



Stolen Asset Recovery Initiative

The World Bank • UNODC

Session 4 part 3: Use of settlements

StAR study and follow-up



Left out of the Bargain
Settlements in Foreign Bribery Cases
and Implications for Asset Recovery

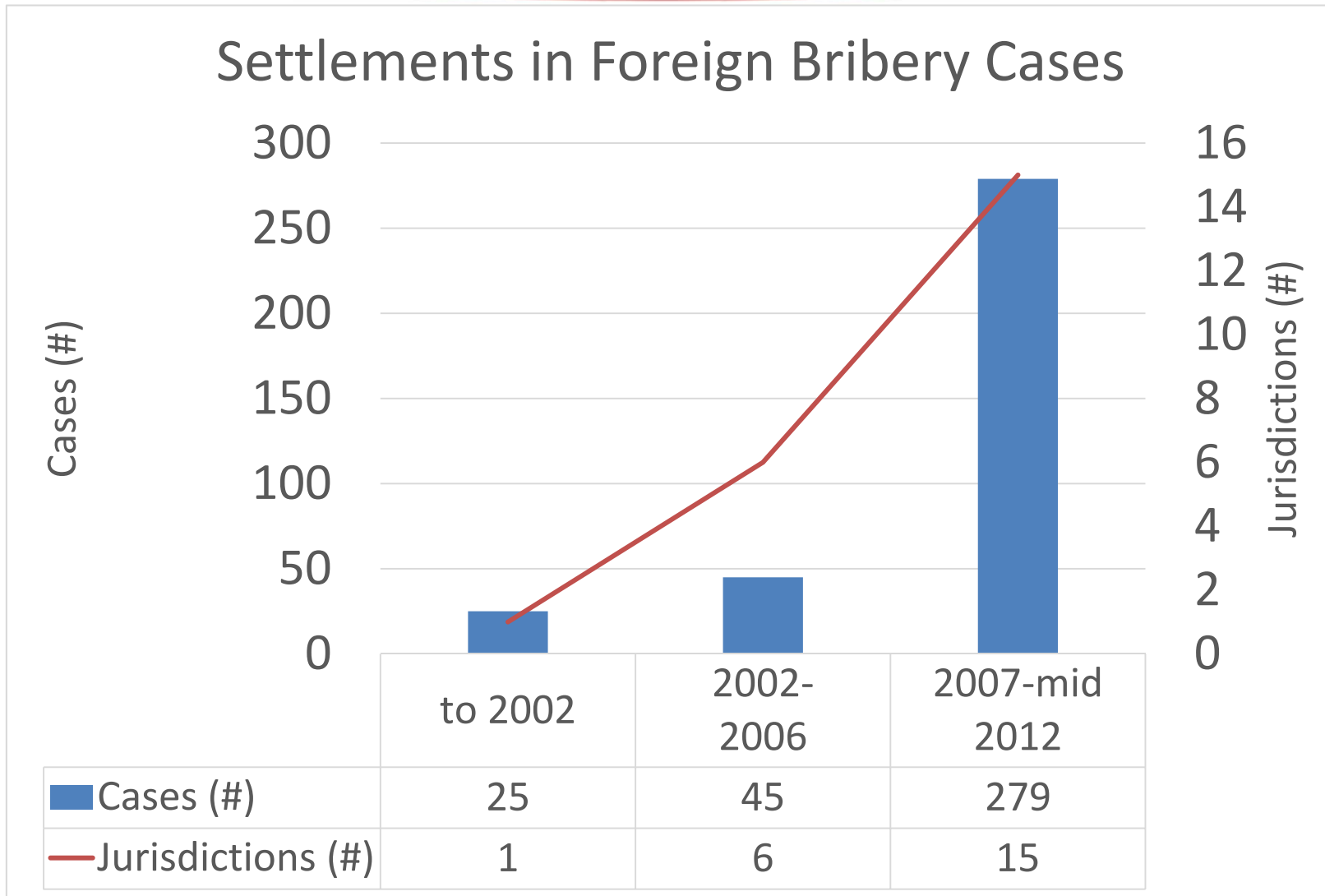


KEY FINDINGS

