the report is the result of an analysis of 427 enforcement actions, referred to as cases, (involving 263 individuals and 164 entities), which have been investigated, prosecuted and reached a final law enforcement outcome for the specific crime of bribery of foreign public officials in international business transactions, as set out in Article 1(1) of the OECD Anti-Bribery Convention[9] and replicated in Parties' domestic legislation. Sanctions for preparatory and participatory offences such as conspiracy, attempt, aiding and abetting foreign bribery are also included. This report does not examine foreign bribery-related offences (such as accounting and auditing, money laundering, trafficking in influence, fraud, commercial bribery, violation of duty of supervision, failure to prevent bribery) nor UN sanctions violations or other economic crimes.[10]

427

CASES ARE ANALYSED IN THE OECD FOREIGN BRIBERY REPORT

The figures in this report relate to the number of sanctioned individuals or entities, although it is important to bear in mind that a number of related companies and/or related individuals can be involved in a single foreign bribery scheme (see Figure 19 for the number of foreign bribery schemes sanctioned, per country). Likewise, in some cases the same individual or corporate defendant may have been sanctioned in multiple jurisdictions, or in the same jurisdiction by multiple agencies, for the same foreign bribery scheme, whether for foreign bribery or other offences. Since the level of enforcement differs between the countries, caution should be exercised in extrapolating trends. Any reference to "case" in this report refers to a single enforcement action or sanction by a law enforcement agency,[11] rather than a specific foreign bribery scheme which may have involved several companies and individuals. Where parent companies undertook to pay combined penalties for the acts of their subsidiaries, this was counted as one case.

390

INVESTIGATIONS ARE UNDERWAY IN 24 OF THE 41 PARTIES TO THE OECD ANTI-BRIBERY CONVENTION

Case information was collected from a variety of sources, including: court decisions and settlement agreements available on the websites of national law enforcement authorities; information provided by national authorities in the context of Phase 3 and follow-up evaluations by the OECD WGB and following bilateral requests by the OECD Secretariat; and open source research including the TRACE Compendium, Transparency International Progress Reports and World Bank website.[12] Where available, preference has been given to information contained in official court decisions or settlement agreements; this was available in 58% of cases. In another 40% of cases, despite official judgments not being made available, national authorities provided summaries or verified case information in the context of their Phase 3 and follow-up evaluations by the Working Group on Bribery. In 2% of cases, media or other third party reporting had to be relied upon with no official information or verification provided by the sanctioning country. Case information was not always complete, which explains the frequent "unknown" values in many of the data sets in this report. Due to the confidential nature of some of the information provided by national authorities, the report includes only an aggregate analysis of case information.

The following elements were extracted from the facts of each case (depending on the availability of case information) to present the findings of this report and allow for cross-analysis:

- date of the last criminal act in the foreign bribery scheme (i.e. the date when the crime was completed)
- year of the final decision of the adjudicating court, or date of settlement if there was no criminal trial
- sector of the individual/company involved in the bribery (e.g. extractive industry, construction industry)
- function of the public official who received the bribe (e.g. employee of public enterprise, tax official, customs official)
- role of the individual who bribed or authorised or approved the bribe within the company
- level of development of the country whose officials were bribed
- value of the bribes promised, offered or given
- the purpose of the bribe (e.g. public procurement process, access to confidential information, customs clearance)
- business advantage obtained (total transaction value and/or profits) by the briber
- how the case was brought to the attention of law enforcement authorities (e.g. self-reporting to authorities, media coverage)
- how companies that self-reported to the authorities became aware that bribes had been paid in their international business operations (e.g. whistleblower reports, internal audit)

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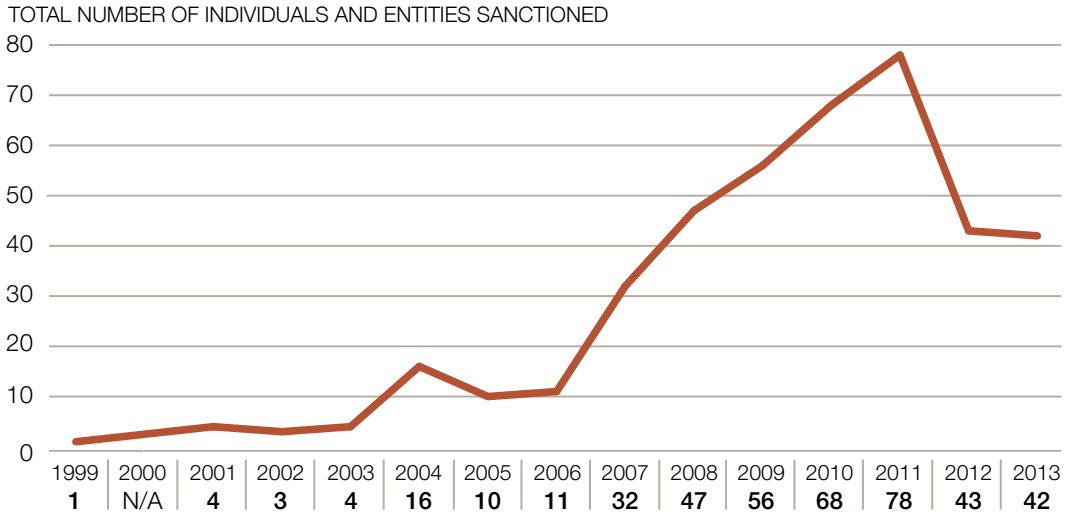
- nature of the entity that engaged in the bribery (i.e. whether or not it was a small and medium-sized enterprise)
- use of an agent or intermediary and the nature of that intermediary (e.g. agent, corporate vehicle)
- enforcement outcome (e.g. fine, imprisonment, confiscation, compensation)
- use of settlement procedures
- enforcing country

While the report has been prepared with the greatest of care, it does not purport to be exempt from possible errors of fact or analysis on specific cases, particularly where original judgments were not published or made available. However, this does not alter the very clear general trends and conclusions highlighted in the report.

ENFORCEMENT OF THE FOREIGN BRIBERY OFFENCE

This section of the report provides an overview of yearly trends in enforcement actions for the offence of bribery of foreign public officials in international business transactions between the entry into force of the OECD Anti-Bribery Convention on 15 February 1999 through 31 December 2013.

Figure 1. Number of foreign bribery cases concluded per year



Source: OECD analysis of foreign bribery cases concluded between 15/02/1999 and 31/12/2013

Figure 1 shows the total number of enforcement actions concluded against both individuals and entities for the foreign bribery offence per year, in all countries, for the 415 cases for which data was available. The year in which the sanction was imposed was unspecified for five cases and the seven cases that had been concluded in the first half of 2014 were not counted. Although some countries sanctioned individuals and entities prior to the entry into force of the Convention under their national laws criminalising bribery of foreign public officials, these data are not within the scope of this report.

While there was a steady increase in sanctions from 2003, peaking in 2011, enforcement appears to have since declined. This trend should be interpreted alongside Figure 2, which shows that the average time taken (in years) to conclude foreign bribery cases has steadily increased over time, peaking at an average of 7.3 years taken to conclude the 42 cases in 2013. The fact that cases are taking longer to bring to a close could be attributable to a number of factors, including the time taken to lodge and hear appeals of convictions or acquittals in foreign bribery cases or increased sophistication of bribery techniques, requiring more resources and time-intensive investigations. This increase could also corroborate anecdotal evidence that companies and individuals are less willing to settle foreign bribery cases and that settlement procedures are taking longer as a result.

7.3 YEARS

AVERAGE DURATION OF FOREIGN BRIBERY CASES CONCLUDED IN 2013

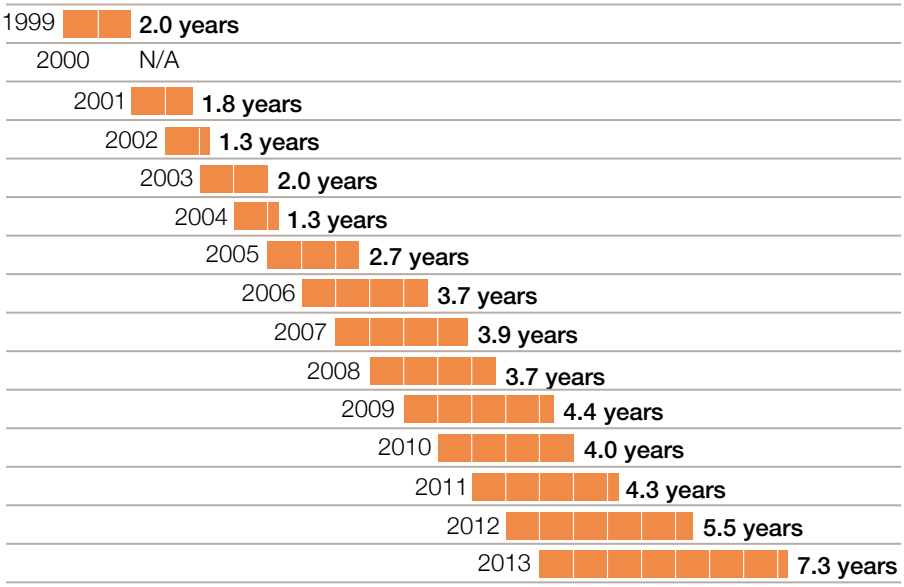
15 YEARS

LONGEST TIME TAKEN TO REACH A FINAL SENTENCE IN A FOREIGN BRIBERY CASE

Regardless of the apparent decline in concluded enforcement actions, it is important to bear in mind that the OECD WGB's Data on Enforcement[13] counts approximately 390 foreign bribery-related investigations currently ongoing in 24 (out of 41) Parties to the OECD Anti-Bribery Convention.

Figure 2. Foreign bribery cases are taking longer to conclude

AVERAGE NUMBER OF YEARS BETWEEN LAST CRIMINAL ACT AND SANCTION



Source: OECD analysis of foreign bribery cases concluded between 15/02/1999 and 31/12/2013

Figure 2 shows the timeframes involved between the last criminal act in the corrupt transaction (i.e. the time when the offence was completed) and the imposition of the sanction in each case. These timeframes also take into account additional delays involved in the nine cases where the foreign bribery conviction was confirmed on appeal. The time delays between the first procedural act (i.e. the opening of an investigation) and the imposition of the sanction are of course shorter.

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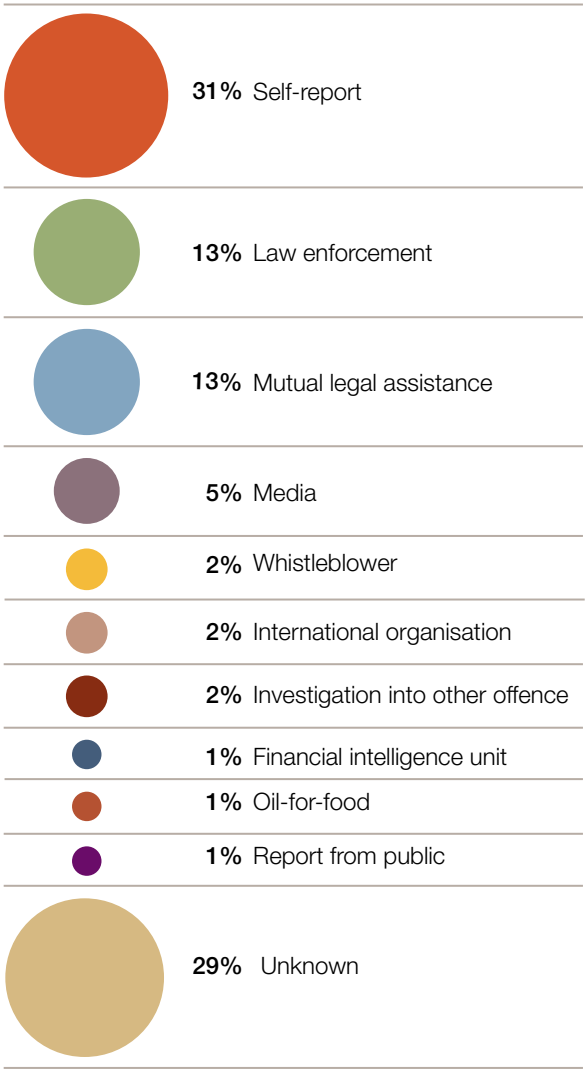
However, it was decided to measure the time delay from the last criminal act firstly because this is the starting date for the calculation of statutory limitation periods in many countries and secondly because the date of the first procedural act was not always available. As the date of the last criminal act varied depending on the role played by the individual defendant in each case, data was processed on the basis of each sanctioned entity rather than the overarching fact scenario. Information was available in relation to 374 out of the 427 defendants. The seven cases that had been concluded in the first half of 2014 were not counted.

