



# EXPORTING CORRUPTION

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**Progress Report 2014: Assessing  
Enforcement of the OECD Convention  
on Combating Foreign Bribery**

**Transparency International is a global movement with one vision: a world in which government, business, civil society and the daily lives of people are free of corruption. Through more than 100 chapters worldwide and an international secretariat in Berlin, we are leading the fight against corruption to turn this vision into reality.**

[www.transparency.org](http://www.transparency.org)

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# KEY FINDINGS

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The fundamental goal of creating a corruption-free level playing field for global trade is still far from being achieved.

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22

Countries with little or no enforcement

8

Countries with only limited enforcement

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## Enforcement levels

Countries listed in order of their share of world exports

▶ **Active Enforcement**  
**4 countries with**  
**23.1% of world exports**

US, Germany, UK,  
Switzerland

▶ **Moderate Enforcement**  
**5 countries with**  
**8.3% of world exports**

Italy, Canada, Australia,  
Austria, Finland

▶ **Limited Enforcement**  
**8 countries with**  
**7.6% of world exports**

France, Sweden, Norway, Hungary,  
South Africa, Argentina, Portugal,  
New Zealand

▶ **Little or No Enforcement**  
**22 countries with**  
**27% of world exports**

Japan, Netherlands, Korea (South), Russia, Spain,  
Belgium, Mexico, Brazil, Ireland, Poland, Turkey,  
Denmark, Czech Republic, Luxembourg, Chile,  
Israel, Slovak Republic, Colombia, Greece, Slovenia,  
Bulgaria, Estonia

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Iceland could not be classified as its share in world exports is too small to permit distinctions to be made between enforcement categories.



## Changes in enforcement level 2013 - 2014

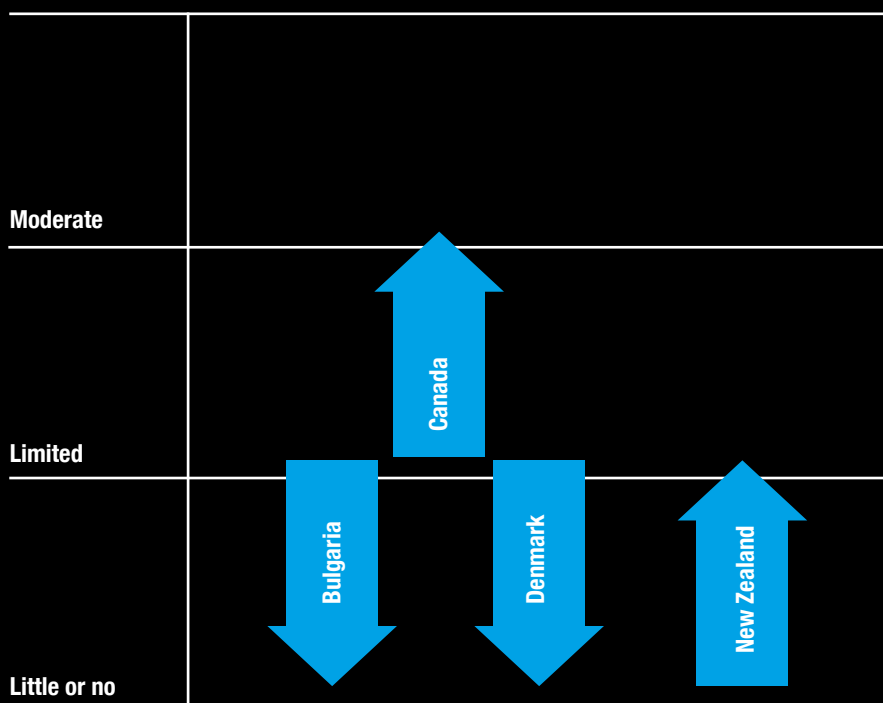
2

Countries have improved:  
Canada and New Zealand

2

Countries have regressed:  
Bulgaria and Denmark

Active



Countries not shown in this chart had the same level of enforcement as reported in 2013.

## Classifications

The enforcement categories (Active, Moderate, Limited, Little or No) show the level of enforcement efforts against foreign bribery. A country that is an Active enforcer initiates many investigations into foreign bribery offences, these investigations reach the courts, the authorities press charges and courts convict individuals and/or companies both in ordinary cases and in major cases in which bribers are convicted and receive substantial sanctions.

“Moderate Enforcement” and “Limited Enforcement” indicate stages of progress, but are considered insufficient deterrence. Where there is “Little or No Enforcement”, there is no deterrence. More details on the methodology can be found on page 10.

# INTRODUCTION

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This is the tenth annual progress report on OECD Anti-Bribery Convention enforcement by Transparency International, the global coalition against corruption. The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, adopted in 1997, requires each signatory country to make foreign bribery a crime for which individuals and enterprises are responsible. The Convention is a key instrument for curbing the export of corruption globally because the 41 signatory countries are responsible for approximately two-thirds of world exports and almost 90 per cent of total foreign direct investment outflows. The OECD Working Group on Bribery, which represents the 41 Parties to the Convention, conducts a follow-up monitoring programme under which 9-10 countries are reviewed each year.

Transparency International's annual report on foreign bribery enforcement presents an independent assessment on the status of enforcement in all of the Parties to the Convention with the exception of Latvia, where the Convention entered into force only in 2014. In our methodology section we address the differences between our methodology and that of the OECD Working Group on Bribery.

# FINDINGS

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Fifteen years after the Convention entered into force, there are still 22 countries with Little or No Enforcement and eight countries with only Limited Enforcement. As a result, the Convention's fundamental goal of creating a corruption-free level playing field for global trade is still far from being achieved. The Convention will not reach this goal until the parties with lagging enforcement meet their commitments under the Convention. Foreign bribery is not an abstract phenomenon; it has damaging consequences in the form of contracts not going to the best qualified suppliers, prices often being inflated to cover bribe payments, environmental requirements not being enforced and taxes not being collected.

In order to achieve effective enforcement, joint civil society/business sector advocacy programmes should be conducted in countries with lagging enforcement.

