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Rethinking how Switzerland uses illicit profits from foreign bribery settlements

Andrew Dornbierer, Head of Policy and Research, ICAR, Basel Institute on Governance

Introduction

Between 2011 and 2024, Switzerland issued 14 final judicial orders at a federal level against Swiss-linked companies that engaged in foreign bribery.¹ In these proceedings – which were all finalised through non-trial resolutions – the companies were ordered to hand over a combined **CHF 586,128,983** and **USD 179,694,819** in **illicit profits** that they had obtained through their foreign bribery schemes.

Switzerland's efforts to crack down on foreign bribery are commendable, especially given that only a handful of states have been active in pursuing the enforcement of this offence.

Nonetheless, this Policy Brief contends that **Switzerland could further leverage this success to reinforce its status as a world anti-corruption leader.**

In general, Switzerland has a strong record of sharing the confiscated proceeds of most corruption offences with the states in which these offences took place through negotiated agreements. This is not the case, however, when it comes to the disgorged proceeds of foreign bribery settlements, which have all been retained by the Swiss State.

A key reason for this is a condition in the *Loi fédérale sur le partage des valeurs patrimoniales confisquées*² (LVPC) requiring the pre-existence of international cooperation with a foreign state before the Swiss Government can negotiate a sharing agreement regarding illicit proceeds with that state. This condition has unintentionally impeded the negotiation of such agreements in foreign bribery cases due to the fact that international cooperation is rarely sought or required in these cases from the state in which the bribery took place. Instead, in practice, the companies themselves cooperate with authorities during proceedings and provide the requisite information.

As a result, none of the illicit profits that companies were ordered to hand over to Switzerland in foreign bribery cases have been shared with any of the states in which the actual corrupt acts took place. In light of this, this Policy Brief recommends that Switzerland reconsiders this process to better ensure that the profits of foreign bribery are treated comparably to the proceeds of other international corruption offences.

1 The details of these 14 cases are contained in the Basel Institute's Working Paper 59: 'Using corrupt proceeds to fight corruption: Rethinking how Switzerland uses illicit profits from foreign bribery', available at: <https://baselgovernance.org/publications/wp-59>.

2 [Unofficial translation] Federal Act on the Division of Forfeited Assets.



Who benefits when companies are forced to hand over their foreign bribery profits?

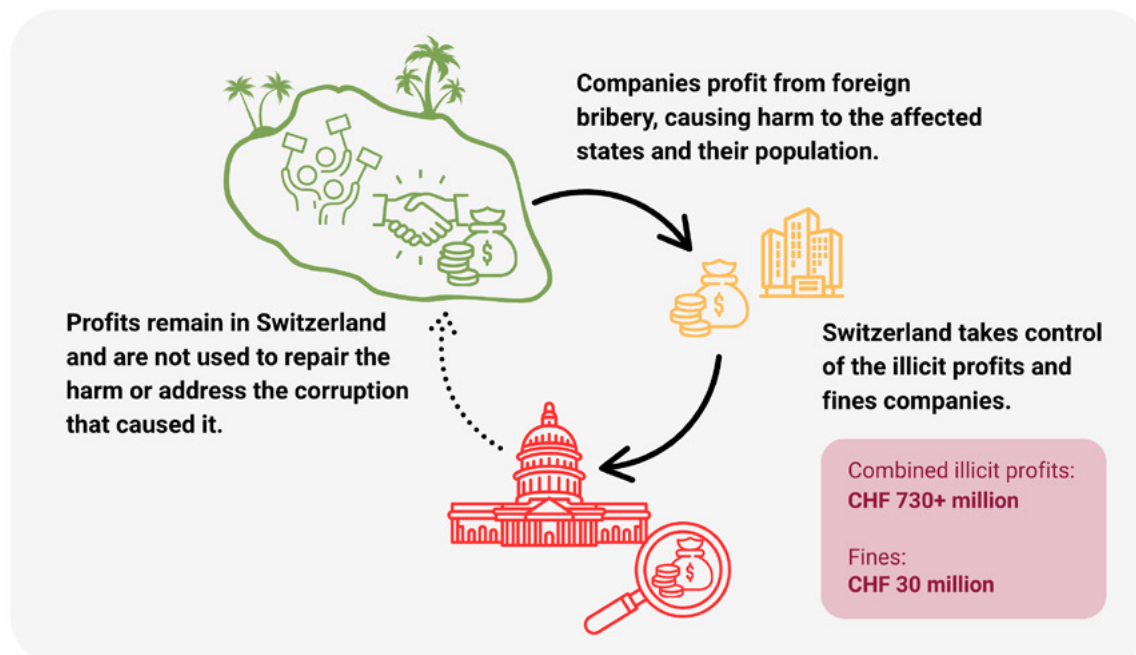


Figure 1: High-level overview of the current situation regarding profits in foreign bribery cases.