The average time taken in years to conclude foreign bribery cases has steadily increased over time, peaking at an average of 7.3 years between crime and punishment in the 42 enforcement actions concluded in 2013. The longest time taken to reach a final sentence in a foreign bribery case was 15 years (against four defendants);[14] the shortest period was less than one year (against six defendants). Almost half of all cases (46%) took between 5 and 10 years to bring to a conclusion, highlighting the need for effective implementation of Article 6 of the OECD Anti-Bribery Convention which requires Parties to "allow an adequate period of time for the investigation and prosecution of this offence". This standard does not necessarily correspond to a need for long limitation periods. It can instead be satisfied by putting in place effective procedures to interrupt or suspend the running of the limitation period for the execution of certain procedural acts, such as seeking evidence through requests for mutual legal assistance. This report does not take into account cases that were closed due to the expiry of the applicable limitation period, an area that could benefit from additional analysis.[15]

HOW IS FOREIGN BRIBERY DETECTED?

Foreign bribery is a crime that is complex and covert by its very nature. Bribery schemes often involve a series of offshore transactions, multiple intermediaries and complex corporate structures. Detecting foreign bribery cases is therefore one of the major obstacles to effective enforcement of anti-bribery legislation. This section explores how the foreign bribery cases concluded to date have come to light.

Figure 3. How were foreign bribery cases brought to the attention of law enforcement authorities?



Source: OECD analysis of foreign bribery cases concluded between 15/02/1999 and 01/06/2014

Figure 3 illustrates how the foreign bribery schemes were brought to the attention of law enforcement authorities in all 427 enforcement actions, noting that in 29% of cases the source was unspecified. Defendants self-reported or voluntarily disclosed their involvement in foreign bribery to relevant law enforcement authorities in almost one third of cases. This could be an indication of willingness on the part of companies to self-report in countries whose legal systems permit voluntary disclosure, especially when such behaviour leads to mitigated sanctions. Law enforcement agencies such as police and customs and border protection authorities were the next most significant source for foreign bribery reports (13%) alongside cases that came to light in the course of formal and informal mutual legal assistance (MLA) between countries for related criminal investigations (13%).[16] Media coverage and investigative journalism initiated foreign bribery law enforcement actions in just 5% of cases. The OECD WGB continues to apply pressure to Parties to the OECD Anti-Bribery Convention to investigate credible foreign bribery allegations revealed in the media, which remain an important but untapped source of information.

USD 149 MILLION

HIGHEST AMOUNT FORFEITED BY AN INDIVIDUAL IN A FOREIGN BRIBERY CASE

31%

OF DEFENDANTS VOLUNTARILY DISCLOSED TO LAW ENFORCEMENT THEIR INVOLVEMENT IN FOREIGN BRIBERY

A very small number of cases arose from internal or third party whistleblowers reporting directly to law enforcement authorities (2%), underlining the importance of establishing strong and effective public and private sector whistleblower protection mechanisms, as described in the OECD/G20 *Study on Whistleblower Protection Frameworks, Compendium of Best Practices and Guiding Principles for Legislation*.[17] Other international organisations, namely the World Bank and the European Anti-Fraud Office (OLAF), referred foreign bribery allegations to national law enforcement authorities in 2% of cases ("IO referral").

The Independent Inquiry into the UN Oil-for-Food Programme[18] was also a source of information relating to the bribery that took place in the context of the former regime in Iraq between 1996 and 2003 (1%).

There were negligible detection rates by financial intelligence units (FIUs), tax authorities and embassy officials, whose functions imply regular exposure to foreign bribery allegations and therefore a potential to regularly detect and report. Suspicious transaction reports from FIUs involving foreign bribery-based money laundering were the origin of only six cases, one case was brought to light by a report from a tax agency that detected bribes in the context of a tax audit and another case was reported by an overseas embassy. This low rate of detection shows the need for greater cooperation between law enforcement authorities and other government agencies in suspected foreign bribery cases and could be an area for future work between the OECD and Financial Action Task Force (FATF).

Figure 4 illustrates how self-reporting companies discovered the foreign bribery in their international business operations which led them to report it to law enforcement authorities. Data were available in relation to 137 cases. The two main sources of detection for companies were internal audits (31%) and due diligence in the context of mergers and acquisitions where foreign bribery was detected in the target company (M&A DD; 28%). These figures demonstrate the vital role played by the accounting and auditing

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Figure 4. How did self-reporting companies become aware of foreign bribery in their business operations?

Source: OECD analysis of foreign bribery cases concluded between 15/02/1999 and 01/06/2014

profession in detecting suspected bribery. Consistent with the 2009 OECD *Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions*, accountants and auditors should be required to report such suspicions to management and corporate monitoring bodies and to consider reporting to independent law enforcement authorities.[19]

Whistleblowers notified the corporate hierarchy of the foreign bribery in 17% of cases. These notifications took the form of reports to the audit committee or board by members of the corporate executive (e.g. Executive Vice-President; Finance Director); a call to a company's "Ethics Complaint hotline"; and a civil action by an employee following dismissal after refusing to be complicit in a bribery scheme. In one case, following the failure of a company's CEO to respond to an internal audit department report indicating corrupt practices and recommending an internal investigation and voluntary disclosure, a whistleblower leaked information on the corrupt conduct to the press. The only company to self-report following a whistleblower alert that had in place an ethics or compliance system at the time of the corrupt acts, was the company that received a report to its hotline. This case demonstrates the importance of encouraging and enabling employees to bring concerns about corporate misconduct to the attention of management without fear of reprisals. An effective compliance programme that incorporates strong whistleblower protection mechanisms will enable the company to elicit early, bona fide information on misconduct that could potentially save the company from both the risk of corruption and the costs involved in exposure and sanctioning.

Other instances of foreign bribery were revealed by employees undergoing company training on foreign bribery (2%) or in the course of due diligence prior to listing on the US stock exchange (Pre-listing DD; 3%). In some cases, the company became aware of the foreign bribery in the course of unrelated civil suits (1%) or criminal investigations (1%). Companies also self-reported foreign bribery following the outcome of the Independent Inquiry into the UN Oil-for-Food Programme (1%). The source of information for self-reporting companies was unspecified in 16% of cases.

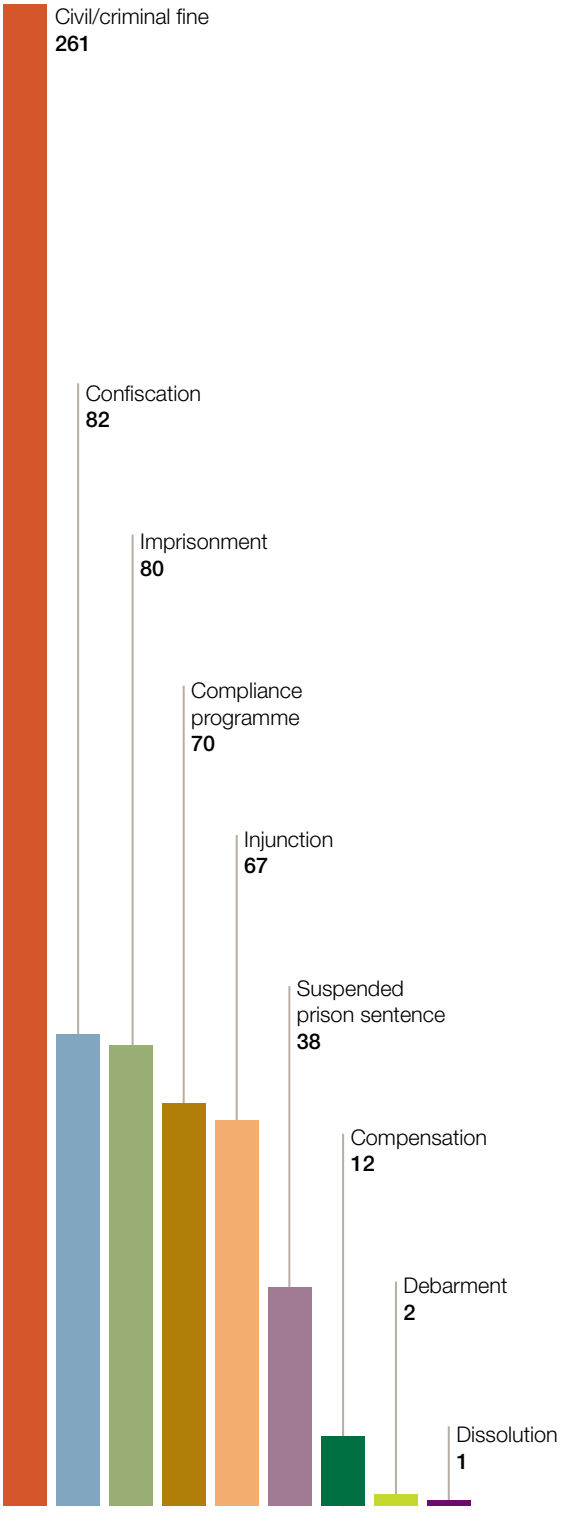
HOW IS FOREIGN BRIBERY PUNISHED?

The OECD Anti-Bribery Convention requires Parties to provide for "effective, proportionate and dissuasive" sanctions for the offence of bribery of foreign public officials. It also requires Parties to confiscate the instrument of the bribe and its proceeds, or property of equivalent value. This section provides an overview of how countries have implemented these standards in practice in foreign bribery cases.

Figure 5 charts the types of sanctions imposed in foreign bribery cases to date. Data was available in relation to all 427 cases. Values noted in Figure 5 are per category, not per case (i.e. it may be that several types of sanctions were imposed in a single case). For further information on each category of sanction, please refer to the Glossary of Terms. Of particular interest is the "Compensation" category, which includes compensation for civil damages, compensation to the state for costs related to the case (e.g. pre-judgment interest) and compensation to the victims of the crime, in particular under the provisions for *Réparation* under article 53 of the Swiss Penal Code. Eleven defendants have been ordered to pay a total of approximately USD 43.7 million in compensation since the entry into force of the OECD Anti-Bribery Convention. This compensation was either paid to NGOs designated by the law enforcement authority or as restitution to the government of the country where the bribery took place. To date, a total of USD 5.4 billion has been imposed in monetary sanctions (including fines, confiscation and compensation).

Confiscation was applied in only 13% of cases where information was available, despite the requirement in Article 3(3) of the OECD Anti-Bribery Convention that Parties confiscate the instrument of the bribe and its proceeds or property of equivalent value. This low proportion of confiscation could be explained by the fact that in many cases the company or companies involved paid "disgorgement" or had the proceeds of the foreign bribery confiscated, whereas the individuals in question were either fined or received suspended or actual prison sentences. The highest amount forfeited by an individual in a foreign bribery case to date is USD 149 million.[20]

Figure 5. How is foreign bribery punished?



Source: OECD analysis of foreign bribery cases concluded between 15/02/1999 and 01/06/2014

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USD 43.7 MILLION

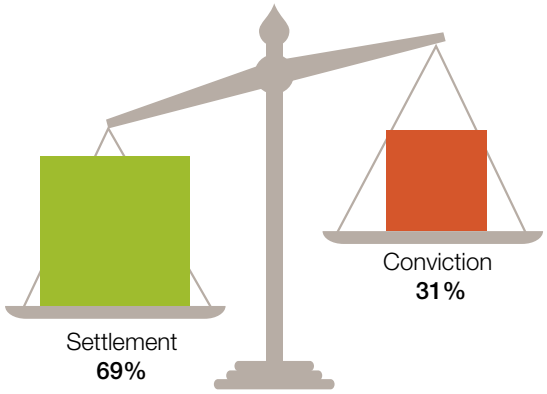
ORDERED IN COMPENSATION IN FOREIGN BRIBERY CASES

"Debarment" relates to the additional, non-automatic sanction of provisional exclusion from participation in national public procurement processes for a set period. This sanction is usually applied to companies; however one individual was subject to permanent professional debarment due to his involvement in bribery of foreign public officials. There is an extremely low number of sanctions involving debarment from national public procurement contracting, imposed against only two defendants. This is despite the 2009 OECD *Recommendation for further Combating Bribery of Foreign Public Officials in International Business Transactions* encouragement to suspend from competition for public contracts or other public advantages, enterprises determined to have bribed foreign public officials in contravention of national laws (Recommendation XI). In addition, European Union Member Countries are required to implement Directive 2014/24/EU[21] (repealing a similar Directive from 2004), which requires mandatory exclusion of economic operators that have been found guilty of corruption. The 2014 EU Anti-Corruption Report[22] highlights the significant risks of corruption in the context of public procurement, owing to deficient control mechanisms and risk management in EU Member States. The important work of the multilateral development banks in cross-debarring companies found to have been involved in sanctionable practices, including corruption, in the context of bank-funded projects contributes to addressing deficiencies in debarment at a national level.[23] However, countries need to ensure that entities and individuals found to have bribed foreign public officials in international business can be and are debarred from participation in national public procurement contracting. Injunctions or cease-and-desist orders enjoining defendants from future violations of anti-bribery laws were imposed against 67 defendants. In one case, the company involved in the foreign bribery transaction was dissolved as it was proven to have operated primarily through criminal means.