There are a few improvements that can be reported, but the performance of the majority of the 40 countries that agree to combat foreign bribery in international business transactions is far from satisfactory. **Only two countries have improved since last year – Canada and New Zealand – and two countries have regressed, with Bulgaria and Denmark both dropping from the Limited Enforcement to the Little or No Enforcement category. The classification of other countries has not changed.**

► All country reports are available online at: [www.transparency.org/exporting\\_corruption](http://www.transparency.org/exporting_corruption)

Based on reports by Transparency International experts, we have arrived at the following classification of foreign bribery enforcement in OECD Anti-Bribery Convention countries (listed in order of their share of world exports):\*

**ACTIVE ENFORCEMENT** 4 countries with 23.1% of world exports  
**US, Germany, UK and Switzerland**

**MODERATE ENFORCEMENT** 5 countries with 8.3% of world exports  
**Italy, Canada, Australia, Austria and Finland**

**LIMITED ENFORCEMENT** 8 countries with 7.6% of world exports  
**France, Sweden, Norway, Hungary, South Africa, Argentina, Portugal, New Zealand**

**LITTLE OR NO ENFORCEMENT** 22 countries with 27% of world exports  
**Japan, Netherlands, Korea (South), Russia, Spain, Belgium, Mexico, Brazil, Ireland, Poland, Turkey, Denmark, Czech Republic, Luxembourg, Chile, Israel, Slovak Republic, Colombia, Greece, Slovenia, Bulgaria and Estonia**

**Canada** has moved from the Limited category to Moderate and **New Zealand** from Little or No Enforcement to the Limited category. It is promising that New Zealand, which has never prosecuted any foreign bribery case before, started its formal investigations into foreign bribery cases.

During the last four years **Australia** and **Canada** have launched a number of new investigations and moved them forward to court proceedings. Both countries have introduced major legislative reforms in the field, which taken together with the investigations provide a good basis for their anti-foreign bribery drive.

In **Finland** the foreign bribery investigations and prosecutions of the last four years show that the country could become an active enforcer if inadequacies in the legal framework that prevent adequate sanctioning were remedied. **Austria**, which is also a moderate enforcer, is increasing its efforts. Austria and New Zealand were taken off the regular follow-up process on money laundering laws and practice by the Financial Action Task Force, which is a positive indication regarding their ability to step up investigations of money laundering used for foreign bribery. **Italy**, another moderate enforcer, adopted an anti-corruption law at the end of 2012 and an anti-corruption plan in 2013. These provide a basis for better enforcement, but the key problem of inadequate statutes of limitation still needs to be solved.

**Norway** and **Sweden** are in the position to move into the Moderate category from the Limited category if the ongoing investigations turn into prosecutions. Of the world's major exporters (having a two per cent or more share of world exports), five have little or no enforcement – **Japan, Russia, Spain, South Korea and Netherlands** – while **France** shows limited enforcement activity.

\* Iceland could not be classified as its share in world exports is too small to permit distinctions to be made between enforcement categories.

