

OECD Working Group on Bribery



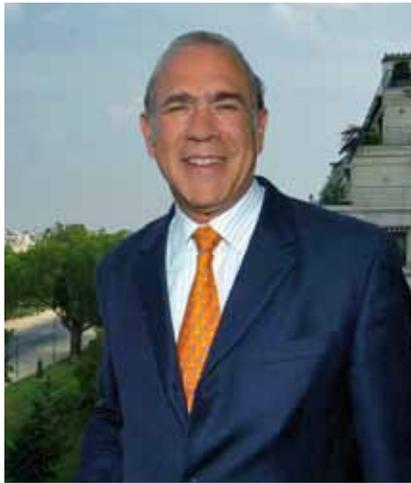
Annual Report

OECD WORKING GROUP ON BRIBERY – 2010 ANNUAL REPORT

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MESSAGE FROM THE SECRETARY-GENERAL



Angel Gurría
Secretary-General



Fifty years ago, with the memories of two world wars still fresh, the OECD's founding members made a promise to work together to help governments develop better policies that ensure better lives for people around the world. We are the proud heirs of their generous and inspired vision which, through the Marshall Plan, supported the creation of a new Europe based on dialogue. It was an outstanding example of leadership. This leadership, this spirit of solidarity, of good will and intelligence is today needed more than ever.

The world has changed a great deal since then, but the OECD remains committed to this vision. After the recent global financial crisis, which was closely linked to questionable business conduct, the commitment of the OECD—and governments we work with—to cleaner business practices is more important than ever. I am proud of the standards we develop that safeguard the health of the international economy, such as our work in competition, investment, taxation, and governance.

One of the strongest standards the OECD has developed in this regard is the *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*. The 38 Convention countries—including Chile, Estonia, Israel and Slovenia, which joined the OECD as Member countries in 2010, as well as Argentina, Brazil, Bulgaria and South Africa—are an example of the kind of leadership this Organisation represents. Major emerging economies like China, India, and Indonesia are also working with us and strengthening their anti-bribery frameworks.

And, Russia has officially asked to join the Convention. By joining efforts against bribery in international business, we ensure that the international economy works in a way that benefits everyone.

Many people ask me why the OECD chose to focus on this specific form of corruption. The answer is easy: Because we are experts at identifying problems and proposing targeted solutions. This is true in the case of foreign bribery, but also in many of the other areas we cover. Thanks to the Convention and the commitment of the countries that are Parties to it, foreign bribery is now a criminal offense in much of the world. Because of this collective crackdown on corruption, some 290 criminal sanctions have been imposed for cases involving foreign bribery. Approximately 260 cases are under investigation.

As we carry this effort forward, we have as our partner the G20, which in November 2010 called on all G20 governments to strengthen their laws against transnational bribery and for all G20 countries not yet Party to the Anti-Bribery Convention to engage more closely with the Working Group on Bribery. This is a tremendous endorsement of the Convention and a major step forward in the global fight against bribery and corruption. We stand ready to support the G20's bold anti-corruption agenda.

But, on our 50th Anniversary, we cannot spend too much time looking back at past achievements. Rather, we are looking forward to ways in which the OECD and the Working Group on Bribery can find new and effective ways to stamp out bribery and corruption in international business. By continuing the OECD tradition of developing evidence-based public policies and standards like the Anti-Bribery Convention, we will ensure a stronger, cleaner and fairer world economy.

A handwritten signature in black ink, consisting of a long horizontal stroke followed by a few smaller, more complex strokes at the end.

MESSAGE FROM THE CHAIR, OECD WORKING GROUP ON BRIBERY



Mark Pieth
Chairperson, OECD Working Group on Bribery

Since 1999, the members of the Working Group on Bribery, with their commitment to the OECD Anti-Bribery Convention, have set and maintained the highest global standard in the fight against corruption in global business. The 38 Parties to the Convention reinforced their promise to this fight with the adoption of the 2009 *Recommendation on Further Combating Bribery of Foreign Public Officials* and the *Good Practice Guidance on Internal Controls, Ethics and Compliance*.

In 2010, we began a new, third-round of intense peer-review monitoring evaluations that examine whether and how Convention countries are fulfilling this promise by enforcing the Convention. It is also the first opportunity to examine how countries are transforming the new Anti-Bribery Recommendation and the Good Practice Guidance into action. Through this exercise, we ensure that all 38 Parties to the Convention are serious about their commitments and held accountable to their obligations to fight foreign bribery.

Being a Party to the Anti-Bribery Convention is hard work, but it is an effort that is important and rewarding. The Working Group on Bribery has over ten years' experience and expertise in fighting bribery that we share with our partners in the global economy. With support from partner organizations like the United Nations Office on Drugs and Crime (UNODC), which serves as the secretariat for the UN Convention against Corruption, the World Bank, and the G20, we are working with economies around the world that are stepping up their efforts to combat bribery and corruption.

Companies are on the front lines in the fight against bribery. To help companies protect themselves against bribery and corruption and to make the right decision, the Working Group adopted the 2010 Good Practice Guidance. This is the most comprehensive guidance ever provided to companies and business organisations by an international

organisation. And, we are not the only ones to recognise its importance: In September, the Society for Corporate Compliance and Ethics awarded the Working Group its International Compliance Award for its promotion and recognition of effective compliance and ethics programs. Then, in November, the 'Bangkok Declaration' of the International Anti-Corruption Conference recognised the Good Practice Guidance for its usefulness.

Perhaps the most significant endorsement of our work in 2010, however, was the G20's adoption of an Anti-Corruption Action Plan. As much a call to action as an endorsement, the Plan calls for all G20 countries to strengthen their laws and measures against foreign bribery and for closer engagement with the Working Group. This presents a welcome challenge for the coming year under the G20 French Presidency, with whom the Working Group is working closely to meet the G20's goals.

Looking ahead, we know challenges remain. The bribery of foreign public officials in international business deals continues to take a major toll on the world economy, on companies that try to compete fairly, and on governments undermined by corruption. We must ensure our laws are strong and actively enforced, that companies are held liable for bribery, and that we cooperate across borders to make sure the guilty are prosecuted and punished. The Parties to the Convention, as leaders in the global fight against foreign bribery, will work hard to meet these challenges.

A handwritten signature in black ink, appearing to read 'Pier', is positioned in the lower right area of the page.



OECD Anti-Corruption Division

HIGHLIGHTS FROM 2010

International Recognition for the Working Group's Anti-Corruption Efforts

In September 2010, the Society of Corporate Compliance and Ethics (SCCE) awarded its International Compliance Award to the OECD and its Working Group on Bribery for the adoption of the 2009 Recommendation on Further Combating Bribery of Foreign Public Officials in International Business Transactions and its Annex II, the 2010 Good Practice Guidance on Internal Controls, Ethics and Compliance. (Both instruments are explained in more detail later in this report.)



Working Group Vice-Chairman Maria Gavouneli received the SCCE International Compliance Award on behalf of the Group at the SCCE's awards ceremony in Chicago.

The award recognises individuals and organisations that have contributed to ethical standards that comply with international codes of corporate conduct. The adoption of the 2009 Anti-Bribery Recommendation and the Good Practice Guidance, the SCCE said, represent 'great strides in the promotion and recognition of effective compliance and ethics programs around the world.'

The Good Practice Guidance's international profile was also raised when it was included as a useful reference in the 'Bangkok Declaration' of the 2010 International Anti-Corruption Conference (IACC).

G20 Calls for Stronger Anti-Bribery Measures, Closer Working Group Engagement

At its Seoul Summit in November 2010, the leaders of G20 countries adopted a G20 Anti-Corruption Action Plan for 'combating corruption, promoting market integrity, and supporting a clean business environment'. The Anti-Corruption Action Plan calls on G20 countries to adopt and enforce laws and other measures against international bribery and, for G20 countries not Party to the Anti-Bribery Convention to engage more closely with the Working Group on Bribery, or joining the Convention. These countries include China, India, Indonesia, Russia and Saudi Arabia.



Leaders of the G20 Seoul Summit, including OECD Secretary-General Angel Gurría (top right).

First Phase 3 Country Reports Adopted

The Working Group on Bribery's third round of country reviews began in 2010. In October, evaluation reports of Finland and the United States were adopted, followed by a report on Iceland in December. (More information on the Phase 3 evaluation process and these reports is provided later in this report.)

Legislative Progress in Convention Countries

In 2010, a number of Working Group on Bribery Members adopted new legislation to strengthen their framework against the bribery of foreign public officials in international business transactions. The United Kingdom and Ireland both adopted legislation strengthening and modernising their foreign bribery offences, while the Slovak Republic heeded repeated Working Group recommendations to adopt a new law that will hold Slovak companies liable for bribing foreign public officials while doing business abroad. Turkey also made amendments to an array of anti-bribery and anti-corruption measures, fulfilling all but one of its Phase 2 and Phase 2bis Working Group recommendations.

SETTING THE STANDARD: THE ANTI-BRIBERY CONVENTION



Working Group on Bribery in International Business Transactions

For fifty years, the OECD has had as its goal the building of a stronger, cleaner and fairer world economy. Corruption stands in the way of our reaching this goal. That is why fighting corruption—in business, taxation, development aid, and governance—has become a top OECD priority.

A key element of the OECD's fight against corruption is the *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*, or Anti-Bribery Convention.

The OECD Anti-Bribery Convention

Not long ago, paying bribes to win a new oil contract, to pass a health inspection or to secure a building permit was just a part of business as usual. In many countries, companies even received tax deductions for these bribe payments.

That was before the entry into force of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions in 1999.

The Anti-bribery Convention is the first and only legally binding instrument to focus on the supply of bribes to foreign public officials. Countries that are party to the Convention must prosecute individuals who offer, promise or give bribes to foreign public officials and subject them to effective penalties including heavy fines or even prison time.

Under the Convention, individuals and companies can also be prosecuted when third parties are involved in the bribe transaction, such as when someone other than the official who was bribed receives the benefit, including a family member, business partner, or a favourite charity of the official. Foreign bribery is also a crime under the Convention even if corruption is tolerated in the foreign country. It also does not matter if the briber was entitled to the business advantage that the bribe was supposed to secure. And, bribe payments are no longer tax deductible.

Ten years after the Convention's entry into force, 290 companies and individuals have faced criminal sanctions for the bribery of foreign public officials in international business deals. Forty of those individuals have gone to jail. Approximately 260 investigations are ongoing.

By joining the Convention, these countries agree that foreign bribery is in no one's interest. It distorts competitive markets; it undermines good governance; and, worst of all, it ends up hurting the world's poorest and most vulnerable.

Working Group on Bribery: Facts and Figures

- There are 38 Parties to the Convention: the 34 OECD members, plus Argentina, Brazil, Bulgaria, and South Africa.
- Representatives from these 38 countries make up the Working Group on Bribery in International Business Transactions.
- Together, the Working Group on Bribery accounts for roughly two-thirds of world exports.
- The 38 States Parties to the Convention also account for nearly 90 percent of global outward flows of foreign direct investment.

The Recommendation for Further combating Bribery of Foreign Public Officials in International Business Transactions

The 2009 Recommendation for Further combating Bribery of Foreign Public Officials in International Business Transactions, or Anti-Bribery Recommendation, includes a number of new measures to strengthen countries' capacity to prevent, detect and prosecute allegations of foreign bribery.

For example, the Anti-Bribery Recommendation calls on Convention countries to establish whistleblower protections for public and private sector employees, and periodically review their policies and approaches on small facilitation payments. Convention countries are also recommended to focus more on the private sector by ensuring their companies are held to appropriate accounting and auditing standards, working with businesses and business organisations to adopt stringent ethics and anti-bribery compliance programmes and measures, and encouraging companies to prohibit or discourage the use of small facilitation payments. Under the Anti-bribery Recommendation, Convention countries must also work on better cross-border cooperation on foreign bribery investigations and prosecutions. The new Recommendation also provides guidance on establishing effective corporate liability for foreign bribery.

Finally, with the adoption of the Anti-Bribery Recommendation, Convention countries, re-committed themselves to undergoing the Working Group on Bribery's rigorous monitoring and to regularly report on investigations and prosecutions.

2010 Good Practice Guidance on Internal Controls, Ethics and Compliance

Adopted in February 2010 as Annex II to the 2009 Anti-Bribery Recommendation, the Good Practice Guidance was designed to help companies of all sizes and from any industry protect themselves against the risk of foreign bribery in their business.

The advice that the Good Practice Guidance offers is meant to be flexible and can be adapted by companies of all sizes and from any industry. It emphasizes that, first and foremost, effective internal controls, ethics and compliance programmes are based on a risk assessment that is regularly monitored, re-assessed and adapted according to changing circumstances. It also emphasises the need for strong, explicit and visible support from senior management, and adoption of a clear and visible anti-bribery policy. Effective measures should also instil in all employees a sense of responsibility for compliance. To keep dust from settling on their corporate compliance measures, managers should also keep up regular communication and training for employees and business partners and introduce disciplinary procedures for addressing violations of these measures, as well as measures for positively reinforcing compliance.

The Good Practice Guidance also calls on business organisations to play a leading role in providing anti-bribery information, advice, and training to companies, especially small- and medium-sized enterprises.

WORKING GROUP DATA ON ENFORCEMENT OF THE ANTI-BRIBERY CONVENTION

About the Working Group on Bribery Data

Official data on the enforcement efforts of the Parties to the Anti-Bribery Convention were made public for the first time in the last Annual Report of the Working Group. This year, the Parties have again agreed to publish official data for the 2010 Annual 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, 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, all Parties to the Convention have provided enforcement data. According to data collected as of March 2011, 199 individuals and 91 entities have been sanctioned under criminal proceedings for foreign bribery in 13 Parties between the time the Convention entered into force in 1999 and the end of 2010. 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 54 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 260 investigations are ongoing in 15 Parties to the Anti-Bribery Convention. Furthermore, criminal charges have been laid against over 120 individuals and 20 entities in 5 Parties.

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 2010.

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 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 US 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](#).