Specifically, the Policy Brief contends that Switzerland should not retain any of the illicit profits that:

1. have already been transferred to the Swiss Federal Treasury in these 14 **past foreign bribery cases**; or
2. will be transferred to the Swiss Federal Treasury in any **future foreign bribery cases** of this kind.

Instead, the Policy Brief suggests that Switzerland take certain legislative and administrative steps to ensure that these illicit profits can be **repurposed** in line with its existing policy commitments to repair the damage caused by corruption, to uphold the rule of law internationally and to encourage prosperity and competitiveness.³

Namely, it recommends redirecting these funds with the following objectives:

- to **repair any tangible harm** incurred in such cases by the states in which the foreign bribery took place (the “affected states”); or
- to **mitigate the broader intangible harm** suffered by the affected states and their populations as a result of these corrupt acts through the financing of initiatives that seek:
 - a. to **prevent and deter** future foreign bribery and corruption, or
 - b. to **advance development** in these states.

Where this is not possible, it recommends that these funds should be used to **advance anti-corruption efforts globally** and **encourage broader development**.

³ The Federal Council's Anti-Corruption Strategy 2021–2024, Federal Department of Foreign Affairs, p.13, accessed at https://www.eda.admin.ch/eda/en/fdfa/fdfa/publikationen.html/content/publikationen/en/eda/schweizer-aussenpolitik/Strategie_BR_gegen_Korruption_2021-2024; GFAR Principles for Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases, Principle 6, accessed at <https://star.worldbank.org/sites/star/files/the-gfar-principles.pdf>; Foreign Policy Strategy 2024–27, Federal Department of Foreign Affairs, p.35, accessed at <https://www.eda.admin.ch/eda/en/fdfa/fdfa/publikationen.html/content/publikationen/en/eda/schweizer-aussenpolitik/Aussenpolitische-Strategie-2024-2027.html>.

Key arguments

There are several key arguments as to why Switzerland should take such action.



It would reinforce Swiss policy of rejecting proceeds of corruption and its track record in returning confiscated assets
"Switzerland does not want corrupt money"



It would provide much-needed funding for foreign bribery enforcement
Helping countries detect and investigate bribery themselves



It would benefit law-abiding Swiss companies
By deterring corruption and levelling the playing field



It would position Switzerland as an anti-corruption leader
By setting standards for the use of foreign bribery proceeds globally

Figure 2: Four key arguments for repurposing illicit profits obtained through foreign bribery to the benefit of affected states.

1. It will reinforce Switzerland's longstanding policy to reject the proceeds of corruption.

Since the wave of popular outrage in Switzerland in 1986 following the revelations that the former president of the Philippines Ferdinand Marcos had used Switzerland to hide his illicitly acquired assets, Switzerland has strongly sought to counter the perception that it actively benefits from the proceeds of international corruption.⁴ It has taken significant steps to achieve this and has forged a strong record when it comes to the repatriation of corrupt proceeds to the populations of states harmed by the corrupt acts. As strongly stated in a Federal Department of Foreign Affairs 2016 document on dirty money, "Switzerland does not want corrupt money".⁵

The proceeds of foreign bribery, however, are also funds derived from corrupt acts. Therefore, in retaining the illicit profits derived from such offences, **Switzerland is effectively undermining these efforts and opening itself up to criticism that it is still benefitting from international corruption.**

Moreover, such acts of foreign bribery cause a significant amount of both tangible and intangible harm to the states in which they take place. Therefore, it can be argued that **Switzerland is enjoying this benefit to the detriment of these states**, which are all either low- or middle-income countries.

As stated by the Swiss Federal Council already in 2001 in its *Message concernant la loi sur le partage des valeurs patrimoniales confisquées*,⁶ the retention by Switzerland of assets "that originate from the corruption of foreign officials" is "immoral".⁷ By this clear standard, the profits of foreign bribery (i.e. the corruption of foreign officials) should not be retained.

4 Swiss Department of Foreign Affairs, "No Dirty Money: The Swiss Experience in Returning Illicit Assets", Swiss Department of Foreign Affairs, 2016, available at <https://www.eda.admin.ch/eda/en/fdfa/foreign-policy/international-law/unrechtmaessig-erworbenegelder.html>.

5 Ibid.

6 [Unofficial translation] Accompanying Message to the Federal Act on the Division of Forfeited Assets.