# Foreign Bribery Enforcement of OECD Anti-Bribery Convention Countries

| COUNTRIES  | Share of world exports<br>Average past 4 years* | Investigations commenced (weight of 1) |      |      |      | Major cases commenced (weight of 4) |      |      |      | Other cases commenced (weight of 2) |      |      |      |
|--|---|--|------|------|------|-------------------------------------|------|------|------|-------------------------------------|------|------|------|
|  |   | 2010                                   | 2011 | 2012 | 2013 | 2010                                | 2011 | 2012 | 2013 | 2010                                | 2011 | 2012 | 2013 |
| <b>ACTIVE ENFORCEMENT (4 countries) 23.1%</b>      |   |  |      |      |      |                                     |      |      |      |                                     |      |      |      |
| US   | 9.8   | 24                                     | 27   | 24   | 24   | 2                                   | 4    | 2    | 4    | 0                                   | 0    | 2    | 0    |
| Germany  | 8.2   | 15                                     | 32   | 13   | 14   | 1                                   | 1    | 2    | 2    | 4                                   | 11   | 3    | 0    |
| UK   | 3.6   |  | 11   | 6    | 2    | 11                                  | 4    | 3    | 1    | 0                                   | 0    | 0    | 0    |
| Switzerland  | 1.5   | 10                                     | 16   | 19   | 22   | 0                                   | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    |
| <b>MODERATE ENFORCEMENT (5 countries) 8.3%</b>     |   |  |      |      |      |                                     |      |      |      |                                     |      |      |      |
| Italy  | 2.8   | 4                                      |      | 8    | 2    | 1                                   | 1    |      | 1    | 0                                   |      | 9    | 0    |
| Canada   | 2.5   | 1                                      | 10   | 2    |      | 1                                   | 2    | 2    | 3    | 0                                   | 0    | 0    | 0    |
| Australia  | 1.4   | 4                                      | 5    | 10   | 11   | 0                                   | 1    | 0    | 0    | 0                                   | 0    | 0    | 1    |
| Austria  | 1.1   | 5                                      | 5    | 2    | 1    | 0                                   | 1    | 2    | 1    | 0                                   | 0    | 0    | 0    |
| Finland**  | 0.5   | 0                                      | 1    | 0    | 0    | 1                                   | 0    | 2    | 1    | 0                                   | 0    | 0    | 0    |
| <b>LIMITED ENFORCEMENT (8 countries) 7.6%</b>      |   |  |      |      |      |                                     |      |      |      |                                     |      |      |      |
| France   | 3.4   | 4                                      | 1    | 2    | 9    | 1                                   | 2    | 0    | 0    | 2                                   | 1    | 1    | 0    |
| Sweden   | 1.2   | 2                                      | 0    | 3    | 2    | 0                                   | 0    | 1    | 0    | 0                                   | 0    | 0    | 1    |
| Norway   | 0.9   | 0                                      | 2    | 1    | 0    | 0                                   | 1    | 0    | 0    | 0                                   | 0    | 0    | 0    |
| Hungary  | 0.6   | 1                                      | 1    | 0    | 0    | 0                                   | 0    | 0    | 0    | 0                                   | 1    | 0    | 0    |
| South Africa                                       | 0.5   | 3                                      | 2    | 1    | 1    | 0                                   | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    |
| Argentina  | 0.4   | 0                                      | 0    | 0    | 0    | 1                                   | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    |
| Portugal**   | 0.4   | 1                                      | 0    | 2    | 5    | 0                                   | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    |
| New Zealand  | 0.2   | 0                                      | 0    | 0    | 2    | 0                                   | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    |
| <b>LITTLE OR NO ENFORCEMENT (22 countries) 27%</b> |   |  |      |      |      |                                     |      |      |      |                                     |      |      |      |
| Japan  | 4.0   | 0                                      | 1    |      | 2    | 0                                   | 0    |      | 0    | 0                                   | 0    |      | 1    |
| Netherlands  | 3.1   | 3                                      | 3    | 3    | 1    | 0                                   | 0    | 0    |      | 0                                   | 0    | 0    |      |
| Korea (South)                                      | 3.0   | 0                                      | 0    | 0    | 3    | 0                                   | 1    | 0    | 0    | 0                                   | 3    | 0    | 3    |
| Russia***  | 2.6   | 0                                      | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    |
| Spain  | 2.0   | 1                                      | 1    | 0    | 0    | 0                                   | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    |
| Belgium  | 1.9   |  |      |      |      |                                     | 1    |      |      |                                     |      |      |      |
| Mexico   | 1.7   | 0                                      | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    |
| Brazil   | 1.3   | 0                                      | 2    | 3    | 0    | 0                                   | 0    | 0    | 0    |                                     |      |      | 0    |
| Ireland  | 1.1   | 0                                      | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    |
| Poland   | 1.1   | 0                                      | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    | 0                                   | 0    | 1    | 0    |
| Turkey   | 0.9   | 1                                      | 3    | 0    | 1    | 0                                   | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    |
| Denmark  | 0.8   | 0                                      | 0    | 3    | 0    | 0                                   | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    |
| Czech Republic                                     | 0.7   | 0                                      | 1    | 2    | 0    | 0                                   | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    |
| Luxembourg   | 0.5   | 1                                      | 0    | 1    | 0    | 0                                   | 0    | 0    | 0    | 0                                   | 0    | 1    | 0    |
| Chile  | 0.4   | 3                                      | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    |
| Israel   | 0.4   | 0                                      | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    |
| Slovak Republic                                    | 0.4   | 0                                      | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    |
| Colombia***  | 0.3   |  |      |      | 0    |                                     |      |      | 0    |                                     |      |      | 0    |
| Greece   | 0.3   |  |      | 1    |      |                                     |      |      |      |                                     |      |      |      |
| Slovenia   | 0.2   | 0                                      | 0    | 1    | 0    | 0                                   | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    |
| Bulgaria   | 0.2   | 0                                      | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    |
| Estonia  | 0.1   | 0                                      | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    | 0                                   | 0    | 0    | 0    |

NB: Blanks mean "statistical data not available". Transparency International Secretariat provided the country representatives of the OECD Working Group on Bribery with an advanced draft of the full report to receive their comments, including on investigations and cases.  
\* Obtained from OECD for 2010-2013, \*\* Without any major case commenced during the

past four years a country does not qualify for being a moderate enforcer and without a major case with substantial sanctions being concluded in the past four years a country does not qualify for being an active enforcer. \*\*\* The Convention entered into force in Russia in April 2012 and in Colombia in January 2013, and so requirements were lowered proportionally.



► All country reports are available online at: [www.transparency.org/exporting\\_corruption](http://www.transparency.org/exporting_corruption)