In terms of sanctions imposed in specific cases, the highest amount in combined monetary sanctions imposed in a single case totals approximately EUR 1.8 billion. The highest combined prison sentence imposed in a case involving a conviction for conspiracy to commit foreign bribery to date is 13 years.[24] It is important to bear in mind the substantial costs of foreign bribery enforcement actions that either cannot be quantified in monetary terms or do not constitute official sanctions, such as: reputational damage and loss of trust by employees, clients and consumers; legal fees; monitorships; and remedial action within the company, including the implementation of an effective compliance programme. Furthermore, potential profits to be gained through research and development are lost as bribery takes the place of innovation.

Figure 6 illustrates that in the majority of cases, sanctions were imposed through settlement procedures. Foreign bribery cases have been concluded by settlement since the entry into force of the OECD Anti-Bribery Convention using the following procedures:

Figure 6. The majority of sanctions have been imposed through settlement procedures



Source: OECD analysis of foreign bribery cases concluded between 15/02/1999 and 01/06/2014

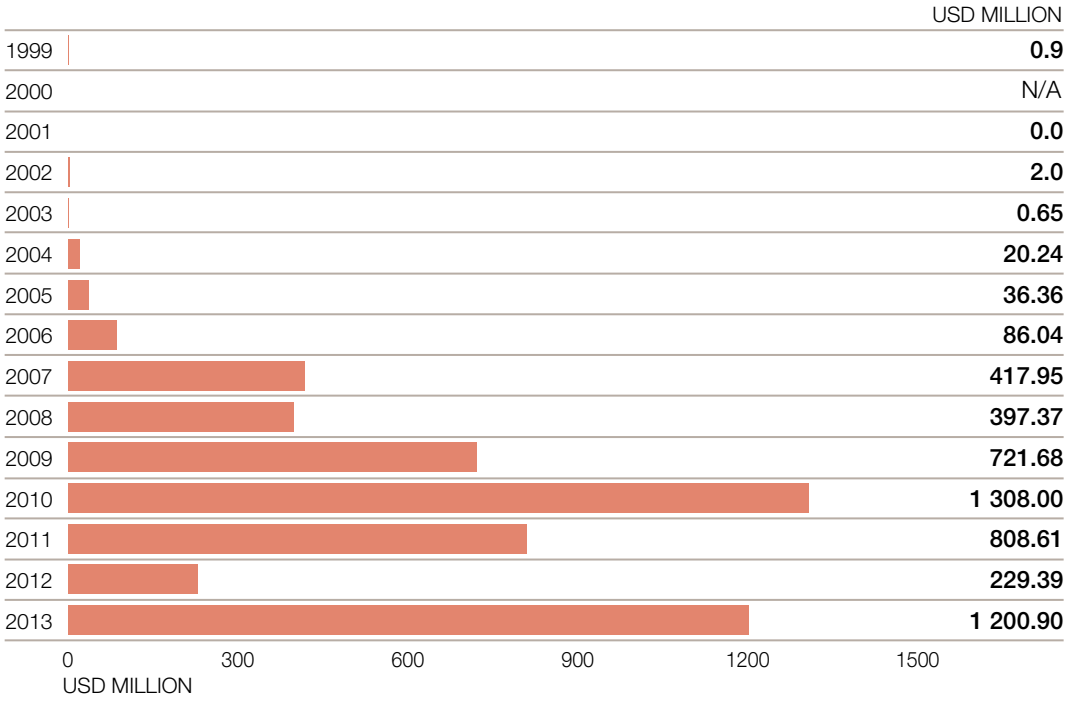
corporate probation (Canada);[25] section 153a of the Criminal Procedure Code (Germany);[26] *Patteggiamento* (Italy);[27] Penalty Notice (Norway);[28] *Réparation* under article 53 of the Penal Code (Switzerland);[29] Non-Prosecution Agreements (NPAs), Deferred Prosecution Agreements (DPAs) and Plea Agreements (United States).[30] The OECD WGB has analysed settlement procedures in each of these countries, including whether information about the settlement arrangement is made available to the general public. This information is available in relevant Phase 3 evaluation reports.[31] Settlements should respect the principles of due process, transparency and consistency. For this reason, and in accordance with recommendations of the OECD WGB, the outcome of settlement negotiations should be made public, where appropriate and in conformity with the applicable law, especially the reasons why the settlement was appropriate, the basic facts of the case, the legal or natural persons sanctioned, the sanctions agreed, and the terms of the agreement.

EUR 1.8 BILLION

HIGHEST AMOUNT IN COMBINED MONETARY SANCTIONS IMPOSED IN A FOREIGN BRIBERY CASE

In terms of sanctions, Figure 7 plots the total amount imposed in combined monetary sanctions (i.e. fine, confiscation and compensation) over time. When correlated with Figure 1, the peak in sanctions (USD 1.3 billion in 2010) corresponds with the data showing that 2010 was the year which saw the second highest number of concluded foreign bribery cases (68). However, the second peak in sanctions (USD 1.26 billion in 2013) took place in a year that saw only 42 cases concluded. This suggests that the average amount in sanctions annually does not necessarily correspond with the number of enforcement actions concluded per year.

Figure 7. Total amount imposed in combined monetary sanctions



Source: OECD analysis of foreign bribery cases concluded between 15/02/1999 and 31/12/2013

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FOREIGN BRIBERY: THE WHO, WHAT, WHERE, WHY AND HOW

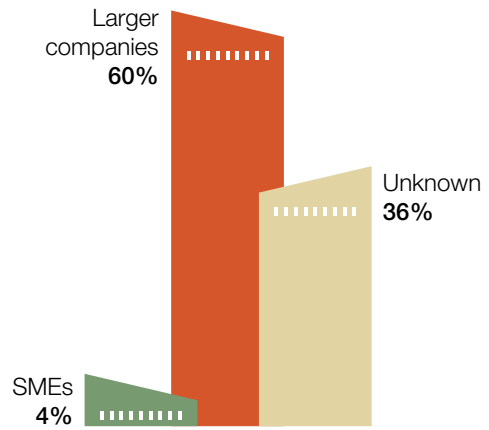
Thanks to the increase in global enforcement of the crime of foreign bribery, there is more information available now than ever before on how this crime is carried out, including who is bribing and who is receiving the bribes, what is the cost of a bribe, how bribes are being paid, where and for what reason.

WHO IS BRIBING?

The OECD Anti-Bribery Convention requires its Parties to hold their citizens and companies liable for the crime of bribing foreign public officials in international business transactions. On the basis of the data available for this report, 263 individuals and 164 entities were sanctioned for the crime of foreign bribery.

Figure 8 illustrates the size of companies that have been involved in foreign bribery, or whose representatives have bribed foreign public officials. Only 4% of sanctioned companies were small and medium-sized enterprises (SMEs).[32] In 60% of cases, the company associated with the corrupt transaction had more than 250 employees. The size of the company involved was unknown in 36% of cases.

Figure 8. What size were the sanctioned companies?

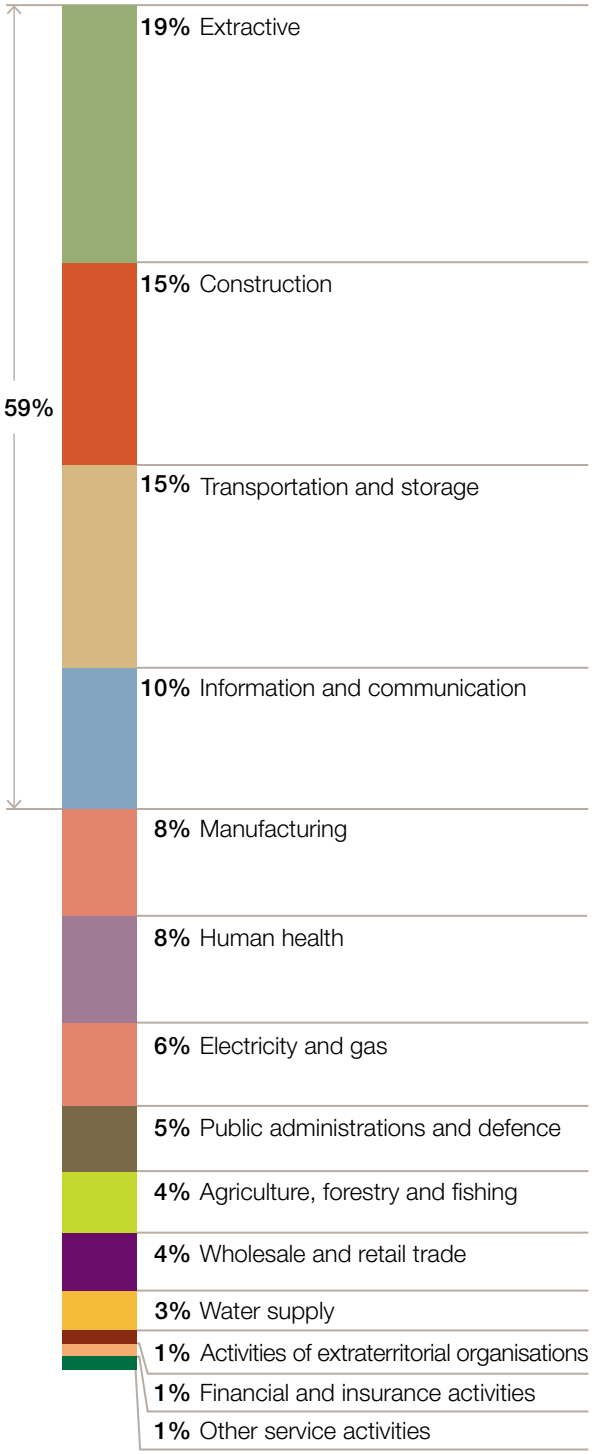


Small and Medium-sized Enterprises (SMEs) are identified according to the EU Commission Recommendation 2003/361/EC, which defines them as businesses with less than 250 employees.

Source: OECD analysis of foreign bribery cases concluded between 15/02/1999 and 01/06/2014

Figure 9 illustrates the sector of activity[33] of the defendant individuals and companies sanctioned for foreign bribery. Sectors were determined depending on the particular role that the company in question played in the specific case. For example, if an engineering company worked primarily in the extractive industry and was sanctioned for bribery in the construction of an oil rig, then it would be deemed to be in the extractive industry. On the basis of this analysis, companies from the extractive (19%),[34] construction (15%), transportation and storage (15%), information and communication (10%) and manufacturing (8%) industries have been most often sanctioned for foreign bribery. This data can be contrasted with the 2011 Transparency International Bribe Payers' Index (BPI)[35] which ranks the public works contracts and construction (5.3), utilities (6.1), real estate, property, legal and business services (6.1), oil and gas (6.2) and extractive (6.3) sectors as most prone to bribery. These rankings are based on a survey of more than 3 000 business executives worldwide of the likelihood of bribes being paid by companies in 19 different business sectors. Sectors are scored on a scale of 0 to 10 where a maximum score of 10 corresponds with the view that companies in that sector never bribe and 0 corresponds with the view that they always do.

Figure 9. Almost two-thirds of foreign bribery cases occurred in four sectors



Sectors are identified with reference to the United Nations International Standard Industrial Classification of All Economic Activities (UN ISIC), Rev.4 (http://unstats.un.org/unsd/cr/registry/regcst.asp?Cl=27&Lg=1).