ANALYSIS

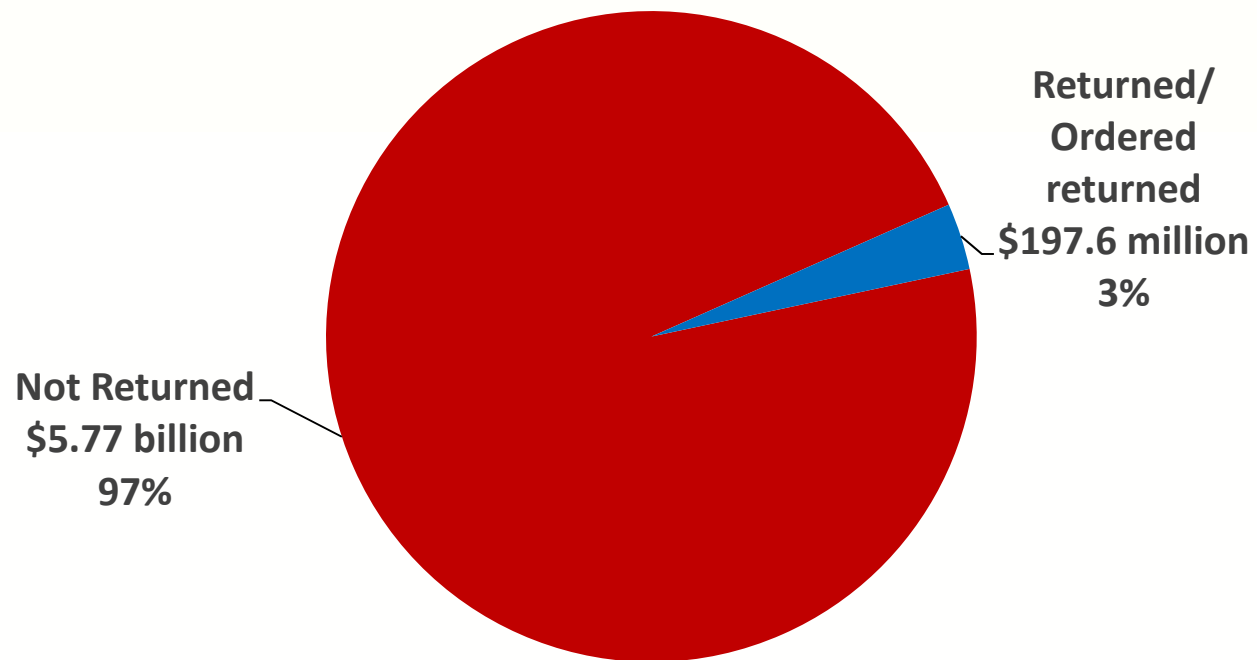
RECOMMENDATIONS

Welcome increase in Enforcement



Why Only 3%?

**Total Monetary Sanctions and Assets Returned or Ordered Returned
Where Jurisdiction of Settlement Differed from Jurisdiction of
Foreign Public Officials**