| COUNTRIES  | Major cases concluded with substantial sanctions (weight of 10) |      |      |      | Other (non-major) cases concluded with sanctions (weight of 4) |      |      |      | Total points | Minimum points required for enforcement levels depending on share of world exports |          |         |
|--|---|------|------|------|--|------|------|------|--------------|--|----------|---------|
|  | 2010  | 2011 | 2012 | 2013 | 2010   | 2011 | 2012 | 2013 | past 4 years | active   | moderate | limited |
| <b>ACTIVE ENFORCEMENT (4 countries) 23.1%</b>      |   |      |      |      |  |      |      |      |              |  |          |         |
| US   | 21  | 15   | 18   | 13   | 27   | 20   | 11   | 7    | <b>1,081</b> | 392  | 196      | 98      |
| Germany  | 3   | 3    | 5    | 0    | 2  | 16   | 24   | 14   | 468          | 328  | 164      | 82      |
| UK   | 5   | 7    | 1    | 2    | 0  | 1    | 0    | 0    | <b>249</b>   | 144  | 72       | 36      |
| Switzerland  | 0   | 2    | 0    | 2    | 1  | 1    | 1    | 3    | <b>131</b>   | 60   | 30       | 15      |
| <b>MODERATE ENFORCEMENT (5 countries) 8.3%</b>     |   |      |      |      |  |      |      |      |              |  |          |         |
| Italy  | 1   | 0    | 1    | 0    | 0  | 1    |      | 0    | <b>68</b>    | 112  | 56       | 28      |
| Canada   | 0   | 1    | 0    | 1    | 0  | 0    | 0    | 0    | <b>65</b>    | 100  | 50       | 25      |
| Australia  | 0   | 0    |      | 0    | 0  | 0    | 1    | 1    | <b>44</b>    | 56   | 28       | 14      |
| Austria  | 0   | 0    | 0    | 0    | 0  | 0    | 0    | 0    | <b>29</b>    | 44   | 22       | 11      |
| Finland**  | 0   | 0    | 0    | 0    | 0  | 0    | 0    | 1    | <b>21</b>    | 20   | 10       | 5       |
| <b>LIMITED ENFORCEMENT (8 countries) 7.6%</b>      |   |      |      |      |  |      |      |      |              |  |          |         |
| France   | 0   | 0    | 0    | 0    | 1  | 1    | 1    | 1    | <b>52</b>    | 136  | 68       | 34      |
| Sweden   | 0   | 0    | 1    | 0    | 0  | 0    | 0    | 0    | <b>23</b>    | 48   | 24       | 12      |
| Norway   | 0   | 0    | 0    | 0    | 0  | 1    | 0    | 0    | <b>11</b>    | 36   | 18       | 9       |
| Hungary  | 0   | 0    | 0    | 0    | 0  | 1    | 0    | 0    | <b>8</b>     | 24   | 12       | 6       |
| South Africa                                       | 0   | 0    | 0    | 0    | 0  | 0    | 0    | 0    | <b>7</b>     | 20   | 10       | 5       |
| Argentina  | 0   | 0    | 0    | 0    | 0  | 0    | 0    | 0    | <b>4</b>     | 16   | 8        | 4       |
| Portugal**   | 0   | 0    | 0    | 0    | 0  | 0    | 0    | 0    | <b>8</b>     | 16   | 8        | 4       |
| New Zealand  | 0   | 0    | 0    | 0    | 0  | 0    | 0    | 0    | <b>2</b>     | 8  | 4        | 2       |
| <b>LITTLE OR NO ENFORCEMENT (22 countries) 27%</b> |   |      |      |      |  |      |      |      |              |  |          |         |
| Japan  | 0   | 0    |      | 0    | 0  | 0    |      | 1    | <b>9</b>     | 160  | 80       | 40      |
| Netherlands  | 0   | 0    | 1    |      | 0  | 0    | 0    | 1    | <b>24</b>    | 124  | 62       | 31      |
| Korea (South)                                      | 0   | 0    | 0    | 0    | 0  | 0    | 0    | 0    | <b>19</b>    | 120  | 60       | 30      |
| Russia***  | 0   | 0    | 0    | 0    | 0  | 0    | 0    | 0    | <b>0</b>     | 43   | 22       | 11      |
| Spain  | 0   | 0    | 0    | 0    | 0  | 0    | 0    | 0    | <b>2</b>     | 80   | 40       | 20      |
| Belgium  |   | 1    |      |      |  |      |      |      | <b>14</b>    | 76   | 38       | 19      |
| Mexico   | 0   | 0    | 0    | 0    | 0  | 0    | 0    | 0    | <b>0</b>     | 68   | 34       | 17      |
| Brazil   | 0   | 0    | 0    | 0    | 0  | 0    | 0    | 0    | <b>5</b>     | 52   | 26       | 13      |
| Ireland  | 0   | 0    | 0    | 0    | 0  | 0    | 0    | 0    | <b>0</b>     | 44   | 22       | 11      |
| Poland   | 0   | 0    | 0    | 0    | 0  | 0    | 1    | 0    | <b>6</b>     | 44   | 22       | 11      |
| Turkey   | 0   | 0    | 0    | 0    | 0  | 0    | 0    | 0    | <b>5</b>     | 36   | 18       | 9       |
| Denmark  | 0   | 0    | 0    | 0    | 0  | 0    | 0    | 0    | <b>3</b>     | 32   | 16       | 8       |
| Czech Republic                                     | 0   | 0    | 0    | 0    | 0  | 0    | 0    | 0    | <b>3</b>     | 28   | 14       | 7       |
| Luxembourg   | 0   | 0    | 0    | 0    | 0  | 0    | 0    | 0    | <b>4</b>     | 20   | 10       | 5       |
| Chile  | 0   | 0    | 0    | 0    | 0  | 0    | 0    | 0    | <b>3</b>     | 16   | 8        | 4       |
| Israel   | 0   | 0    | 0    | 0    | 0  | 0    | 0    | 0    | <b>0</b>     | 16   | 8        | 4       |
| Slovak Republic                                    | 0   | 0    | 0    | 0    | 0  | 0    | 0    | 0    | <b>0</b>     | 16   | 8        | 4       |
| Colombia***  |   |      |      | 0    |  |      |      | 0    | <b>0</b>     | 3  | 2        | 1       |
| Greece   |   |      |      |      |  |      |      |      | <b>1</b>     | 12   | 6        | 3       |
| Slovenia   | 0   | 0    | 0    | 0    | 0  | 0    | 0    | 0    | <b>1</b>     | 8  | 4        | 2       |
| Bulgaria   | 0   | 0    | 0    | 0    | 0  | 0    | 0    | 0    | <b>0</b>     | 8  | 4        | 2       |
| Estonia  | 0   | 0    | 0    | 0    | 0  | 0    | 0    | 0    | <b>0</b>     | 4  | 2        | 1       |

# RECOMMENDATIONS

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**We call for actions by the OECD Working Group on Bribery and by governments in the following areas:**

Last year Transparency International made a number of recommendations on organisational and substantive issues that are still relevant. We give an update on their status in the country reports.

- 1** In countries with lagging enforcement governments should provide **adequate support, including staffing and funding for enforcement.**
- 2** **Continuation of a rigorous OECD monitoring programme remains essential.** The OECD Working Group on Bribery has a good record of involving civil society organisations in the review process. It is particularly important that **critical civil society organisations are also included in the on-site visits.** Furthermore, governments should **make the replies given to the questionnaires available to civil society organisations.**
- 3** We recommend that the **OECD convene meetings in countries where there has been substantial foreign bribery** to discuss how their interests can be better represented in foreign bribery proceedings. The OECD Working Group on Bribery should consider how to best **obtain inputs from the countries affected by foreign bribery,** including from the private sector and civil society.
- 4** The Working Group on Bribery should **prepare a study on the practice of settlements,** including on court approval, transparency and deterrent effects.
- 5** Governments and the Working Group on Bribery should **collect and publish data on mutual legal assistance** requests relating to foreign bribery.
- 6** In many countries details of cases, whether pending or concluded, are not available. Furthermore, a limited number of countries (including Germany) anonymise cases by withholding all details that would allow identifying companies or individuals prosecuted or convicted, which prevents the media and civil society from staying informed. Publication of enforcement activities and judgements has deterrent and thereby preventive effects; thus, **information on ongoing and concluded court proceedings and settlements should be published in detail** by governments.