Source: OECD analysis of foreign bribery cases concluded between 15/02/1999 and 01/06/2014

Figure 10 indicates the level within the company of the person who paid, was aware of, or authorised the foreign bribery in question. There were often overlaps between the categories in a single case when numerous individuals at various levels of the company were involved and multiple entries were each therefore counted individually. In the majority of cases, corporate management[36] (41%) or even the CEO (12%) was aware of and endorsed the bribery, debunking the "rogue employee" myth and demonstrating the need for a clear "tone from the top" in implementing corporate anti-bribery policies, as referred to in the OECD *Good Practice Guidance on Internal Controls, Ethics and Compliance.*[37]

Figures 9 and 10 provide a very clear idea of which sectors have been sanctioned most often, the level within the company of the person who paid, was aware of or authorised the foreign bribery and, based on Figure 16, the common use of intermediaries to channel the bribe.

WHO IS RECEIVING THE BRIBE?

While the OECD Anti-Bribery Convention focuses on the supply side of bribes in international business, it is also important to consider who is on the receiving end of a corrupt transaction, bearing in mind the difficult question of bribe solicitation by public officials. This section illustrates the so-called "demand side" of a foreign bribery transaction.

Figure 11 shows the role of the foreign public officials who received or solicited the bribes in these cases, and the percentage of total bribes they received. For further information on each category of public official, please refer to the Glossary of Terms. The largest category of foreign public officials who were bribed is that of employees of SOEs, or public enterprises, who received the bribes in 27% of cases.[38] In terms of the role of the SOE official who received the bribe, this ranged from CEO or President-level, to management (e.g. Environment

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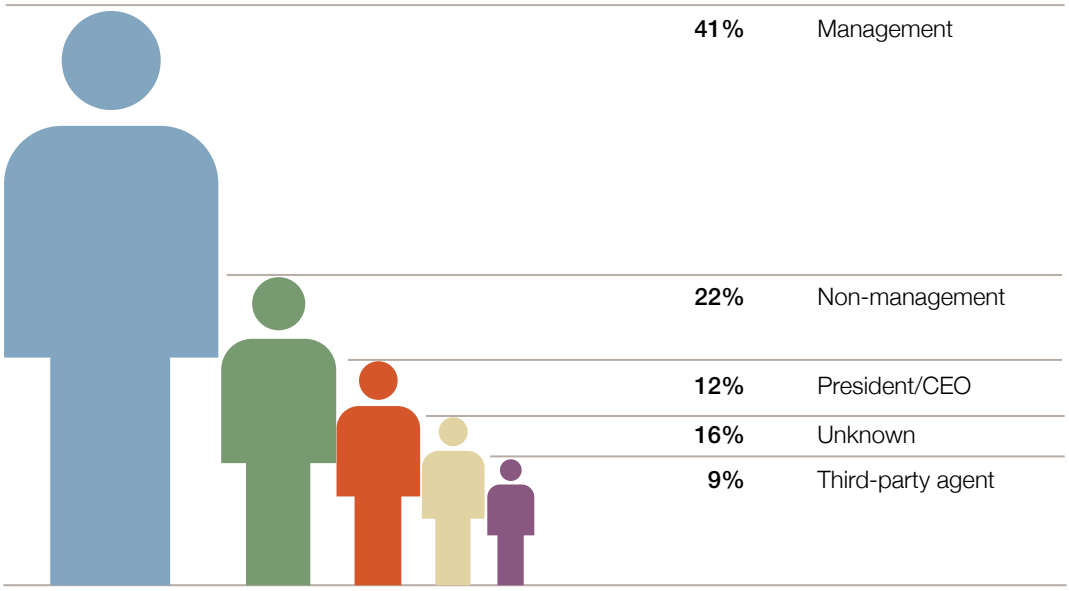
Figure 10. Senior management was involved in over 50% of cases



Source: OECD analysis of foreign bribery cases concluded between 15/02/1999 and 01/06/2014

Director; Finance Director; International Relations Director) and even lower-level employees. In some cases, the SOE official had a dual role, such as transport minister or advisor to a senior government official. In one case the SOE official was the son of a former head of state and president of a subsidiary of the national oil company. This data raises the issue of the integrity of corporate governance practices and, relatedly, the implementation and supervision of decision-making processes in SOEs. It highlights the importance of effective measures for managing conflicts of interest and transparent and accountable SOE procurement procedures.[39] The next largest category involves customs officials (11%), followed by health (7%) and defence (6%) officials. Heads of state and ministers were bribed in a total of 5% of cases.

Figure 11 also sets out the percentage of the total bribes offered, promised or given relative to each category of public official. This can only be a very rough estimation, given that the case information rarely specified exactly how much was paid and to whom. The data set also did not enable double counting when more than one category of official was involved in a transaction. On the basis of the available data (in 224 cases), SOE officials were bribed in 27% of cases but received 80.11% of total bribes. Heads of state and ministers were bribed in a total of 5% of cases but received 11% of total bribes. This could confirm a preconceived notion that the more powerful the official, the more s/he receives in bribes. Customs officials were bribed in 11% of cases and received only 1.14% of total bribes, suggesting that bribes in these cases would have been more in the nature of "small facilitation payments".

80.11%

OF TOTAL BRIBES WERE PROMISED, OFFERED OR GIVEN TO SOE OFFICIALS

Figure 11. Proportion of bribes paid, per category of public official

PERCENTAGE OF OFFICIALS WHO TOOK THE BRIBE		PERCENTAGE OF BRIBES PROMISED, OFFERED OR GIVEN
27%	SOE official	80.11%
11%	Customs official	1.14%
7%	Health official	0.92%
6%	Defence official	2.93%
4%	Resource official	0.08%
4%	IO official	0.22%
4%	Tax official	0.21%
4%	Elected official	0.55%
3%	Minister	4.08%
3%	Transport official	0.06%
3%	Procurement official	0.25%
3%	Family of public official	UNKNOWN AMOUNT
2%	Maritime official	<0.01%
2%	Law enforcement official	0.07%
2%	Head of state	6.97%
2%	Intelligence official	0.01%
1%	Diplomatic official	0.18%
1%	Environment official	<0.01%
1%	Immigration official	<0.01%
1%	Political party	0.05%
<0.1%	Local government official	<0.01%
<0.1%	Vice minister	<0.01%
<0.1%	Education official	<0.01%
11%	Unknown	2.17%

Source: OECD analysis of foreign bribery cases concluded between 15/02/1999 and 01/06/2014

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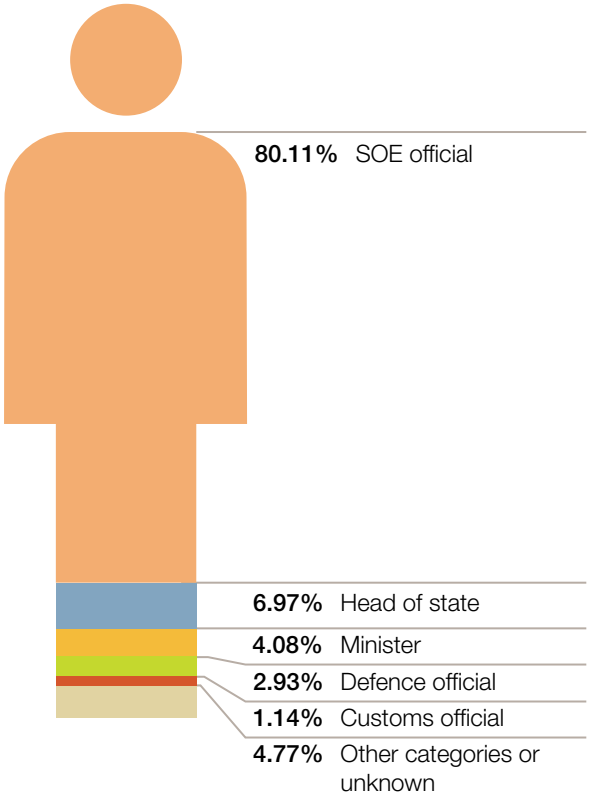
Figure 12. Ninety-five percent of bribes were paid to officials in 5 categories



Source: OECD analysis of foreign bribery cases concluded between 15/02/1999 and 01/06/2014.

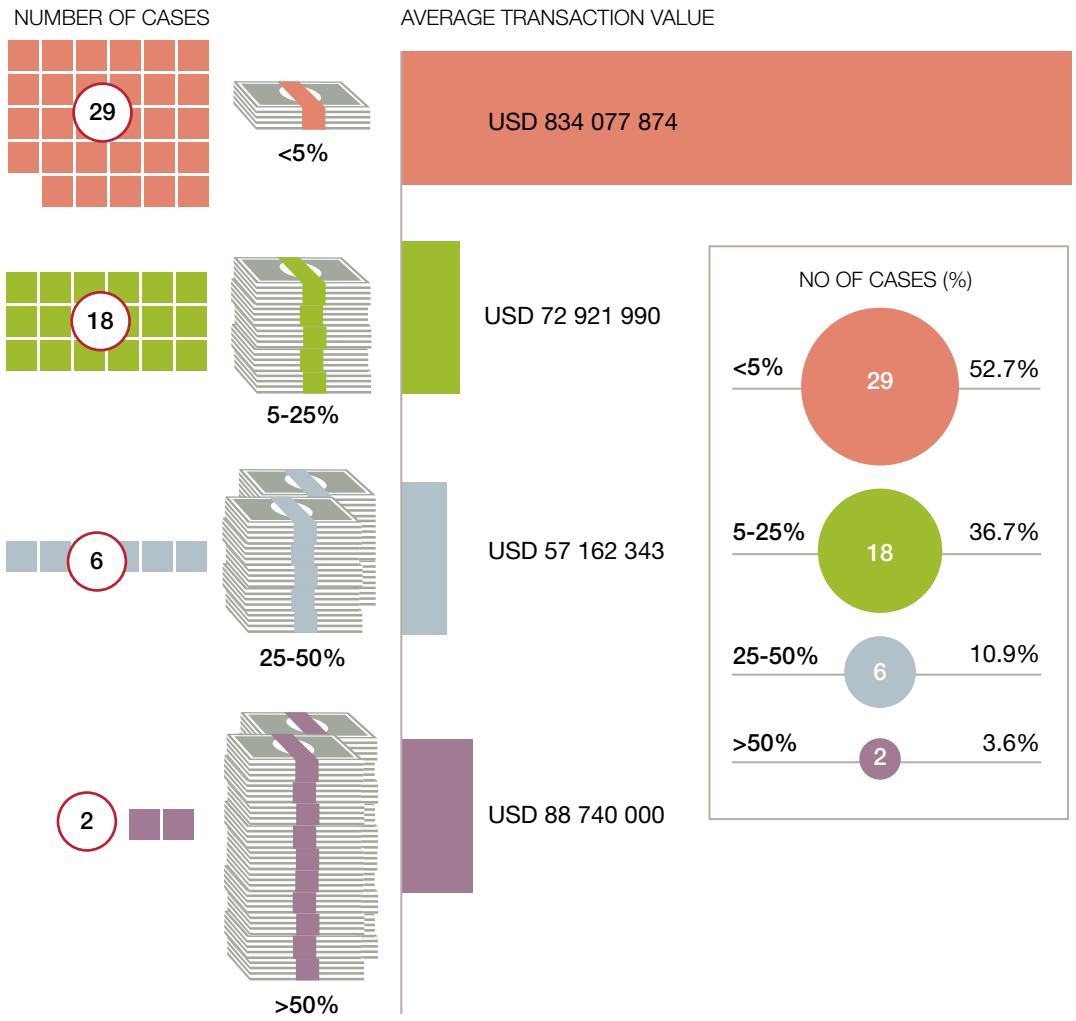
Figure 12 shows that 95.1% of the bribes were paid to public officials in only five categories. In all other categories, the ratio was less than 1%. While not within the scope of this report, future work could analyse whether the public officials on the receiving end of the bribes in these cases were brought to justice.

WHAT IS THE COST OF A BRIBE?

A monetary figure for the value of the bribes that were paid was available in 224 cases.[40] It is important to note that the amount of bribes indicates only those values appearing in official judgments or documents finalising settlements; the total amount of bribes promised or paid in any particular case may be consistently higher than reported. The highest total amount offered in bribes in a single foreign bribery scheme was USD 1.4 billion while the smallest was USD 13.17. The total amount of bribes paid in the 224 cases where this information available is USD 3.1 billion. Given the very complex and concealed nature of corrupt transactions, it is without doubt the mere tip of the iceberg.