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 US’ 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 2010

Country	Date of latest information supplied	Exports in 2010 in billions of USD ¹	Number of Individuals (I) and Legal Persons (LP) sanctioned or acquitted/found not liable			
			Sanctioned		Acquitted	
CRIMINAL CASES			I	LP	I	LP
Argentina	March 2009	0.4	0	0	0	0
Australia	February 2011	1.4	0	0	0	0
Austria	April 2010	1.1	0	0	0	0
Belgium ²	December 2010	2.0				
Brazil	December 2009	1.3	0	0	0	0
Bulgaria	December 2008	0.1	0	0	0	0
Canada	March 2009	2.5	0	1	0	0
Chile	December 2010	0.4	0	0	0	0
Czech Republic	March 2010	0.8	0	0	1	0
Denmark	December 2010	0.8	0	0	0	0
Estonia	February 2011	0.1	0	0	0	0
Finland	December 2010	0.5	0	0	0	0
France	December 2010	3.5	2	0	2 ³	0
Germany ⁴	December 2010	8.2	30 (+35 agreed sanctions ⁵)	6	0	
Greece	December 2010	0.3	0	0	0	0
Hungary	December 2009	0.6	27	0	2	0
Iceland	December 2010	0.04	0	0	0	0
Ireland	December 2010	1.1	0	0	0	0
Israel ⁶	December 2010	0.4	0	0	0	0
Italy	December 2009	2.9	21, including 16 plea agreements ⁷	18, including 17 plea agreements ⁷	1	0
Japan	December 2010	4.5	6	1	0	0
Korea	December 2009	2.9	13	3	0	0
Luxembourg	December 2008	0.5	0	0	0	0
Mexico	December 2010	1.7	0	0	0	0
Netherlands	December 2010	3.3	0	0	1	0
New Zealand	May 2009	0.2	0	0	0	0
Norway	March 2010	0.9	5	1	2	0
Poland	December 2010	1.0	0	0	0	0
Portugal	December 2010	0.4	5	0	1	0
Slovak Republic	December 2010	0.4	0	0	0	0
Slovenia	December 2010	0.2	0	0	0	0
South Africa	December 2010	0.5	0	0	0	0
Spain	December 2009	2.0	0	0	0	0
Sweden	December 2011	1.2	1	0	0	0
Switzerland ⁸	December 2010	1.6	3	0		
Turkey	February 2010	0.9	0	0	0	0
United Kingdom	December 2010	3.5	3	2	0	0
United States ⁹	December 2010	9.8	48, including 41 plea agreements	27 plea agreements (+ 32 DPAs/NPAs ¹⁰)	0	0
TOTAL	December 2010	63.94	164 convictions, including 57 plea agreements (+ 35 other agreed sanctions)	59 convictions, including 44 plea agreements (+ 32 DPAs/NPAs)	10	0
ADMINISTRATIVE AND CIVIL CASES ¹¹			Sanctioned		Found Not Liable	
			I	LP	I	LP
Germany	December 2010	8.2	4		0	0
Japan	December 2010	4.5	0	1	0	0
United States ¹²	December 2010	9.8	37 settlements ¹³	45, including 44 settlements ¹³	0	0
TOTAL	December 2010	22.5	41 (including 37 settlements)	46 (including 44 settlements)	0	0

1 Export data provided by OECD Economic Outlook No. 88 (December 2010), except for the export data of Argentina and Bulgaria, which are from the 2009 edition of the IMF World Economic Outlook. (More recent information for these countries was not available at the time of printing.)

2 Belgium reported that it had several convictions of individuals and legal persons for foreign bribery to report, but was not able to provide specific data at this stage, as data on domestic and foreign bribery cases have not, to date, been counted separately.

3 In these two cases, the individuals were acquitted of the offence of foreign bribery, but were sanctioned for other offences.

4 The 2009 enforcement data table included data on convictions and acquittals in Germany in the years 2008 and 2009 only, and not since the entry into force of the Convention in Germany. At the time of the publication of the 2010 enforcement data table, Germany was still in the process of collecting updated data in all German Länder. The data provided in this year's table was compiled in the context of Germany's Phase 3 evaluation (March 2011) and may not fully reflect all completed proceedings in 2010. In 2010, Germany imposed sanctions on 2 individuals and an agreed sanction on 1 individual.

5 Sanctions ordered following the application of paragraph 153a of the German Code of Criminal Procedure.

6 The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

7 The applicable procedure is called patteggiamento.

8 Switzerland reported it could not complete the last two 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. The number of sanctions relates to cantonal foreign bribery cases as far as reported by the competent cantonal authorities (and therefore known at the federal level).

9 This row records the number of criminal cases prosecuted by the US Department of Justice (DoJ) either for violations of the anti-bribery provisions of the FCPA, or for violations of both the anti-bribery provisions and the books and records and internal controls provisions of the FCPA. Therefore, criminal sanctions that have been imposed exclusively for violations of the books and records and internal controls provisions of the FCPA are not captured by the Table. The US reports that 14 entities and 2 individuals have been subject to criminal sanctions exclusively for books and records and internal controls violations under the FCPA since 1999.

10 "DPAs" and "NPAs" are "Deferred Prosecution Agreements" and "Non Prosecution Agreements" that have been entered into between the US DoJ and the persons sanctioned.

11 Only those countries that have reported additional sanctions ordered under administrative and/or civil procedures have been listed under the "Administrative and Civil Cases".

12 This row records the number of administrative and civil actions of the US Department of Justice and the US Securities and Exchange Commission (SEC) that have led to sanctions either for violations of the anti-bribery provisions of the FCPA, or for violations of both the anti-bribery provisions and the books and records and internal controls provisions of the FCPA. Therefore, civil sanctions that have been imposed exclusively for violations of the books and records and internal controls provisions of the FCPA are not captured by the Table.

13 A number of persons that have been sanctioned in civil proceedings have also been sanctioned in criminal proceedings.

Additional Global Enforcement Data

As explained above, the enforcement data table includes information on the number of sanctions that have been imposed on individuals and entities in criminal, administrative and civil proceedings for the offence of foreign bribery and for failures to prevent a proven case of bribing a foreign public official. Parties to the Anti-Bribery Convention are required to provide this data. However, some Parties to the Convention have also *voluntarily provided additional information* not included in the table, including: the number of ongoing investigations, ongoing criminal proceedings, and exclusions or limitations on access to public procurement contracts or benefits.

► **Ongoing Investigations on Foreign Bribery Cases**

There are approximately 260 ongoing investigations in 15 Parties to the Anti-Bribery Convention (more than 150 in one Party, between 15 and 35 in 3 Parties, between 5 and 10 in 2 Parties, and fewer than 5 in 9 Parties). No investigation is ongoing in 4 other Parties. The 19 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**

144 criminal proceedings (against 122 individuals and 22 entities) are ongoing in 5 Parties. 12 Parties have reported that no criminal proceedings are ongoing. The 21 remaining Parties have not provided information.

► **Prison Sentences for Foreign Bribery**

Out of the 199 individuals sanctioned for foreign bribery under criminal proceedings, at least 54 individuals have been sentenced to prison terms in 9 Parties.

MONITORING COMPLIANCE AND IMPLEMENTATION OF THE CONVENTION

The fight against corruption does not stop with country ratification of the Anti-Bribery Convention. Supporting countries after ratification strengthens their resolve to combat bribery in international business, which is essential to creating better conditions for international business.

This support is offered mainly through the Working Group on Bribery's monitoring of Parties' compliance with the Anti-Bribery Convention via a rigorous peer-review monitoring system. This process has so far followed a two-phase process. Phase 1 examinations have included an in-depth review of each country's national laws to implement the Convention, while Phase 2 reviews have looked at the effectiveness of Parties' legislative and institutional anti-bribery frameworks in practice.

The Phase 3 Evaluation Process

In 2010, the Working Group began a new, third cycle of peer review. The Phase 3 evaluation process is more streamlined and more focussed than Phase 2 and concentrates on the following three pillars: progress made by Parties on weaknesses identified in Phase 2; issues raised by changes in domestic legislative or institutional frameworks; and enforcement efforts and results, as well as other Group-wide, cross-cutting issues. It is expected that the Phase 3 round of evaluations will take four years, with all 38 Parties to the Convention evaluated by the end of 2014.

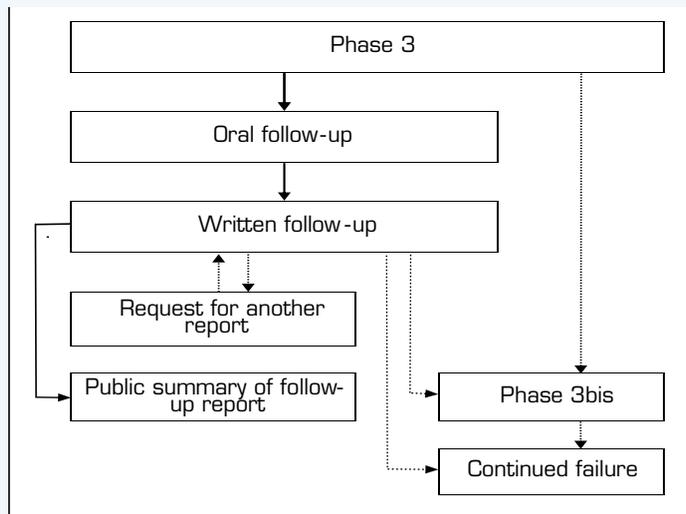
The aim of Phase 3 remains consistent with previous evaluation phases: to improve Parties' capacity to fight bribery in international business transactions by examining their undertakings in this field using a dynamic process of mutual evaluation and peer pressure.

Elements of a Phase 3 Evaluation

The new Phase 3 round of country monitoring evaluations will focus closely on enforcement of the Convention, the 2009 Anti-Bribery Recommendations, as well as outstanding recommendations made during previous rounds of monitoring. A typical Phase 3 evaluation will include:

- the appointment of two countries to act as lead examiners;
- an assessment of replies by the country being evaluated to an evaluation questionnaire and supplementary questions;
- a three-day, on-site visit to the country being evaluated;
- evaluation of the examiners' report by the Working Group on Bribery; and
- adoption by the Working Group of the evaluation report, including recommendations, on country performance, which then published in its entirety online.

Linkage Between Phase 3 Evaluations, Follow-up Reports, and Phase 3bis Evaluations



Key Monitoring Actions in 2010

In 2009, the Working Group on Bribery completed its Phase 2 round of evaluations and began its Phase 3 evaluations. It also followed up on unresolved issues from Phase 1 and Phase 2, which helped identify both country-specific and horizontal challenges to address in the Phase 3 process. Each of the countries that underwent a Phase 2 or Phase 3 evaluation will provide a written follow-up report in two years' time to report on steps taken to implement recommendations made by the Working Group in the evaluation reports.

► *Phase 3 evaluations*

► *Finland*

Finland's Phase 3 evaluation report was adopted by the Working Group in October 2010 and includes a number of recommendations to improve Finland's implementation and enforcement of the Anti-Bribery Convention. Most significantly, the Group recommended Finland do more to raise awareness of its foreign bribery offence both in the public sector and among Finnish companies involved in international business transactions. The WGB also recommended Finland establish corporate liability for accounting and auditing offences and amend the Criminal Code definition of foreign public official to include a person holding a legislative office in a foreign country. The Group said Finland should also introduce whistleblower protection measures for both private and public sector employees.

► *Iceland*

The Working Group adopted Iceland's Phase 3 evaluation report in December 2010. While acknowledging Iceland's recent economic and financial crisis, the Working Group said Iceland must do more to ensure its law enforcement authorities are coordinated and adequately resourced to investigate and prosecute economic and financial crime, including foreign bribery. Other recommendations in the report included strengthening Iceland's sanctions for the offence of foreign bribery, raising greater awareness of Iceland's foreign bribery offence, ensuring whistleblowers are protected when they report suspected acts of bribery, and doing more to prevent and detect foreign bribery in contracts funded by Icelandic official development assistance.

► **United States**

Also in October, the Working Group adopted the Phase 3 evaluation of the United States. The report recognised the significantly increased enforcement of the U.S. foreign bribery offence, the Foreign Corrupt Practices Act (FCPA). Since its last evaluation in 2002, 71 individuals and 88 enterprises were held accountable for transnational bribery, while one company faced penalties of USD 800 million. In its report, the Working Group also commended the United States for its engagement with the private sector, substantial enforcement—including enforcement of FCPA books and records provisions—and commitment from the highest levels of the U.S. Government.

Areas that the Working Group highlighted for further attention in the United States' implementation and enforcement of the Convention included continuing reviews of U.S. policies on and approach to facilitation payments; consolidation of publicly available information about FCPA cases in one place, which would be an excellent resource, especially for small- to medium-sized enterprises; increased publicly available information about the use of deferred prosecution and non-prosecution agreements (DPAs and NPAs); and ensuring that the period within which FCPA prosecutions must be initiated—currently five years—is sufficiently long, given the complexity of foreign bribery cases.

► **Phase 2 reports**

► **South Africa**

South Africa's Phase 2 evaluation report was the Working Group's last in this second-round cycle of peer reviews. The report, adopted in June 2010, urged South Africa to step up its efforts to detect, investigate and prosecute cases of bribery in international business deals. As of the time of South Africa's review, there were no prosecutions for foreign bribery—a matter the Working Group believes could be addressed if South Africa more proactively investigated and prosecuted this crime. To do this, the Working Group recommended South Africa train specialised investigators and prosecutors, ensure adequate training and resources and enhance coordination between the police and prosecutors. The Group also recommended South Africa strengthen safeguards to ensure that prosecutorial decisions in foreign bribery cases are not affected by national economic, political or other interests. On a more positive note, the Working Group commended South Africa's legislative framework for combating bribery and related offences under the Prevention and Combating of Corrupt Activities Act.

► **Other Country Updates**

When countries have not taken adequate steps to address outstanding issues after an evaluation, the Working Group can take further action. For example, the Working Group may:

- require the country to make regular progress reports detailing its efforts to rectify a specific problem;
- issue a formal public statement declaring that the country is not in compliance with the Anti-Bribery Convention and request immediate action to correct the situation;
- issue letters from the Chair of the Working Group to the ministers of the review country and request immediate corrective action; and/or
- send a high-level mission to the country in question—including the Chair of the Working Group, representative[s] of the OECD Secretariat, and several heads of delegations—to meet with the ministers and senior officials from the review country.

A number of follow-up activities took place during 2010:

► **United Kingdom**

In 2010, the United Kingdom continued to provide written reports on legislative progress relevant to foreign bribery. It reported in March Parliament's deliberations of the Bribery Bill. In June, it reported that Parliament had passed the Bribery Act in April. In October, the Director of the Serious Fraud Office presented to the Working Group the U.K.'s recent foreign bribery enforcement efforts.

