



2016 GLOBAL CARTEL ENFORCEMENT REPORT

AUTHORITIES LAUNCHED NEW CRIMINAL PROBES, OBTAINED GUILTY PLEAS FROM COMPANIES AND EXECUTIVES AND IMPOSED HEFTY FINES AS AGGRESSIVE ENFORCEMENT CONTINUED

Several significant developments occurred in cartel enforcement in 2016. New record fines were imposed by enforcement authorities in the European Union and the United Kingdom. EU and India fines exceeded \$1 billion. Fines of more than \$100 million were imposed in the European Union, Germany, Italy, South Africa, Spain, Ukraine, and the United States.

Several investigations produced their first criminal guilty pleas in 2016. In December, the US Department of Justice (DOJ) brought its first charges in the generic drugs investigation as two executives agreed to plead guilty. In the seafood packaging investigation, the first charges were also filed by the DOJ in December against two senior vice presidents who both agreed to plead guilty. Based on public statements by the DOJ, both of these investigations are expected to grow over the coming months.

There were also several significant firsts in cartel enforcement in 2016:

- The DOJ's Antitrust Division (DOJ) announced that it will open criminal investigations and prosecute employers, including individual employees, who enter into certain "naked" wage-fixing and no-poaching agreements.
- Australia's Competition and Consumer Commission (ACCC) filed its first criminal cases against a corporation under the cartel provisions of the Competition and Consumer Act. Australia's first two corporate criminal antitrust cases arose from the ongoing global investigation of roll-on roll-off shipping.
- Spain's National Authority on Markets and Competition (CNMC) fined executives in an antitrust investigation

for the first time. The case involved a cartel for products eligible for subsidies and bought through pharmacies.

- Peru's National Institute for the Defense of Competition and Protection of Intellectual Property (INDECOPI) imposed both fines (totaling \$2.6 million) and corrective measures for the first time in an antitrust case. The penalties were imposed on five pharmacy chains for fixing the prices of medicine and dietary supplements.
- Chile and South Africa enacted legislation with criminal penalties for cartel violations, joining a growing list of countries that have criminalized cartel conduct.
- The Namibian Competition Commission conducted its first dawn raid in an investigation into alleged market manipulation practices by an energy company, and also imposed its first-ever cartel fine involving two insurance companies accused of a market division conspiracy.
- In the United States, the total amount of criminal fines and penalties dropped below \$1 billion for the fiscal year for the first time since 2011.
- The United Kingdom's (UK's) Competition and Markets Authority secured the first disqualification of an individual director from acting as a director of any UK company for five years as part of the remedies in its investigation into cartel conduct by suppliers of posters and frames on Amazon's UK website.

The Automotive Parts Investigation is expanding around the world, with new investigations announced in Brazil, Canada, Germany, India, Mexico, South Korea, South Africa, and Spain. In the United States, the Automotive Parts Investigation is concluding, with DOJ imposing fines totaling more than \$2.9 billion. The investigation, DOJ's largest to date, resulted in the prosecutions of 47 corporations and 65 individuals. As a snapshot of this comprehensive investigation, we have provided two appendices summarizing the charges against companies and individuals. (See [Appendix A \(corporate cases\)](#) and [Appendix B \(individual cases\)](#).)

Global enforcers remain active in conducting dawn raids and surprise inspections. As a *new feature* for our report, we highlight several dawn raids around the world.

In addition to the newly announced investigations noted above, we expect to see ongoing active enforcement in 2017 in the electronic components and global shipping industries. We will continue to monitor new investigations and emerging issues over the coming months.