7 [Unofficial translation] FF 2002 423 *Message concernant la loi sur le partage des valeurs patrimoniales confisquées*, 24 October 2001, Federal Council, at 1.3.2.2 and 2.3.2, accessed at <https://www.fedlex.admin.ch/eli/fga/2002/69/fr>.

Instead, legislative reforms should be implemented to align the treatment of these funds with Switzerland's otherwise strong moral standing regarding the end use of seized proceeds of corruption.

2. Funding to boost global foreign bribery enforcement is urgently required.

Beyond ensuring Switzerland's consistent approach to the treatment of corrupt funds, repurposing the profits of foreign bribery will also present numerous opportunities to achieve a positive domestic and international impact. For example, foreign bribery and corruption are as prevalent as ever and enforcement actions in this field are likely to decrease globally (particularly given the United States' decision to refocus and likely reduce enforcement actions relating to its Foreign Corrupt Practices Act).

The illicit profits from Swiss foreign bribery cases could provide a much-needed boost to global enforcement efforts in this area through enhancing the capacity of affected states to detect and investigate foreign bribery. In turn, this would likely prevent a significant amount of harm caused by future acts of this kind to these states.

3. It will benefit Swiss companies.

Persistent levels of corruption are preventing law-abiding Swiss companies from obtaining business globally. A study by Transparency International Switzerland and the University of Applied Sciences Graubünden found that a quarter of Swiss companies believe that they are losing contracts due to the corrupt behaviour of competitors.⁸ Repurposing the illicit profits from foreign bribery cases to reduce corruption and increase integrity in the markets of vulnerable states will help level the playing field and prevent corrupt actors from poaching business through bribery. In turn, this will likely increase the level of business awarded to Swiss companies in these states.

4. It will enhance Switzerland's global reputation as an anti-corruption leader.

Several states are active in pursuing foreign bribery cases. Like Switzerland, these states also largely retain the disgorged illicit profits in these cases – despite the perception that they are effectively benefiting from acts of foreign bribery by their own companies. Consequently, there is an opportunity for Switzerland to establish itself as a global anti-corruption pioneer in this context.

Switzerland already has a strong record in developing innovative methodologies through which the proceeds of other corruption cases could be repurposed for the benefit of victims in foreign states, even when transferring funds to these states is politically challenging. Switzerland could draw upon this experience to establish similar ways in which the profits of foreign bribery could be repurposed. By doing so, Switzerland will be setting a clear international standard on how foreign bribery profits should be used. In parallel, Switzerland will also be reinforcing its global reputation as a leader in the fight against all forms of corruption.

The Policy Brief proposes **two sets of recommendations**. The first outlines the administrative and legislative actions Switzerland could take to repurpose the significant amount of illicit profits already awarded to it in **past foreign bribery cases** in line with the above-mentioned objectives. The second outlines the legal reforms Switzerland could take to ensure it can also do this in **future foreign bribery cases**.

⁸ Auslandskorruption bei Schweizer Unternehmen – neue Erkenntnisse zu Risiken und Gegenstrategien, p.3, accessed at: <https://www.fhgr.ch/en/uas-grisons/unternehmerisches-handeln/swiss-institute-for-entrepreneurship-sife/foreign-corruption-at-swiss-companies/>.

Avenues for repurposing illicit profits from past cases

With regards to the funds already awarded to Switzerland in finalised cases, the Swiss Government could:

- **Option 1:** Introduce a **tailor-made law** to enable Switzerland to enter into negotiated agreements with affected countries regarding the sharing of the illicit profits held in the Swiss treasury from these 14 finalised cases. Such a law should be applicable regardless of whether international cooperation took place in these cases – unlike the LVPC, which makes international cooperation a requirement.

Following this, the Swiss Government could then negotiate an agreement with an affected state outlining a mechanism through which the relevant funds could be repurposed to benefit that state and its population. Such an agreement could be made directly with the affected state or, if appropriate, could also include an independent third party to administer the distribution of funds. It could be closely modelled on previous agreements Switzerland has made involving other corrupt proceeds, such as the 2022 restitution agreement that Switzerland signed with Uzbekistan through which USD 131 million in confiscated funds were effectively repurposed to benefit the population of Uzbekistan.⁹

In parallel, or as an alternative to the above option, the Swiss Government could also:

- **Option 2:** Introduce a law **establishing a Swiss-administered “anti-corruption fund”**. Illicit profits from foreign bribery cases could be redirected into this fund to finance initiatives that either mitigate specific harm or that combat corruption globally. This could include, for example, technical assistance programmes in line with Chapter 6 of the United Nations Convention Against Corruption (UNCAC).

The redirected funds could also potentially be used to provide resources to victims of corruption to make claims for compensation through judicial avenues or, where appropriate, act as a substitute for compensation where judicial avenues for restitution are not available.