## Following up on 2013 recommendations

In our report of last year we gave recommendations to governments in seven areas, based on our findings and experience reviewing enforcement of the Convention. This year we found that the same inadequacies in the legal frameworks and enforcement systems of the 40 Convention countries<sup>1</sup> continue to be matters of concern in many countries.

### Legislative changes

There have been legislative initiatives in the following areas, which reached different stages in the legislative processes (bills in the Parliament, adopted laws, and legislation entered into force):

- ▶ Criminal and administrative liability and sanctions of legal persons in **Brazil, Canada, Germany, Portugal** and **Spain**.
- ▶ Protection of whistleblowers in **Denmark, France, Hungary, Iceland, Portugal** and the **UK**.
- ▶ Various aspects of relevant criminal law in Austria, Brazil, Bulgaria, Canada, Chile, Denmark, France, Germany, Greece, Spain and the UK.<sup>2</sup>

### Restructuring and coordinating

**Portugal** has restructured its prosecution authority for corruption, **Colombia** and **Mexico** have restructured their anti-corruption authorities, and **Australia's** Federal Police entered into inter-agency arrangements.

### Criminal statistics

Inadequacies in the collection and availability of criminal statistics on enforcement against foreign bribery are still present in a significant number of countries. In the case of Belgium, Germany, Greece, Italy and Mexico this hinders the proper assessment of these countries' enforcement.

### Undermining anti-corruption bodies

In **Slovenia** members of the parliament challenged the constitutionality of the Slovene anti-corruption law and the Chief Commissioner and the two deputies of the anti-corruption body resigned in 2013. The commission is responsible for preventing corruption, including foreign bribery. Consequently, these developments weakened Slovenia's capability of preventing the bribery of foreign public officials.

The serious concerns stemming from the financial straits of the Serious Fraud Office **in the UK** have not been resolved. We are concerned that this issue could result in less enforcement. The process for additional budget approval may present a substantial risk of political influence.

## G20

The G20 has repeatedly encouraged all G20 countries to adhere to the OECD Convention. Four G20 countries that are not yet parties to the Convention (China, India, Indonesia and Saudi Arabia) have not acted upon this recommendation.

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<sup>1</sup> Latvia only became the 41st Party to the OECD Anti-Bribery Convention on 30 May 2014, which is why we have not included this country in our report.

<sup>2</sup> Details are included in the country reports.

# METHODOLOGY

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## Transparency International utilises four factors to determine the enforcement level for OECD countries:

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### 1 Time period covered

Classification of enforcement is based on the Parties' enforcement actions in 2010 to 2013.

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### 2 Four enforcement categories are used

Active Enforcement  
Moderate Enforcement  
Limited Enforcement  
Little or No Enforcement

“Active Enforcement” is considered a major deterrent to foreign bribery. “Moderate Enforcement” and “Limited Enforcement” indicate stages of progress, but are considered insufficient deterrence. Where there is “Little or No Enforcement”, there is no deterrence.

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### 3 Share of world exports

The underlying presumption is that the prevalence of foreign bribery is roughly in proportion with export activities and that exporting countries can be compared to each other. Transparency International recognises that the potential for foreign bribery could be affected by factors other than the level of world exports, such as foreign investment, as well as the industry sectors and regions in which business is conducted. However, adding such factors would be complex and would not make a major difference to the categorisation of countries.

Thresholds for enforcement categories are based on the country's average percentage of world exports over a four-year period.<sup>3</sup>

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### 4 Point system weighting for different enforcement activities

The weighting used is: one point for commencing investigations,<sup>4</sup> two points for commencing cases, four points each for commencing major cases, or concluding cases with sanctions, and 10 points for concluding major cases with substantial sanctions.<sup>5</sup> The definition of “major case” includes the bribing of senior public officials by major companies, including state-owned enterprises.<sup>6</sup> In determining whether a case is “major”, additional factors to be considered include the following:

- ▶ whether the defendant is a large multinational corporation
- ▶ whether the amount of the contract and of the alleged payment(s) is large
- ▶ major precedent and deterring effect

The date of commencement of a case is when an indictment or a civil claim is received by the court – prior to that it is counted as an investigation.

**This point system is intended to reflect two relevant factors**

1. The level of effort required by different enforcement actions.
2. Their deterrent effect. While the points assigned are somewhat arbitrary, it seems clear that concluding a major case with substantial sanctions will have a greater deterrent effect and will require greater effort than commencing an investigation. Similarly, concluding a case with sanctions requires more work and greater effort and has more deterrent effect than launching a case.

## Calculation of enforcement category

Each country is collecting enforcement points with its enforcement actions. The sum of these points (the “Total points”) is multiplied by the average of the country’s share of world exports during the assessed four-year period.

To enter the categories of “Active Enforcement”, “Moderate Enforcement” or “Limited Enforcement”, the result of a country has to reach the pre-defined threshold (“Minimum points required for enforcement levels”) (indicated below in green) of the particular enforcement category. If the result is below the lowest threshold, then the country qualifies for the “Little or No Enforcement” category.

We set the thresholds for each per cent of share in world exports as follows: 40 points are needed to be in the “Active Enforcement” category, 20 points for the “Moderate Enforcement” category, and 10 points for the “Limited Enforcement” category, while a country that has a 1 per cent of share in world exports but collects less than 10 points through its enforcement activities is in the “Little or No Enforcement” category. The table below gives examples of thresholds of enforcement categories based on share of world exports.

For example, Argentina has a 0.4 per cent share in world exports. 0.4 multiplied by 40, by 20 and by 10 renders the following thresholds: 16 points to be in the “Active Enforcement” category, 8 points for the “Moderate Enforcement” category, and 4 points for the “Limited Enforcement” category.

In addition to the necessary point scores, for a country to be classified in the “Active Enforcement” category at least one major case with substantial sanctions needs to have been concluded during the past four years, while in the “Moderate Enforcement” category at least one major case needs to have commenced in the past four years.