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TRENDS

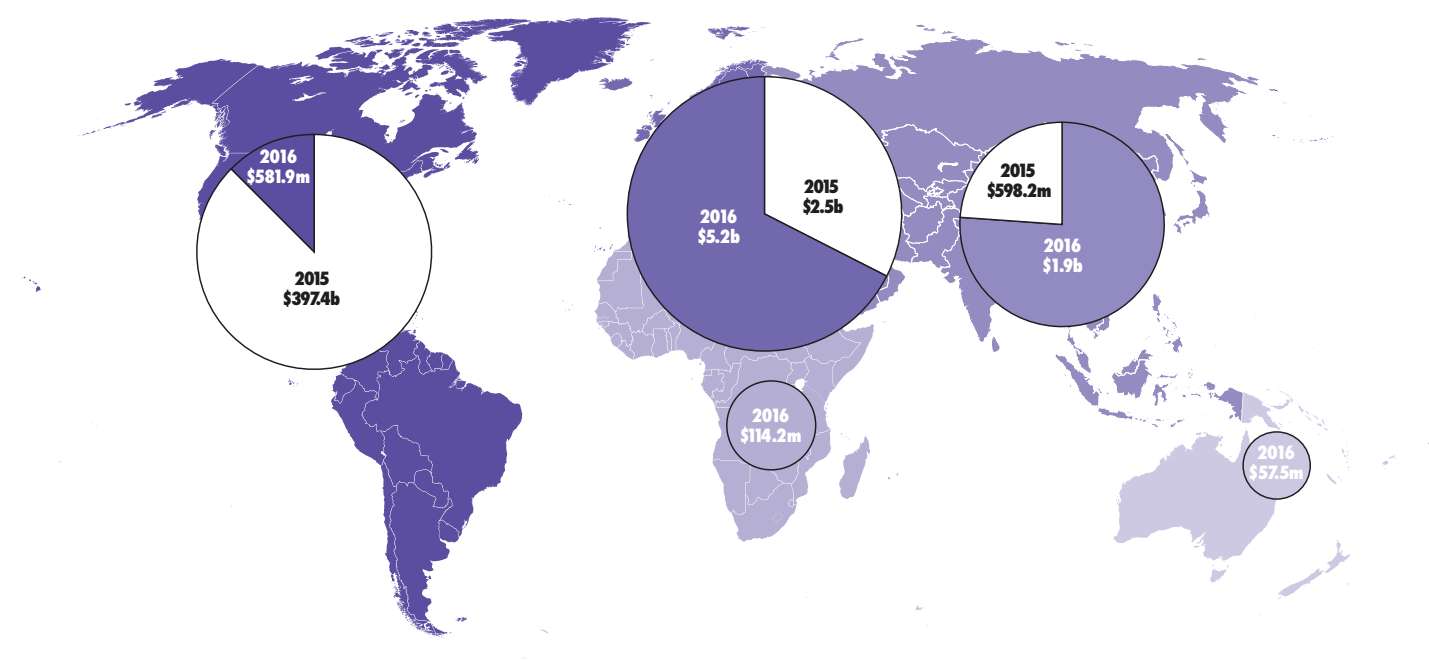
EMERGING AND CONTINUING TRENDS IN CARTEL ENFORCEMENT

- Record European Commission Fine in a Pure Antitrust Cartel Case.** On July 19, the European Commission imposed a **€2.93 billion (\$3.3 billion)** fine on various manufacturers of heavy-duty trucks for coordinating pricing, including in the costs of complying with emissions regulations from 1997 to 2011. (See p. 9). This is the largest fine ever imposed in a single cartel case that did not involve allegations of other violations. Earlier cases involving financial benchmarks resulted in higher overall fines, but those cases involved fraud and securities claims in addition to antitrust claims.
- Record Settlement in Brazil Cartel Case.** On November 24, Brazil's Council for Economic Defense (CADE) entered into a **301 million reais (\$89 million)** settlement with orange juice producers, a sector association, and nine individuals implicated in a price-fixing cartel investigation. According to the agency, this is "the highest value ever paid in a case involving settlements at CADE." (See p. 9).
- Fine Trend Drops in the United States.** For the first time since 2011, the total amount of criminal fines and penalties dropped below \$1 billion in the United States, coming at approximately \$337 million. The DOJ criminal fine totals for the last seven fiscal years have been as follows: 2015 (\$3.6 billion), 2014 (\$1.3 billion), 2013 (\$1 billion), 2012 (\$1.1 billion), 2011 (\$524 million), 2010 (\$555 million), and 2009 (\$1 billion). (See p. 8). It is not uncommon to see occasional drops in fine totals when investigations are winding down (including the Automotive Parts Investigation, which is the largest by DOJ to date) and new investigations are beginning. (See p. 26).
- Notable Corporate Fines.** Several jurisdictions, including in the European Union, Italy, South Korea, South Africa, Spain, and the United States, reported fines exceeding \$100 million. (See pp. 8-14).
- Significant Prison Sentences.** Enforcers around the world obtained lengthy prison terms, including a 63-month sentence in the United States for an executive who was extradited from Canada and convicted by a jury. Other sentences exceeded one year in prison. (See p. 16).
- DOJ Announcement on Prosecuting Wage-Fixing and No-Poaching Deals.** For the first time, the DOJ announced that it will open criminal investigations and prosecute employers and their complicit employees, who enter into certain "naked" wage-fixing and no-poaching agreements. The announcement was issued jointly by the DOJ and the US Federal Trade Commission (FTC) in a new "Antitrust Guidance for Human Resource Professionals." Both agencies confirmed that they will pursue civil actions against other types of employment-related conduct, such as companies sharing sensitive employee compensation information without actually agreeing to fix wages. Based on the new guidance, enforcement actions in wage-fixing and no-poaching agreements will certainly be an area to watch in 2017. (See p. 36).
- Pharmaceutical Investigations Advancing.** DOJ indicted two pharmaceutical executives in its well-publicized investigation of generic pharmaceutical manufacturers. DOJ is very active in this area, and officials have indicated that other charges are likely. Enforcers in other jurisdictions are also focusing on the pharmaceutical industry as the United Kingdom has commenced an investigation into possible anticompetitive agreements, and Germany and Belgium recently launched investigations into pharmaceutical wholesalers for possible collusion. This remains a key industry to watch in the new year. (See p. 23).
- Expanding Capacitors Investigation.** Enforcers in the United States, China, EU, Japan, South Korea, Brazil, and Taiwan are pursuing separate electrolytic capacitors investigations. DOJ has charged nine executives and five companies so far for participating in a price-fixing conspiracy. More activity is expected in the new year on these global investigations. (See p. 25).
- Continuing Automotive Parts Investigations.** DOJ confirms that the Automotive Parts Investigation is coming to a close. This is the largest DOJ antitrust investigation to date in which the department imposed more than \$2.9 billion in criminal fines against 65 individuals and 47 companies. In the meantime, active investigations are underway around the world that we expect to continue well into 2017. (See p. 26).