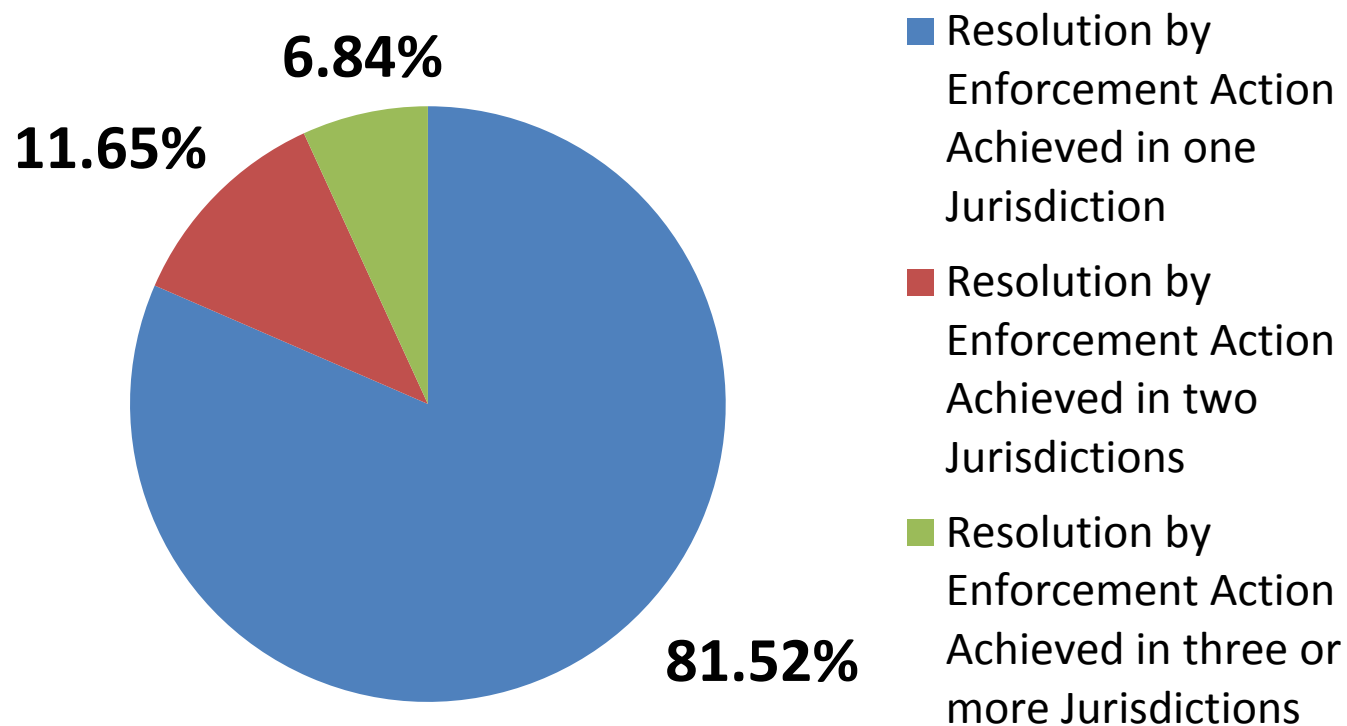
How do Monetary Sanctions Relate to Proceeds of Corruption?



Potentially eligible for asset recovery & return

No legal barriers to international cooperation, but too few multi-country settlements

Settlements in Foreign Bribery Cases Settled
across Multiple Jurisdictions



Developing Countries Not Parties to Settlements

Settlements undertaken with other jurisdictions

- 1 case (Kazakhstan / Bota Foundation)

Enforcement in own jurisdiction against bribe givers -> recovery of \$556 million

- Only 4: Costa Rica, Greece, Lesotho, Nigeria

Possible reasons?

- Not aware of Investigation / Settlement in another Jurisdiction
- Not proactive enough in pursuing cases and lack of capacity

Shared responsibility of settling and affected countries to remedy

Countries Undertaking Settlements

Recommendations



- Develop a clear legal framework
- Improve transparency
- Transmit proactively case information to affected countries
- Inform affected countries of legal avenues to participate in legal proceedings
- Allow courts to recognize claims of affected countries (ex: confiscated assets)

Affected countries

Recommendations



At home...

- Open investigations against suspected bribe takers and givers

... and away

- Explore actively options for Asset Recovery
- Pursue MLA
- Consider private civil law action
- Become a *Partie Civile* (where available)

COSP VI (November 2015)

Resolutions 6/2 and 6/3

Issue of settlements was taken up in both COSP resolutions on asset recovery

- 6/2: reference to StAR study, requests AR Working Group to collect information on settlements and other alternative legal mechanisms and amounts returned
- Urges States using settlements to work collaboratively and proactively share information
- 6/3: States to make available information on their legal frameworks and procedures eg in practical guides

ARWG X (August 2016)



Background paper building on StAR study database and findings

- Information gathered for 2012-2016: +130 additional settlements for approx. US\$4billion in monetary sanctions imposed
- Number of settlements steady/decreasing but value amounts higher, and compared to previous period, 0.18% was returned
- No significant developments in practice or implementations of recommendations (though some examples exist eg cooperation in Petrobras case)