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<sup>3</sup> Data on share of world exports (goods and services) is provided by the OECD.

<sup>4</sup> For the purposes of this report “investigation” is used for the pre-trial phase and “case” is used for the trial phase of a legal procedure.

<sup>5</sup> “Substantial” sanctions include deterring prison sentences, large fines, appointment of a compliance monitor, and/or disqualification from future business.

<sup>6</sup> Seniority of public officials would depend, inter alia, on their ability to influence decisions. The characterisation as a “major case” involves discretion, to be exercised narrowly, so that in cases of doubt, a case should not be characterised as “major”.

## Example thresholds of enforcement categories based on share of world exports

| Share of world exports<br>.....<br>Enforcement categories | Country W     | Country X      | Country Y      | Country Z      |
|---|---------------|----------------|----------------|----------------|
|   | <b>0.5%</b>   | <b>1%</b>      | <b>2%</b>      | <b>3%</b>      |
| Active Enforcement  | <b>20</b>     | <b>40</b>      | <b>80</b>      | <b>160</b>     |
| Moderate Enforcement                                      | <b>10</b>     | <b>20</b>      | <b>40</b>      | <b>80</b>      |
| Limited Enforcement                                       | <b>5</b>      | <b>10</b>      | <b>20</b>      | <b>40</b>      |
| Little or No Enforcement                                  | <b>&gt; 5</b> | <b>&gt; 10</b> | <b>&gt; 20</b> | <b>&gt; 40</b> |

The above thresholds assume that a country which has 1 per cent share in world exports should at least collect 40 points over a period of four years to be considered an active enforcer. It may mean, for example, 4 investigations (4x1 points) + 2 cases commenced (2x2 points) + 2 major cases commenced (2x4 points) + 1 case concluded with sanctions (1x4 point) + 2 major cases concluded with substantial sanctions (2x10 points).



For the purposes of this report, foreign bribery cases (and investigations) include civil and criminal cases and investigations, whether brought under laws dealing with corruption, money laundering, tax evasion, fraud, or violations of accounting and disclosure requirements.

Cases (and investigations) involving multiple corporate and/or individual defendants, or multiple charges, are counted as one if commenced as a single proceeding. If in the course of a proceeding, cases against different defendants are separated, they may be counted as separate concluded cases.

Cases brought on behalf of European Union institutions or international organisations are not counted, for example in Belgium and Luxembourg.

## **Differences between Transparency International and Working Group on Bribery Reports**

Transparency International's report differs from the Working Group on Bribery report in several respects. The principal differences are as follows: Transparency International's report is more comprehensive than the Working Group report because Transparency International covers investigations, commenced cases and convictions, settlements or other dispositions of cases which have become final, and in which sanctions were imposed, while the Working Group on Bribery covers only convictions. Transparency International uses a broader definition of foreign bribery cases, covering cases where foreign bribery is the underlying issue, whether brought under laws dealing with corruption, money laundering, tax evasion, fraud or violations of accounting or disclosure requirements; the Working Group on Bribery covers only foreign bribery cases. The Working Group on Bribery report is based on data supplied directly by the government representatives serving on the Working Group on Bribery. Transparency International uses data supplied by its own experts, primarily local lawyers selected by Transparency International national chapters.

Transparency International selects corporate or criminal lawyers who are experts in foreign bribery matters for the preparation of the report. The questionnaires are filled in by the experts (most of them have been respondents of this report for several years) and then are reviewed by lawyers in the Transparency International Secretariat. As a next step, the Transparency International Secretariat provides the country representatives of the OECD Working Group on Bribery with an advanced draft of the full report to receive their comments. The draft is further reviewed by the experts and Transparency International Secretariat after the governments provide feedback.

# QUESTIONNAIRE

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## 2014 Questionnaire for national experts respondents

### Numbers and details of foreign bribery investigations, cases and allegations

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#### **A** STATISTICS AND CASES

Please note: Foreign bribery cases (and investigations)<sup>7</sup> shall include all cases involving bribery of foreign public officials,<sup>8</sup> criminal, civil or administrative, whether brought under laws dealing with corruption, money laundering, tax evasion, fraud, or accounting and disclosure provisions. See Guidelines for definition of “case”. Information is requested for foreign bribery cases and investigation initiated and concluded in 2013. Priority would be to have as accurate data on year 2013 as possible. In case you come across any inaccuracy of the data regarding 2010, 2011 and 2012 please call our attention to it and propose corrections as we will rely on the data of last year’s Exporting Corrupt Report and complement it with the data of 2013.<sup>9</sup>

#### **1. Investigations**

If a new investigation turns into a prosecution in the course of the year, it should be reported both under “investigations commenced” and under “cases commenced”.

##### **1.1. Please provide available information on government investigations of allegations of bribery of foreign public officials started in 2013.**

a) Number of investigations commenced \_\_\_\_\_ in 2013: \_\_\_\_\_

b) Regarding each investigation please provide any available details. Please also update any information provided in the questionnaires for 2010, 2011, 2012 and providing new information for 2013 about the following:

- (i) Names of companies and/or individuals involved
- (ii) Date commenced
- (iii) Nature of allegations
- (iv) Name of country whose officials were allegedly bribed:
- (v) Name of company allegedly involved in bribery process, if not named under (i) above

##### **1.2. Please provide the number of investigations and identify those that (1) turned into prosecutions or (2) were dropped in the course of the year 2013.**

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7 For the purposes of this questionnaire ‘investigation’ is used for the pre-trial phase and ‘case’ is used for the trial phase.

8 As defined by Article 1 para 4 a of the Convention.

9 Find data on 2010, 2011 and 2012 in the last year’s report:

[http://files.transparency.org/content/download/683/2931/file/2013\\_ExportingCorruption\\_OECDProgressReport\\_EN.pdf](http://files.transparency.org/content/download/683/2931/file/2013_ExportingCorruption_OECDProgressReport_EN.pdf)

## 2. Cases commenced

a) Major Cases commenced in 2013: \_\_\_\_\_

b) Other cases commenced in 2013: \_\_\_\_\_

Please update any information on cases commenced in 2010, 2011 and 2012 and please provide, if possible, new information on each case commenced in 2013. Please use the definition provided in the guidelines on what would constitute a major case.

c) Name of case, including parties and when it was commenced or lodged in court \_\_\_\_\_

d) Is this a major case?