In December, the Working Group conducted a Phase 1ter evaluation of the new Bribery Act and an assessment of the U.K.'s written follow-up report on the implementation of all Phase 2bis recommendations. The Working Group found that the Bribery Act would implement several of the Phase 2bis recommendations and is a major improvement on the prior patchwork of U.K. bribery laws. Unfortunately, the Act was not yet in force. The Group therefore urged that the U.K. honour its stated commitment of bringing the Act into force by April 2011.

► **Czech Republic**

The Czech Republic continued to provide progress reports on the absence of corporate liability for foreign bribery. In March, the Czech Republic reported the government was on track to submit a bill to Parliament by 31 May. In June, it stated the Government needed until September to decide whether to create corporate liability for all or only some intentional crimes. In October, the Czech Republic reported further delays, with the Government expected to submit a draft law for ministerial consultation by 31 December. In December, the Czech Ambassador to the OECD reassured the Working Group that the Czech Government was politically committed to enacting corporate liability for foreign bribery. A draft law would likely be submitted to Parliament at the beginning of January 2011. The Working Group requested that the Czech Republic continue to provide progress reports in 2011.

► **Slovak Republic**

In January, the Working Group issued a public statement about the absence of corporate liability for foreign bribery in the Slovak Republic. The statement warned that further uncertainty about Slovak bribery law may trigger a need for increased due diligence over Slovak companies by their commercial partners or multilateral development banks. In June, the Slovak Republic reported to the Working Group that it had amended its Criminal Code in April to introduce corporate liability for foreign bribery. The new provisions entered into force on 1 September.

► **Turkey**

In March, the Working Group found Turkey had made significant progress in its efforts to combat foreign bribery and had implemented all of the Working Group's recommendations from its Phase 2 and Phase 2bis evaluations except for one on broadening the scope of company audits, which was partially implemented as a draft provision for this purpose was before Parliament and was expected to be adopted in late 2010 or early 2011.

In its review of Turkey's efforts to implement the Group's recommendations, the Working Group identified several important improvements in Turkey's legislative and institutional framework for combating foreign bribery, including: significant awareness-raising and training, including with the private sector; important legislative reforms, including the introduction of whistleblower protections for private- and public-sector employees; the express denial of tax deductions for bribe payments; the repeal

of a defence for bribers who report their crime to law enforcement authorities; and, most importantly, the re-establishment of corporate liability for foreign bribery. Moreover, the Group noted the increased law enforcement activity in Turkey, where there are three ongoing investigations.

► ***Ireland***

In March, the Working Group adopted its conclusions on Ireland's implementation of its Phase 2 and 2bis recommendations, formulated in 2007 and 2008 respectively. The Group found that 21 recommendations out of 29 had not been implemented, with six recommendations fully implemented and two partially. The Working Group expressed particular concern that the Prevention of Corruption Amendment Bill, which addressed important deficiencies in Ireland's foreign bribery legislation, had still not been adopted by Parliament and asked Ireland to make regular progress reports to the Working Group. In December 2010, Ireland was able to report that the Prevention of Corruption Amendment Act 2010 had been passed into law. The Working Group remains seriously concerned as regards the lack of effective corporate liability for foreign bribery in Ireland.

► ***Spain***

In June 2010, Spain reported a Bill reforming the Spanish Criminal Code was approved by Senate, introducing reforms to the foreign bribery offence and amending provisions for corporate liability. The news came six months after the Working Group's Chair sent a letter to the Minister of Justice expressing concern over the continued delay in updating Spain's anti-corruption legislation. Since 2005, the Working Group has called on Spain to amend its legislation on foreign bribery. The current legislation was unclear, lent itself to various interpretations, and was therefore difficult to implement. It also failed to ensure companies that bribe in international business transactions are effectively prosecuted and convicted. The Working Group will review Spain's amended Criminal Code as part of its Phase 3 evaluation in 2012.

**OECD Working Group on Bribery:
Phase 1, 2 & 3 Reviews and Related regular Follow-up Reports
in 2010**

Phase 3 evaluations	<ul style="list-style-type: none">• Finland (October)• Iceland (December)• United States (October)
Phase 2 evaluations	<ul style="list-style-type: none">• South Africa (June)
Phase 1bis evaluations	<ul style="list-style-type: none">• Austria (October)
Phase 1ter evaluations	<ul style="list-style-type: none">• United Kingdom (December)
Phase 2 written follow-up reports	<ul style="list-style-type: none">• Argentina (June)• Brazil (March)• Estonia (June)• Turkey (March)• United Kingdom (December)
Oral follow-up reports	<ul style="list-style-type: none">• Chile (October)• Ireland (December)• Israel (December)• Poland (June)• Portugal (June)• Slovenia (June)

Working Group on Bribery Phase 3 Evaluation Schedule	
Country Evaluated	Phase 3 Review by the Working Group
Finland	October 2010
United States	October 2010
Iceland	December 2010
Germany	March 2011
Bulgaria	March 2011
Canada	March 2011
Norway	June 2011
Luxembourg	June 2011
Mexico	October 2011
Korea	October 2011
Switzerland	December 2011
Italy	December 2011
Japan	December 2011
United Kingdom	March 2012
Hungary	March 2012
Greece	June 2012
Sweden	June 2012
Slovak Republic	June 2012
France	October 2012
Australia	October 2012
Austria	December 2012
Spain	December 2012
Netherlands	December 2012
Czech Republic	March 2013

Denmark	March 2013
New Zealand	June 2013
Poland	June 2013
Portugal	June 2013
Belgium	October 2013
Ireland	October 2013
Slovenia	December 2013
South Africa	December 2013
Chile	March 2014
Turkey	March 2014
Brazil	June 2014
Estonia	June 2014
Argentina	October 2014
Israel	October 2014

OECD ENLARGEMENT AND ENHANCED ENGAGEMENT IN THE FIGHT AGAINST FOREIGN BRIBERY

Accession Candidate Countries

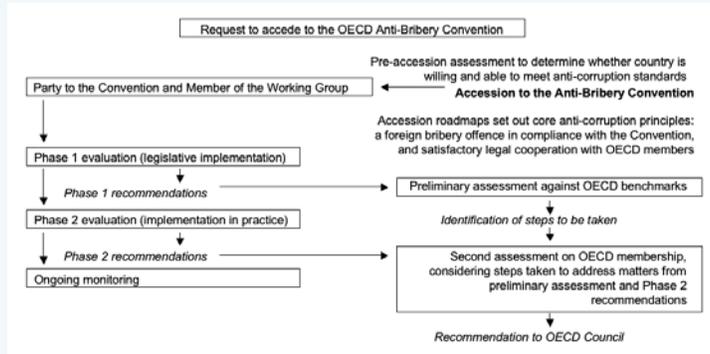
In May 2007, OECD countries agreed to invite Chile, Estonia, Israel, Russia and Slovenia to open discussions for membership of the Organisation. As part of their so-called 'road maps' to OECD Membership, each of these countries has had to work closely with the Working Group on Bribery to meet specific anti-corruption standards, including: compliance with the Anti-Bribery Convention; legal framework for combating bribery; adequate accounting, auditing and tax systems to fight bribery; and ability to cooperate with Parties to the Convention. In 2010, after being recommended by the Working Group on Bribery to the OECD Council for their efforts to combat foreign bribery as full Working Group members, Chile (May), Estonia (December), Israel (September) and Slovenia (July) became OECD Member countries.

► **Russia**

Russia, which officially requested to join the Anti-Bribery Convention in February 2009, is working with the Working Group to strengthen its legal anti-bribery framework as part of its process of OECD accession. Accession to the Anti-Bribery Convention is a pre-condition for joining the OECD. To facilitate Russia's OECD membership and accession to the Anti-Bribery Convention, the Working Group invited Russia to attend its meetings and to participate in as many of its activities as possible, including the 2010 meetings for law enforcement officials and consultations with the private sector and civil society. The Working Group also continued to work with Russian officials throughout the year on improving and strengthening Russia's legal framework against the bribery of foreign public officials in international business transactions, including holding a technical seminar on the Convention with Russian Government officials in Moscow in May 2010.

The Working Group on Bribery's Role in OECD Enlargement

The Working Group on Bribery plays a key role in the accession process for OECD membership. The Group is charged with advising the OECD Council as to candidate countries' willingness and ability to adhere to the Organisation's anti-corruption standards. This work is carried out by the OECD Members of the Working Group in parallel with the ongoing monitoring mechanism for all Parties to the Anti-Bribery Convention.



Engagement with Other Emerging Economies

The Working Group is actively working with major emerging economies not Party to the Anti-Bribery Convention, including China, India and Indonesia, as well as countries from Southeast Asia, which, as a region, is increasingly playing a role in global markets. In particular, the Working Group is engaging with Malaysia and Thailand. To China, India and Indonesia, in particular, the Organisation has proposed an Enhanced Engagement process¹, which aims to forge a more structured and coherent partnership with these governments, with a view to possible Membership of the Organisation, should these countries decide to explore that possibility.

Existing engagement with China, India, and Indonesia was further strengthened in November 2010 with the adoption by G20 leaders of the G20 Anti-Corruption Action Plan that calls on G20 countries:

1. The OECD has also proposed Enhanced Engagement to Brazil and South Africa, which are already Members of the Working Group on Bribery.

...To adopt and enforce laws and other measures against international bribery, such as the criminalization of bribery of foreign public officials, and begin by 2012 the necessary discussions to lead to, on a voluntary basis, more active engagement within the OECD Working Group on Bribery with regards to the standards of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions or to the ratification of the Convention.

The OECD is working closely with French and Indonesian co-chairs of the G20 Anti-Corruption Working Group, which is charged with overseeing the implementation of the G20 Anti-Corruption Action Plan by continuing to engage with G20 members not Party to the Convention.

China, India, Indonesia, Malaysia and Thailand are also active members of the Asian Development Bank / OECD Anti-Corruption Initiative for Asia and the Pacific. (More on the ADB/OECD Anti-Corruption Initiative is available starting page 30.)

► **China**

China has participated in the activities of the Working Group on Bribery since 2007. Represented by the Ministry of Supervision's Foreign Affairs Department, which plays a key role in China on matters concerning bribery and corruption, China attends Working Group meetings as an *ad hoc* observer.

The year 2010 was an important one for closer engagement between China and the Working Group. From 20-21 October 2011, the Chinese government and the OECD Secretariat jointly organised a technical seminar in Beijing on combating the bribery of foreign public officials. The seminar involved Working Group experts from Brazil, Finland, Japan and the UK, as well as Chinese government officials from the Foreign Affairs, Laws and Regulations, and Corruption Prevention Departments of the Ministry of Supervision (MoS); the Commission of Legislative Affairs from the Standing Committee of China's National People Congress; and the Ministry of Finance. Representatives of the Working Group shared their experiences of establishing a foreign bribery offence pursuant to the Anti-Bribery Convention and participating in the Working Group on Bribery's peer-review process. The Chinese authorities discussed China's laws on business bribery, regulations on intermediary organisations, and building internal control systems for Chinese enterprises.

At the seminar, the Chinese government also noted it had drafted legislation introducing an offence of bribery of foreign public officials in

international business transactions, which would be reviewed in early 2011. Once adopted, the Ministry of Supervision's Foreign Affairs Department said it would welcome further technical seminars with the Working Group.



Participants of the Technical Seminar on Bribery of Foreign Public Officials, held in Beijing, 20-21 October 2010.

► **India**

India has attended every Working Group on Bribery meeting since December 2009 as an *ad hoc* observer, represented by the Central Bureau of Investigation (CBI), the Central Vigilance Commission (CVC) and the Ministry of Personnel, Department of Personnel and Training. At each meeting, India presented on its anti-corruption efforts. It also made presentations on these efforts at the Working Group's March consultation with the private sector and civil society and participated in the December meetings of law enforcement officials. (More information on the Working Group's regular consultations with the private sector and civil society and meetings with law enforcement officials is available on pages 35 and 37, respectively.)

In June, representatives of the OECD Secretariat undertook a second mission to India. The main purpose of the mission to New Delhi was to further strengthen cooperation between the OECD and India and to raise awareness of the OECD Anti-Bribery Convention and to learn more about what India was doing to fight bribery and corruption. Meetings were held with various government bodies involved in anti-corruption, as well as the Federation of Indian Chambers of Commerce and Industry (FICCI) and

discussed possible means of future cooperation in raising awareness of the OECD Anti-Bribery Convention within the Indian private sector.

In late 2010, India provided two important updates to the Working Group: First, India stated it is preparing to draft an offence of bribery of foreign public officials in international business transactions. India also agreed to host the ADB/OECD Anti-Corruption Initiative's next annual meeting in autumn 2011.

► **Indonesia**

The Working Group also continued to engage closely with Indonesia, which began attending Working Group meetings in October 2009. In 2010, Indonesia—represented by the Indonesian Corruption Eradication Commission (KPK)—made presentations on its anti-corruption efforts at all Working Group meetings and at the Working Group's March consultation with the private sector and civil society. Indonesia also participated in the June and December meetings of law enforcement officials.

In June, representatives of the OECD Secretariat conducted their first mission to Indonesia and met with officials from the KPK and the Ministries of Trade and Foreign Affairs to raise awareness of the OECD Anti-Bribery Convention and to learn more about what Indonesia was doing to fight bribery and Corruption. During this visit, the OECD learned that Indonesia has begun preliminary negotiations on amendments to the Law on corruption Eradication that would introduce an express offence for the bribery of foreign public officials in international business transactions.

The Working Group also continues to support Indonesia in its role as co-chair, with France, of the G20 Anti-Corruption Working Group.

► **Malaysia**

Another important milestone for 2010 was the start of closer cooperation with Malaysia, which is one of the only countries in the Asia-Pacific region that has an offence of bribing a foreign public official in international business transactions. In December, Malaysia attended the Working Group plenary and participated in the Group's meeting of law enforcement officials.

In February, representatives of the OECD Secretariat undertook their first mission to Malaysia, where they met with the Malaysian Anti-Corruption Commission (MACC), including the Chief Commissioner, and the Malaysia Anti-Corruption Academy (MACA), which serves as a national, regional and international anti-corruption training facility. Following the Secretariat's mission to Malaysia, the MACC Chief Commissioner and the Head of the OECD Anti-Corruption Division, co-authored an article on the importance of fighting foreign bribery, which was published in the national English-language paper, *The Star*².