- **Financial Benchmarks Investigations.** Significant activity continues in both government prosecutions and private litigation in the alleged manipulation of various financial benchmarks—including LIBOR and various foreign exchange markets. The benchmark rate investigations generally appear to be shifting from corporate liability to personal liability as regulators seek to punish individual traders. Private litigation has also intensified, as several cases have survived motions to dismiss and discovery is underway. (See pp. 29-31).
- **First Criminal Charges Filed in Packaged Seafood Industry Investigation.** On December 7 and 21, DOJ announced the filing of its first charges in its packaged seafood industry investigation. The first case was filed against a senior vice president of sales of a leading packaged seafood company. The second was against a senior vice president of trade marketing for a leading packaged seafood company. Both executives have agreed to plead guilty. Further activity is expected in 2017 as the ongoing investigation advances. (See p. 33).
- **Active Enforcement in South Korea.** In 2016, the Korea Fair Trade Commission (KFTC) was one of the more active jurisdictions enforcing cartel activities. It imposed remedies and surcharges on more than 70 domestic companies and referred three cases involving 21 construction companies to the prosecutor's office for criminal prosecution. Total fines for 2016 were nearly \$654 million. (See pp. 6-7).
- **Active Dawn Raids Around the World.** Competition agencies continue to actively use dawn raids as an enforcement tool to seize evidence in cartel investigations. A summary of recent dawn raids and unannounced inspections highlights the breadth of enforcement activity around the world. (See pp. 19-21).
- **International Cooperation.** Enforcement authorities throughout the world continue to forge closer ties, executing formal cooperation agreements and working together on cartel investigations. One example is the recent joint investigation and prosecution of an auto body sealing company, which involved DOJ and Canada's Competition Bureau (CCB). The DOJ included Canadian revenues in its fine calculations in that case, and the CCB imposed no independent fines as part of the joint investigation. (See pp. 26-27). This type of coordination—the first of its kind—provides one possible solution to the burgeoning problem of duplicative fines.
- **Criminalization Trend Continues.** More and more countries are enacting laws to criminalize cartel conduct, with South Africa and Chile joining the trend in the early part of 2016. (See pp. 36-37).
- **First Corporate Criminal Charges Filed in Australia.** Australia, which has long had laws that allow corporate criminal prosecution, filed its first two cases against a corporation under the criminal cartel provisions of the Competition and Consumer Act. These cases were filed in July and November against two global shipping companies as part of the ongoing global investigation into roll-on roll-off shipping (See p. 32).
- **Extradition.** The DOJ's Antitrust Division has continued its recent extradition efforts with its fifth successful extradition of a foreign executive since 2010. Three foreign executives have been extradited by the Antitrust Division in the last two and a half years. (See p. 37; see also p. 38 for a table summarizing the prior extraditions by the DOJ's Antitrust Division)
- **Revised Leniency Guidelines in Belgium.** In March, the Belgian Competition Authority (BCA) issued new leniency guidelines to revise those from 2007. The BCA Chief Prosecutor reported that several new cases have been opened under the new guidelines. (See pp. 39-40).
- **Sherman Act Reach Outside the United States.** Since the US Supreme Court declined to consider the scope of the Foreign Trade Antitrust Improvements Act (FTAIA) in June 2015, the lower courts continue to wrestle with the limits to the reach of the Sherman Act. Two recent district court rulings continued this review in 2016 by considering two exceptions under the FTAIA. (See p. 42).
- **Domestic Cartel Enforcement Efforts.** Much of the global anticartel enforcement agenda in 2016 was dedicated to domestic cartel conduct. For example, South Korea and Japan imposed large fines on companies operating bid rigging and price fixing cartels for various infrastructure projects and products. (See p. 12) Colombia imposed the largest cartel fine in its history for a domestic cartel focused on paper products. (See p. 8). Italy imposed some of its heaviest fines in history for domestic cartels relating to television service and vending machines, and cleaning, maintenance, and sanitation services to national schools. (See p. 10). And very substantial resources have been devoted in the United States to prosecuting—including through trial—various individual cases involving alleged bid rigging of local real estate foreclosure auctions. Brazil and New Zealand have opened investigations on the real estate market. (See p. 35).

2016 CARTEL FINES

TOTAL GLOBAL CARTEL FINES 2015–2016
FINES ARE BASED ON THE CALENDAR YEAR



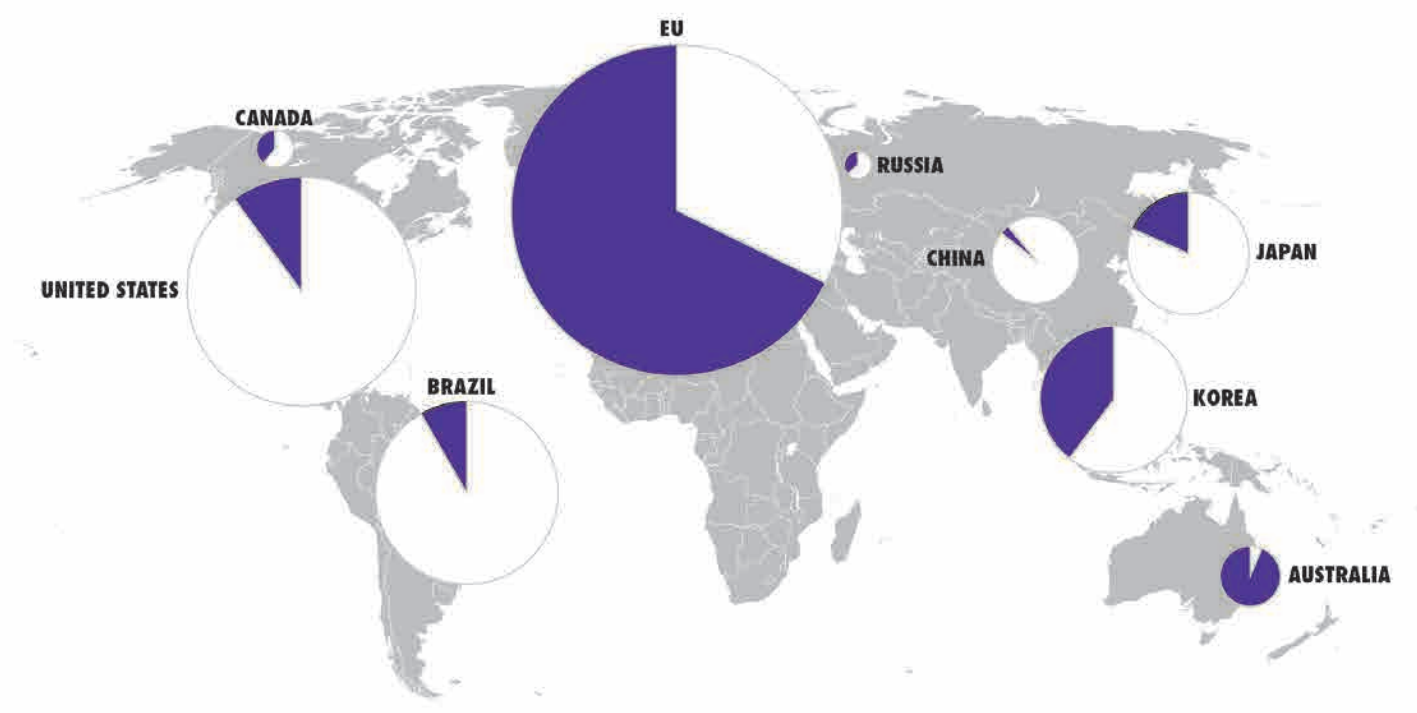
2016 TOTAL GLOBAL FINES: \$7.8B														
AMERICAS: \$581.9m				EUROPE: \$5.2b		ASIA: \$1.9b					AFRICA: \$114.2m		AUSTRALIA AND OCEANIA: \$57.5m	
UNITED STATES	BRAZIL	CANADA	OTHER	EU	OTHER	CHINA	JAPAN	SOUTH KOREA	RUSSIA	OTHER	SOUTH AFRICA	OTHER	AUSTRALIA	NEW ZEALAND
\$337.4m	\$141.0m	\$10.2m	\$93.3m	\$4.1b	\$1.1b	\$5.1m	\$88.3m	\$766.0m	\$7.6m	\$1.0b	\$113.1m	\$1.1m	\$45.9m	\$11.6m