Avenues for repurposing illicit profits in future cases

In a similar vein, this Policy Brief proposes that the Swiss Government should also take action to ensure that the illicit profits from any **future cases** can be repurposed as well. Such actions could include:

- **Option 1: Amending the LVPC or passing a new law** to provide authority to the government to enter into sharing agreements in future foreign bribery cases even where no international cooperation has occurred. Since the enactment of the LVPC, Switzerland has developed a strong tradition of ensuring that the recovered illicit proceeds of most corruption offences (other than foreign bribery) are repurposed to benefit the states in which the corruption offence took place. By making this amendment, the Swiss Government would reinforce this tradition by ensuring that the recovered profits relating to foreign bribery proceedings (which usually don't rely on international cooperation) could be repurposed in the same way as those of other corruption cases.
- **Option 2:** Creating a **Swiss-administered anti-corruption fund** (as noted above).
- **Option 3:** As an alternative, creating a **multilateral anti-corruption fund** with other states that are also active in enforcing foreign bribery laws. This fund could act as a financing vehicle for global anti-corruption initiatives. It could also potentially act as an international compensation fund for victims of foreign bribery that are unable to obtain adequate compensation through existing judicial avenues.

⁹ *Restitution of Illicit Assets: Switzerland and Uzbekistan Sign Agreement*, the Federal Council, accessed at <https://www.admin.ch/gov/en/start/documentation/media-releases.msg-id-89949.html>. Note a further USD 313 million was also returned to Uzbekistan following the signing of a second related agreement in 2025, see “INFORMATION on the ‘Agreement regarding the sharing of forfeited assets’ between the Swiss Federal Council and the Government of the Republic of Uzbekistan”, Swiss Confederation, 2025, accessed at: <https://www.eda.admin.ch/countries/uzbekistan/en/home/news/news.html/content/countries/uzbekistan/en/meta/news/2025/February/restitution>.



Options for repurposing illicit profits from foreign bribery cases:

Funds from past cases	Past and future	Funds from future cases
Tailor-made law to enable sharing agreements with states affected in past cases	Establishing a Swiss fund to address the harm caused by foreign bribery and finance anti-corruption initiatives globally	- Legal amendments to the LVPC or a new law to enable sharing agreements with affected states (regardless of pre-existing cooperation) - Establishing a multilateral anti-corruption fund with other international financial centres



Repurposing fines domestically:

- to enhance foreign bribery prevention efforts
- to boost law enforcement capacities to detect corruption and illicit finance

Figure 3: Overview of options for repurposing illicit profits and fines related to foreign bribery cases.

Repurposing fines to support domestic enforcement

In addition to the illicit profits that companies were ordered to pay to the Swiss State in the 14 foreign bribery cases noted above, these same companies were also ordered to pay a total of over **CHF 30 million in criminal fines**.

Given that such fines are purely punitive in nature, this Policy Brief proposes that these funds could be repurposed domestically to **assist with efforts to prevent Swiss-linked companies from engaging in foreign bribery**.

Additionally, these funds could provide much-needed resources to Swiss law enforcement agencies tasked with detecting corruption and money laundering more generally.

Fulfilling a universal responsibility

The amount of illicit profits that companies have been ordered to pay Switzerland in foreign bribery cases is enormous. While it is certainly commendable that Switzerland is active in enforcing these kinds of cases, it is also crucial to remember that the illicit profits involved have come at a significant cost to low- and middle-income states.

Given this fact, these profits should not be retained by Switzerland. Where possible, they should instead be transparently repurposed to benefit the populations of the

jurisdictions in which the foreign bribery took place. This would help address any harm caused by the corrupt acts and support development more broadly. The funds could be used to empower these states to prevent and deter these corrupt acts from occurring again in the future.

If this is not feasible, the funds should alternatively be used to fulfil Switzerland's policy commitments to combat and reduce corruption globally and to foster the rule of law.

As previously stated by the Federal Council, "[a]ll states are required by international standards to engage in the fight against corruption, and this is what their citizens expect."¹⁰ By repurposing the illicit profits of foreign bribery cases involving Swiss-linked companies as suggested in this Policy Brief, Switzerland will assertively establish itself as the vanguard in this fight.

¹⁰ The Federal Council's Anti-Corruption Strategy 2021–2024, Federal Department of Foreign Affairs, p.12, accessed at https://www.eda.admin.ch/eda/en/fdfa/fdfa/publikationen.html/content/publikationen/en/eda/schweizer-aussenpolitik/Strategie_BR_gegen_Korruption_2021-2024.

Keywords

- foreign bribery
- non-trial resolution
- proceeds of corruption
- Switzerland
- end use of confiscated assets

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