Information on the value of the bribe and the total value of the transaction resulting from the bribery was available in 55 cases. For example, one decision stated the total value of the particular contract that was obtained (USD 6 million) but noted that the bribes were paid with a view to securing ongoing contracts worth up to USD 100 million. In that instance, both values were counted. However, this information was not available in all cases and it is important to bear in mind that even in cases where the total transaction value is specified, the defendant company or individual may have obtained other, more significant benefits that are difficult to quantify, for example entry into a new market or a dominant position or monopoly in a certain sector.[41] For the purposes of this report, the value of the entire transaction has been called "transaction value", it is different (and greater to) to the profits obtained by individuals and companies from foreign bribery transactions.

Figure 13. Bribes as a percentage of the transaction value



Source: OECD analysis of foreign bribery cases concluded between 15/02/1999 and 01/06/2014. *Based on the 55 cases which contained information both on the amount paid in bribes and on the transaction value.*

Figure 13 contemplates the 55 cases which contained information both on the amount paid in bribes and on the transaction value. It shows the distribution of bribes paid as a percentage of the transaction value, tracked against the average transaction value for each category. For most cases, the amount of bribes promised, offered or given is up to 5% of the transaction value. These cases also involve the highest average transaction value (USD 834 million). In 8 out of 57 cases, bribes amounted to more than 25% of the transaction value, although the average transaction value in these cases did not surpass USD 100 million. On average, bribes equalled 10.9% of the transaction value and 34.5% of the profits.

As stated in the OECD Issues Paper on Corruption and Economic Growth, "[T]he true social cost of corruption cannot be measured by the amount of bribes paid or even the amount of state property stolen. Rather, it is the loss of output due to the misallocation of resources, distortions of incentives and other

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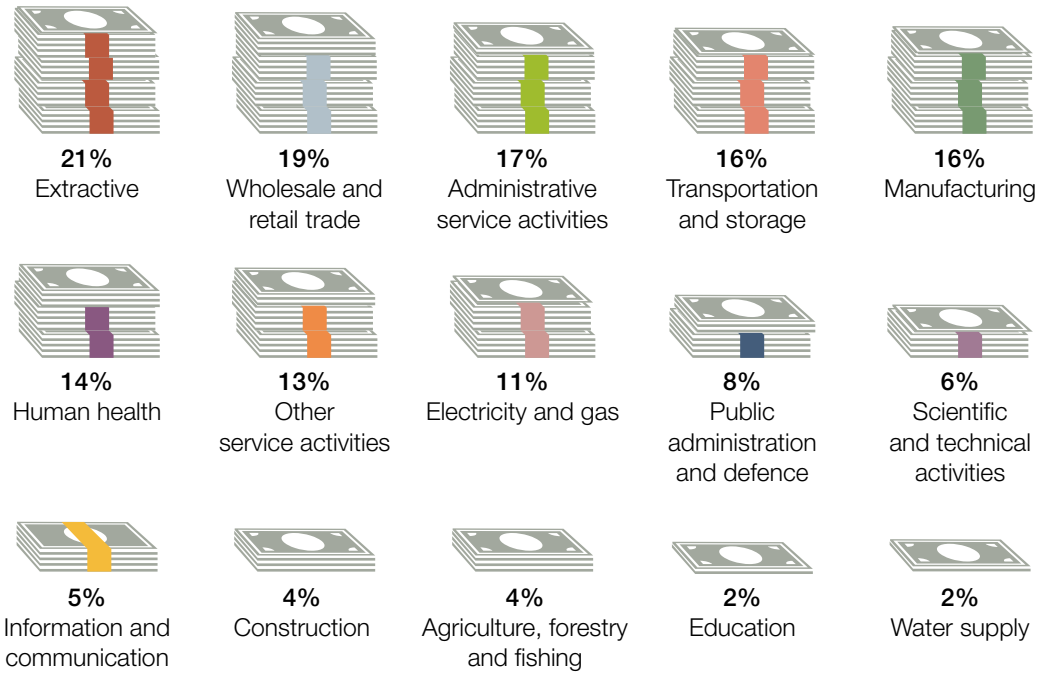
Figure 14. Bribes as a percentage of the transaction value per sector



Source: OECD analysis of foreign bribery cases concluded between 15/02/1999 and 01/06/2014. *Based on the 55 cases which contained information both on the amount paid in bribes and on the transaction value.*

inefficiencies caused by corruption that represent its real cost to society."[42] In this context, the average of 10.9% of the transaction value spent on bribes means that the bribing individual or company would have to somehow recover or offset those costs. Some companies might do this by paying employees less in countries with weaker employment laws. Others might inflate the quote for the goods or services to be provided, therefore requiring more public money to be spent on the project than should otherwise have been allocated. Companies might also recover costs by cutting expenses in the delivery of goods and services. For example, cutting costs in the construction sector could result in faulty roads, bridges or public buildings. Cutting costs in the health sector could mean out-of-date, harmful or ineffective medicines and medical equipment. In the services sector, this could mean that citizens are required to pay more than they otherwise should for a public service. In one case, bribes were paid in the context of a national identity card project to influence officials to issue a decree requiring citizens to purchase the identity cards, ostensibly in order to recover price concessions made in the corrupt procurement process. The project was ultimately abandoned and the decree was never issued.[43]

Figure 14 considers this information on the basis of the sectors involved. It displays the percentage of the total amount paid in bribes relative to the transaction value by sector, to show the relative "cost" of bribes per sector in the 57 cases where information from both data sets was available. There was a surprising variation between the sectors, with bribes in the water supply and education sectors each amounting to 2% of the transaction value compared to the extractive and wholesale and retail trade sectors, where bribes amounted to 21% and 19% of the transaction value, respectively.

Another point of interest in the "return on investment" hypothesis for corrupt transactions is the correlation between the amount imposed in monetary sanctions and the amount obtained in profits, or proceeds, as a result of the bribes paid. This comparison also contributes towards an evaluation of whether the monetary sanctions imposed in a particular case are "effective, proportionate and dissuasive", in accordance with Article 3 of the OECD Anti-Bribery Convention. Of course, and as mentioned above, there are other substantial costs involved in foreign bribery enforcement actions that either cannot be quantified in monetary terms or do not constitute official sanctions.

Figure 15 charts the distribution of total sanctions imposed as a percentage of the profits gained from the payment of the bribe. Both sets of data were available in only 37 cases. In 46% of these cases the monetary sanction was less than 50% of the proceeds obtained by the defendant as a result of bribing foreign public officials. In 41% of cases, monetary sanctions ranged from 100% to more than 200% of the proceeds of the corrupt transaction. This second data set is a consequence of the fact that in cases concluded in the United States, representing the majority of those for which information is available, the value of the final sanction against a company involved in a foreign bribery transaction almost always includes confiscation (or disgorgement) of the proceeds of the foreign bribery offence.

Figure 15. Monetary sanctions imposed as a percentage of profits obtained

Source: OECD analysis of foreign bribery cases concluded between 15/02/1999 and 01/06/2014.
Based on the 37 cases where both data sets were available.

HOW ARE BRIBES BEING PAID?

It is clear from the case analysis which forms the basis of this report that in the vast majority of foreign bribery cases, the bribery was carried out via an agent or intermediary. This report uses the definition of intermediary as set out in the OECD Typologies on the Role of Intermediaries in International Business Transactions:[44]

> …an intermediary is defined or described as a person who is put in contact with or in between two or more trading parties. In the business context, an intermediary usually is understood to be a conduit for goods or services offered by a supplier to a consumer. Hence, the intermediary can act as a conduit for legitimate economic activities, illegitimate bribery payments, or a combination of both… Both natural and legal persons, such as consulting firms and joint ventures are included.

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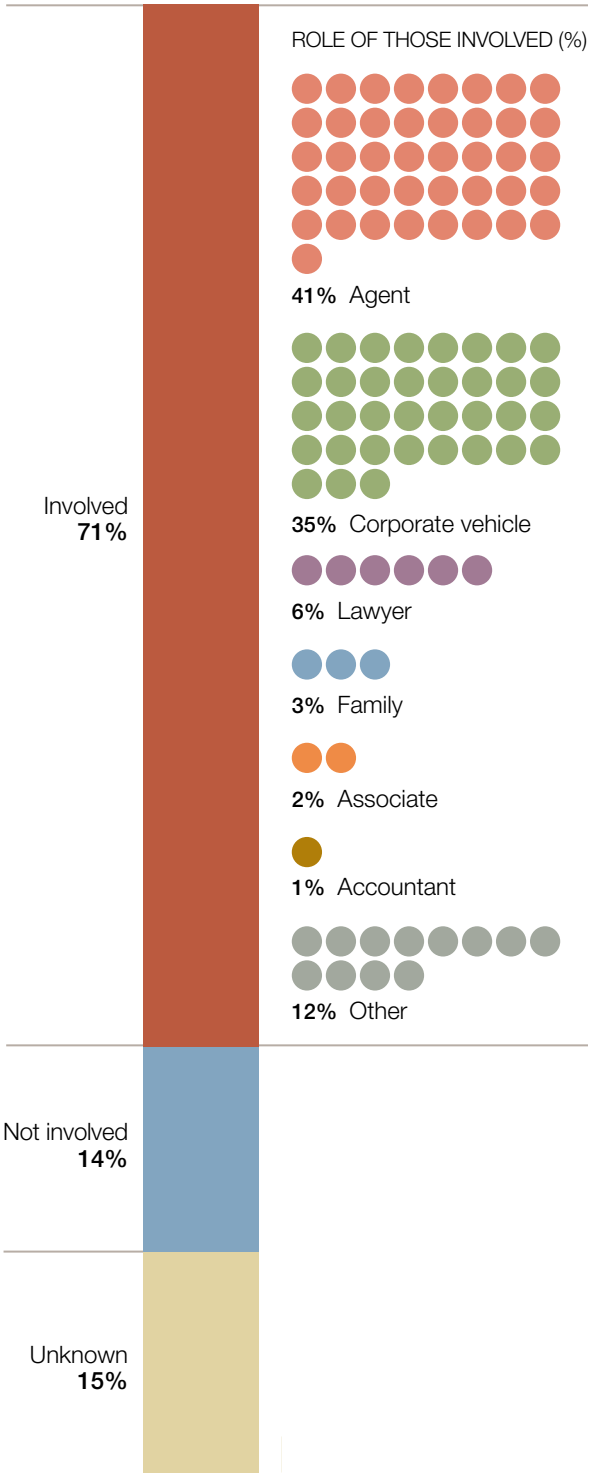
Figure 16. The involvement and role of intermediaries in foreign bribery cases



Source: OECD analysis of foreign bribery cases concluded between 15/02/1999 and 01/06/2014. Based on the 304 cases in which intermediaries were used.

Figure 16 shows the percentage of cases where intermediaries were involved in at least one bribe payment. Three out of four foreign bribery cases involved payments through intermediaries. It also shows the role of the intermediary in the 304 cases in which intermediaries were used. An "Agent" was used in 41% of cases; this category includes sales and marketing agents, distributors and brokers based either locally in the country where the bribes were paid, or elsewhere. Future work could consider the range of "fees" charged by such agents, and how much more this adds to the cost of the bribe itself. The second largest category of intermediaries, used in 35% of cases, is that of the "Corporate vehicle". This category includes subsidiary companies, local consulting firms, companies located in offshore financial centres or tax havens or companies established under the beneficial ownership of either the public official who received the bribes or the individual or entity paying the bribes. Lawyers were used as intermediaries in 6% of cases. Family members of the public official were used as intermediaries in 3% of cases. Accountants and associates (including advisors) of the public official were used in 1% and 2% of cases respectively. The nature of the intermediary was not specified in 12% of cases.

WHERE ARE BRIBES BEING PAID?

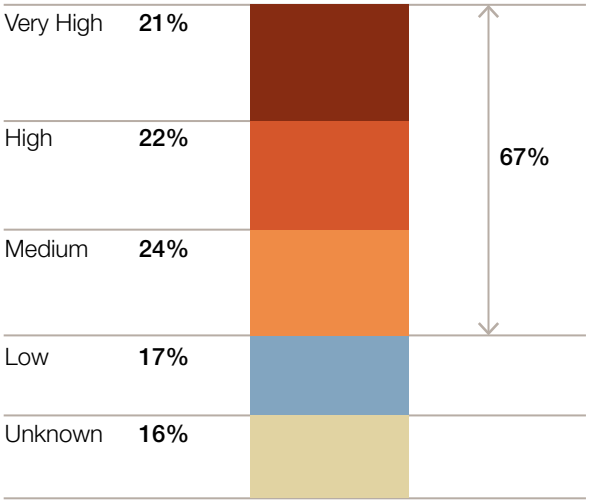
A common perception of bribery in international business is that business people and companies from the wealthiest, most developed economies only bribe officials from least developed countries to win lucrative contracts. The analysis in this report suggests that this perception needs to be revisited.