In September, the MACC hosted the annual meeting of the ADB/OECD Anti-Corruption Initiative. (More information on this meeting is available in the report on the ADB/OECD Anti-Corruption Initiative on page 30.) In December, Malaysia provided an update on this and other anti-bribery efforts at the Working Group on Bribery plenary.

► **Thailand**

Thailand—represented by the National Anti-Corruption Commission (NACC)—continued to participate in the activities of the Working Group, attending all but one meeting of the Working Group in 2010. In March, Thailand also presented at the Working Group's consultation with the private sector and civil society.

In February, the OECD Secretariat followed up on its September 2009 mission to Thailand with a second visit. Meetings were held with the NACC, as well as with officials from the Thai Ministry of Justice, Ministry of Foreign Affairs and Ministry of Finance. The Thai officials were very interested in the OECD Anti-Bribery Convention and the work of the Working Group. Officials also explained to the OECD Secretariat that Thailand is working on legislation that would establish foreign bribery as a crime.

Thailand further demonstrated its commitment to tackling international corruption issues by hosting the 14th International Anti-Corruption Conference (IACC). OECD Deputy Secretary-General Richard Boucher participated in a plenary discussion on “strengthening global action for an accountable corporate world”, highlighting OECD instruments to combat bribery and corruption. The OECD Secretariat also organized a workshop entitled, ‘Integrated Solutions for Fighting Transnational

2. The full text of this article, entitled ‘Bribery in business deals a serious crime’, is available online at: <http://thestar.com.my/news/story.asp?file=/2010/4/3/focus/5986682&sec=focus>

Bribery in Asia,' which included NACC Commissioner Professor Pakdee Pothisiri as a panellist.

Following the IACC, the NACC invited the Head of the OECD Anti-Corruption Division to provide a presentation on the Anti-Bribery Convention to 30 NACC officials and academics from law and economy faculties at leading universities in Thailand. NACC explained this presentation would be part of a larger effort to undertake a study on whether Thailand should request to accede to the OECD Anti-Bribery Convention.

GLOBAL RELATIONS ACTIVITIES

Foreign bribery is an international problem that needs international cooperation. That is why the Working Group supports a number of anti-corruption initiatives to strengthen regional capacity to fight corruption in Africa, the Asia-Pacific, Eastern Europe and Central Asia and Latin America.

The Anti-Corruption Network for Eastern Europe and Central Asia

The Anti-Corruption Network for Eastern Europe and Central (ACN) covers more than 20 countries in Eastern Europe and Central Asia. This network reviews its members' anti-corruption initiatives, carries out thematic and country projects on priority issues and conducts conferences and activities that bring together governments, civil society and business representatives.

► ***Istanbul Action Plan***

The ACN is home to the Istanbul Action Plan (IAP), a project launched in 2003 to support anti-corruption reform efforts in Armenia, Azerbaijan, Georgia, Kazakhstan, the Kyrgyz Republic, the Russian Federation, Tajikistan, Ukraine and, as of March 2010, Uzbekistan.

In 2010, the IAP continued its second round of anti-corruption monitoring, which draws on the Working Group on Bribery's peer-review monitoring system. This second round involves a comprehensive assessment of countries' anti-corruption policies and institutions, as well as their criminalisation of corruption and law-enforcement capacity. The first two countries monitored in this round were Georgia and Azerbaijan, whose monitoring evaluation reports were adopted during the 8th Monitoring Meeting of the IAP in March. At this meeting, Uzbekistan also joined the IAP. Evaluations of Tajikistan and Ukraine followed, with reports adopted at the 9th Monitoring Meeting of the IAP in December, when the IAP also reviewed for the first time Uzbekistan's legislation and anti-corruption institutions.

► ***Azerbaijan***

The IAP report on Azerbaijan notes the country has continued to make progress in fighting corruption but needs to build its capacity to investigate and prosecute corruption and regulate conflicts of interest.

To strengthen its efforts against corruption, the report recommends Azerbaijan: strengthen the capacity of its Anti-Corruption Department; reinforce laws holding companies liable for corrupt behaviour; ensure greater involvement of civil society in national anti-corruption efforts; track trends in corruption in Azerbaijan more closely; implement a more transparent public procurement system; and better monitor political party financing.

► **Georgia**

The IAP report on Georgia notes that Georgia has significantly reduced its levels of corruption over the past four years, but calls on Georgia to ensure its reforms are sustainable. The report also recommends Georgia: continue to strengthen its Anti-Corruption Interagency Council; improve judicial integrity; continue with public administration reform efforts; educate public officials on governmental anti-corruption efforts; ensure corruption is actively investigated and prosecuted; and to involve civil society more in the implementation and monitoring of anti-corruption policies.

► **Tajikistan**

The IAP report on Tajikistan commends the Tajik Convention for taking steps in strengthening its anti-corruption framework, including ratifying the UN Convention against Corruption (UNCAC), adopting a national anti-corruption strategy, and establishing a new anti-corruption agency. But, the report also urges Tajikistan to make practical use of these new developments and to address remaining gaps in its criminal legislation. The report also recommends that Tajikistan involve civil society more in its anti-corruption efforts and to more actively combat corruption in the public sector.

► **Ukraine**

The IAP report on Ukraine criticises the Ukrainian government for failing to adopt fundamental anti-corruption legislation and to strengthen anti-corruption bodies. The report blames this failure on a lack of political will to fight corruption in Ukraine, despite leaders' statements to the contrary. To strengthen Ukraine's capacity to fight corruption, the report recommends the government: adopt legislation that brings Ukraine in compliance with international anti-corruption standards; strengthen public institutions responsible for the prevention, investigation and prosecution of corrupt behaviour; engage the public and private sectors in combating corruption in the public sector; and better monitor political party financing.



On-site visit to Ukraine, July 2010

► **Uzbekistan**

The report on IAP's newest member, Uzbekistan, commended the government for ratifying the UNCAC and developing in 2010 a draft national Action Plan for Fighting Corruption. However, it urged the effective application of polices and laws to implement these new instruments. The report also recommends Uzbekistan: adopt the draft National Action Plan for Fighting Corruption; establish a specialised anti-corruption body to implement that action plan; conduct anti-corruption trainings; strengthen criminal laws against corrupt behaviour; ensure the effective investigation and prosecution of corruption cases; and establish rules for preventing corruption in the public sector and the judiciary.

► **Study on Asset Declarations for Public Officials Published**

In December, ACN, together with the OECD Public Governance Directorate, as well as OECD-EU SIGMA programme—which supports the three European Union (EU) candidate countries, five EU potential candidate countries and 16 EU neighbours in their public administration reforms—published a study entitled, *Asset Declarations for Public Officials: A Tool to Prevent Corruption*, in cooperation with the World Bank. The study includes a comparative analysis of asset declaration systems in ACN countries, as well as several OECD countries, and provides policy recommendations for ensuring the effectiveness of such systems for preventing corruption.

The ADB/OECD Anti-Corruption Initiative for Asia and the Pacific

The ADB/OECD Initiative supports 28 Asian and Pacific economies in their anti-corruption efforts. It aims to increase members' capacities to implement international anti-corruption standards set out in the OECD anti-bribery instruments, the UNCAC and the Initiative's own Anti-Corruption Action Plan for Asia-Pacific.

► ***Thematic Review on the Criminalisation of Bribery and Initiative Strategic Principles Adopted***

In October 2010, the Steering Group of the ADB/OECD Initiative adopted the *Thematic Review on the Criminalisation of Bribery*. The review analyses the implementation by all 28 ADB/OECD Initiative members of the main international standards on fighting the bribery of domestic and foreign public officials. The Review also identifies trends and challenges that cut across the Asia-Pacific region.

The Review was adopted as part of the Initiative's 15th Steering Group meeting, which took place 23-24 September 2010 and was hosted by the Malaysian Anti-Corruption Commission (MACC). During the meeting, the Initiative discussed proposals for implementing the recommendations of the 2009 Independent Review of the Initiative. This resulted in the adoption of the Strategic Principles and Future Activities of the ADB/OECD Anti-Corruption Initiative, which will now guide the Initiative as it moves forward into its second decade.

► ***10th Regional Seminar on the Criminalisation of Bribery Held in Malaysia***

Following the ADB/OECD Initiative Steering Group meeting, the Initiative organised its 10th Regional Seminar, which took place 24-25 September 2010 and was also hosted by the MACC. The theme of the seminar was the criminalisation of bribery and discussions drew from the Thematic Review. Speakers included the Hon. Tan Sri Dato' Haji Muhyiddin bin Mohammed, Deputy Prime Minister of Malaysia; OECD Deputy Secretary-General Mario Amano; and Asian Development Bank Director General Kunio Senga.



Participants in the 10th Regional Seminar on the Criminalisation of Bribery, September 2010, Malaysia

Joint OECD/AfDB Initiative to Support Business Integrity and Anti-Bribery Efforts in Africa

In December 2008, the OECD and the African Development Bank (AfDB) launched a partnership to support African governments in their efforts to fight bribery and corruption. Working with African policymakers, businesses, regional and international organisations, the Joint OECD/AfDB Initiative also aims to boost private-sector competitiveness by promoting standards of corporate integrity and accountability. These policies and standards are grounded in the anti-bribery and anti-corruption provisions of the African Union Convention on Preventing and Combating Corruption, the UNCAC, and the OECD Convention on Combating Bribery of Foreign Public Officials.

► **First Regional Anti-Corruption Experts' Meeting held in January 2011**

The First Regional Experts' Meeting of the Joint OECD/AfDB Initiative to Support Business Integrity and Anti-Bribery Efforts in Africa took place on in January 2011 in Lilongwe, Malawi, officially launching the Joint Initiative.

The meeting was attended by over 70 representatives from government authorities responsible with anti-corruption matters, civil society organisations, and business and industry associations from across the Sub-Saharan African region. The main outcomes of the meeting included the discussion and updating of the *Stocktaking Report on Business Integrity and Anti-Bribery Legislation, Policies and Practices in Twenty African Countries*, which will be published in 2011 and the adoption of the Recommendations issued in the Stocktaking Report.

At the meeting, participants also adopted the Anti-Bribery and Business Integrity Course of Action for Africa. The Course of Action sets out a number of specific and concrete steps that the countries in the region will endeavour to undertake in their anti-bribery and business integrity efforts, and will importantly serve as the main basis for future work of the Joint Initiative.



Participants in the First Regional Experts' Meeting of the Joint OECD/AfDB Initiative to Support Business Integrity and Anti-Bribery Efforts in Africa, Malawi, January 2011

OECD-Latin America Anti-Corruption Programme

The goal of the OECD-Latin America Anti-Corruption Programme is to strengthen the implementation and enforcement of international and regional anti-corruption conventions in Latin America. Since 2007, this effort has been underpinned by a Memorandum of Understanding between the OECD and the Organisation of American States (OAS), home

of the Inter-American Convention against Corruption. The Programme benefits from the leadership of Latin American countries that are Parties to the Anti-Bribery Convention. Argentina, Brazil, Chile and Mexico drive the OECD Latin-America Anti-Corruption Programme agenda and act as a bridge between the Working Group on Bribery and other countries in the region.

► ***Latin America Conference: Corporate Responsibility for Promoting Integrity and Fighting Corruption***

Brazil and the OECD co-hosted the *Latin America Conference on Corporate Responsibility for Promoting Integrity and Fighting Corruption* in São Paulo in July 2010. Speakers included Head of the Office of the Comptroller General of Brazil, Jorge Hage Sobrinho, OECD Deputy Secretary-General Richard Boucher, Colombian Vice President Francisco Santos Calderón, and Mexican Secretary of Public Administration, Salvador Vega-Casillas.

There were 500 conference participants from Latin America and the Caribbean and beyond, representing the public and private sectors, civil society and academia. Participants discussed national approaches to corporate liability for corruption and the role of corporations in combating this crime. International organisations and nongovernmental organisations with an anti-corruption mandate represented at the conference included the Organisation of American States, Inter-American Development Bank, UN Office on Drugs and Crime, UN Global Compact, Transparency International and the World Economic Forum Partnering against Corruption Initiative. Senior representatives from the private sector included AREVA, Banco Itaú-Unibanco, Banco Santander, Citibank, General Electric, Hewlett-Packard, Johnson & Johnson, Mitsubishi, Monsanto, Nokia, Petrobrás, Philips, Siemens, TAM and Walmart, as well as SME organisations. The main accounting firms were also represented, including Deloitte, Ernst & Young, KPMG and PriceWaterhouseCoopers.

► ***Pilot Anti-Corruption Training for the Legal Profession in Latin America***

Under the IBA/OECD/UNODC Anti-Corruption Strategy for the Legal Profession (www.anticorruptionstrategy.org), the IBA and OECD held a pilot series of trainings for senior-level private practitioners in Latin America on the risks that corruption poses to the legal profession. The pilot phase involved seminars in Argentina and Chile in early September,

in Mexico in October and in Colombia and Peru in November. The OECD Secretariat was represented at each of these seminars, and presented on the international framework for combating corruption and in particular the OECD Anti-Bribery Convention and related instruments. In some countries, the Secretariat and IBA also made presentations to law and business schools on the international anti-corruption framework.

Other International Anti-Corruption Outreach Activities

► *Reporting and International Cooperation Directory for Haiti*

In June, the Working Group on Bribery adopted a proposal to assist Haitian authorities bring credible allegations of bribery of Haitian officials for reconstruction contracts to the attention of relevant Parties to the Anti-Bribery Convention. The Directory contains contact details for reporting allegations of bribery, as well as the central authorities for international legal cooperation, in each of the Parties to the Anti-Bribery Convention and in the integrity areas of multilateral development banks. The Directory has been kept deliberately generic, in the event that it could be used in future situations, such as post-disaster reconstruction. It will be presented to the Haitian authorities in mid-2011.

