



FIGHTING THE CRIME OF FOREIGN BRIBERY

The Anti-Bribery Convention and
the OECD Working Group on Bribery



● PARTIES TO THE ANTI-BRIBERY CONVENTION

Argentina	Chile	Germany	Japan	Norway	Spain
Australia	Colombia	Greece	Korea	Poland	Sweden
Austria	Czech Republic	Hungary	Latvia	Portugal	Switzerland
Belgium	Denmark	Iceland	Luxembourg	Russia	Turkey
Brazil	Estonia	Ireland	Mexico	Slovak Republic	United Kingdom
Bulgaria	Finland	Israel	Netherlands	Slovenia	United States
Canada	France	Italy	New Zealand	South Africa	

Note. All 34 OECD countries and 7 non-OECD countries are parties to the Convention.

FIGHTING THE CRIME OF FOREIGN BRIBERY

“THE OECD IS LEADING GLOBAL EFFORTS TO COMBAT CORRUPTION. THE FIGHT AGAINST BRIBERY OF FOREIGN PUBLIC OFFICIALS IS A CORE ELEMENT IN OUR DRIVE TO TACKLE ALL FORMS OF CORRUPTION, AND A SHARED VALUE THAT UNITES ALL 41 PARTIES TO THE ANTI-BRIBERY CONVENTION.”

Angel Gurría, OECD Secretary-General

■ WHY FIGHT FOREIGN BRIBERY?

The OECD Working Group on Bribery is leading global efforts to fight bribery of foreign public officials in international trade and investment. The fight against foreign bribery is a core shared value that unites all 41 Parties to the Anti-Bribery Convention.

The Parties' commitment to this fight is grounded in the recognition that no government or market economy can function effectively if it is riddled by bribery. Corruption entails costs that no country can afford. Serious harm results when public officials take bribes, for example, when awarding contracts to foreign businesses in such areas as road construction, water infrastructure, medicines or electricity. In addition to the human suffering caused by inferior products and services, bribery derails the functioning of markets and undermines economic development.

■ WHAT IS THE ANTI-BRIBERY CONVENTION?

The Convention on Combating Bribery of Foreign Public Officials in International Business Transactions is a legally binding international agreement. Parties to the Convention agree to establish the bribery of foreign public officials as a criminal offence under their laws and to investigate, prosecute and sanction this offence.

The Anti-Bribery Convention is the first and only international anti-corruption instrument focused on the “supply side” of the bribery transaction – the person or entity offering, promising or giving a bribe.

■ COMBATING FOREIGN BRIBERY USING THE CONVENTION

Parties' laws must hold both individuals and companies responsible for foreign bribery. This includes offers of bribes that are not accepted and offers made to officials of foreign state-owned enterprises. Moreover, bribery committed through an intermediary, such as a subsidiary or other agent – and bribes for the benefit of family members, political parties or another third party (e.g., a charity or company in which the official has an interest) – must also be made illegal.

Other commitments include: providing prompt legal assistance to other Parties to the Convention investigating foreign bribery allegations; denying tax deductibility of bribe payments; sanctioning false accounting to disguise bribe payments; making it an offence to launder the proceeds of foreign bribery; and imposing effective, proportionate and dissuasive sanctions for foreign bribery acts.

Parties also commit to ensure that projects they have financed, including through official development aid and officially supported export credits, are not tainted by foreign bribery and that adequate mechanisms are in place to prevent, detect and address bribery in projects that benefit from state funding.

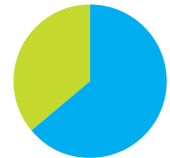
The Anti-Bribery Convention creates a strong legal foundation for countries' commitment to fight foreign bribery, and establishes tough and effective standards to guide their efforts going forward.

FIGHTING FOREIGN BRIBERY IN FIGURES

THE ACTORS

41
PARTIES TO THE
ANTI-BRIBERY CONVENTION

TOGETHER, THEY COVER...



64%
OF GLOBAL OUTBOUND FDI



AND OVER...
50%
OF THE WORLD'S EXPORTS

AND ARE HOME TO...
95
OF THE LARGEST
100
NON-FINANCIAL
MULTINATIONAL ENTERPRISES

AND TO ALL OF THE TOP
50
FINANCIAL MULTINATIONALS
These companies are therefore all
subject to laws that criminalise
foreign bribery.