Figure 17 illustrates that, among the 427 cases in this report, the majority of bribes paid abroad were not paid to public officials from developing countries. In fact, almost one in two cases involved bribery of foreign public officials from countries with high to very-high levels of human development, based on the UN Human Development Index (HDI) of the

country where the bribery took place, at the time it took place. For cases that took place before 2012, reference was made to the 2011 HDI, whereas cases added post 2012 refer to the 2013 HDI. Where bribes were paid in multiple countries in a single case, the HDI for each country was counted.

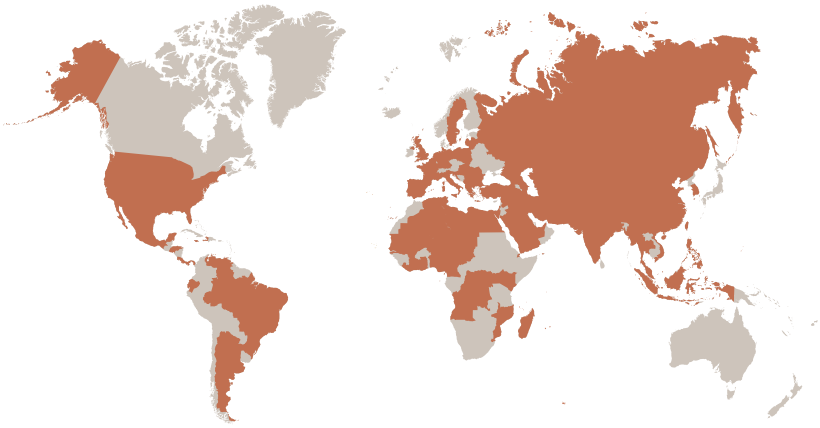
One in five bribes was paid in countries with "very high" human development. Figure 18 displays the countries whose public officials received or were offered bribes. These include 24 out of the 41 member countries of the OECD WGB and 15 out of the 19 member countries of the G20 (the 20th member of the Group is the European Union). There could be many reasons for this outcome, including that countries with higher levels of human development may have greater capacity to cooperate in foreign bribery investigations, such as detecting, collecting and providing evidence to foreign law enforcement authorities. They might also be more inclined to share information, since they have less to lose when a major investor pulls out of their markets. In any case, the data certainly shows that bribes are being paid to officials in economies at all stages of development, not just developing economies, as many might have believed.

Figure 17. Two-thirds of bribes were paid to officials in countries higher on the UN Human Development Index



Source: OECD analysis of foreign bribery cases concluded between 15/02/1999 and 01/06/2014

Figure 18. Where the bribes were paid: countries whose public officials received bribes in the context of international business transactions



Albania, Algeria, Angola, Argentina, Azerbaijan, Bahrain, Bangladesh, Belgium, Benin, Brazil, Bulgaria, Cameroon, Chad, China, Costa Rica, Croatia, Democratic Republic of Congo, Djibouti, Ecuador, Egypt, Former Yugoslav Republic of Macedonia, France, Georgia, Germany, Ghana, Greece, Haiti, Honduras, Hungary, India, Indonesia, Iran, Iraq, Israel, Italy, Ivory Coast, Jamaica, Kazakhstan, Kenya, Korea, Kyrgyzstan, Latvia, Liberia, Libya, Lithuania, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mexico, Mongolia, Montenegro, Mozambique, Myanmar, Netherlands, Niger, Nigeria, Panama, Philippines, Poland, Portugal, Russia, Romania, Rwanda, Saudi Arabia, Senegal, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Syria, Chinese Taipei, Thailand, Tunisia, Turkey, Turkmenistan, Uganda, United Arab Emirates, United Kingdom, United States, Uzbekistan, Venezuela, Viet Nam, Yemen.

Source: OECD analysis of foreign bribery cases concluded between 15/02/1999 and 01/06/2014

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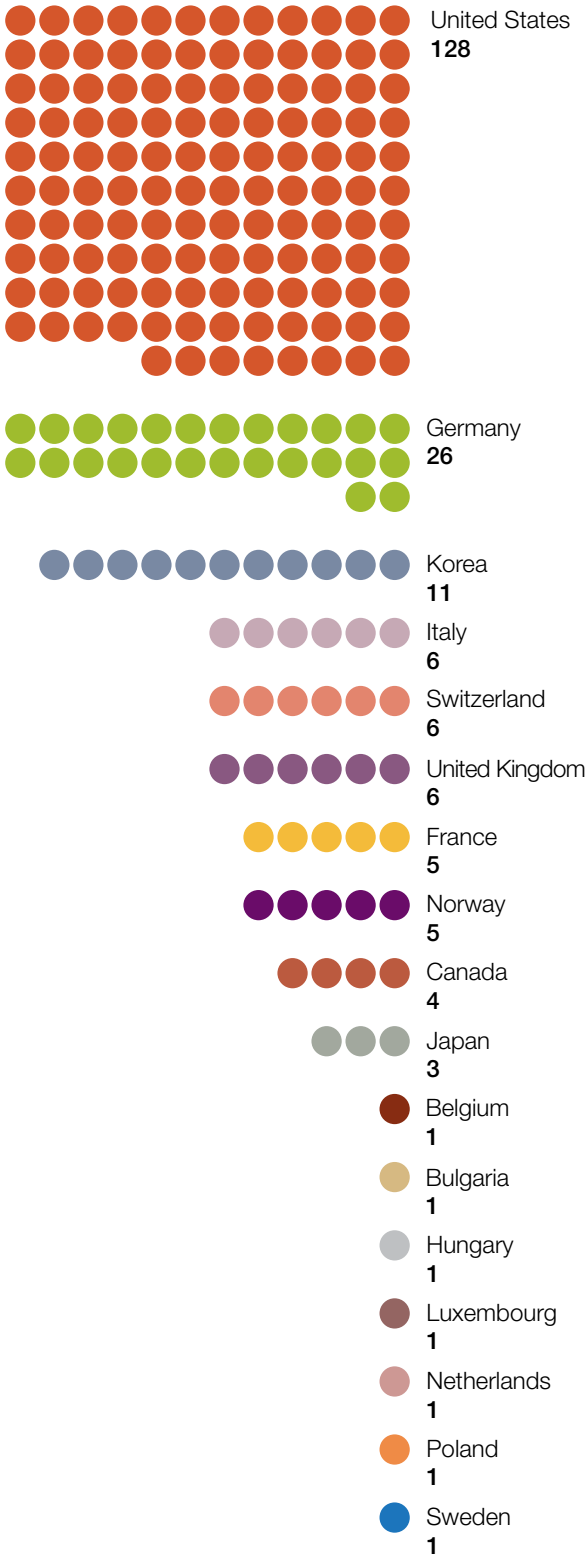
WHERE ARE THE BRIBERS BEING PUNISHED?

Figure 19 illustrates the number of foreign bribery schemes (often involving multiple individual and corporate defendants) sanctioned per country since the entry into force of the OECD Anti-Bribery Convention. The United States has sanctioned individuals and entities for the foreign bribery offence in connection with 128 separate foreign bribery schemes; Germany has sanctioned individuals and entities for the foreign bribery offence in connection with 26 separate schemes; Korea in connection with 11; and Italy, Switzerland and the United Kingdom in connection with 6. The remaining countries have investigated and sanctioned five or less foreign bribery cases.

It is important to note that the concluded foreign bribery cases do not always involve citizens and companies headquartered in the sanctioning country. Expansive jurisdictional application of anti-bribery laws in many countries allows them to investigate and prosecute both foreigners and nationals for the crime of bribery of foreign public officials. In some cases the same individual or corporate defendant may have been sanctioned in multiple jurisdictions for the same foreign bribery scheme, whether for foreign bribery or other offences. Since the level of enforcement differs between the countries, caution should be exercised in extrapolating trends.

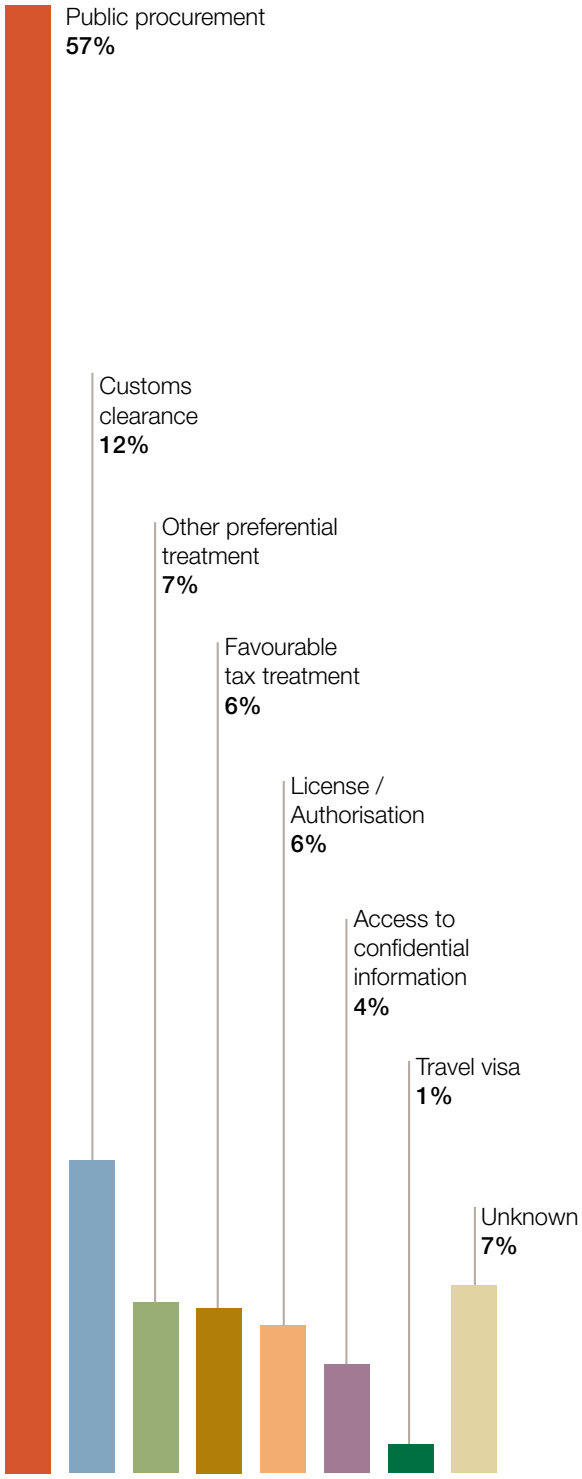
While the United States has concluded the highest number of cases, the distribution of concluded foreign bribery cases per country is not proportionate to their respective importance as exporters and outward investors, hence the risk of their nationals and companies becoming involved in bribery of foreign public officials. Seventeen countries have successfully sanctioned foreign bribery to date out of the 41 Parties to the OECD Anti-Bribery Convention. With the exception of Bulgaria, all countries to have concluded foreign bribery cases to date are OECD countries, whereas only eight of the countries listed are members of the G20. This demonstrates that there is significant scope for G20 countries to do more to effectively investigate, prosecute and sanction bribery of foreign public officials.

Figure 19. Number of foreign bribery schemes sanctioned per country



Source: OECD analysis of foreign bribery cases concluded between 15/02/1999 and 01/06/2014

Figure 20. Purpose of the bribes



Source: OECD analysis of foreign bribery cases concluded between 15/02/1999 and 01/06/2014

WHY ARE BRIBES BEING PAID?

In order to better understand and thereby combat the crime of foreign bribery, it is important to know the motive of those who pay bribes to win business. The data allowed an analysis of the nature of the advantage sought by paying the bribe.

Figure 20 sets out the categories of advantages that were sought by individuals and companies in the context of the bribes they paid in international business. In the majority of cases, bribes were paid to obtain public procurement contracts (57%), followed by clearance of customs procedures (12%), favourable tax treatment (6%) and other preferential treatment (7%). Bribes were paid to obtain a license or other form of authorisation in 6% of cases, whereas in 4% of cases, bribes were in return for access to confidential information. Bribes were paid for travel visas in 1% of cases. The purpose of the bribe was unspecified in 7% of cases.