Participants in Regional Anti-Corruption Initiatives

<p>Anti-Corruption Network for Eastern Europe and Central Asia (www.oecd.org/corruption/acn)</p>	<p>ADB/OECD Anti-Corruption Initiative for Asia-Pacific (www.oecd.org/corruption/asiapacific)</p>
<ul style="list-style-type: none"> • Albania • Armenia • Azerbaijan • Belarus • Bosnia and Herzegovina • Croatia • Georgia • Kazakhstan • Kyrgyz Republic • Latvia • Lithuania • Former Yugoslav Republic of Macedonia • Moldova • Montenegro • Romania • the Russian Federation • Serbia • Tajikistan • Ukraine • Uzbekistan 	<ul style="list-style-type: none"> • Australia • Bangladesh • Bhutan • Cambodia • People's Republic of China • Cook Islands • Fiji Islands • Hong Kong, China • India • Indonesia • Japan • Republic of Kazakhstan • Republic of Korea • Kyrgyz Republic • Macao, China • Malaysia • Mongolia • Nepal • Pakistan • Republic of Palau • Papua New Guinea • the Philippines • Samoa • Singapore • Sri Lanka • Thailand • Vanuatu • Vietnam

OECD/AfDB Initiative to Support Business Integrity and Anti-bribery Efforts in Africa ³ (www.oecd.org/corruption/africa)	OECD-Latin America Anti-Corruption Programme (www.oecd.org/corruption/latinamerica)
<ul style="list-style-type: none"> • Benin • Burkina Faso • Cameroon • Ethiopia • Ghana • Kenya • Madagascar • Malawi • Mali • Mauritania • Mozambique • Niger • Nigeria • Rwanda • Senegal • Sierra Leone • South Africa • Tanzania • Uganda • Zambia 	<ul style="list-style-type: none"> • Argentina • Antigua & Barbuda • Bahamas • Belize • Bolivia • Brazil • Canada • Chile • Colombia • Costa Rica • Dominica • Dominican Republic • Ecuador • El Salvador • Grenada • Guatemala • Guyana • Haiti • Honduras • Jamaica • Mexico • Nicaragua • Panama • Paraguay • Peru • St. Kitts & Nevis • St. Lucia • St. Vincent & Grenadines • Suriname • Trinidad and Tobago • United States • Uruguay • Venezuela

3. Initial membership, which reflects the 20 countries studied in the *Stocktaking Report of Business Integrity and Anti-Bribery Legislation, Policies and Practices in Twenty African Countries*.

WORK WITH ANTI-CORRUPTION PARTNER ORGANISATIONS

The Anti-Bribery Convention is the only international instrument focusing on the supply side of the bribery of foreign public officials. The OECD is the logical venue for such a focus, given that its members comprise most of the world's largest economies. However, to effectively reduce foreign bribery, the demand for bribes must also be addressed. Certain other multilateral instruments support the implementation of the Anti-Bribery Convention by including bribe-taking in their scope. The OECD collaborates regularly with these multilateral organisations that are involved in fighting the demand side of foreign bribery.

United Nations Convention against Corruption

The UNCAC has provided significant momentum to the global anti-corruption movement. It is open for signature to all States, covers a wide range of corrupt conduct, including the bribery of foreign public officials, and addresses important issues in addition to the criminalisation of bribery, such as prevention and asset recovery. In 2010, representatives from the UN Office on Drugs and Crime (UNODC), which serves as the secretariat for the Conference of State Parties (CoSP) to the UNCAC, participated regularly in meetings of the Working Group.

World Bank

The Working Group also strengthened ties with its anti-corruption counterparts at the World Bank, in particular the UNODC/World Bank Stolen Asset Recovery (StAR) initiative. StAR focuses on uncovering assets stolen from developing countries, approaching the issue from the perspective of how the assets are hidden. Actions include providing legal and technical assistance to help developing countries recover stolen assets and offering countries alternative methods for monitoring recovered assets.

Within the StAR framework, the OECD worked with StAR through 2010 to develop a typology report on the identification and quantification of the proceeds of bribery. As part of this initiative, StAR and the Working Group held a day-long joint technical seminar on this subject as part of the Working Group plenary in October. The results of the typology will be released in mid-2011.

Finally, in December, OECD Deputy Secretary-General Richard Boucher and a representative from the Anti-Corruption Division participated in the World Bank's December meeting in Washington of the International Anti-Corruption Hunters Alliance, organised by the office of the World Bank's Integrity Vice Presidency. The objective of the event was to reinforce the World Bank networks of anti-corruption enforcement officials, targeting those tasked with investigating and prosecuting cases of bribery, in order to strengthen inter-regional cooperation and anti-corruption enforcement.

Engagement with the Private Sector and Civil Society

Under the 2009 Anti-Bribery Recommendation and its Annex II, the Good Practice Guidance, the Working Group has a mandate to engage more closely with the private sector in the fight against foreign bribery. To this end, the private sector and civil society have continued to play an integral role in the Working Group's activities. In 2010, this role included providing input to the first Phase 3 evaluation on-site visits. These informal exchanges with key representatives of the private sector and civil society contributed to determining the impact national anti-bribery laws and enforcement actions have on behaviour.

The Working Group also continued to hold regular consultations with the private sector and civil society, one in March and another in December. In March, the Working Group consultation focused on the 2009 Anti-Bribery Recommendation, the new Good Practice Guidance, the Phase 3 round of evaluations, and the Initiative to Raise Global Awareness of Foreign Bribery. The consultation also included presentations by India, Indonesia, and Russia on their efforts to fight foreign bribery in major emerging economies. Participants from the civil society included representatives from the Global Organisation of Parliamentarians against Corruption (GOPAC) and Transparency International, as well as representatives from business organisations such as the Business and Industry Advisory Committee (BIAC), the International Chamber of Commerce (ICC), the International Corporate Governance Network (ICGN), the World Economic Forum's Partnering against Corruption Initiative (PACI), and the Trade Union Advisory Committee (TUAC). A number of companies were also represented, among them: Alstom, BDO, EADS, GE, KPMG, Novartis, the Royal Bank of Canada, and Thales.

In December, the WGB hosted its largest external consultation to date, with 80 registered representatives from NGOs, businesses, business organisations, and law firms. The consultation focused on how small- to medium-sized enterprises can apply anti-bribery compliance measures,

such as those outlined in the Good Practice Guidance. Civil society and business organisations represented at the consultation include BIAC, ICC, the United Kingdom's Federation of Small Businesses, International Federation of Consulting Engineers (FIDIC), the Mouvement des Entreprises Françaises (MEDEF), the SCCE, the Swiss Institute for Entrepreneurship, Transparency International, and TUAC. Companies represented at the consultation also include Airbus, Alcatel-Lucent, Areva, BNP Paribas, Bouygues Construction, DHL, Johnson & Johnson, Statoil, Tognum AG, and Total.

ENSURING THE CONTINUED EFFECTIVENESS OF THE CONVENTION

Meeting of Law Enforcement Officials

The 2009 Anti-Bribery Recommendation instructed the Working Group to include voluntary meetings of law enforcement officials in its programme of systematic follow-up, to discuss best practices and horizontal issues relating to investigation and prosecution.

In 2010, the Working Group hosted two such meetings. Twenty-nine officials from 20 countries participated in the June meeting, which focused on complex issues related to mutual legal assistance (MLA), such as the effectiveness of developing a common strategy for the investigation and prosecution of foreign bribery cases and the effect that settlements can have on the investigation and/or prosecution of related cases in other countries.

The second meeting of law enforcement officials was held in December and focused on challenges associated with the effective enforcement of corporate criminal liability for foreign bribery. Thirty-seven participants hailed from 24 countries, including from five observer countries: India, Indonesia, Latvia, Malaysia and Romania.

Initiative to Raise Global Awareness of Foreign Bribery

The Working Group on Bribery launched its Initiative to Raise Global Awareness of Foreign Bribery on 9 December 2009, International Anti-Corruption Day, and endorsed a three-year strategy for implementing the Initiative in March 2010 (Appendix 4). The main activities over the duration of the three-year Initiative are organised in three categories: media and public affairs activities, educational activities and a Foreign Bribery Impact Study.

► **Media and public affairs activities**

For the Initiative's launch in December 2009, the OECD created a website for the Initiative (www.oecd.org/corruption/initiative) and, throughout 2010, developed a series of brochures on the Initiative, foreign bribery, the Anti-Bribery Convention and 2009 Recommendation and the Working Group on Bribery. A seminar was held for Working Group member countries on 'How to Conduct a Foreign Bribery

Awareness Raising Campaign', and the OECD is working in partnership with particular countries to support their national campaigns.

► **Educational activities**

As part of its educational activities, the OECD Secretariat is incorporating into its various missions presentations on the OECD Anti-Bribery convention and the Working Group on bribery at law and business schools, as well as presenting to universities that visit the OECD. To date presentations have been delivered to over 40 law and business schools in Bulgaria, Canada, France, Indonesia, Malaysia, Norway and the United Kingdom. Another 15 presentations on the Convention were also made to international organisations, such as the International Association of Anti-Corruption Authorities (IAACA), as well as to companies, governments, and non-governmental and professional organisations in Belgium, China, the Czech Republic, France, Germany, Indonesia, Korea, Malaysia, Mexico, the Netherlands, Norway, Thailand, the United Kingdom and the United States.



Patrick Moulette, head of the OECD Anti-Corruption Division, presented to the Korean Anti-Corruption and Civil Rights Commission on the Anti-Bribery Convention in October.

In addition, the OECD collaborated with the International Law Students' Association to draft the *compromis* for the 2011 Philip C. Jessup International Law Moot Court Competition, which was released in late September and contains elements relating to the Anti-Bribery Convention.

The Jessup Moot is the world's largest moot competition and will see teams from over 500 law schools in more than 80 countries analyse and debate a fictitious dispute between States Parties to the Anti-Bribery Convention.

Cooperation with the International Bar Association and the UNODC

The OECD is also establishing key partnerships to further the objectives of the Initiative. One such partnership is the Anti-Corruption Strategy for the Legal Profession, launched by the International Bar Association, the OECD and the UN Office on Drugs and Crime launched on 15 April. The first project under the Strategy was a global survey of private legal practitioners, published in October and in which 642 respondents in 95 jurisdictions responded to questions about their perception of corruption risks to the legal profession and awareness of the international anti-corruption framework, including the OECD Anti-Bribery Convention. In response to the results of this survey, the Strategy partners are undertaking a series of in-country anti-corruption trainings geared towards private practitioners, starting with a pilot series of seminars in Latin America in 2010. Future projects include the development of model anti-corruption academic units for law schools and an OECD-IBA Anti-Bribery Handbook for Ethics and Compliance Officers.

Support for the International Anti-Corruption Academy

In September, Working Group on Bribery members welcomed the establishment of the International Anti-Corruption Academy (IACA) in Laxenburg, Austria. Representatives from the OECD Secretariat also attended the inaugural conference and launch of the International Anti-Corruption Academy, 'From Vision to Reality: A New and Holistic Approach to Fighting Corruption', which included a presentation by Working Group Chair Mark Pieth. An IACA representative presented the Academy and its current projects to the Working Group on Bribery at its December meeting, and welcomed close collaboration between the two organisations. The Working Group is currently working with IACA to identify ways to work together on curriculum development.

► **Foreign Bribery Impact Study**

Finally, the Working Group agreed to the development of a Foreign Bribery Impact Study, which will aim to illustrate the negative impact of bribery of foreign public officials, drawing on finalised cases decided in Parties to the Anti-Bribery Convention. It will involve an analysis of the body of publicly available case law, looking at factors such as the

nature and size of businesses involved, and the role of the public official in question, as well as the amounts paid in bribes and in subsequent sanctions, along with an in-depth analysis of some key cases. The study will be published in 2011.

APPENDIX 1: PARTIES TO THE CONVENTION

OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions

Country	Deposit of instrument of ratification/ acceptance	Entry into force of the Convention	Entry into force of implementing legislation
Argentina	8 February 2001	9 April 2001	10 November 1999
Australia	18 October 1999	17 December 1999	17 December 1999
Austria	20 May 1999	19 July 1999	1 October 1998
Belgium	27 July 1999	25 September 1999	3 April 1999
Brazil	24 August 2000	23 October 2000	11 June 2002
Bulgaria	22 December 1998	20 February 1999	29 January 1999
Canada	17 December 1998	15 February 1999	14 February 1999
Chile	18 April 2001	17 June 2001	8 October 2002
Czech Republic	21 January 2000	21 March 2000	9 June 1999
Denmark	5 September 2000	4 November 2000	1 May 2000
Estonia	23 November 2004 (accession instrument)	22 January 2005	1 July 2004
Finland	10 December 1998	15 February 1999	1 January 1999
France	31 July 2000	29 September 2000	29 September 2000
Germany	10 November 1998	15 February 1999	15 February 1999
Greece	5 February 1999	6 April 1999	1 December 1998
Hungary	4 December 1998	15 February 1999	1 March 1999
Iceland	17 August 1998	15 February 1999	30 December 1998
Ireland	22 September 2003	21 November 2003	26 November 2001
Israel	11 March 2009 (accession instrument)	10 May 2009	21 July 2008
Italy	15 December 2000	13 February 2001	26 October 2000
Japan	13 October 1998	15 February 1999	15 February 1999
Korea	4 January 1999	5 March 1999	15 February 1999
Luxembourg	21 March 2001	20 May 2001	11 February 2001
Mexico	27 May 1999	26 July 1999	18 May 1999
Netherlands	12 January 2001	13 March 2001	1 February 2001
New Zealand	25 June 2001	24 August 2001	3 May 2001
Norway	18 December 1998	16 February 1999	1 January 1999
Poland	8 September 2000	7 November 2000	4 February 2001
Portugal	23 November 2000	22 January 2001	9 June 2001
Slovak Republic	24 September 1999	23 November 1999	1 November 1999
Slovenia	6 September 2001 (accession instrument)	5 November 2001	23 January 1999
South Africa	19 June 2007 (accession instrument)	18 August 2007	27 April 2004
Spain	4 January 2000	4 March 2000	2 February 2000
Sweden	8 June 1999	7 August 1999	1 July 1999
Switzerland	31 May 2000	30 July 2000	1 May 2000
Turkey	26 July 2000	24 September 2000	11 January 2003
United Kingdom	14 December 1998	15 February 1999	14 February 2002
United States	8 December 1998	15 February 1999	10 November 1998

APPENDIX 2: EXECUTIVE SUMMARIES OF MONITORING REPORTS

Finland: Phase 3

The Phase 3 Report on Finland by the OECD Working Group on Bribery evaluates and makes recommendations on Finland's implementation and enforcement of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and related instruments. As well as focussing on key Group-wide (horizontal) issues, particularly enforcement, consideration is also given to country-specific (vertical) issues arising from progress made since Finland's Phase 2 evaluation in 2002, or issues raised, for instance, by changes in the domestic legislation or institutional framework of Finland.