THE PROCESS

THE OECD WORKING GROUP ON BRIBERY monitors Parties' compliance with the Convention and promotes better anti-bribery laws and enforcement. Its activities include:

17
YEARS OF PROMOTION
AND MONITORING
OF ANTI-BRIBERY LAWS
AND ENFORCEMENT ACTIVITY,
including, for almost a decade,
meetings of law enforcement
officials from the 41 Parties



195
MONITORING REPORTS
covering the 41 Parties'
foreign bribery laws and
enforcement practices and activities

4
PHASES OF MONITORING
PHASE 1
Design of anti-bribery law
PHASE 2
Legislative and
practical implementation
PHASE 3
Enforcement and
cross-cutting issues
PHASE 4
Outstanding issues
and tailor-made analysis



1450
RECOMMENDATIONS FOR
IMPROVING ANTI-BRIBERY LAW
AND ENFORCEMENT
Most recommendations have been
fully or partially implemented.
Those that are judged not to be fully
implemented are subject to follow up by
the OECD Working Group on Bribery.

KEY DATES

- 17 DECEMBER 1997**
Signature of the Convention
- 15 FEBRUARY 1999**
Adoption of Recommendation for
Further Combating Bribery of Foreign Public Officials
- 9 DECEMBER 2009**
Signature of Recommendation for Further
Combating Bribery of Foreign Public Officials
- 18 FEBRUARY 2010**
Adoption of the Good Practice Guidance
on Internal Controls, Ethics,
and Compliance

THE RESULTS

BROADER AND IMPROVED LAWS



BRIBERY IS NOW A CRIME
IN ALL
41
PARTIES TO THE CONVENTION

38
COUNTRIES HAVE STRENGTHENED
OR CREATED
CORPORATE LIABILITY LAWS
in compliance with commitments
made under the
Anti-Bribery Convention.
These laws allow them to hold
companies, not just individuals,
liable for foreign bribery.

0
COUNTRIES EXPLICITLY PERMIT
TAX DEDUCTIBILITY OF BRIBES

AT LEAST
29
COUNTRIES ELIMINATED
TAX DEDUCTIBILITY OF BRIBES
in order to comply with their
obligations under the Convention.



18
COUNTRIES HAVE INTRODUCED
OR STRENGTHENED
WHISTLEBLOWER PROTECTION
in response to peer evaluation reports
and recommendations.

ENFORCEMENT



361
INDIVIDUALS AND
126
ENTITIES HAVE BEEN SANCTIONED
under criminal proceedings
for foreign bribery in

17
PARTIES
between the time the Convention
entered into force in 1999
and the end of 2014.

AT LEAST
110
INDIVIDUALS AND
200
ENTITIES IN
8
COUNTRIES HAVE BEEN SANCTIONED
for other offences related to
foreign bribery, such as
money-laundering or accounting.



393
INVESTIGATIONS ARE ONGOING IN
25
COUNTRIES



142
INDIVIDUALS AND
14
ENTITIES ARE SUBJECT TO
ONGOING PROSECUTIONS IN
12
COUNTRIES
for offences under the Convention.



24
COUNTRIES HAVE YET
TO CONCLUDE A FOREIGN BRIBERY
ENFORCEMENT ACTION

“CORRUPTION PERMEATES—AND FACILITATES—SOME OF THE MOST IMPORTANT GLOBAL THREATS OF OUR TIME, SUCH AS TERRORISM, CLIMATE CHANGE AND THE REFUGEE CRISIS. IT IS VITAL THAT WE RAMP UP OUR FIGHT TO ERADICATE CORRUPTION.”

Drago Kos, Chair of the OECD Working Group on Bribery

■ HOW IS THE CONVENTION IMPLEMENTED?

Over the past 17 years, monitoring by the OECD Working Group on Bribery has established the Convention as the most rigorously enforced international anti-corruption instrument. However, the Convention can only be effective when all Parties implement it fully and adhere to its tough standards.

1
PHASE

- Review of legal framework and implementing legislation
- Peer review by experts from two lead examining countries
- Review by the Working Group and publication of final report and recommendations

2
PHASE

- Review of legislative and practical implementation and the efficacy of institutional framework
- Country visit by experts from lead examining countries*
- Review by the Working Group and publication of final report and recommendations

3
PHASE

- Enforcement and cross-cutting issues
- Country visit by experts from lead examining countries*
- Review by the Working Group and publication of final report and recommendation

4
PHASE

- Enforcement and cross-cutting issues tailored to specific country needs
- Country visit by experts from lead examining countries*
- Review by the Working Group and publication of final report and recommendations

**During their visits, experts meet with government, parliamentarians, judiciary, legal and accounting professions, private sector, media and civil society*

Parties to the Convention are subject to review by their peers, and OECD Working Group on Bribery experts serve as examiners in the peer review mechanism for other countries. All of the OECD Working Group on Bribery evaluation reports and recommendations are then made public on the OECD website.