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CONCLUSIONS AND NEXT STEPS

PRELIMINARY CONCLUSIONS

The OECD Foreign Bribery Report provides a clearer picture of the crime of foreign bribery and how it has been committed to date. The scope of the report is limited and the conclusions found here will benefit from further, in-depth analysis as more cases evolve. Based on the current analysis, certain preliminary observations can be made regarding the foreign bribery cases that have been concluded since the entry into force of the OECD Anti-Bribery Convention.

Foreign bribery is a complex crime. It is not surprising, therefore, that the majority of foreign bribery cases are carried out via an agent or intermediary. It would be interesting to analyse in future work whether the use of intermediaries is higher in foreign bribery cases than in cases involving bribery of domestic public officials, along with the proportion by which agency "fees" inflate the already significant cost of bribery for business.

One of the most remarkable outcomes is the fact that in foreign bribery cases concluded to date, corruption is not, as some would believe, the scourge solely of developing economies. With almost one in two concluded foreign bribery cases involving officials from countries with high to very-high HDI rankings, it is clear that this is a crime that takes place in countries at all levels of development.

These preliminary findings indicate that the pressure on governments to step up their enforcement of anti-bribery laws and to ensure that penalties for this crime are effective, proportionate, and dissuasive, is well-placed. There has, indeed, been progress in the fight against foreign bribery, but clearly, much more must be done to be successful in this fight. The following suggestions are designed to help attain that goal:

AVAILABILITY OF INFORMATION ON FOREIGN BRIBERY CASES

This report is peppered with "unknown" data, ranging from 2% to 36% depending on the particular data set. Many of the concluded cases did not contain all the information needed to make a full analysis and were also not publicly available. Information on concluded foreign bribery cases should be made publicly available to the fullest possible extent. This would not only demonstrate a commitment to combating foreign bribery but also would allow better evidence-based research and understanding of this complex and covert crime.

DETECTION AND REPORTING

Tax officials, embassy officials, financial intelligence units, public procurement officials and competition authorities are well-positioned to detect and report foreign bribery cases. The extremely low number of concluded cases that were originally detected by these authorities suggests a need for strengthened foreign bribery detection and reporting mechanisms within these agencies, along with greater cross-agency cooperation.

In 17% of foreign bribery cases where companies self-reported to law enforcement authorities, the company found out from an internal whistleblower but only one of those companies had an established compliance programme and reporting hotline at the time. Whistleblowers reported directly to law enforcement in just 2% of cases. Introducing, strengthening and implementing whistleblower protection mechanisms in the public and private sectors should therefore be a priority. Harmonisation of the whistleblower protection regimes developed for different crimes would also reinforce their effectiveness.

TIMEFRAMES

Foreign bribery cases have continued up to 15 years after the last corrupt act, with almost half of the cases taking between 5 and 10 years to finalise. These figures highlight the need for law enforcement authorities to have adequate time to investigate and prosecute the foreign bribery offence, including through provisions to suspend and interrupt the limitation period as appropriate. On the other hand, it is essential that law enforcement authorities undertake efficient and effective investigations to avoid unnecessary delays.

SANCTIONS

The report highlights the need not only to impose monetary sanctions for the foreign bribery offence, but also to effectively confiscate the instruments and proceeds of the bribe (or property of equivalent value) in order to meet the OECD Anti-Bribery Convention standard for "effective, proportionate and dissuasive" sanctions.

SETTLEMENTS

The majority of foreign bribery cases concluded since the entry into force of the OECD Anti-Bribery Convention have been settled. There are many arguments in favour of settlement procedures which appear to be used increasingly, including by countries that were initially reluctant. However, settlement procedures should respect the principles of due process, transparency and consistency. For this reason, the outcome of the settlement should be made public, where appropriate and in conformity with the applicable law, especially the reasons why the settlement was appropriate, the basic facts of the case, the legal or natural persons sanctioned, the sanctions agreed, and the terms of the agreement.

COMPLIANCE PROGRAMMES

In a number of foreign bribery cases concluded to date, the bribes have been paid or authorised by representatives at the highest level of a company, showing the ongoing need for executives to lead by example in implementing their companies' anti-bribery compliance programmes. While SMEs were among the minority of companies sanctioned (4%), companies of all sizes involved in international business should implement measures to combat the risk of foreign bribery.

The overwhelming use of intermediaries in foreign bribery cases demonstrates the need for enhanced and effective due diligence, oversight and application of the company's compliance programme to third parties (whether individuals or companies) in international business transactions. Compliance programmes should focus specifically on due diligence with respect to agents and on verifying the rationale and beneficial ownership of other companies involved in the transaction.

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Noting that bribes have been paid to officials from countries at various stages of development, bribery risk assessments should focus instead on the context of the transaction, for example, whether it involves partnering with a public company (in 27% of cases bribes were paid to SOE officials), public procurement processes (the context of the bribery in 57% of cases), or the use of intermediaries (which occurred in 71% of cases).

There is also scope for greater incentivising preventive anti-bribery compliance programmes, including by recognising the existence and effectiveness of such programmes in mitigation of sanctions in foreign bribery cases.

Anti-bribery risk assessments and compliance are equally critical on the demand side of a foreign bribery transaction. Governments should therefore ensure that public officials that have regular contact with business and the private sector are properly trained and informed of the risks and consequences of bribery.

PUBLIC PROCUREMENT

The high number (57%) of cases in which bribes were paid in the context of public procurement reinforces the need for greater integrity in public procurement processes. Raising the overall awareness of procurement officials though tailored trainings and providing them with tools to prevent, to detect and to address corporate crimes such as corruption, collusion and money laundering should be a government priority.

In the same vein, the fact that only 2 out of 427 cases resulted in debarment demonstrates that countries need to do more to ensure that those who are sanctioned for having bribed foreign public officials are suspended from participation in national public procurement contracting.

NEXT STEPS

While this report constitutes a first attempt to measure transnational corruption, there is scope for much more to be done, both in terms of further, in-depth analysis and additional, horizontal studies. The following is a list of ideas for future work to build on the findings of this first OECD Foreign Bribery Report and to reinforce efforts to better understand and combat this crime.

- The OECD Foreign Bribery Report could be a regular publication, updated annually depending on whether there are sufficient numbers of new foreign bribery cases to generate new data or trends.
- The data behind the OECD Foreign Bribery Report could be made public in an online database to be maintained by the OECD.
- Further analysis could focus on differences in sanctions between cases concluded through criminal trials and those that are settled. It could also compare prison sentences imposed on individual defendants to evaluate the standard of "effective, proportionate and dissuasive" sanctions when it comes to deprivation of liberty.
- Future work could focus on the role of SOEs or public companies as both bribe givers and bribe takers. Areas of focus could include how many of the companies sanctioned were wholly or partially state-owned, along with the integrity of corporate governance practices in SOEs, namely the implementation and supervision of decision-making processes and measures for managing conflicts of interest in SOE procurement procedures. This analysis would feed into ongoing OECD work in the field of corporate governance of SOEs.

- While the OECD Foreign Bribery Report has focused on the supply-side of bribery of foreign public officials, future work could analyse the proportion of foreign bribery cases in which the public official actively solicited the bribes and examine whether the public officials who solicited or received the bribes were brought to justice.
- To build on OECD work in the field of bribery and official export credits and bribery and official development assistance, future analysis could focus on cases involving bribery in the context of projects financed by these two categories of public funds. This could be complemented by an analysis of the cases involving projects funded by multilateral development banks.
- Further analysis could contribute to broader OECD work in the field of compliance and government policies aimed at preventing and tackling corporate crimes. Cases in which companies have been sanctioned for various corporate offences, such as bribery, money laundering, anti-trust, tax offences, environmental offences, fraud and UN sanctions violations could be compared and contrasted.

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NOTES

1. For the purposes of this report, foreign bribery is defined in accordance with Article 1 of the OECD Anti-Bribery Convention, as "to offer, promise or give any undue pecuniary or other advantage, whether directly or through intermediaries, to a foreign public official, for that official or for a third party, in order that the official act or refrain from acting in relation to the performance of official duties, in order to obtain or retain business or other improper advantage in the conduct of international business".
2. Saint Petersburg Strategic Framework for the G20 ACWG (www.g20.org/sites/default/files/g20_resources/library/Saint_Petersburg_Declaration_ENG.pdf)
3. Based on the UN Human Development Index (HDI) (hdr.undp.org/en/content/human-development-index-hdi)
4. A "public enterprise" is any enterprise, regardless of its legal form, over which a government, or government may, directly or indirectly, exercise a dominant influence. This is deemed to be the case, inter alia, when the government or governments hold the majority of the enterprises subscribed capital, control the majority of votes attaching to shares issued by the enterprise or an appoint a majority of the members of the enterprises administrative or managerial body or supervisory board. *Commentary 14, Commentaries on the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.* An official of a public enterprise shall be deemed to perform a public function unless the enterprise operates on a normal commercial basis in the relevant market, i.e. on a basis which is substantially equivalent to that of a private enterprise, without preferential subsidies or other privileges. *Commentary 15, Commentaries on the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.*
5. This combined prison sentence was confirmed upon appeal in *United States of America v. William J. Jefferson* (www.justice.gov/criminal/fraud/fcpa/cases/jeffersonw.html). At the time of writing, two individuals had filed a certiorari petition with the US Supreme Court on 14 August 2014 following confirmation of their conviction for offences under the US Foreign Corrupt Practices Act of 1977 (FCPA) and accompanying 15 and 7 year prison sentences by the US Court of Appeals for the 11th Circuit in May 2014.
6. *United States of America v. Jeffrey Tesler* (www.justice.gov/criminal/fraud/fcpa/cases/tesler/2012-02-28-teslerj-judgment.pdf)
7. This includes cases concluded by conviction of the foreign bribery offence in a criminal court and cases concluded by settlement (e.g. corporate probation (Canada); section 153(a) of the Criminal Procedure Code (Germany); *Patteggiamento* (Italy); Penalty Notice (Norway); *Réparation* under article 53 of the Penal Code (Switzerland); Non-Prosecution Agreements (NPAs), Deferred Prosecution Agreements (DPAs) and Plea Agreements (United States). Cases involving convictions for other offences fall outside the scope of the report, as do cases in relation to which an appeal has been filed or is ongoing.

8. The OECD WGB enforcement data is available online. (www.oecd.org/daf/anti-bribery/dataonenforcementoftheanti-briberyconvention.htm)

9. OECD Anti-Bribery Convention, Article 1 (The Offence of Bribery of Foreign Public Officials):

   > Each Party shall take such measures as may be necessary to establish that it is a criminal offence under its law for any person intentionally to offer, promise or give any undue pecuniary or other advantage, whether directly or through intermediaries, to a foreign public official, for that official or for a third party, in order that the official act or refrain from acting in relation to the performance of official duties, in order to obtain or retain business or other improper advantage in the conduct of international business.

10. In relation to Germany, a prominent feature of Germany's implementation of the OECD Anti-Bribery Convention is the trend of prosecuting and sanctioning foreign bribery acts as commercial bribery offences (section 299 CC) or breach of trust (section 266 CC) rather than the offence of bribing a foreign public official (section 334 CC). While these cases are counted as foreign bribery cases for the purposes of evaluating Germany's implementation of the OECD Anti-Bribery Convention and Germany's contribution to the OECD WGB Enforcement Data, they have not been counted as foreign bribery cases for the purposes of this report which focuses specifically on enforcement of the foreign bribery offence across jurisdictions.

11. For example, in the case of the United States, sanctions imposed by the Securities Exchange Commission (US SEC) and Department of Justice (US DOJ) are counted separately.

12. Please refer to the Bibliography for a complete list of open-source databases.

13. Above, note 8.

14. *United States of America v. Hans Bodmer* (http://fcpa.shearman.com/files/fc3/fc3897e0c75d9293e94408759a9c6c0a.pdf?i=09330984297cc430dcc2c89f12925038); *United States of America v. Frederic Bourke Jr.; United States of America v. Thomas Farrell* (http://fcpa.shearman.com/files/ac4/ac4d8c9ec301b8631dd29bb007be817c.pdf?i=04e22ce600519c3904494aea223fcd94)*; United States of America v. Clayton Lewis* (http://fcpa.shearman.com/files/3bf/3bfeb77e8c7aaf4a558cd62dd6abab9d.pdf?i=d0706a0eda17dbeedd7adc2f3e1e5568)

15. As highlighted by the Phase 3 reports adopted by the OECD WGB, the limitation period is an obstacle to effective enforcement in some countries, in particular Italy (www.oecd.org/daf/anti-bribery/italy-oecdanti-briberyconvention.htm). See also Transparency International (2010), *Timed Out: Statutes of Limitations and Prosecuting Corruption in EU Countries* (www.transparency.ee/cm/files/statutes_of_limitation_web_0.pdf).