Finland's efforts in enforcement of the foreign bribery offence since Phase 2 are promising, primarily as a result of experienced and well-resourced investigators. The Working Group commends Finland's proactive approach to international cooperation on asset recovery, and its bilateral anti-corruption work with China and the Russian Federation. However, the Working Group notes with serious concern a general lack of awareness and understanding of the foreign bribery offence in both the public and private sectors in Finland.

The Report highlights insufficient direct engagement by the public administration with the private sector for the purpose of raising awareness of the Convention and of important features of the foreign bribery offence, including liability for bribing through intermediaries. The Group therefore makes several recommendations concerning awareness-raising in both the public and private sector. The Working Group is also concerned with a more restrictive application of the foreign bribery offence in the Criminal Code than that required by Article 1 of the Convention. It accordingly recommends that Finland amend the definition of foreign public official to include a person holding a legislative office in a foreign country. The Group is also concerned that Finland's accounting and auditing offences do not apply to legal persons and recommends that legislative steps be taken to provide for such liability.

Concerning the detection and reporting of foreign bribery, the Working Group is concerned by the lack of reporting mechanisms within key government agencies, including FINNVERA, MFA and the Tax Administration. It recommends that Finland introduce appropriate measures to facilitate reporting by public officials to law enforcement

authorities. Noting the absence of whistleblower protection, the Group further recommends that Finland introduce mechanisms to ensure that public and private sector employees who report in good faith and on reasonable grounds are protected from discriminatory or disciplinary action.

Since Phase 2, six cases of suspected foreign bribery have been under investigation in Finland, the first such cases since the coming into force of Finland's legislation implementing the Convention. Investigations have been well resourced and investigated by experienced investigators, supported by specialised economic crimes experts. Law enforcement authorities have taken a proactive approach in obtaining the cooperation of relevant foreign authorities in asset recovery.

The Report and its recommendations reflect findings of experts from the Czech Republic and Luxembourg and were adopted by the OECD Working Group on Bribery. Within one year of the Group's approval of the report, Finland will make an oral follow-up report on its implementation of certain recommendations. It will further submit a written report within two years. The Report is based on the laws, regulations and other materials supplied by Finland, and information obtained by the evaluation team during its three-day on-site visit to Helsinki on 7 to 9 June 2010, during which the team met representatives of Finland's public administration, private sector and civil society.

Iceland: Phase 3

The Phase 3 Report on Iceland by the OECD Working Group on Bribery evaluates and makes recommendations on Iceland's implementation and enforcement of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and related instruments. It focuses on horizontal issues, which concern the Working Group as a whole, particularly enforcement, and also considers country-specific (vertical) issues arising from progress made since Iceland's Phase 2 evaluation in 2003 and Phase 2 Follow-up in 2006, or issues raised, for instance, by changes in the domestic legislation or institutional framework of Iceland.

The Working Group acknowledges that the major economic and financial crisis facing Iceland has led to an increased focus on economic and financial crime, and welcomes the efforts that Iceland has undertaken to ensure its legislation fully conforms with the OECD Anti-Bribery Convention, following the recommendations made by the Working Group in Phase 2. The Working Group also notes that there have not been any

foreign bribery cases in Iceland and that, in terms of publicly available information (notably in the media), there are currently no allegations of bribery of foreign public officials committed by Icelandic individuals or companies. The Working Group is, however, concerned that the current structure and allocation of resources between the different law enforcement authorities may result in inefficiencies and hamper the effectiveness of fighting economic and financial crime in Iceland, including foreign bribery.

In addition to these concerns on the structure and resources of Icelandic law enforcement authorities, the Report also highlights the insufficient sanctions in place for foreign bribery. The Working Group therefore recommends that Iceland raise imprisonment sanctions against natural persons for foreign bribery to ensure that they are effective, proportionate and dissuasive. The Report also highlights the lack of awareness-raising measures and in particular, the absence of direct engagement by the public administration with the private sector, with the result that Icelandic companies, ten years after the entry into force of the law in Iceland, are still not fully aware of the legal consequences under Icelandic law of engaging in foreign bribery. Accordingly, the Working Group makes several recommendations on awareness-raising, including the promotion of the Good Practice Guidance addressed to companies and business organisations (Annex II to the 2009 Anti-Bribery Recommendation), and the need to provide information to Icelandic companies on steps to be taken when confronted with bribe solicitation.

Regarding the reporting of foreign bribery, the Working Group is concerned by the lack of clear reporting mechanisms for public servants within key government agencies who may detect suspected acts of foreign bribery, including in the Ministry of Foreign Affairs and Icelandic tax administration. The Working Group therefore recommends that appropriate measures and guidelines be established to facilitate the reporting by public officials of suspected acts of foreign bribery to law enforcement authorities. Further noting the absence of private sector whistleblower protection, the Working Group also recommends that Iceland introduce measures to ensure that private sector employees who report in good faith and on reasonable grounds are protected from discriminatory or disciplinary action. Concerning prevention and detection of foreign bribery in the context of official development assistance (ODA), the Report highlights the absence of anti-corruption provisions in ODA-funded contracts, and the Working Group therefore recommends that Iceland introduce measures to prevent and sanction foreign bribery in this context.

The Report also highlights a number of positive features of Iceland's efforts to fight foreign bribery, including developments to bring its legislation

fully in line with the standards of the Convention; the introduction of an enhanced mechanism facilitating confiscation of the proceeds of bribery; and improvements to the anti-money laundering legislation and general framework, which could contribute to the detection of foreign bribery cases.

The Report and its recommendations reflect findings of experts from the Denmark and Portugal and were adopted by the OECD Working Group on Bribery. Within one year of the Group's approval of the report, Iceland will make an oral follow-up report on its implementation of certain recommendations. It will further submit a written report within two years. The Report is based on the laws, regulations and other materials supplied by Iceland, and information obtained by the evaluation team during its three-day on-site visit to Reykjavik on 6 to 8 July 2010, during which the team met with representatives from Iceland's public administration, private sector and civil society.

United States: Phase 3

The Phase 3 Report on the United States by the OECD Working Group on Bribery in International Business Transactions (Working Group) evaluates and makes recommendations on implementation by the United States and enforcement of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Anti-Bribery Convention) and related instruments. The Working Group commends the United States for its visible and high level of support for the fight against the bribery of foreign public officials, including engagement with the private sector, substantial enforcement, and stated commitment by the highest echelon of the Government.

Since Phase 2, U.S. enforcement has increased steadily and resulted in increasingly significant prison sentences, monetary penalties and disgorgement. Increased enforcement was enabled by the good practices developed within the U.S. legal and policy framework, including the dedication of resources to specialised units in the Department of Justice (DOJ), the Federal Bureau of Investigation (FBI) and the Securities and Exchange Commission (SEC). New legislation has also strengthened accounting and auditing standards, including those introduced in the 2002 Sarbanes-Oxley Act, covered in the U.S. Phase 2 written follow-up report, and whistleblower protections under the July 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act.

Good practices developed within the U.S. legal and policy framework that have helped achieve a significant enforcement level are described in several areas of this report. The U.S. has investigated and prosecuted

cases involving various business sectors and various modes of bribing foreign public officials. In addition, it has been conducting proactive investigations, using information from a variety of sources and innovative methods like plea agreements (PAs), Deferred Prosecution Agreements (DPAs), Non-Prosecution Agreements (NPAs), and the appointment of corporate monitors. Vigorous enforcement and record penalties, alongside increased private sector engagement, has encouraged the establishment of robust compliance programmes and measures, particularly in large companies, which are verified by the accounting and auditing profession and monitored by senior management. Less is known of the effect increased FCPA enforcement has had on small- to medium-sized enterprises (SMEs), which is an issue shared by all Parties to the Convention.

Ways in which implementation of the Convention could be made more effective have also been identified. For instance, the Working Group recommends that the U.S., in its periodic review of its policies and approach on facilitation payments, consider the views of the private sector and civil society.. The evaluation also recommended the consolidation and summarisation of publicly available information on the application of the FCPA, including information regarding the affirmative defence for reasonable and bona fide expenses. This could be especially useful for SMEs. Similarly, given that the U.S. authorities are increasingly enforcing the FCPA by using DPAs and NPAs, the Working Group believes that transparency and public awareness of these measures could be enhanced if the U.S. made public, where appropriate, more detailed reasons on issues such as why a particular type of agreement is used, the choice of an agreement's terms and duration, and how a company has met the agreement's terms. The Working Group also recommends that the U.S. ensure that the overall limitation period applicable to the foreign bribery offence is sufficient to allow adequate investigation and prosecution.

The report and the recommendations therein, which reflect findings of experts from Argentina and the United Kingdom, were adopted by the OECD Working Group. Within one year of the Group's approval of the report, the United States will make an oral follow-up report on its implementation of certain recommendations. It will further submit a written report within two years. The Report is based on the laws, regulations and other materials supplied by the United States, and information obtained by the evaluation team during its three-day on-site visit to Washington D.C. on 7 to 9 June 2010, during which the team met representatives of the United States' public administration, private sector and civil society.

South Africa: Phase 2

The Phase 2 Report on South Africa by the OECD Working Group on Bribery evaluates and makes recommendations on South Africa's implementation of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and related instruments. While the current measures to fight corruption within South Africa are well publicised and reported, further efforts are necessary to raise awareness of the foreign bribery offence within both the public and private sector, as highlighted in this Report.

As of the time of this report, there are no prosecutions for foreign bribery in South Africa, a matter that the Working Group believes could be addressed if South Africa adopted a more proactive approach to the investigation and prosecution of this type of crime. In this regard, the Working Group recommended that South Africa develop specialised investigators and prosecutors to more effectively investigate and prosecute foreign bribery, and ensure adequate training and resources, as well as enhance coordination between the police and prosecutors with respect to these cases. South Africa should also strengthen safeguards to ensure that prosecutorial decisions cannot be affected by those considerations set out in Article 5 of the Convention.

With regard to liability of legal persons, the Working Group noted that, in spite of the long standing existence of corporate liability legislation, convictions or prosecutions of companies for intentional economic offences appear to be rare. The Group recommended the attention of prosecutors and investigators be drawn to the importance of effectively enforcing liability of legal persons for acts of foreign bribery. The Group also indicated that it would follow-up on South Africa's ability in practice to prosecute companies for foreign bribery acts committed by intermediaries abroad, including related legal persons such as their subsidiaries. With respect to sanctions, the Working Group recommended that South Africa raise awareness among prosecutors and judges of the full range of penalties applicable to legal persons for foreign bribery irrespective of the level of the Court, including debarment sanctions available under the Prevention and Combating of Corrupt Activities Act (PRECCA).

The Working Group also highlighted positive aspects of South Africa's work to fight foreign bribery. The legislative framework for combating bribery and related offences is of a generally high standard. Provisions under the PRECCA appear to cover all elements of the foreign bribery offence under the Anti-Bribery Convention. In addition, the Working Group considers that section 34 of the PRECCA, which imposes a reporting

obligation of suspected acts of foreign bribery on a broad category of persons, could be a useful tool in uncovering foreign bribery instances. Similarly, the legislative framework and authorities' ongoing efforts and close cooperation with regulators to fine tune the anti-money laundering reporting system provide a good foundation to detect foreign bribery-related money laundering.

The report and the recommendations therein, which reflect findings of experts from Slovenia and the United States, were adopted by the OECD Working Group. Within one year of the Group's approval of the report, South Africa will make an oral follow-up report on its implementation of the recommendations, and will submit a written report within two years. The report is based on the laws, regulations and other materials supplied by South Africa, and information obtained by the evaluation team during its five-day on-site visit to Pretoria and Johannesburg in February 2010, during which the team met with representatives of the South African public administration, the private sector, civil society and the media.

APPENDIX 3: GOOD PRACTICE GUIDANCE ON INTERNAL CONTROLS, ETHICS AND COMPLIANCE

This Good Practice Guidance acknowledges the relevant findings and recommendations of the Working Group on Bribery in International Business Transactions in its programme of systematic follow-up to monitor and promote the full implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (hereinafter “OECD Anti-Bribery Convention”); contributions from the private sector and civil society through the Working Group on Bribery’s consultations on its review of the OECD anti-bribery instruments; and previous work on preventing and detecting bribery in business by the OECD as well as international private sector and civil society bodies.

Introduction

This Good Practice Guidance (hereinafter “Guidance”) is addressed to companies for establishing and ensuring the effectiveness of internal controls, ethics, and compliance programmes or measures for preventing and detecting the bribery of foreign public officials in their international business transactions (hereinafter “foreign bribery”), and to business organisations and professional associations, which play an essential role in assisting companies in these efforts. It recognises that to be effective, such programmes or measures should be interconnected with a company’s overall compliance framework. It is intended to serve as non-legally binding guidance to companies in establishing effective internal controls, ethics, and compliance programmes or measures for preventing and detecting foreign bribery.

This Guidance is flexible, and intended to be adapted by companies, in particular small and medium sized enterprises (hereinafter “SMEs”), according to their individual circumstances, including their size, type, legal structure and geographical and industrial sector of operation, as well as the jurisdictional and other basic legal principles under which they operate.

A) Good Practice Guidance for Companies

Effective internal controls, ethics, and compliance programmes or measures for preventing and detecting foreign bribery should be developed on the basis of a risk assessment addressing the individual circumstances of a company, in particular the foreign bribery risks

facing the company (such as its geographical and industrial sector of operation). Such circumstances and risks should be regularly monitored, re-assessed, and adapted as necessary to ensure the continued effectiveness of the company's internal controls, ethics, and compliance programme or measures.