Yes \_\_\_ No \_\_\_ Please explain and count under either a) or b), as appropriate.

e) Is it a criminal, civil, or administrative case?

f) Summary of principal charges or claims including name of the country whose officials were allegedly bribed, and name of company allegedly involved, if not provided under c) above

g) Penalties, other sanctions or recovery sought

h) Status of case, including expected trial date.

i) To your knowledge are there any obstacles holding up the case, such as

- ▶ Lack of resources
- ▶ Lack of mutual legal assistance from other countries
- ▶ Political interference
- ▶ National economic interests
- ▶ Potential effect upon relations with another State
- ▶ Identity of the natural or legal persons involved

If so, please explain.

j) To your knowledge has an investigation/case involving the same (or in part the same) facts or defendants been commenced in another country?

If so, where and when? Please explain:

k) Sources of information used:

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## 3. Cases concluded

Including convictions, settlements, or other dispositions of cases, which have become final, and in which sanctions were imposed. Please update any information on cases concluded with sanctions in 2010, 2011 and 2012. Please provide information on cases concluded in 2013.

Please use the definition of “substantial sanction” provided in the guidelines.

a) Cases concluded with sanctions (excluding major cases): \_\_\_\_\_ in 2013

b) Major cases concluded with substantial sanctions: \_\_\_\_\_ in 2013

c) Cases concluded without sanctions: \_\_\_\_\_ in 2013

d) Name of case, including parties and when it was commenced or lodged in court \_\_\_\_\_

(If not a party, please indicate name of company involved)

e) Is this a major case concluded with substantial sanctions, or a case concluded with sanctions?

Yes \_\_\_ No \_\_\_ Please explain and count under either a. or b., as appropriate.

f) Is it a civil, criminal, or administrative case?

g) Verdict/decision or settlement

(1) summary of principal confirmed charges, including name of the country whose officials were bribed

(2) penalties or other sanctions imposed, including requirements for compliance programmes with or without provisions for verification

a. against individuals

b. against companies (legal persons)

(3) in addition, for settlements:

- ▶ Is judicial review of the settlement required by law and has it been performed?
- ▶ Was there public consultation with affected stakeholders, such as competitors, and the government or civil society organizations of the victim country?
- ▶ Was the agreement published with accompanying explanation of the procedural and substantive terms?
- ▶ Was information on fulfilment of the terms of the settlement published by any of the parties?
- ▶ Was information provided by the investigative authorities to the fellow authorities of the countries where the offences were committed?
- ▶ Were fines paid or profits reimbursed transferred to the country that suffered from the offence?

h) To your knowledge did obstacles hold up the case or influence its outcome?

- ▶ Lack of resources
- ▶ Lack of mutual legal assistance from other countries
- ▶ Political interference
- ▶ National economic interests
- ▶ Potential effect upon relations with another State
- ▶ Identity of the natural or legal persons involved<sup>10</sup>

If so, please explain: \_\_\_\_\_

i) To your knowledge has an investigation/case involving the same (or in part the same) facts or defendants been brought in another country?

If so where and when? Please explain: \_\_\_\_\_

j) Sources of information used: \_\_\_\_\_

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**B RECENT DEVELOPMENTS**

Have there been significant developments in the legal framework or in the enforcement system since last year's report? Yes \_\_\_ No \_\_\_

Please provide a short explanation.

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**C RECOMMENDATIONS FOR PRIORITY ACTIONS**

a) What priority actions are needed concerning the legal framework?  
Please provide a short explanation.

b) What priority actions are needed in the field of enforcement?  
Please provide a short explanation.

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I have shown/sent this report to a member of my country's delegation to the OECD Working Group on Bribery.

Yes \_\_\_ No \_\_\_

Explanation:

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Report prepared by:

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(signature)

Name of respondent: \_\_\_\_\_

Affiliation:

Professional experience: \_\_\_\_\_

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<sup>10</sup> See Article 5 of the Convention