2015 TOTAL GLOBAL FINES: \$7.1B							
AMERICAS: \$3.974b			EUROPE: \$2.5b		ASIA: \$598.2m		
UNITED STATES	BRAZIL	CANADA	EU		CHINA	JAPAN	SOUTH KOREA
\$3.8b	\$165m	\$8.7m	\$2.5b		\$153.9m	\$13.9m	\$426m
							\$4.4m

b = billion
m = million

CARTEL FINES BY JURISDICTION 2015–2016

FINES ARE BASED ON THE CALENDAR YEAR



	EU	UNITED STATES	BRAZIL	SOUTH KOREA	JAPAN	CHINA	AUSTRALIA	CANADA	RUSSIA
2016	\$5.2b	\$337.4m	\$141.0m	\$766.0m	\$88.3m	\$5.1m	\$45.9m	\$10.2m	\$7.6m
2015	\$2.50b	\$3.8b	\$1.6b	\$1.01b	\$398.5m	\$290.2m	\$3.2m	\$16m	\$13.3m

b = billion
m = million

NOTABLE CORPORATE FINES

AMERICAS

- United States: Auto Body Sealing Products.** On July 20, the DOJ announced that a Japanese auto parts manufacturer had agreed to plead guilty to fixing prices and rigging bids for body sealing products used in automobiles, and to pay a fine of **\$130 million**. The DOJ coordinated closely with the CCB on the investigation and the decision on fines. The DOJ fine was based on sales by the defendant in the United States and Canada and resolved the CCB's investigation.
- United States: Roll-On Roll-Off Shipping.** On July 13, a Norwegian shipping company agreed to plead guilty to fixing prices of roll-on roll-off shipping services and to pay a **\$98.9 million** fine in the United States.
- Brazil: Oranges.** On November 24, Brazil's Council for Economic Defense (CADE) announced that it had approved a fine of **301 million reais (\$89 million)** in settlements with orange juice producers, a sector association, and nine individuals implicated in a price-fixing cartel investigation that commenced in 1999 and was the oldest ongoing investigation at CADE. The settlement is the largest the enforcer has ever entered. In agreements, the parties confirmed their participation in the conduct and agreed to cease any anticompetitive practices.
- United States: Ceramic Substrates.** On May 16, the Japanese subsidiary of a US multinational corporation agreed to plead guilty and pay a **\$66.5 million** fine for fixing prices of ceramic substrates used in catalytic converters for automobiles in the United States.
- Colombia: Paper Products.** On May 26, Colombia's Superintendency of Industry and Commerce announced that it had fined various companies and senior employees **185 billion pesos (\$63.4 million)** for operating a cartel for more than a decade that artificially raised the price of toilet paper, napkins, and kitchen towels. A leniency application from one of the participants was rejected because the applicant failed to fulfill its obligations when it allegedly misstated relevant aspects of the investigation and failed to disclose evidence.
- United States: Shock Absorbers.** On August 9, the DOJ announced that a Japanese automotive parts supplier had agreed to plead guilty and pay at least a **\$55.5 million** fine for participating in a conspiracy to fix prices and rig bids for shock absorbers. The same company had earlier entered a guilty plea in the price-fixing of other automotive parts, and the DOJ indicated that the company's shock absorber fine was increased for failing to report the shock absorber conduct during the earlier investigation. The company also agreed to serve a three-year probation and reform its antitrust compliance policies.
- Brazil: Foreign Exchange Market.** On December 8, Brazil's Council for Economic Defense (CADE) announced a settlement with four banks in which they would pay fines of **183.5 million reais (\$54 million)** for collusion in the foreign exchange market (offshore) involving the Brazilian Real and other currencies. CADE also opened a new investigation into the Brazilian exchange market (onshore).
- United States: Tantalum Electrolytic Capacitors.** On January 21, a Japanese corporation pleaded guilty and was fined **\$13.8 million** for price fixing of tantalum electrolytic capacitors sold to customers in the United States and elsewhere from 2002 to 2013. DOJ had announced the company's decision to enter into a plea agreement in September 2015.
- Canada: Electric Power Steering Gears.** The Canadian Competition Bureau (CCB) imposed a fine of **C\$13 million (\$10 million)** on a Japanese auto parts manufacturer for fixing prices of certain electric-powered steering assemblies sold to Honda from October 2007 to April 2008. This was the second largest fine imposed by the CCB in an antitrust case.
- United States: Automotive Access Mechanisms.** On September 15, the DOJ announced that a Japanese auto parts manufacturer agreed to plead guilty to participating in a conspiracy to fix prices and rig bids for automotive access mechanisms sold to automakers from 2002 to September 2011 in the United States and elsewhere. The DOJ said the company agreed to pay a fine of **\$9 million**.
- Brazil: Liquefied Petroleum Gas.** On August 25, CADE announced an investigation into seven distributors, four retailers, and 27 individuals as well as the industry union for an alleged liquefied petroleum gas cartel in the northeast of Brazil. Two companies had already agreed to pay **24 million reais (\$7.43 million)** after admitting to participating in the collusion, and agreed to cooperate with the authority's investigation.