Companies should consider, *inter alia*, the following good practices for ensuring effective internal controls, ethics, and compliance programmes or measures for the purpose of preventing and detecting foreign bribery:

1. strong, explicit and visible support and commitment from senior management to the company's internal controls, ethics and compliance programmes or measures for preventing and detecting foreign bribery;
2. a clearly articulated and visible corporate policy prohibiting foreign bribery;
3. compliance with this prohibition and the related internal controls, ethics, and compliance programmes or measures is the duty of individuals at all levels of the company;
4. oversight of ethics and compliance programmes or measures regarding foreign bribery, including the authority to report matters directly to independent monitoring bodies such as internal audit committees of boards of directors or of supervisory boards, is the duty of one or more senior corporate officers, with an adequate level of autonomy from management, resources, and authority;
5. ethics and compliance programmes or measures designed to prevent and detect foreign bribery, applicable to all directors, officers, and employees, and applicable to all entities over which a company has effective control, including subsidiaries, on, *inter alia*, the following areas:
 - i) gifts;
 - ii) hospitality, entertainment and expenses;
 - iii) customer travel;
 - iv) political contributions;

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- v) charitable donations and sponsorships;
 - vi) facilitation payments; and
 - vii) solicitation and extortion;
6. ethics and compliance programmes or measures designed to prevent and detect foreign bribery applicable, where appropriate and subject to contractual arrangements, to third parties such as agents and other intermediaries, consultants, representatives, distributors, contractors and suppliers, consortia, and joint venture partners (hereinafter “business partners”), including, *inter alia*, the following essential elements:
- i) properly documented risk-based due diligence pertaining to the hiring, as well as the appropriate and regular oversight of business partners;
 - ii) informing business partners of the company's commitment to abiding by laws on the prohibitions against foreign bribery, and of the company's ethics and compliance programme or measures for preventing and detecting such bribery; and
 - iii) seeking a reciprocal commitment from business partners.
7. a system of financial and accounting procedures, including a system of internal controls, reasonably designed to ensure the maintenance of fair and accurate books, records, and accounts, to ensure that they cannot be used for the purpose of foreign bribery or hiding such bribery;
8. measures designed to ensure periodic communication, and documented training for all levels of the company, on the company's ethics and compliance programme or measures regarding foreign bribery, as well as, where appropriate, for subsidiaries;
9. appropriate measures to encourage and provide positive support for the observance of ethics and compliance programmes or measures against foreign bribery, at all levels of the company;

10. appropriate disciplinary procedures to address, among other things, violations, at all levels of the company, of laws against foreign bribery, and the company's ethics and compliance programme or measures regarding foreign bribery;
11. effective measures for:
 - i) providing guidance and advice to directors, officers, employees, and, where appropriate, business partners, on complying with the company's ethics and compliance programme or measures, including when they need urgent advice on difficult situations in foreign jurisdictions;
 - ii) internal and where possible confidential reporting by, and protection of, directors, officers, employees, and, where appropriate, business partners, not willing to violate professional standards or ethics under instructions or pressure from hierarchical superiors, as well as for directors, officers, employees, and, where appropriate, business partners, willing to report breaches of the law or professional standards or ethics occurring within the company, in good faith and on reasonable grounds; and
 - iii) undertaking appropriate action in response to such reports;
12. periodic reviews of the ethics and compliance programmes or measures, designed to evaluate and improve their effectiveness in preventing and detecting foreign bribery, taking into account relevant developments in the field, and evolving international and industry standards.

B) Actions by Business Organisations and Professional Associations

Business organisations and professional associations may play an essential role in assisting companies, in particular SMEs, in the development of effective internal control, ethics, and compliance programmes or measures for the purpose of preventing and detecting foreign bribery. Such support may include, *inter alia*:

-
1. dissemination of information on foreign bribery issues, including regarding relevant developments in international and regional forums, and access to relevant databases;
 2. making training, prevention, due diligence, and other compliance tools available;
 3. general advice on carrying out due diligence; and
 4. general advice and support on resisting extortion and solicitation.

APPENDIX 4: STRATEGY FOR THE INITIATIVE TO RAISE GLOBAL AWARENESS OF FOREIGN BRIBERY

A. Initiative to Raise Global Awareness of Foreign Bribery: Overview

Too few realise bribery carries a price. It is wrong and, in many countries, it is a crime. The more everyone knows about this crime and gives it public condemnation, the more law enforcement authorities will be able to give priority to its investigation and prosecution, the less likely companies will be to offer bribes, and the less likely public officials will be to take or solicit them.

With this in mind, the Initiative to Raise Global Awareness of Foreign Bribery (the Initiative) has been launched. It will be an important element of the larger OECD-wide anti-corruption awareness-raising effort and activities planned to celebrate the 50th Anniversary of the OECD. The Initiative formally began on 9 December 2009, to mark the 10th anniversary of the entry into force of the OECD *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* (Anti-Bribery Convention). But the Initiative will expand and develop as more policy communities and organisations join and contribute their ideas and energy. This present strategy document is intended to provide a structure to which OECD member countries and committees and external partners can contribute, as we develop and implement the Initiative over the next three years.

A.1. Mission Statement

Raising awareness of this issue will not be easy: Foreign bribery is complex. It involves intricate business transactions, deals and contracts, and the negative consequences might not be immediately visible.

Despite these obstacles, the mission of the Initiative is clear: To show that foreign bribery carries a heavy price, that it is a serious crime and that it is no longer a part of business as usual.

A.2. Objectives

The objectives of the Initiative are to work in partnership with different stakeholders including governments, intergovernmental organisations,

non-governmental organisations and other elements of civil society and the media to:

- raise awareness of foreign bribery as a serious crime and to illustrate its negative impact, and
- increase knowledge of measures to combat foreign bribery and associated penalties.

A.3. Situational Analysis

Foreign bribery is not a well-known issue despite its global repercussions. This is because, before the OECD Anti-Bribery Convention came into force 10 years ago, it was not a crime in the vast majority of OECD countries or globally. In fact, tax deductions were available for such payments. Therefore, the general public and the private sector, in particular, have not yet come to the understanding that engaging in bribery in international business transactions is a crime. And, many companies continue to believe that foreign bribery is just part of 'business as usual'. The only way to counteract this perception is to raise awareness of the devastating impact of foreign bribery so that it is not just an abstract concept. Instead, it should illicit an immediate response, such that it receives the same condemnation as corporate involvement in, for example, environmental disasters or slavery in the supply chain.

Lack of awareness is especially problematic when it comes to private enterprises, which provide the so-called 'supply side of bribery', offering and paying bribes to foreign public officials. Companies do not know they can be hit with stiff fines, that their executives can face imprisonment, and that they can be blacklisted from public procurement contracting for offering and paying bribes. In fact, according to Transparency International's 2008 Bribe Payers' Index⁴, all major foreign investors and exporters and more than 80 percent of surveyed executives in France, Germany, the United Kingdom and the United States admitted to 'not being familiar at all' with the OECD Anti-Bribery Convention. Meanwhile, the World Bank⁵ estimates that, every year, over \$1 trillion is paid as bribes.

4. http://www.transparency.org/news_room/in_focus/2008/bpi_2008

5. World Bank, *Stolen Asset Recovery (StAR) Initiative: Challenges, Opportunities, and Action Plan* (2007). <http://siteresources.worldbank.org/EXTSARI/Resources/Star-rep-full.pdf?resourceurlname=Star-rep-full.pdf>

A.4. Audience

Private Sector

The primary target audience for the Initiative is the private sector and private-sector associations and unions, which constitute the so-called 'supply side' of foreign bribery. In particular, the Initiative will reach out to small and medium sized enterprises, which have less capacity to learn about, absorb and comply with international standards. A special effort will be made to engage law and business students, who will become the next generation of business and policy leaders. The ultimate goal is to make individuals at all levels in the corporate structure understand the legal, financial and reputational ramifications of giving bribes.

General Public

Informing public opinion on the negative effects of foreign bribery will be vital to the Initiative's success. It is important that this issue resonate with the general public in both OECD and non-OECD member countries as a mainstream, important issue. The message for the general public should focus on the fact that foreign bribery is not a victimless crime and that it should be stopped.

The 'interests of the community' is also a determining factor in prosecutors' decisions to pursue or drop a case. Greater public condemnation of the crime of foreign bribery will therefore mean that foreign bribery cases can be given a higher priority in national law enforcement agendas.

Equally, public condemnation would lead to companies perceiving foreign bribery not only as a legal risk, but as a reputational risk, both in countries that have ratified the OECD Anti-Bribery Convention and made foreign bribery illegal, and in other countries whose companies are engaging in business transactions abroad.

Civil Society

Educating and engaging civil society organisations in this effort are also crucial to its success. Civil society organisations have the ability to reach out and amplify an important issues-based campaign like this one and their support validates the importance of this cause in the public eye.

Intergovernmental Organisations

There is also significant potential for support to the Initiative from other intergovernmental organizations that work on corruption, particularly those like the United Nations Office on Drugs and Crime (UNODC), Organisation of American States, Council of Europe, and African Union, which also have multilateral treaties that address the bribery of foreign public officials.⁶ The UNODC is an especially promising partner because, in addition to corruption, it is responsible for several issues that are directly linked to the bribery of foreign public officials, including human trafficking, drug trafficking, money-laundering, organised crime, and terrorist financing.

B. Initiative to Raise Global Awareness of Foreign Bribery: Three-Year Strategy

B.1. Initiative's Main Activities

The Initiative will be an important element of the activities to celebrate the OECD's 50th Anniversary. The Initiative is scheduled to last three years, through 2012. The main activities carried out as part of the Initiative will focus on:

1. Raising awareness of foreign bribery as a serious crime and a threat to sustainable economic development (section B.2);
2. Convey the impact of this crime through outreach activities;
3. Quantifying the problem of foreign bribery; and
4. Increasing knowledge of how to combat foreign bribery and the OECD Anti-Bribery Convention (section B.3).

Throughout the Initiative, the OECD will focus on fostering strong horizontal coordination within the organisation, including presentations at the meetings of relevant OECD committees and collaboration on Initiative events and activities. Externally, the OECD will develop partnerships (section B.4) with key organisations that will help the OECD in its effort to deliver the message of the Initiative.

6. Note these other treaties are not focused specifically on foreign bribery, but cover several forms of corruption.

B.2. Media and Public Affairs Activities

This activity focuses on educating non-experts on what foreign bribery is, its impact and its repercussions, and on the OECD Anti-Bribery Convention. It includes:

B.2.a. Foreign Bribery Impact Study

Further to the goal of demonstrating the impact of foreign bribery, empirical research is necessary. We need hard evidence, including straight-forward statistics and real-life case studies capable of evoking strong public condemnation for those who bribe foreign public officials.

The Study will contain several chapters, each outlining a different aspect of foreign bribery and its impact on governments, companies and the general public. The study will be based on narrative explanations of the issues at hand, statistical information and case studies that illustrate the scope of this problem and its effects on specific target groups. The study will be based on narrative explanations of the issues at hand, statistical information and case studies that will illustrate the scope of this problem and its effects on specific target groups (i.e., governments, businesses, and citizens).

Timing: Preliminary scoping, literature review, and terms of reference by 1 April 2010 with tentative publication scheduled for November 2010 to coincide with the start of the OECD 50th Anniversary campaign.

B.2.b. Print and online materials

- **Branding and Messaging:** All promotional materials for the Initiative should have a common 'look and feel'. It is therefore important to immediately establish a slogan or acronym that expresses the main message in a few words with an accompanying visual image. An initial slogan was developed for the 9 December event to launch the Initiative: 'Foreign Bribery: Who Pays the Price?' It is envisioned that this slogan may be developed over time, depending on the specific Initiative activity (i.e., a promotional poster targeting companies may read, "Foreign Bribery: I will not pay the price.")

An image was developed for the 9 December 2010 event and, at the time of writing, is being used for all Initiative promotional materials, though this image will be further developed in coming months, in line with the OECD Public Affairs and

Communications Directorate's branding guidelines. (For more on the Initiative image, see Annex I.)

Timing: Branding and messaging is still in development. A final 'look and feel' for the Initiative (i.e. slogan, image, standard talking points) will be finalised by May 2010 to coincide with the unveiling of the first Public Service Announcement and promotional materials (see below).

- Website: A website for the Initiative has been launched at: www.oecd.org/corruption/initiative. This will be the home for all information and alerts related to the Initiative and should be regularly updated and checked for consistency with the Initiative brand and message.

Timing: This activity will be ongoing for the duration of the Initiative.

- Promotional Materials: Materials will include brochures and posters in French and English to be distributed to partner organisations; in hotels, restaurants and airports where business travellers may see them; and at all OECD events that are on subject matters of relevance to the Initiative (e.g. the roundtables for corporate governance).

Timing: Design of initial brochures and posters will begin in late March with the goal of having hardcopies ready for distribution at the May 2010 OECD Forum. Development will be ongoing and in line with the Initiative's agreed-upon branding and messaging.

B.2.c. Television and radio materials

- Public Service Announcements: Public Service Announcements (PSAs) are non-commercial advertisements aimed at raising awareness on public issues (health and safety issues, charitable endeavours, etc.). Many television stations – such as CNN International, Al Jazeera, etc. – air PSAs free of charge. There are organisations that produce and distribute PSAs on a pro-bono basis as well. They work with the sponsoring organisation to plan the ads, produce them, and distribute them (for example, the Ad Council in the United States).

Timing: Unveil first PSA in May 2010, second PSA in December 2010 and third in June 2011.

B.2.d. Events

- OECD Events: The Initiative was formally launched at a major event on 9 December 2009, International Anti-Corruption Day. The launch marked the 10th anniversary of the entry into force of the OECD Anti-Bribery Convention.

It is anticipated that future events under the Initiative will dovetail with other major OECD events, such as the annual OECD Ministerial Meeting and Global Forum, , as well as other events on subject matters of relevance to the Initiative (e.g. export financing, tax, transparency in public procurement and delivery of development assistance). Key Initiative messages and publications will be incorporated into all activities held under the OECD's regional anti-corruption programmes in the Asia-Pacific region, Eastern Europe and Central Asia, and Latin America.

- External events: The Initiative and the importance of foreign bribery will continue to be a main theme of OECD speakers at external anti-corruption and other events. Concerted efforts will be made to facilitate delivery of these messages by WGB members and partner organisations at any relevant meetings that they host or attend.
- Foreign Bribery Roundtable Series: Semi-annual or annual roundtables will be held for the Initiative's target audience—the private sector, and small-and-medium-sized enterprises (SMEs) in particular, the general public, civil society and international organisations—and focus on various aspects of the question, 'Foreign Bribery: Who Pays the Price?' These roundtables will be organised by the OECD Anti-Corruption Division to coincide with other OECD events. They will feature anti-corruption experts and first-person accounts of the negative impact foreign bribery has on governments, businesses, and everyday people. Summaries of these roundtable events will be published in late 2012.