16. For more information on the important role of MLA in foreign bribery cases, refer to the OECD Typology on Mutual Legal Assistance in Foreign Bribery Cases (www.oecd.org/daf/anti-bribery/TypologyMLA2012.pdf).

17. G20/OECD (2011), Protection of Whistleblowers: Study on Whistleblower Protection Frameworks, Compendium of Best Practices and Guiding Principles for Legislation (www.oecd.org/daf/anti-bribery/48972967.pdf).

18. See the website of the now defunct UN Office of the Iraq Oil-for-Food Programme for official information about the Inquiry, noting that the Inquiry's official website is not functioning.

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19. 2009 OECD *Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions* (Recommendation X.B.).
20. Above, note 6.
21. Article 100, Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC.
22. Report from the Commission to the Council and the European Parliament: EU Anti-Corruption Report (COM(2014) 38 Final) Brussels, 3 February 2014 (http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/corruption/docs/acr_2014_en.pdf).
23. Cross debarment is carried out in accordance with the Agreement for Mutual Enforcement of Debarment Decisions dated 9 April 2010 (http://lnadbg4.adb.org/oai001p.nsf/0/F77A326B818A19C548257853000C2B10/$FILE/cross-debarment-agreement.pdf), by and among the African Development Bank (AfDB), Asian Development Bank (ADB), the European Bank for Reconstruction and Development (EBRD), Inter-American Development Bank (IDB), and the World Bank.
24. Above, note 5.
25. For a description of corporate probation in Canada, see Canada's Phase 3 evaluation report by the OECD WGB, paras. 60-62 (www.oecd.org/daf/anti-bribery/canada-oecdanti-briberyconvention.htm).
26. For a description of agreed sanctions in the context of arrangements under section 153a of the Criminal Procedure Code in Germany, see Germany's Phase 3 evaluation report by the OECD WGB, paras. 98-99 (www.oecd.org/daf/anti-bribery/germany-oecdanti-briberyconvention.htm).
27. For a description of *Patteggiamento* in Italy, see Italy's Phase 3 evaluation report by the OECD WGB, paras. 93-98 (www.oecd.org/daf/anti-bribery/italy-oecdanti-briberyconvention.htm).
28. For a description of Penalty Notices in Norway, see Norway's Phase 3 evaluation report by the OECD WGB, paras. 63-64 (www.oecd.org/daf/anti-bribery/norway-oecdanti-briberyconvention.htm).
29. For a description of the *Réparation* provision in article 53 of the Swiss Penal Code, see Switzerland's Phase 3 evaluation report by the OECD WGB, paras. 38-42 (www.oecd.org/daf/anti-bribery/switzerland-oecdanti-briberyconvention.htm).
30. For a description of DPAs, NPAs and Plea Agreements in the United States, see the US Phase 3 evaluation report by the OECD WGB, paras. 108-128 (www.oecd.org/daf/anti-bribery/unitedstates-oecdanti-briberyconvention.htm).
31. Above, notes 25-30.
32. Based on data available of both companies sanctioned and company employers of individuals sanctioned in relation to all 427 defendants. Small and medium-sized enterprises are identified according to the EU Commission Recommendation 2003/361/EC (http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:124:0036:0041:en:PDF), which defines SMEs as businesses with less than 250 employees.
33. Sectors are identified with reference to the United Nations International Standard Industrial Classification of All Economic Activities (UN ISIC), Rev.4 (http://unstats.un.org/unsd/cr/registry/regcst.asp?Cl=27&Lg=1).

34. The extractive sector includes mining, quarrying, petroleum and gas extraction and mining support services activities.
35. Transparency International (2011) Bribe Payers Index (www.bpi.transparency.org).
36. "Management" includes senior level management, executives at the board level, directors and lower level management. Case data was insufficient to distinguish between these categories.
37. OECD *Good Practice Guidance on Internal Controls, Ethics and Compliance* (www.oecd.org/investment/anti-bribery/anti-briberyconvention/44884389.pdf)
38. See definition, note 4.
39. For more information, refer to the OECD Guidelines on Corporate Governance of State-Owned Enterprises (www.oecd.org/daf/ca/oecdguidelinesoncorporategovernanceofstate-ownedenterprises.htm).
40. For the purposes of analysis, the values were indicated in USD. In cases where the amount of the bribes was originally reported in USD, it was not modified. In cases where values were originally reported in other currencies (mainly EUR, CHF, KWR, JPY), these were converted to USD using the official OECD yearly average currency exchange rates (stats.oecd.org/index.aspx?queryid=169) of the year of the last criminal act in the foreign bribery scheme. The value for cases decided in 2014 is based on the exchange rate of May 2014, in lieu of the yearly average exchange rate.
41. For a more detailed explanation, refer to Identification and Quantification of the Proceeds of Bribery: A joint OECD-StAR analysis, OECD (2012) (www.oecd.org/daf/anti-bribery/50057547.pdf).
42. G20/OECD (2013), Issues Paper on Corruption and Economic Growth (www.oecd.org/g20/topics/anti-corruption/issues-paper-on-corruption-and-economic-growth.pdf)
43. *United States of America v. Siemens S.A, (Argentina)*, Information, para. 24 (www.justice.gov/criminal/fraud/fcpa/cases/siemens/12-12-08siemensargen-info.pdf)
44. OECD (2009), Typologies on the Role of Intermediaries in International Business Transactions, Final Report (hdr.undp.org/en/statistics/hdi)

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GLOSSARY OF TERMS*

CEO	Company president or Chief Executive Officer.
CIVIL/CRIMINAL FINE	Administrative, criminal and civil fines.
COMPENSATION	Includes compensation for civil damages, compensation to the state for costs related to the case (e.g. pre-judgment interest) or to the victims of the crime.
COMPLIANCE PROGRAMME	Orders to a company to develop and implement a compliance programme, to review or regularly report on its existing compliance programme or the appointment of a compliance "monitor".
CONFISCATION	Includes disgorgement of profits, forfeiture and restitution.
CORPORATE VEHICLE	The term "corporate vehicle" when used has the same meaning as in the OECD report *Behind the Corporate Veil – Using Corporate Entities for Illicit Purposes*. It includes corporations, trusts, partnerships with limited liability characteristics, foundations, subsidiary companies, local consulting firms, companies located in offshore financial centres or tax havens or companies established under the beneficial ownership of the public official who received the bribes.
DEBARMENT	The additional, non-automatic sanction of provisional debarment from participation in national public procurement processes for a set period.
DEFENCE OFFICIAL	Officers in the armed forces, employees of state-owned defence companies and officials in ministries of defence.
DIPLOMATIC OFFICIAL	Officials at overseas embassies, ambassadors and officials of ministries of foreign affairs.
ENFORCEMENT (ACTION)	The act of compelling observance of or compliance with a law, rule or obligation. In the context of this report, investigating, prosecuting and sanctioning the offence of bribery of foreign public officials.
ENVIRONMENT OFFICIAL	Officials in ministries responsible for environmental management and policy.
FINANCIAL INTELLIGENCE UNIT (FIU)	Financial intelligence unit referral to law enforcement authorities.

** Explanations relate only to terms used in the context of the OECD Foreign Bribery Report. These definitions therefore do not necessarily represent official OECD definitions of the terms described.*

FOREIGN BRIBERY	To offer, promise or give any undue pecuniary or other advantage, whether directly or through intermediaries, to a foreign public official, for that official or for a third party, in order that the official act or refrain from acting in relation to the performance of official duties, in order to obtain or retain business or other improper advantage in the conduct of international business.
HEALTH OFFICIAL	Officials working in Ministries of Health as well as doctors and other employees of public hospitals.
HUMAN DEVELOPMENT INDEX (HDI)	The UN Human Development Index (HDI) is a "summary measure of average achievement in key dimensions of human development: a long and healthy life, being knowledgeable and have a decent standard of living. The HDI is the geometric mean of normalized indices for each of the three dimensions" (hdr.undp.org/en/statistics/hdi).
IMPRISONMENT	Sentences of imprisonment or home detention not under appeal at the time of writing and not subject to suspension or probation.
INJUNCTION	Injunctions or cease-and-desist orders enjoining defendants from future violations of anti-bribery laws.
INTERMEDIARY	A person who is put in contact with or in between two or more trading parties e.g. agents, sales representatives, consultants or consulting firms, suppliers, distributors, resellers, subcontractors, franchisees, joint venture partners, subsidiaries and other business partners including lawyers and accountants. Both natural and legal persons, such as consulting firms and joint ventures are included (OECD Typologies on the Role of Intermediaries in International Business Transactions).
IO REFERRAL	Referral from an international organisation or multilateral development bank to national law enforcement authorities.
IO OFFICIAL	Officials in international organisations, specific cases involved bribery of World Bank and European Commission officials.
LAW ENFORCEMENT	Investigative and prosecutorial agencies, such as investigative judges, prosecutors, police and customs and border protection authorities.
MANAGEMENT	Includes senior level management, executives at the board level, directors and lower level management.
MEDIA	Media coverage and investigative journalism.
M&A DD	Due diligence in the context of mergers and acquisitions where foreign bribery was detected in the target company.
MUTUAL LEGAL ASSISTANCE (MLA)	Cases that came to light in the course of formal and informal mutual legal assistance (MLA) between countries for related criminal investigations.

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OIL-FOR-FOOD	Refers to the Independent Inquiry into the UN Oil-for-Food Programme, an independent high-level inquiry into allegations of fraud and corruption in the administration and management of the UN Oil-for-food Programme established pursuant to UN resolution 986 (1995) of 14 April 1995 and subsequent relevant resolutions.
PRE-LISTING DD	Due diligence prior to listing on the US stock exchange.
PROCUREMENT OFFICIAL	Officials responsible for the procurement of goods and services for the government, including procurement relating to state-funded infrastructure projects.
PROCEEDS/PROFITS	The terms "profits" and "proceeds" are used interchangeably and have the same meaning as in Identification and Quantification of the Proceeds of Bribery: A joint OECD-StAR analysis. These are generic terms defining the profits, benefits or advantages of monetary value gained by the briber as a consequence of paying or promising a bribe or any undue advantage to an official.
PUBLIC ENTERPRISES, STATE-OWNED OR CONTROLLED ENTERPRISES (SOEs)	A "public enterprise" is any enterprise, regardless of its legal form, over which a government, or governments, may, directly or indirectly, exercise a dominant influence. This is deemed to be the case, inter alia, when the government or governments hold the majority of the enterprise's subscribed capital, control the majority of votes attaching to shares issued by the enterprise or appoint a majority of the members of the enterprise's administrative or managerial body or supervisory board (*Commentary 14, Commentaries on the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*). An official of a public enterprise shall be deemed to perform a public function unless the enterprise operates on a normal commercial basis in the relevant market, i.e. on a basis which is substantially equivalent to that of a private enterprise, without preferential subsidies or other privileges. *Commentary 15, Commentaries on the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.*
RESOURCE OFFICIAL	Officials from agriculture, fisheries, oil or mining ministries.
TRANSPORT OFFICIAL	Officials in transport ministries, civil aviation agencies, public airline companies or railway agencies.
SECTORS	Identified with reference to the UN International Standard Industrial Classification of All Economic Activities (UN ISIC), Rev.4 (unstats.un.org/unsd/cr/registry/regcst.asp?Cl=27&Lg=1).
SELF-REPORT/ VOLUNTARY DISCLOSURE	The practice, in some jurisdictions, of disclosing to law enforcement authorities conduct that may implicate violations of laws prohibiting bribery of foreign public officials. Voluntary disclosures are usually made with a view to leniency, plea negotiation or civil settlement.

SMALL AND MEDIUM-SIZED ENTERPRISES (SMEs)	Identified according to the EU Commission Recommendation 2003/361/EC, which defines SMEs as businesses with less than 250 employees.
SUSPENDED PRISON SENTENCE	Suspended prison sentences and probation orders.
TRAINING	Instances of foreign bribery revealed by employees undergoing company training on foreign bribery.
TRANSACTION VALUE	The value of the transaction or contract resulting from the foreign bribery. It is different (and greater to) the profits obtained by individuals and companies from foreign bribery transactions.

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OECD Foreign Bribery Report

AN ANALYSIS OF THE CRIME OF BRIBERY OF FOREIGN PUBLIC OFFICIALS

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Conclusions and next steps

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