- **United States: Automotive parts: Automotive Steel Tubes.** On November 8, the DOJ announced that a Japanese auto parts manufacturer agreed to plead guilty to participating in a conspiracy to fix prices, allocate customers, and rig bids for automotive steel tubes sold to automobile manufacturers from December 2003 to July 2011 in the United States and elsewhere. The agreement included a fine of **\$7.2 million**.
- **Brazil: Refrigerant Compressors.** On March 16, Brazil's CADE fined three manufacturers of refrigerant compressors **21.3 million Brazilian reais (\$6.5 million)** for participating in an international cartel that established illegal agreements to fix prices from 1996 to 2008.
- **United States: Chemicals.** On June 16, a US corporation was fined **\$5 million** after pleading guilty to rigging bids, allocating customers, and price fixing of liquid aluminum sulfate sold to municipalities and pulp and paper manufacturers in the United States from 1997 to 2011. The company is the first corporation and fourth defendant to be charged in the conspiracy.
- **Colombia: Notebooks.** On August 24, Colombia's Superintendence of Industry and Commerce fined a notebook manufacturer **14.8 billion pesos (\$5.04 million)** for colluding on the price of notebooks from 2001 to 2014. The investigation began in 2012 based on raids of several companies.
- **United States: Automotive parts: Power Window Switches.** On June 13, a Japanese corporation was fined **\$4.55 million** after pleading guilty to rigging bids on power window switches installed in Honda Civics sold to US consumers.
- **Mexico: Sugar.** On June 21, Mexico's Federal Economic Competition Commission's Board of Commissioners sanctioned seven companies, 10 individuals, and the national trade organization for sugar companies to an **88.88 million Mexican peso (US\$4.3 million)** fine for participating in an agreement to fix prices and restrict sales to suppliers and wholesalers to limit future lower-price resales.
- **United States: Electrolytic Capacitors.** On June 10, a Japanese corporation was fined **\$3.8 million** after pleading guilty to a price fixing of electrolytic capacitors sold to customers in the United States and elsewhere. Electrolytic capacitors store and regulate electrical current in a variety of electronic products, including computers, televisions, car engine and airbag systems, home appliances, and office equipment.
- **Peru: Medicine and Dietary Supplements.** In October 2016, Peru's National Institute for the Defense of Competition and Protection of Intellectual Property (INDECOPI) imposed **\$2.6 million** in fines and corrective measures on five pharmacy chains for fixing the prices of medicine and dietary supplements, marking the first time the agency has used both tools at the same time. Following a seven-year investigation, INDECOPI said the companies coordinated increases in the price of diabetes, migraine, stomach, and neurological drugs, as well as vitamins, by up to 10%. The five chains must also take corrective measures that promote or allow anti competitive behavior, including through ongoing training of board members.
- **Mexico: Shipping Services.** On November 15, Mexico's Federal Economic Competition Commission (COFEC) announced that it had fined three shipping companies for conspiring to coordinate fares and days of service. The companies were fined a total of **45.2 million pesos (\$2.2 million)**, the maximum fine under the Federal Economic Competition Law.
- **Brazil: DRAM.** On November 23, Brazil's CADE ordered four dynamic random access memory (DRAM) manufacturing companies to pay **1.5 million reais (\$442,565)** each. CADE also fined another company **532,000 reais (\$156,963)**, only a third of the fine based on partial leniency. The fines were for the companies' participation in a cartel from 1998 to 2002, in which they exchanged sensitive commercial information to fix prices and control supply on the global market for DRAM chips.

EUROPE

- **European Union: Trucks.** On July 19, the European Commission issued a decision to fine five heavy-duty truck manufacturers a total of **€2.93 billion (\$3.3 billion)** for colluding on truck prices and passing on the costs of complying with emissions regulations from 1997 to 2011. This is the highest fine ever imposed by the Commission in a pure antitrust case.
- **European Commission: Euribor Benchmark.** On December 7, the European Commission issued fines totaling **€485 million (\$506 million)** on three banks for participating in a cartel in euro interest rate derivatives.

- **European Commission: Alternators and Starters.** On January 27, the European Commission imposed fines of **€137.8 million (\$154.5 million)** on two Japanese auto parts companies for participating in a cartel for alternators and starters.
- **Spain: Adult Diapers.** Spain's National Authority on Markets and Competition (CNMC) fined eight adult-diaper makers, their association, and four executives a total of **€128.8 million (\$144.4 million)** for forming a cartel for products eligible for subsidies and bought through pharmacies. This is the first time the Spanish authority CNMC has fined executives in an antitrust probe.
- **European Commission: Rechargeable Lithium-ion Batteries.** On December 12, the European Commission fined three rechargeable lithium-ion battery manufacturers **€166 million (\$173 million)** for coordinating prices and exchanging sensitive information on supplies of rechargeable lithium-ion batteries from February 2004 to November 2007. The batteries were used in laptops and mobile phones, among other devices.
- **Italy: Public School Cleaning Services.** On January 20, the Italian Competition Authority fined four companies more than **€110 million (\$120 million)** for rigging a public tender worth more than €1 billion to provide cleaning, maintenance and sanitation services to national schools across the country. In 2012, Italy's central public administration body, on behalf of the Ministry of Economy and Finances, issued the tender, dividing it into 13 "lots" of schools geographically. The auction was worth about €1.63 billion (\$1.7 billion), with each lot contract valued between €100,000 (\$104,528) and €20 million (\$20.9 million), and lasting two to three years.
- **Italy: Vending Machines.** On June 14, Italy's competition authority imposed fines exceeding **€100 million (\$112 million)** on 11 entities (including a trade association) operating in the Italian food and beverage vending machines market that were found to have entered into market-sharing and price-fixing agreements.
- **Romania: Fuels Market.** In April, the High Court of Justice and Cassation affirmed the trial ruling against two fuel companies that had challenged fines imposed by the Romanian Competition Council in 2011 for allegedly participating in a cartel to withdraw a type of gasoline from the market. The High Court reduced the fines to **€66 million and €25 million (\$74.4 million and \$28.2 million).**