Timing: The first roundtable discussion on 'Foreign Bribery: Who Pays the Price?' was held at the 9 December 2009

launch of the Initiative. The second roundtable event is scheduled to be on the topic of Latin American companies and foreign bribery, held in conjunction with the OECD-Latin America Anti-Corruption Programme conference in Brazil, in July 2010. A third roundtable on SMEs and foreign bribery could be held in December 2010 as a side-event for the planned OECD SME Ministerial Conference. Dates of further roundtables are yet to be determined.

- Special Events: How to Conduct a Foreign Bribery Campaign: The goal of this event would be to help governments, civil society and companies design and implement effective campaigns for raising awareness of foreign bribery. Those who go on to establish their own anti-bribery campaigns would be able to piggyback on the activities and resources developed under the Initiative.

Timing: The first foreign bribery how-to event is scheduled as a lunchtime seminar at the June 2010 meeting of the OECD Working Group on Bribery, which will be made available as a webcast on the Initiative's website. Future how-to events of this kind will be incorporated into other OECD meetings and events as dates and agendas are decided.

B.2.e. High Profile Spokesperson

Similar to the UN Goodwill Ambassadors programme, we would like to approach a few high profile individuals (e.g. company CEOs or TV or film personalities) to take on the role of a voluntary 'spokesperson' to raise the profile of the fight against foreign bribery. This sort of high-profile endorsement would generate media attention and ensure that the message reached the maximum possible audience.

Timing: Letters from the OECD Secretary-General will be mailed to prospective spokespeople by mid- 2010 with the goal of having a spokesperson in line before the start of the OECD 50th anniversary campaign.

B.2.f. Media Outreach

- Pitching news stories: The Initiative will include regular pitches to the media to write about newsworthy events under the Initiative. For instance, BBC's *Africa Business Report* may be interested in following up on how foreign bribery

affects business in Africa. (Komla Dumor, host of the Africa Business Report, chaired the first roundtable discussion on 'Foreign Bribery: Who Pays the Price?' at the 9 December 2009 launch of the Initiative.) Pitches will target journalists interested in corruption and governance issues in all 38 WGB member countries.

Timing: Ongoing.

- **Editorials:** At key intervals in the three-year Initiative, we will also pitch editorials on foreign bribery. A successful example of the editorial pitches envisaged is that of 9 December 2009, when more than half the WGB members co-signed an editorial on foreign bribery with OECD Secretary-General Angel Gurría.

Timing: Ongoing, but timing editorials to coincide with key Initiative events, both at a national and international level.

B.3. Increase Knowledge

This activity focuses on current and future business leaders with the aim of educating them about foreign bribery and its social, financial and legal repercussions.

B.3.a. Business and Law School Academic Modules

This project aims to create a module unit on foreign bribery, to be incorporated into the ethics curricula of law and business schools in members of the OECD Anti-Bribery Convention and other countries. Law and business schools provide a golden opportunity to raise the awareness of future company executives, corporate counsel and government lawyers. This project could include course structure, materials, online resources or study modules and guest speakers.

Timing: Curricula development is scheduled to take place between October 2010 and March 2011 with modules included in pilot programmes in test schools, July 2011 – September 2012 and follow-up tests conducted throughout 2012.

B.3.b. Corporate Mentoring Programme

Outside the classroom, major corporations in OECD member countries

and in countries that are Party to the OECD Anti-Bribery Convention have much to offer their small-and-medium-sized counterparts. With support from their governments, major corporations could be enticed to act as mentors to SMEs in the same industry or sector on how to include anti-bribery measures into companies' corporate social responsibility, corporate ethics guidelines and/or codes of conduct. This could be implemented by way of online discussion groups. The OECD Anti-Corruption Division would develop the online discussion group forum and provide discussion group material, when necessary.

Timing: Development of online discussion groups by March 2010. Outreach to potential mentors and mentees by June 2010.

B.3.c. Regional Mentoring Programme

The regional mentoring programme calls on all OECD member countries and countries that are Party to the OECD Anti-Bribery Convention to volunteer as 'regional mentors' to non-members to the Convention in their region. For example, Japan, Korea, Australia or New Zealand could be a regional mentor for countries in the Asia-Pacific region; Turkey could be a mentor for countries in Central Asia or the Middle East; Argentina, Brazil, Chile or Mexico could be mentors for Latin America; or South Africa could be a mentor for Africa. Regional mentors are expected to hold at least one event over the three years of the Initiative in their region to raise awareness of foreign bribery that will include representatives from governments, the private sector, the media and civil society.

Timing: Develop a roster of volunteer regional mentors by June 2010. At least one regional event organized by each regional mentor by the end of 2012. Event already planned under the OECD's regional programmes for 2010-2012 could be included as part of this activity.

B.3.d. Anti-Bribery Toolkits

In addition to educating target audiences that foreign bribery is a serious crime and a serious threat to sustainable economic development, the Initiative also aims to equip them with tools to fight foreign bribery. A series of anti-bribery toolkits will be developed, in consultation with key stakeholders, for the target audiences for the campaign: private sector (MNEs/SMEs), supply chain management, the legal profession, auditing professionals, civil society and the media. The model for such toolkits is the OECD Bribery Awareness Handbook for Tax Examiners (www.oecd.org/ctp/nobribes).

Timing: The SME toolkit will be developed to coincide with the Foreign Bribery Roundtable on SMEs in December 2010. The development and release of other toolkits will be an ongoing process, dependent on the results of consultation with key stakeholders.

B.4. Partnerships

Greater coordination on foreign bribery between the OECD Secretariat and partners in the private and public sectors is important to the success of the Initiative and the larger fight against foreign bribery.

B.4.a. Private Sector and Private Sector Associations

The OECD Anti-Corruption Division will seek to establish informal working relationships with major recognisable companies, as well as major private-sector associations, such as:

- Association of Corporate Counsel (ACC)
- Business and Industry Advisory Committee (BIAC)
- Business Anti-Corruption Portal (Global Advice Network)
- European Business Ethics Network (EBEN)
- International Air Transport Association (IATA)
- International Bar Association (IBA)
- International Chamber of Commerce (ICC) Anti-Corruption Commission
- International Compliance Association (ICA)
- International Hotel & Restaurant Association (IH&RA)
- International Public Relations Association (IPRA)
- KYC360° - The Online AML Community
- Trade Union Advisory Committee (TUAC)
- Society of Corporate Compliance and Ethics (SCCE)

The content of these relationships will depend on what the individual organisations are willing or able to contribute to the Initiative and could vary from mutual recognition on websites, to participating in or co-hosting Initiative events, participating as guest lecturers in Initiative academic modules, or participating in the Initiative corporate mentoring programme. The OECD Secretariat is considering developing a good-governance statement that companies could 'adopt' or 'sign onto' demonstrating that they are working with the OECD Working Group on Bribery on the Initiative.

Timing: Ongoing, with contacts already being established.

B.4.b. International and Intergovernmental Organisations

The OECD Anti-Corruption Division will seek to establish informal working relationships with international organisations during Phase Two. Target organisations include:

- African Union (AU)
- Construction Sector Transparency Initiative (CoST)
- European Anti-Fraud Office (OLAF)
- Extractive Industries Transparency Initiative (EITI)
- Global Infrastructure Anti-corruption Centre (GIACC)
- Global Reporting Initiative (GRI)
- Group of States Against Corruption, a Council of Europe initiative (GRECO)
- Interpol Anti-Corruption Academy
- Medicines Transparency Alliance (MeTA)
- Organisation of American States (OAS)
- Organisation for Security and Co-Operation in Europe (OSCE)
- Transparency International (TI)

- United Nations Children's Fund (UNICEF)
- United Nations Development Programme (UNDP)
- United Nations Global Compact
- United Nations Educational, Scientific and Cultural Organisation/International Institute for Educational Planning, ETICO information exchange platform on corruption in education (UNESCO/IIEP)
- United Nations Office on Drugs and Crime (UNODC)
- United Nations Special Representative to the Secretary-General on Business and Human Rights
- United Nations World Tourism Organisation (UNWTO)
- World Bank and other multilateral development banks

B.4.c. Non-Governmental Organisations

The OECD Secretariat and Working Group on Bribery will seek to establish informal working relationships with non-governmental organisations on an ongoing basis.

C. Budget for the Initiative

Budget summary

To build on the successful launch of the Initiative on 9 December 2009, the OECD Secretariat estimates it will need approximately \$1 million in staff and non-staff activity costs over three years in order to successfully carry out all of the activities in this strategy document. By providing staff, venues and institutional resources, the OECD Anti-Corruption Division will shoulder much of this financial burden, recognising the importance of this effort⁷.

7. Due to the delayed start of the Phase 3 exams, staff and limited non-staff costs can be absorbed by the OECD Anti-Corruption Division budget until 31 December 2010. Additional funding (from Working Group members and external partners) is requested; however, for non-staff activity costs starting immediately and for all Initiative-related costs (staff and non-staff) from 31 December 2010 through the conclusion of the Initiative at the end of 2012.

However, given the lack of specific resources in the current budget for awareness-raising activities, the success of the Initiative's activities is dependent on the strong involvement of the OECD member countries and committees, in cooperation with external partners. The OECD Anti-Corruption Division has received some offers of funding from some OECD member countries and is reaching out to external partners in civil society and in the private sector who may be interested in sharing the cost of this very important project.⁹

Activity	Specific cost items⁹	Total estimated activity cost
B.2.a. Foreign Bribery Impact Study	<ul style="list-style-type: none"> • Staff costs¹⁰ • Consultant hired to analyse bribery data and case information; • Additional external data analysis (if required); • Translation into languages of OECD Anti-Bribery Convention countries • Printing and distribution 	€150,000
B.2.b. Print and online materials	<ul style="list-style-type: none"> • Staff costs • Translation into languages of OECD Anti-Bribery Convention countries • Printing and distribution 	€30,000
B.2.c. Television and radio materials	<ul style="list-style-type: none"> • Staff costs • Development and production of three PSAs • Translation into languages of OECD Anti-Bribery Convention countries • Distribution costs subject to national broadcasting policies 	€200,000

8. All voluntary contributions to OECD activities are subject to an administrative cost recovery charge of 4.5% (to 1 May 2010) or 7.8% (after 1 May 2010) less 1% for funding over 250,000 Euros.

9. All costs included in this strategy document are estimates, as of March 2010 and are based on past OECD activities, research and informal conversations with external partners.

10. The staff cost would concern 50% of the time of a full time anti-corruption analyst, communications officer and administrative assistant.

B.2.d. Events – OECD and external events where the Initiative is presented	<ul style="list-style-type: none"> • Staff costs • Travel costs 	€250,000
B.2.d. Events – Foreign Bribery Roundtable Series	<ul style="list-style-type: none"> • Staff costs • Speakers' travel and accommodation costs • Travel costs 	€100,000 (for an estimated five roundtables)
B.2.d. Events – Special 'How to Conduct a Foreign Bribery Campaign' Event	<ul style="list-style-type: none"> • Staff costs • Speakers' travel and accommodation costs (if applicable) • Campaign kit printing, assembly and distribution • Webcast 	€6,000 (for one special event)
B.2.e. High-profile spokesperson	<ul style="list-style-type: none"> • Staff costs 	No estimated non-staff costs
B.2.f. Media outreach	<ul style="list-style-type: none"> • Staff costs 	No estimated non-staff costs
B.3.a. Business and law school academic modules	<ul style="list-style-type: none"> • Staff costs • Research and curriculum development • Travel costs • Speakers' travel and accommodation costs (if applicable) • Translation into languages of OECD Anti-Bribery Convention countries • Printing and distribution 	€100,000
B.3.b. Corporate mentoring programme	<ul style="list-style-type: none"> • Staff costs • Cost of online discussion software (if applicable) 	€3,500

B.3.c. Regional mentoring programme	<ul style="list-style-type: none"> • Staff costs • Venue costs • Translation of materials into languages of OECD Anti-Bribery Convention countries • Printing 	€150,000 (or €10,000 per event, per year, in each of five regions: Americas, Asia-Pacific, Europe, Middle East and Africa)
B.4.d. Anti-Bribery Toolkits	<ul style="list-style-type: none"> • Staff costs • Research • Translation into languages of OECD Anti-Bribery Convention countries • Printing and distribution 	€10,500 (for three toolkits)
B.5.a. Private sector and private sector association partnerships	<ul style="list-style-type: none"> • Staff costs 	No estimated non-staff costs
B.5.b. International organisations partnerships	<ul style="list-style-type: none"> • Staff costs 	No estimated non-staff costs

TOTAL ESTIMATED COST OVER THREE YEARS: €1,010,000

D. Monitoring and Evaluation of the Initiative's Impact

Monitoring and evaluation (M&E) of the Initiative to Raise Global Awareness of Foreign Bribery is a critical element of the Initiative's overall strategy. Measures chosen to monitor and evaluate the Initiative's impact will be designed to determine whether the OECD has succeeded in showing that foreign bribery carries a heavy price, that it is a serious crime and that it is no longer a part of business as usual.

A progress report at each OECD Working Group on Bribery meeting for the duration of the Initiative will be provided by the Secretariat and updated on the Initiative's website, www.oecd.org/corruption/initiative.

Plans for M&E activities include data from the following sources:

- OECD Centre for Entrepreneurship surveys of small- and medium-sized enterprises
- Transparency International's surveys and indices, such as its Bribe Payers' Index
- A survey of Initiative participants and contacts during the final phase of the Initiative

External funding for specific Initiative activities may also require tailored M&E measures and these measures will be determined on a case-by-case basis by the OECD Secretariat and external funding organisations.

ANNEX I: INITIATIVE IMAGE

About the image for the Initiative

Initial images were developed in December 2009 for the 9 December launch event. The image is still under development and has not been finalised but has so far been translated into French, Spanish and Japanese:



The image has also been developed into a banner format for both hardcopy and online publications in English and French:



Note on the usage of the Initiative slogan and image

Because the Initiative's image and slogan represent the identity of the Initiative and the OECD, the image and slogan can only be used as designed. The Initiative slogan and image cannot be changed or edited in any way. When the Initiative's slogan or image is used, appropriate recognition must be given to the OECD, i.e. 'the OECD Initiative to Raise Global Awareness of Foreign Bribery' with a link to the OECD Initiative website (www.oecd.org/corruption/initiative), where possible.

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OECD Working Group on Bribery

The OECD Working Group on Bribery is responsible for monitoring the implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. The members of the Working Group on Bribery are Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, United Kingdom and United States.

For more information, please visit
www.oecd.org/bribery.

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