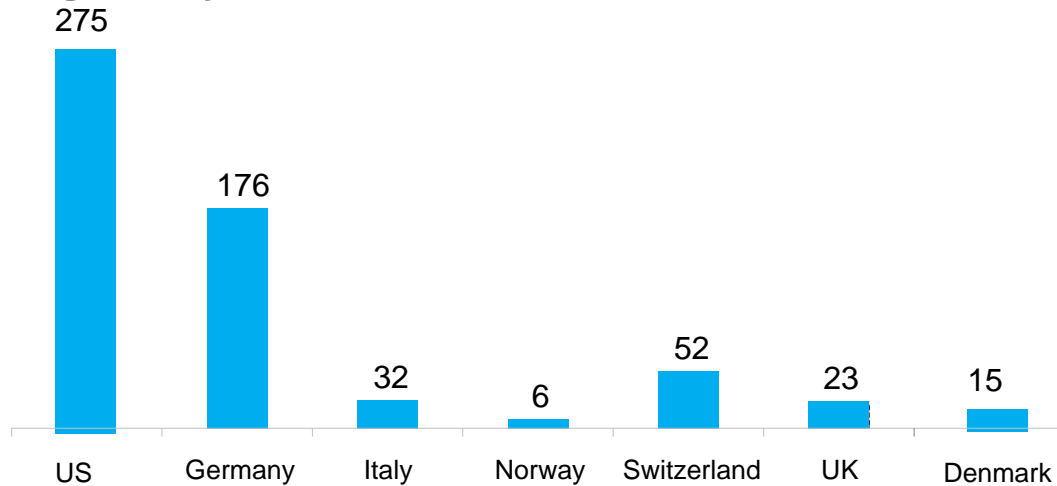


EXPORTING CORRUPTION?

United States



Foreign Bribery Cases Prosecution until end 2011:



KEY FIGURES

	Total
Bribery cases:	275
Bribery investigations ongoing in 2011:	113
Highest Sanction in 2011:	US \$218.8 million for JCG corporation
Last major case:	2011

POSITIVE DEVELOPMENTS

- Another active year of enforcement
- Significant penalties imposed

NEGATIVE DEVELOPMENTS

2011 saw significant efforts by the U.S. Chamber of Commerce and other private parties to amend the FCPA in ways that might weaken the enforcement of the statute.

CASE STUDY – Wal-Mart

On 21 April 2012, the New York Times broke the story of an [alleged](#) bribery campaign by **Wal-Mart de México**, a subsidiary of the world's biggest retailer **Wal-Mart International**. Hundreds of bribes amounting to at least US \$24 million were [reportedly](#) paid to mayors and city council members as part the company's expansion in Mexico. According to the [New York Times](#) Walmex executives [reportedly](#) tried to conceal the information exposed by a whistleblower, from the US based headquarters.

While the full implications of the above case cannot be assessed at this early stage The case shows that

- Investigative journalism continues to play a crucial role in combating corruption.
- Corporate anti-bribery programmes should ensure that bribery is investigated by departments independent from those where the alleged misconduct occurred. suspected

The allegations of massive bribery by Wal-Mart undermine the political arguments that enforcement of the FCPA should be weakened.

RECOMMENDATIONS

- The SEC, DOJ or US Sentencing Commission clarify through guidance, the incentives accruing from voluntary disclosure, and implementing a strong compliance program. .
- The OECD Working Group on Bribery's Phase October 2010 report dated, on implementation of the Convention, recommended that the US: (1) study the deterrent effect of DPAs and NPAs and (2) make public detailed reasons on the choice of a particular type of agreement, the agreement's terms and duration, and on how a company has met the agreement's terms. The above-referenced recommendations from the OECD Working Group on Bribery are still valid.
- It is possible that the guidance under preparation by the DOJ and SEC may address outcomes that our recommendations seek to achieve.