



Month in a Minute: March 2024

Hughes Hubbard's anti-corruption "Month in a Minute" offers a quick look-back at the biggest foreign corruption-related developments from the prior month. The Month in a Minute is intended to provide a quick snapshot of the latest news and developments. We hope you find it a useful and perhaps even enjoyable resource.

Highlights from March 2024 include a guilty plea for Gunvor Group, a new DOJ whistleblower program, an indictment for a Stericycle executive, and a guilty plea for international commodities trader, Trafigura.

Gunvor Group Pays \$665 Million to Resolve Bribery Scheme

On March 1, 2024, Gunvor Group ("Gunvor"), a Swiss-based energy trading company, pleaded guilty in the U.S. District Court for the Eastern District of New York to one count of conspiring to violate the anti-bribery provisions of the FCPA. Gunvor's plea deal was part of a global resolution pursuant to which Gunvor agreed to pay approximately \$665 million to U.S. and Swiss authorities.

Between 2012 and 2020, Gunvor and its subsidiaries paid more than \$97 million in bribes to public officials at the Ecuadorian Ministry of Hydrocarbons and at Petroecuador, Ecuador's state oil company, in exchange for lucrative oil contracts. Many of the bribe payments were made to Nilsen Arias Sandoval ("Arias"), a senior manager at Petroecuador from 2010 to 2017, who in turn shared portions of the bribes with other Ecuadorian officials. In 2022, Arias pleaded guilty to one count of conspiracy to commit money laundering. Gunvor received approximately \$384 million in profit as a result of its schemes.

Pursuant to its plea deal, Gunvor agreed to forfeit more than \$287 million and pay a criminal penalty of \$374.5 million. While Gunvor did not receive any voluntary disclosure credit, the criminal penalty reflects a 25% discount off of the applicable U.S. Sentencing Guidelines fine range due to Gunvor's cooperation and remediation efforts, which included, among other things, producing documents, making presentations to the government, preserving business communications, eliminating the use of third-party agents, and agreeing to strengthen its compliance program. The plea agreement requires Gunvor to pay 50% of the criminal penalty (approximately \$187.2 million). The government agreed to credit the remaining 50% as follows: (1) up to \$93.6 million will be credited for payments made within the next 12 months in connection with any parallel resolution Gunvor reaches with Swiss authorities; and (2) up to \$93.6 million will be credited for payments made within the next 12 months in connection with any parallel resolution Gunvor reaches with Ecuadorian authorities. On March 1, Swiss authorities announced that Gunvor had been found criminally liable for bribing foreign public officials and had agreed to pay a \$4.86 million fine and disgorge \$93.6 million. Gunvor has not reached a public resolution with Ecuadorian authorities to date.

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Financial Incentives for Whistleblowers Under New DOJ Program

On March 7, 2024, Deputy Attorney General Lisa Monaco announced a new DOJ whistleblower program aimed at incentivizing individuals to disclose information about corporate criminal misconduct or financial crimes. Under the new program, individuals who report corporate misconduct or financial crimes to the DOJ may receive a portion of any resulting forfeiture action. The details of the new program, which will be led by the DOJ's Criminal Division, will be developed over the next three months with input from the DOJ's Money Laundering and Asset Recovery Section. The new program will not offer rewards or immunity to individuals who participated in the misconduct and will only apply where rewards are not available under other federal whistleblower programs. The DOJ's announcement comes two months after the U.S. Attorney's Office for the Southern District of New York announced that it would implement a whistleblower program under which individuals who provide information on corporate misconduct can receive non-prosecution agreements. On March 18, 2024, the U.S. Attorney's Office for the Northern District of California announced a similar whistleblower pilot program under which it would offer non-prosecution agreements to individuals who voluntarily disclose criminal conduct and cooperate against those involved.

Former Stericycle Finance Director Indicted in Bribery Scheme

On March 19, 2024, U.S. prosecutors charged Abraham Cigarroa Cervantes ("Cigarroa"), a former finance director at Stericycle's Latin American branch, with violating the anti-bribery and books-and-records provisions of the FCPA. According to the indictment, between December 2011 and April 2016, Cigarroa and his co-conspirators paid approximately \$10.5 million in bribes to officials in Brazil, Mexico, and Argentina to help Stericycle obtain government contracts for medical waste collection. Cigarroa and his co-conspirators allegedly concealed the bribe payments by making false entries into Stericycle's books and records. They also allegedly tracked the bribe payments through spreadsheets using code words such as "IP" and "advanced payments." Cigarroa faces up to 10 years in prison if convicted.

The charges against Cigarroa come after Stericycle's senior vice president, Mauricio Gomez Baez, pleaded guilty in February 2024 to one count of conspiracy to violate the anti-bribery provisions of the FCPA for his role in the scheme. Stericycle entered into a DPA in April 2022 to resolve parallel investigations by the DOJ and SEC into the scheme, agreeing to pay more than \$80 million in penalties and disgorgement.

Trafigura Pleads Guilty to FCPA Violation

On March 28, 2024, Trafigura Beheer B.V. ("Trafigura"), a Singapore-headquartered international commodities trader, pleaded guilty in the U.S. District Court for the Southern District of Florida to one count of conspiring to violate the anti-bribery provisions of the FCPA for its role in a scheme to pay bribes to officials at Petrobras, Brazil's state-owned oil company. Between 2003 and 2014, Trafigura paid bribes to Petrobras officials in exchange for contracts and business opportunities. Beginning in 2009, Trafigura entered into an agreement under which it would pay 20 cents in bribes for every barrel of oil it traded with Petrobras. The bribe payments were concealed using a network of shell companies, intermediaries, and bank accounts. Trafigura earned an estimated \$61 million in profits from the scheme.

As part of its guilty plea, Trafigura agreed to pay \$127 million to the DOJ. This includes forfeiture of approximately \$46.5 million and an \$80.5 million criminal penalty. The DOJ agreed to credit Trafigura up to \$26.8 million for amounts ultimately paid to Brazilian authorities to settle related investigations. Due to Trafigura's past misconduct and its "posture in resolution negotiations," which resulted in significant delays and the expenditure of substantial DOJ efforts and resources, the criminal penalty Trafigura received reflected only a 10% discount off of the fifth percentile of the applicable U.S. Sentencing Guidelines Range. The DOJ acknowledged Trafigura's cooperation and remediation efforts, which included providing updates regarding its internal investigation to the DOJ, making factual presentations to the DOJ, facilitating employee and agent interviews, improving compliance monitoring and controls testing processes, and discontinuing the use of third-party agents for business origination. However, the DOJ also noted that Trafigura failed to preserve and produce certain

documents in a timely manner and was slow to enact disciplinary and remedial measures for employees involved in the misconduct.

FACT OF THE MONTH

March is home to March Madness, the NCAA's men's and women's basketball tournaments. The first NCAA Division I men's basketball tournament was hosted in 1939 and consisted of just eight teams. The Oregon Ducks beat Ohio State 46-33, becoming the first team to win the national title. The first NCAA Division I women's basketball tournament took place in 1982 and consisted of 32 teams. Louisiana Tech beat out Cheney State 76-62. Each year, millions of people chase the elusive "perfect bracket" by attempting to select the winner of each game of the respective tournaments. Even for so-called experts, this pursuit remains but a pipe dream. The odds of picking a perfect bracket are estimated to be between 1 in 10 billion and 1 in 40 billion, even for people with substantial college basketball knowledge. According to the NCAA, in 2024, the final perfect men's bracket was busted during the first round when Utah State beat TCU in the 31st game of the tournament; the final perfect women's bracket busted on the 51st game when NC State beat Stanford.