- **Italy: Broadcasting.** On April 20, the Italian Competition Authority announced that it had fined Italy's main television operators in the pay-TV market **€66 million (\$74 million)** for bid rigging. In 2014, the entities had agreed to alter the outcome of tenders for the Series A broadcasting rights from 2015 to 2018.
- **Czech Republic: Construction.** On February 8, the Office for the Protection of Competition imposed fines of **CZK 1.66 billion (\$65 million)** on seven construction companies for coordinating their participation and bids within the award procedures for public procurement. In May 2016, in connection with the same investigation and subsequent dawn raids, the office imposed new fines amounting to **CZK 278 million (\$10.9 million)** on 12 undertakings for 11 infringements of the competition law.

- **Russia: Military Uniform and Gear.** The Russian Federal Antimonopoly Service (FAS) imposed fines totaling **3.5 billion rubles (\$54 million)** on 90 companies for rigging bids to supply military uniform and gear to the Russian military. The companies were found to have rigged bids in dozens of electronic auctions held over several years. The FAS also referred the case to public prosecutors to open a criminal enforcement proceeding.
- **Finland: Transportation Services.** The Finnish Competition and Consumer Authority (KKV) presented the Market Court with a proposal for a **€38 million (\$43 million)** penalty against seven major bus companies, the Finnish Bus and Coach Association, and Matkahuolto, an intercity bus and courier services company. The KKV has also ordered Matkahuolto to stop anticompetitive actions that are forcing bus companies out of business.
- **Romania: Electricity.** The Romanian Competition Authority imposed total fines of **€37 million (\$41 million)** on 10 electricity traders for concluding anticompetitive agreements.
- **Spain: Cement.** In September, Spain's National Authority on Markets and Competition (CNMC) fined 23 companies in the manufacture and sale of cement and concrete **€29.17 million (\$32.53 million)** for participating in a cartel from 1999 to 2014.
- **Switzerland:** On December 21, the Swiss Competition Commission (COMCO) fined several large banks **99 million Swiss francs (\$96.3 million)** for conspiring to rig multiple interest rate benchmarks and related derivatives. Separate fines were assessed to different groups of banks for their alleged participation in the rigging of the Swiss franc Libor, Yen Libor, and Euribor benchmarks.
- **Turkey: Cement.** The Turkish Competition Authority imposed fines totaling **71 million lira (\$24 million)** on six cement companies for dividing local markets and rigging bids in the Aegean region of Turkey.
- **Germany: Heating and Air Conditioning.** Germany's Federal Cartel Office (FCO) imposed total fines of **€21.3 million (\$23.9 million)** on nine wholesalers and one individual involved in the sanitary, heating, and air conditioning sector that allegedly coordinated the calculation of gross price lists and sales prices over several years. Although the group's members issued their own gross price lists based on the information exchanged, the FCO found a price alignment due to the wholesaler's common calculation basis.
- **Hungary: Banking.** On January 11, two Hungarian banks were fined **four billion Hungarian forints (\$15 million)** by the Hungarian Competition Authority (GVH) for operating the "BankAdat" database for 12 years, which allowed banks to share private, confidential, and strategic data with each other. "BankAdat" provided banks with up-to-date information about the market, market processes, efficiency, business policies, and strategies of competitors.
- **Netherlands: Cold Storage.** On March 23, the Dutch Authority for Consumers and Markets (ACM) imposed total fines of **€12.5 million (\$13.97 million)** on four companies for price fixing and information exchange during their merger talks from 2006 to 2009.
- **Russia: Energy.** The Russian FAS fined two energy trading companies approximately **790 million rubles (\$12 million)** for anticompetitive behavior that restricted the business practice of other companies and increased the price for energy supply.
- **Austria: Brewery Products, Non Alcoholic Beverages, Flour/Semolina/Bread Baking Mixes, Delicatessen/Seasoning/Convenience Food.** On June 30, the Austrian Cartel Court, following the Competition Agency's application, imposed a fine of **€10.21 million (\$11.31 million)** on a company and other affiliates for vertical price determination measures and coordinating final selling prices with food retail suppliers from July 2002 to December 2013.
- **Ukraine: Petrol.** On October 28, Ukraine's Antimonopoly Committee (AMC) fined seven petrol station operators **204 million hryvnia (\$8 million)** for synchronized retail prices of certain varieties of petrol and diesel fuel at filling stations between January 2013 and January 2016.
- **Denmark: Construction.** In May, the Danish Competition and Consumer Authority (DCCA) updated the list of companies fined in a construction cartel. The agency reported that **30.1 million kroner (\$4.6 million)** has been imposed on 23 companies that participated in a major construction cartel in Denmark.
- **Romania: Dairy Products.** On December 12, five Romania dairy producers were fined **€1.9 million (\$1.98 million)** by the Competition Council for rigged tenders for distributing bagels and dairy products to schools in Romania. The companies allegedly agreed not to compete against each other in the tenders organized by local authorities in several counties to select the suppliers for local schools.

ASIA

- **India: Cement.** The Competition Commission of India (CCI) imposed its largest collective fine ever in August on 10 cement manufacturers and a related trade association. The CCI found that the cement manufacturers had coordinated their pricing through the exchange of competitively sensitive information. Fines totaled **Rs 6700 crore (\$1 billion)**.
- **South Korea: LNG Storage Tanks.** On April 26, the Korea Fair Trade Commission (KFTC) imposed a combined fine of **351.6 billion won (\$317 million)** against 13 construction companies for bid-rigging for liquefied natural gas (LNG) storage tanks.
- **South Korea: Corrugated Cardboard Paper.** On March 11, the Korea Fair Trade Commission (KFTC) imposed penalty surcharges of **118.4 billion won (\$107 million)** on 12 manufacturers for fixing prices of corrugated cardboard paper.
- **Japan: Capacitors.** On March 29, the Japan Fair Trade Commission (JFTC) issued cease-and-desist orders and surcharge payment orders totaling approximately **¥7 billion (\$68 million)** to the manufacturers for fixing the price of aluminum electrolytic and tantalum electrolytic capacitors.
- **China: Roll-On Roll-Off Shipping.** China imposed fines of **407 million yuan (\$61 million)** on seven Japanese shipping companies for coordinating prices for roll-on roll-off shipping services. The same companies, or a subset of them, have also been fined for the same conduct by Japan, the United States, and Peru.
- **South Korea: Cement.** In October, the KFTC fined three cement manufacturers **57.3 billion won (\$49 million)** for engaging in price and market share rigging of dry mortar for six years from 2007 to early 2013, and referred the case to the prosecutor for criminal prosecution.
- **Japan: Disaster Restoration Paving Works.** On September 6, the (JFTC) issued a cease-and-desist order and fined participants **¥ 1,409,510,000 (\$13.8 million)** for bid-rigging conduct involving the disaster restoration paving works for the Great East Japan Earthquake ordered by the Tohoku Branch of East Nippon Expressway Company Ltd., and found a criminal violation of the Antimonopoly Act (AMA).
- **South Korea: Compressor.** On November 2, the Korea Fair Trade Commission (KFTC) imposed remedies and a combined surcharge of **11.112 billion won (\$9.59 million)** against two Japanese auto parts manufacturers for colluding on auto compressor bids ordered by General Motors. The two companies agreed on the bidding price for GM's global scroll compressor supply bid in June 2009 and submitted the bid price above the competition price (market price) for the first year and set a 1% upper limit for yearly discount rate to make the discount rate close to 0%.
- **Indonesia: Agriculture.** On April 22, Indonesia's Business Competition Supervisory Commission (KPPU) penalized 32 Indonesian cattle-importer and beef feedlot companies **IDR 107 billion (\$8.1 million)** in fines for forming a cartel to control local beef prices and curtail beef imports and distribution.
- **Indonesia: Cattle.** The Indonesian Commission for the Supervision of Business Competition (KPPU) imposed fines of **106 billion rupiah (\$8 million)** on various cattle sellers for fixing prices and rigging bids at cattle auctions. The KPPU was very active in 2016 in evaluating markets for food products.
- **Japan: Disaster Restoration Paving Works.** On September 21, the Japan Fair Trade Commission issued a cease-and-desist order and a fine of **¥480 million (\$4.7 million)** for bid rigging conduct involving the disaster restoration paving works for the Great East Japan Earthquake ordered by the Kanto Branch of East Nippon Expressway Company Ltd.
- **South Korea: UTP Cables.** On September 6, the KFTC imposed fines of **4.891 billion won (\$4.17 million)** against eight enterprisers for agreeing in advance on the winning bidders, bidding order and prices, and the quantity allocation in bids for unshielded twisted pair (UTP) cables.
- **Japan: Electric Power Equipment.** On July 12, the Japan Fair Trade Commission (JFTC) issued cease-and-desist orders and surcharge payment orders to the manufacturing distributors of equipment for electric power security communication ordered by Tokyo Electric Power Company Holdings, Inc. (TEPCO), finding

that they substantially restrained competition in the field of the equipment by designating successful bidders and enabling those bidders to win. The total amount of the surcharge to be paid is **¥402,910,000 (\$3.8 million)**.

- **Taiwan: Cargo Loading Services.** In April, the Taiwan Fair Trade Commission (TFTC) imposed fines totaling **72.6 million New Taiwan Dollars (\$2.3 million)** on 20 companies for engaging in a cartel in cargo-loading services.
- **South Korea: Waste Water Treatment.** In January, the Korea Fair Trade Commission (KFTC) imposed fines of **2,432 million won (\$2.1 million)** on three companies for agreeing on bidding prices and cover bidders in two bids for waste water treatment facilities construction projects, and referred the case for prosecution.
- **South Korea: Waste Water Treatment.** On May 9, the Korea Fair Trade Commission (KFTC) imposed fines of **2,432 million won (\$2.1 million)** on two companies for agreeing on bidding prices and cover bidders for waste water treatment facilities construction projects.
- **Kazakhstan: Sugar.** On December 20, the East Kazakhstan region administrative court approved the decisions of the Antimonopoly Committee, imposing fines of **1,227,847 tenge + 1,303,491 tenge income earned (\$3,680 + \$3,906 income earned)** following an investigation in the sugar industries.

AUSTRALIA AND OCEANIA

- **New Zealand: Real Estate.** On November 29, the Auckland High Court ordered a real estate agency to pay a **NZ \$1.25 million (\$884,887)** fine after it found the company guilty of fixing prices and engaging in anticompetitive agreements with other real estate agencies.
- **New Zealand: Real Estate.** On July 1, two real estate agencies were ordered to pay **NZ \$2.2 million and NZ \$900,000 (\$1.5 million and \$642,000)** after penalty hearings in the Auckland High Court. The agencies cooperated with the New Zealand Commerce Commission and admitted to price fixing.
- **New Zealand: Real Estate.** On May 20, a real estate agency was ordered to pay a fine of **NZ \$1.25 million (\$884,887)** based on proceedings initiated in December 2015 by the New Zealand Commerce Commission on price fixing and anticompetitive agreements.

- **New Zealand: Real Estate.** On December 19, the Auckland High Court ordered a real estate agency to pay a **\$1 million NZ (\$694,941)** fine after it found the company engaged in price fixing.
- **New Zealand: Real Estate.** On December 16, the Auckland High Court ordered four real estate agencies to pay **\$9.825 million NZ (\$6.88 million)** in fines after finding the agencies engaged in price fixing.
- **New Zealand: Real Estate.** On December 19, the Auckland High Court announced that a real estate company had fixed prices with other real estate companies to pass on real estate listing costs to consumers. The Court fined the company **NZD \$1,000,000 (\$694,941)**.
- **New Zealand: Real Estate.** On December 16, the Auckland High Court announced that a real estate company had fixed prices with other real estate companies to pass on real estate listing costs to consumers. The Court fined the company **NZD \$2,575,000 (\$1,789,473)**.
- **New Zealand: Real Estate.** On December 16, the Auckland High Court announced that a real estate company had fixed prices with other real estate companies to pass on real estate listing costs to consumers. The Court fined the company **NZD \$2,575,000 (\$1,789,473)**.
- **New Zealand: Real Estate.** On December 16, the Auckland High Court announced that a real estate company had fixed prices with other real estate companies to pass on real estate listing costs to consumers. The Court fined the company **NZD \$2,475,000 (\$1,719,979)**.
- **New Zealand: Real Estate.** On December 16, the Auckland High Court announced that a real estate company had fixed prices with other real estate companies to pass on real estate listing costs to consumers. The Court fined the company **NZD \$2,200,000 (\$1,528,870)**.

AFRICA

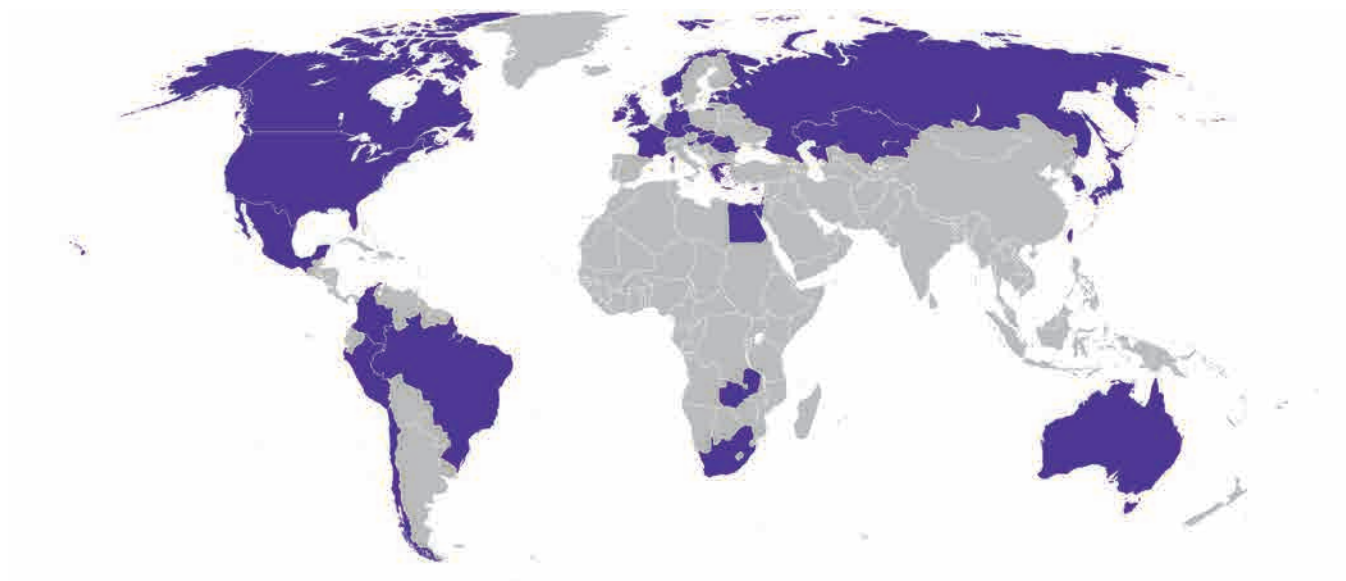
- **South Africa: Steel.** On August 22, a manufacturer of steel products agreed to pay a fine of **1.5 billion rand (\$104 million)** to resolve price-fixing and customer allocation investigations by the South African Competition Commission (SACC). The fine resolves allegations of price-fixing of flat steel and scrap metal. The company also agreed to limit the EBIT on its sales of flat steel in South Africa to 10% for five years and to not engage in price discrimination for other products.

- **South Africa: Bicycle Industry.** On December 20, the Competition Appeal Court affirmed a judgment by the Tribunal related to an earlier investigation into price-fixing among 20 bicycle retailers and wholesalers. Two companies did not settle with the Competition Commission, and instead argued that they were not liable because they did not actively participate in the cartel. The Tribunal found that the companies did nothing to distance themselves from the discussions and that their silence amounted to an agreement. The Tribunal imposed administrative fines of **R4,627,412 (\$340,047)** on one company and **R4,250,612 (\$312,352)** on the other. On appeal, the judgment was affirmed because the companies did nothing to distance themselves after a consensus had been reached between the companies. The Appeal Court reduced the administrative penalty on one company by 50%, but both companies were ordered to pay the costs of the appeal.
- **Namibia: Insurance.** In August 2016 the Namibian Competition Commission imposed its first ever cartel fine against some insurance companies in the amount of **N\$15 million (\$1,039,322)**, after accusing them of colluding to divide the market and fix prices through a formal marketing agreement.



INDIVIDUAL CRIMINAL PENALTIES

● JURISDICTIONS WITH CRIMINAL PENALTIES FOR CARTEL ACTIVITIES



THE FOLLOWING 33 COUNTRIES HAVE CRIMINAL PENALTIES FOR CARTEL VIOLATIONS OR CONVICTIONS:

- Australia
- