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FCPA News & Trends

In the last week, there were two important developments in the world of FCPA enforcement:

Technip SA Agrees to \$338 million in Penalties

On June 28, 2010, Technip SA, a French-based global engineering company listed on the New York Stock Exchange, agreed to pay \$98 million in a civil settlement with the Securities and Exchange Commission ("SEC") and a \$240 million criminal fine to resolve an investigation by the SEC and Department of Justice ("DOJ"). The investigation concerned Technip's participation with its then joint venture partners the former Halliburton Co. subsidiary, Kellogg Brown & Root Inc., Snamprogetti, formerly owned by Italy's ENI SpA, and JGC of Japan, in a scheme to bribe Nigerian officials to obtain \$6 billion in construction contracts. As part of the deferred prosecution agreement with DOJ, Technip also agreed to continue to cooperate and to engage a third-party corporate monitor. Interestingly, the SEC alleged that the joint venture partners paid bribes to employees of Nigeria LNG, Ltd., a company in which the Nigerian government may have had less than a 50% ownership interest. Nevertheless, the SEC alleged that the company was an instrumentality of the Nigerian government, and therefore its employees were foreign government officials, because the Nigerian government could exercise control over the company through the directors it appointed.

In February 2009, Halliburton/KBR agreed to pay \$579 million to resolve similar charges. Related resolutions for the remaining two joint venture partners, Snamprogetti/ENI SpA, and JGC, may be forthcoming. ENI disclosed a litigation reserve concerning the matter earlier this year.

DOJ's press release specifically noted the significant assistance provided by authorities in France, Italy, Switzerland, and the United Kingdom.

Lengthy Sentences for Individuals

On June 25, 2010, John Warwick was sentenced to 37 months in prison for his role in a conspiracy to bribe Panamanian government officials to obtain contracts on behalf of Ports Engineering Consultants Corporation to maintain lighthouses and buoys along Panama's waterway. Warwick, who pleaded guilty in February 2010, also forfeited \$331,000 in proceeds of the crime.

In April, Warwick's co-conspirator Charles Jumet was sentenced to 87 months in prison, the longest FCPA-related sentence to date, and fined \$15,000. In addition to FCPA violations, Jumet was also charged with making false statements to prosecutors. In delivering Jumet's sentence, U.S. District Judge for the Eastern District of Virginia Henry E. Hudson commented that Jumet "deceived" and "obstructed justice," which may account for the 50 month disparity in the co-defendants' sentences.

These events underscore several FCPA trends:

- **Enforcement against foreign corporations** – As quoted in the DOJ press release regarding the French corporation Technip, Principal Deputy Assistant Attorney General Mythili Raman said, "The resolutions announced today demonstrate once again the department's commitment to aggressively investigate and prosecute international bribery by U.S. and foreign corporations alike."
- **Coordinated global efforts in prosecuting FCPA cases** – FBI Assistant Director Kevin L. Perkins, referring to the cooperation of France, Italy, Switzerland and the United Kingdom, was also quoted in the Technip press release as stating, "This case demonstrates the FBI's commitment to aggressively investigate violations of this law. We will continue to investigate FCPA matters by working in partnership with other law enforcement agencies, both foreign and domestic, to ensure that both corporations and executives who bribe foreign officials in return for lucrative business contracts are punished."
- **Prosecution of individuals** – Lanny Breuer, DOJ Assistant Attorney General, said in a November 17, 2010 speech, "In fact, prosecution of individuals is a cornerstone of our enforcement strategy. . . . Put simply, the prospect of significant prison sentences to individuals should make clear to every corporate executive, every board member, and every sales agent that we will seek to hold you personally accountable for FCPA violations."

If you have any questions concerning the FCPA or how to protect your corporation against possible FCPA violations, please contact any member of Venable's [FCPA team](#).

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