



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

About the Working Group on Bribery Data

This is the first year that official data on enforcement efforts by Parties to the Anti-Bribery Convention are publicly available. The Working Group first recommended compiling enforcement data in its Mid-Term Study in March 2006, following which there was a call for the publication of such data by several stakeholders in the public consultation on the review of the OECD anti-bribery instruments. In 2008 the Working Group agreed on a methodology for compiling the data. Furthermore, the 2009 Anti-Bribery Recommendation instructs the Working Group to carry out its programme of monitoring implementation of the OECD Anti-Bribery Convention and the 2009 Anti-Bribery Recommendation by including inter alia voluntarily submitted enforcement data for publication. In March 2010, the Working Group decided it would publish official data in the 2009 Annual Report. Most Parties to the Anti-Bribery Convention have provided information for this Report.

The Working Group has therefore been collecting data from its members on investigations, proceedings and sanctions, distinguishing sanctions upon conviction (or a similar finding of culpability for administrative and civil proceedings, where applicable) from agreements to resolve proceedings without a conviction (or a similar finding of culpability for administrative and civil proceedings, where applicable) with or without court approval. The data collected distinguishes foreign bribery misconduct from other related offences—in particular accounting misconduct for purposes of bribing foreign public officials or concealing bribery—and, where relevant, tracks enforcement data related to cases against individuals and entities separately.

This data has been divided into two categories: information provided by Parties on a mandatory basis and information provided on a voluntary basis. The mandatory data consists of the number of criminal, administrative and civil cases of foreign bribery that have resulted in a final disposition, such as a criminal conviction or acquittal, or similar findings under an administrative or civil procedure. The voluntary data includes, tracking separately the offence of foreign bribery and foreign bribery-related accounting misconduct : 1) data on investigations (e.g. ongoing investigations, investigations that have been discontinued, and investigations that have led to criminal prosecutions or administrative proceedings); 2) data on criminal, administrative and civil proceedings that have not resulted in a final court disposition (e.g. ongoing court proceedings, proceedings that have been discontinued, and out-of-court settlements); and 3) data on sanctions (e.g. prison sentences, monetary penalties including fines, confiscation and forfeiture, and collateral consequences such as debarment from public procurement).

In Short: Working Group on Bribery Enforcement Data

Note to the reader: This data has been compiled and published by the OECD Secretariat on the basis of statistics, data and information provided by the Parties to Convention in order to provide a realistic picture of the level of enforcement in the jurisdiction of each of the Parties. However, the responsibility for the provision and accuracy of information rests solely with the individual Parties.

To date, 37 of the 38 Parties to the Convention have provided enforcement data. According to data collected as of May 2010, 148 individuals and 77 entities have been sanctioned under criminal

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proceedings for foreign bribery in 13 Parties between the time the Convention entered into force in 1999 and the end of 2009. Out of these 13 Parties, 7 have sanctioned both companies and individuals, one has sanctioned only a company and 5 have sanctioned only individuals.

According to the data, at least 40 of the sanctioned individuals were sentenced to prison for foreign bribery. A record amount of EUR 1.24 billion was imposed in combined fines on a single company for foreign bribery.

Approximately 280 investigations are ongoing in 21 Parties to the Anti-Bribery Convention. Investigations are not ongoing in 5 Parties, and the 12 remaining Parties have not provided information on the number of ongoing investigations. Furthermore, criminal charges have been laid against approximately 180 individuals and 20 entities in 7 Parties, no charges have been laid against either individuals or companies in 15 other Parties, and the remaining 16 Parties have not provided information on the number of criminal proceedings.

Methodology and Content of the Comparative Table of Enforcement Data Collected from the 38 Parties to the Anti-Bribery Convention

What the Table includes

The Table below records the number of sanctions that have been imposed on individuals and entities in criminal, administrative and civil proceedings for the offence of foreign bribery and for failures to prevent a proven case of bribing a foreign public official (Articles 1 and 2 of the Anti-Bribery Convention) in the 38 Parties to the Anti-Bribery Convention from its entry into force to December 2009.

The Table contains all data that the 38 Parties to the Anti-Bribery Convention have agreed to provide on a mandatory basis as part of the data-collection exercise on the enforcement of the Anti-Bribery Convention described above (i.e. the number of criminal, administrative and civil cases of foreign bribery that have resulted in a final disposition, such as a criminal conviction or acquittal, or similar findings under an administrative procedure). Additionally, the comparative Table includes data provided on a voluntary basis by certain countries concerning the number of foreign bribery cases that have been resolved through an agreement between the law enforcement authorities and the accused person or entity, with or without court approval. In some cases the proceedings may have been terminated or deferred for a certain period on condition that the accused agrees to certain conditions, such as implementation of corporate reforms, the payment of fines, restitution, and/or full cooperation in the investigation of others allegedly involved in the same case.

What the Table does not include

It should be underlined that the Table shows sanctions for the commission of the offence of bribing a foreign public official and for failures to prevent a proven case of bribing a foreign public official, not other offences that might also apply to this form of conduct in certain circumstances, such as trading in influence or United Nations embargo violations.

Some countries have also voluntarily provided data on sanctions for foreign-bribery related

accounting misconduct and inadequate internal controls, falling under Article 8 of the Anti-Bribery Convention. This data will be included in future tables, but for now only the data from the United States on such sanctions is provided, due to the significant extent of US enforcement in this area, in footnotes 9 and 12 to the United States entry in the Table. Other Parties voluntarily published information relating to related books and records or internal controls violations in the Steps Taken by Parties to the Anti-Bribery Convention to implement and enforce the Convention: http://www.oecd.org/document/44/0,3343,en_2649_34859_36433004_1_1_1_1,00.html.

Finally, the Table does not record sanctions that may have been ordered in the 38 Parties to the Convention against foreign public officials for receiving bribes, as this offence is not covered by the Anti-Bribery Convention.

Methodology used and limits

For the purposes of completing the Table below, cases have been counted per person.

This methodology implies that several sanctions recorded by the same Party may concern one “case” (e.g. in one case, a parent company, its subsidiary and a manager may have been sanctioned) or one person (e.g. one person may have been subject to, and sanctioned in, both criminal and civil proceedings). In addition, several sanctions recorded by several countries may concern the same person or entity, where they all had jurisdiction

The Table includes data on foreign bribery cases that have resulted in a final disposition, such as a criminal conviction or acquittal, or similar findings under an administrative procedure. The data does not identify cases that might be under appeal. This implies that the numbers could change depending on the outcome of possible appeals against the decisions reported in the Table.

Readers should also note that, while the Table tracks data back to 1999—the year the Convention entered into force—a number of Parties joined the Convention and started enforcement against foreign bribery offences later. In addition, data is not included from before 1999 on enforcement of the United States’ Foreign Corrupt Practices Act (FCPA), which came into force in 1977.

**Comparative Table of Enforcement Data Collected from the 38 Parties to the Anti-Bribery Convention
Decisions on Foreign Bribery Cases from 1999 to December 2009**

Country	Date of latest information supplied	% of world exports in 2009 ¹	Number of Individuals (I) and Legal Persons (LP) sanctioned or acquitted for foreign bribery			
			Sanctioned		Acquitted	
CRIMINAL CASES			I	LP	I	LP
Argentina	March 2009	0.4	0	0	0	0
Australia	September 2009	1.3	0	0	0	0
Austria	April 2010	1.3	0	0	0	0
Belgium ²	December 2009	2.2				
Brazil	December 2009	1.0	0	0	0	0
Bulgaria	December 2008	0.1	0	0	0	0
Canada	March 2009	2.5	0	1	0	0
Chile	December 2009	0.4	0	0	0	0
Czech Republic	March 2010	0.9	0	0	1	0
Denmark	March 2010	1.0	0	0	0	0
Estonia	March 2009	0.1	0	0	0	0
Finland	March 2009	0.5	0	0	0	0
France	December 2009	4.0	1	0	2 ³	0
Germany ⁴	December 2009	8.9	16 (+10 agreed sanctions ⁵)	4	24	
Greece	December 2008	0.4	0	0	0	0
Hungary	December 2009	0.6	27	0	2	0
Iceland	December 2008	0.04	0	0	0	0
Ireland	No info supplied	1.4				
Israel ⁶	December 2009	0.4	0	0	0	0
Italy	December 2009	3.2	21, including 16 plea agreements ⁷	18, including 17 plea agreements ⁷	1	0
Japan	December 2009	4.0	6	1	0	0
Korea	December 2009	2.8	13	3	0	0
Luxembourg	December 2008	0.5	0	0	0	0
Mexico	March 2010	1.5	0	0	0	0
Netherlands	March 2010	3.6	0	0	0	0
New Zealand	May 2009	0.2	0	0	0	0
Norway	March 2010	1.0	5	1	2	0
Poland	December 2009	1.1	0	0	0	0
Portugal	March 2010	0.4	5	0	0	0
Slovak Republic	May 2010	0.4	0	0	0	0
Slovenia	December 2009	0.001	0	0	0	0
South Africa	February 2010	0.5	0	0	0	0
Spain	December 2009	2.2	0	0	0	0
Sweden	February 2010	1.3	1	0	0	0
Switzerland ⁸	December 2009	1.6	2			
Turkey	February 2010	0.9	0	0	0	0
United Kingdom	December 2009	3.9	1	1	0	0
United States ⁹	December 2009	10.0	40, including 33 plea agreements	20 plea agreements (+ 28 DPAs/NPAs ¹⁰)	0	0
TOTAL	December 2009	66.601	138 convictions, including 49 plea agreements (+ 10 other agreed sanctions)	49 convictions, including 37 plea agreements (+ 28 DPAs/NPAs)	32	0
ADMINISTRATIVE AND CIVIL CASES ¹¹			Sanctioned		Found Not Liable	
			I	LP	I	LP
Japan	December 2009	4.0	0	1	0	0
United States ¹²	December 2009	10.0	29 settlements ¹³	28 settlements ¹³	0	0
TOTAL	December 2009	10.0	29	29 (including 28 settlements)	0	0

1. Export data provided by OECD Economic Outlook No. 86 (November 2009), except for the export data of Argentina and Bulgaria, provided by the IMF World Economic Outlook.
2. Belgium reported that it had several convictions of individuals for foreign bribery to report, but was not able to provide specific data at this stage, as data on domestic and foreign bribery cases have not, to date, been counted separately.
3. In these two cases, the individuals were acquitted of the offence of foreign bribery, but were sanctioned for other offences.
4. The data refer to convictions and acquittals in the years 2008 and 2009 only, and not since the entry into force of the Convention in Germany. The data are compiled on the basis of the information voluntarily supplied to the Federal Ministry of Justice by Administrations of the 16 federal states.
5. Sanctions ordered following the application of paragraph 153a of the Germany Criminal Procedure Law.
6. The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.
7. The applicable procedure is called patteggiamento.
8. Switzerland reported it had no information available to complete the last three columns of the Table. In Switzerland, data is not collected at the federal level, and the Office of the Attorney General of Switzerland (OAG) does not have the authority to require the cantons to report the relevant data to the OAG.
9. This row records the number of cases prosecuted by the United States Department of Justice (DOJ) either for violations of the anti-bribery provisions of the FCPA, or for violations of both the anti-bribery provisions of the FCPA and the books and records and internal controls provisions of the FCPA. The United States reports that 10 entities and 2 individuals have been subject to criminal sanctions exclusively for books and records violations under the FCPA.
10. "DPAs" and "NPAs" are "Deferred Prosecution Agreements" and "Non Prosecution Agreements" that have been entered into between the United States DoJ and the persons sanctioned.
11. Only those countries that have an administrative and/or civil procedure applicable for the offence of foreign bribery and that have reported sanctions ordered under such procedures have been listed under the "Administrative and Civil Cases".
12. This row records the number of civil actions of the United States Securities and Exchange Commission (SEC) that have led to sanctions either for violations of the anti-bribery provisions of the FCPA or for violations of both the anti-bribery provisions of the FCPA and the books and records and internal controls provisions of the FCPA. Therefore, civil sanctions that have been imposed exclusively for violations of the books and records and internal controls provisions of the FCPA are not captured by the Table. The United States reports that 22 entities and 2 individuals have been subject to civil sanctions for this offence exclusively.
13. A number of persons that have been sanctioned in civil proceedings have also been sanctioned in criminal proceedings.

Additional Global Enforcement Data

Ongoing Investigations on Foreign Bribery Cases

There are over 280 ongoing investigations in 21 Parties to the Anti-Bribery Convention (more than 150 in one Party, between 15 and 30 in 3 Parties, between 5 and 10 in 3 Parties, and fewer than 5 in 14 Parties). No investigation is ongoing in 5 other Parties. The 12 remaining Parties have not provided information. It should be noted that each country has its own definition of what an investigation is.

Ongoing Criminal Proceedings on the Grounds of Foreign Bribery Charges

There are approximately 180 individuals (more than 50 individuals in 3 countries, 5 individuals in one Party, and fewer than 5 individuals in 3 Parties) and 20 entities (18 entities in one Party, 1 to 3 entities in 2 Parties) subject to ongoing criminal proceedings in 7 Parties. No criminal proceedings are ongoing in 15 Parties. The 16 remaining Parties have not provided information.

Criminal Sanctions and Prison Sentences for Foreign Bribery

Seventy-seven entities and 148 individuals have been sanctioned for foreign bribery under criminal proceedings, including through settlements or following other types of procedures involving the agreement of the person ultimately sanctioned (with 59 individuals in 3 Parties and 65 entities in 2 Parties), of which at least 40 individuals in 9 Parties have been sentenced to prison terms.

Exclusions or Limitations on Access to Public Procurement or Benefits

Two Parties have voluntarily reported that exclusions or limitations on access to public procurement or benefits have been ordered against companies for foreign bribery.

More information about the new Recommendation, the Anti-Bribery Convention and the work of the OECD Working Group on Bribery is available online at: www.oecd.org/daf/nocorruption