The process motivates countries to ensure the highest level of compliance with the Convention and to take concrete action to fight foreign bribery and corruption.

The monitoring process is subject to specific agreed-upon principles. Not only are the reports made public but the process is compulsory for all Parties and includes meetings with non-government actors. The evaluated country has no right to veto the final report and recommendations.

The OECD Working Group on Bribery will begin the fourth phase of monitoring in 2016. Phase 4 will focus on enforcement and cover unresolved issues from prior reports, as well in-depth exploration of horizontal issues such as detection, company liability and co-operation and mutual legal assistance among Parties' law enforcement officials.

■ CO-OPERATION AMONG GLOBAL LAW ENFORCEMENT COMMUNITIES

For almost a decade, law enforcement officials of the now 41 Parties have met twice a year in a confidential setting to share experiences and information on anti-foreign bribery enforcement. Practitioners discuss practical challenges encountered in investigating and prosecuting foreign bribery and share good practices. These regular law enforcement meetings of the OECD Working Group on Bribery have proven to be instrumental in fostering contacts between law enforcement officials and facilitating international co-operation in foreign bribery cases. This may help to explain, along with the Convention's binding provisions for mutual legal assistance, why most successfully concluded foreign bribery cases involve Parties to the Convention.

EXPANDING THE GLOBAL ANTI-BRIBERY COMMUNITY

Anti-Corruption Network for Eastern Europe and Central Asia (ACN)

The ACN brings together national governments from 25 countries, as well as other international organisations, civil society and business representatives. Established in 1998, the ACN provides a regional forum for the promotion of anti-corruption reforms. The ACN conducts regular monitoring of anti-corruption reforms in nine countries in the region. It also hosts a regional law enforcement network and expert groups on corruption prevention in the public administration and in business.

Global Network of Law Enforcement Practitioners

In December 2015, the Global Network of Law Enforcement Practitioners against Corruption met at the OECD, in conjunction with the meetings of the OECD Working Group on Bribery and the ACN. The meeting was attended by law enforcement representatives from over 50 countries, including Parties to the Convention and law enforcement officials from Eastern Europe, Central Asia and Asia Pacific.

ADB/OECD Anti-Corruption Initiative for Asia-Pacific

Thirty-one member economies have committed to action against corruption: they have jointly developed the Anti-Corruption Action Plan for Asia and the Pacific and work together towards its implementation. The Action Plan sets out the goals and standards for sustainable safeguards against corruption in the economic, political and social spheres of the countries in the region.

The initiative supports the member governments' efforts by fostering policy dialogue; thematic reviews and stocktaking and regional seminars.

OECD/African Development Bank Initiative to Support Business Integrity and Anti-bribery Efforts

This initiative brings together African policymakers, businesses, regional and international organisations and aims to assist African countries in their fight against bribery of public officials in business transactions and to improve corporate integrity and accountability. It seeks to highlight and enhance the complementarities between the African Union Convention on Preventing and Combating Corruption, the UN Convention Against Corruption, and the Convention on Combating Bribery of Foreign Public Officials. The Initiative was launched in 2011 with the adoption of the Anti-Bribery and Business Integrity Course of Action, which sets out specific and concrete steps toward improved anti-bribery and business integrity efforts in the region.

OECD-Latin America Anti-Corruption Programme

This programme aims to strengthen implementation of anti-corruption conventions and promotes integrity in the South and Central American region. Under the programme, the OECD supports Latin American countries in state modernisation, preventing and fighting corruption, and fostering implementation of the United Nations Convention against Corruption, Inter-American Convention against Corruption and the Anti-Bribery Convention. The five Latin American Parties to the Anti-Bribery Convention – Argentina, Brazil, Chile, Colombia and Mexico – form a bridge between the OECD and other countries in the region and help carry out the programme's objectives.

Ukraine Anti-Corruption Project

In November 2014, the OECD launched a country-specific project to support Ukraine in its anti-corruption agenda. The project aims to strengthen legal and institutional capacity to effectively detect, investigate and prosecute high-profile and complex corruption in Ukraine.

For more information on foreign bribery,
the Anti-Bribery Convention
and the OECD Working Group on Bribery, go to:
www.oecd.org/corruption/anti-bribery