# NATIONAL EXPERTS

| COUNTRY        | NATIONAL EXPERTS  |
|----------------|---|
| Argentina      | <b>German Cosme Emanuele</b> , Lawyer, Fundación Poder Ciudadano<br><b>Catarina Lappas</b> , Fundación Poder Ciudadano  |
| Australia      | <b>Michael Ahrens</b> , Executive Director, Transparency International Australia,<br><b>Jane Ellis</b> , Commercial Lawyer, Board Member of Transparency International Australia  |
| Austria        | <b>Mag. Magdalena Reinberg-Leibel</b> , Transparency International Austria,<br><b>MMag. Vit Simral</b> , Masaryk University   |
| Belgium        | In the case of Belgium, the Transparency International Secretariat prepared the country report, which was reviewed and complemented by <b>Linklaters</b> Belgium.   |
| Brazil         | <b>Renata Muzzi Gomes de Almeida</b> , Partner, Co-head of Compliance practice group, TozziniFreire Advogados, <b>Juliana Sá de Miranda</b> , Partner, Head of the White Collar Crimes practice group, Tozzini-Freire Advogados, <b>Shin Jae Kim</b> , Partner, Co-head of Compliance & Investigation group, TozziniFreire Advogados, <b>Cláudio Coelho de Souza Timm</b> , Partner, Administrative Law, Corporate and Foreign Investments, TozziniFreire Advogados |
| Bulgaria       | <b>Nikoleta Kuzmanova</b> , Assistant Professor at the Law Department of Sofia University “St. Kliment Ohridski”, Researcher for Transparency International Bulgaria  |
| Canada         | <b>Milos Barutciski</b> , Bennett Jones LLP, Director, Transparency International Canada,<br><b>Sabrina A. Bandali</b> , Bennett Jones LLP, Associate   |
| Chile          | <b>Francisco Sanchez</b> , Lawyer, Transparency International Chile,<br><b>Javiera Fariás</b> , Lawyer, Transparency International Chile  |
| Colombia       | <b>Natalia Albañil Riaño</b> , Technical Assistant of Executive Direction, Transparency International Colombia  |
| Czech Republic | <b>Petr Leyer</b> , Lawyer, Transparency International Czech Republic   |
| Denmark        | <b>Knut Gotfredsen</b> , Chairman of the Board of Transparency International Denmark  |
| Estonia        | <b>Jaanus Tehver</b> , Partner at Law Office Tehver & Partners,<br>member of the Board of Estonia Bar Association   |
| Finland        | <b>Mika Ilveskero</b> , Partner, Castrén & Snellman, Transparency International Finland   |
| France         | <b>Marina Yung</b> , Transparency International France, <b>Jacques Terray</b> , Transparency International France,<br><b>Catherine Pierce</b> , Transparency International France   |
| Germany        | <b>Dr. Max Dehmel</b> , member of the Working Group on International Conventions, Transparency International Germany, <b>Dr. Angela Reitmaier</b> , head of the Working Group on International Conventions, Transparency International Germany, <b>Reiner Hüper</b> , former criminal prosecutor and head of the Working Group on Criminal Prosecution, Transparency International Germany  |
| Greece         | <b>Anna Damaskou</b> , Researcher for Transparency International Greece, Legal Counsel  |
| Hungary        | <b>Miklós Ligeti</b> , Legal Director, Transparency International Hungary   |
| Iceland        | <b>Edda Kristjansdottir</b> , Attorney & International Law Consultant   |
| Ireland        | <b>John Devitt</b> , CEO, Transparency International Ireland  |
| Israel         | <b>Ephrat Barzilai</b> , Partner, Gross, Kleinhendler, Hodak, Halevy, Greenberg & Co  |
| Italy          | <b>Giorgio Frascini</b> , Transparency International Italy, <b>Veronica Magnani</b> ,<br>Transparency International Italy, <b>Davide del Monte</b> , Transparency International Italy   |



## COUNTRY

## NATIONAL EXPERTS

|                 |  |
|-----------------|--|
| Japan           | <b>Professor Toru Umeda</b> , Professor at Reitaku University, Yuichi Otsuka, Doctoral Programme, Graduate School of Economics and Business Administration, Reitaku University   |
| Korea (South)   | <b>Professor Joongi Kim</b> , Yonsei Law School / College of Law, Seoul, Korea, Researcher for Transparency International Korea  |
| Luxembourg      | <b>Yann Baden</b> , Lawyer, Transparency International Luxembourg  |
| Mexico          | <b>Eduardo Bohorquez</b> , Executive Director, Transparencia Mexicana, <b>Alejandra Rascón Rodríguez</b> , Programme Coordinator, Transparencia Mexicana   |
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| New Zealand     | <b>Aaron Lloyd</b> , Member, Transparency International New Zealand, Partner, Minter Ellison Rudd Watts, <b>Fiona Tregonning</b> , Director, Transparency International New Zealand Incorporated, Senior Associate, Bell Gully                                       |
| Norway          | <b>Gro Skaaren-Fystro</b> , Special Adviser, Transparency International Norway   |
| Poland          | <b>Janusz Tomczak</b> , lawyer, head of the Criminal Law Practice Group at Wardyński & Partners <b>Marta Kozłowska</b> , Wardyński & Partners  |
| Portugal        | <b>Susana Duarte Coroado</b> , Researcher, Transparência e Integridade, Associação Cívica and Institute of Social Sciences, University of Lisbon, <b>Elena Burgoa</b> , Criminal Lawyer, Transparência e Integridade, Associação Cívica and New University of Lisbon |
| Russia          | <b>Denis Primakov</b> , Senior Lawyer, Centre for Anti-Corruption Research and Initiative (Transparency International Russia), <b>Lazareva Elena</b> , Lawyer, Centre for Anti-Corruption Research and Initiative Transparency International Russia                  |
| Slovak Republic | <b>Pavel Nechala</b> , Lawyer, Pavel Nechala & Co, Transparency International Slovak Republic  |
| Slovenia        | <b>Katja Šugman Stubbs</b> , Professor at Faculty of Law, University of Ljubljana, <b>Vid Doria</b> , Transparency International Slovenia, <b>Anja Rupret</b> , Transparency International Slovenia  |
| South Africa    | <b>Liezemarie Johannes</b> , Researcher, Corruption Watch (Transparency International national contact)  |
| Spain           | <b>Dr Manuel Villoria</b> , Professor of Political Science, Universidad Rey Juan Carlos, Transparency International Spain, <b>Dr Silvina Bacigalupo</b> , Professor of Criminal Law, Universidad Autónoma de Madrid  |
| Sweden          | <b>Birgitta Nygren</b> , Member of the Board, Transparency International Sweden, <b>Einar Lundgren</b> , Member of the Board, Transparency International Sweden  |
| Switzerland     | <b>Jean-Pierre Méan</b> , Attorney, former President of Transparency International Switzerland   |
| Turkey          | <b>Pelin Erdogan</b> , Transparency International Turkey, <b>Oya Özarslan</b> , Chair of the Board of Directors of Transparency International Turkey   |
| UK              | <b>Robin Spedding</b> , Business Ethics Co-ordinator, Norton Rose Fulbright LLP, <b>Nick Maxwell</b> , Transparency International UK Research Manager, <b>Robert Barrington</b> , Transparency International UK Executive Director                                   |
| US              | <b>Lucinda Low</b> , Steptoe & Johnson LLP, Washington, DC, <b>Tom Best</b> , Steptoe & Johnson LLP, Washington, DC  |

# PRO BONO RECOGNITION

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Transparency International would like to acknowledge the support provided by the International Senior Lawyers Project in pro bono services for finding and coordinating the national experts of several countries and TrustLaw of the Thomson Reuters Foundation for the support provided in pro bono services for the libel and legal fact checking of the country reports.

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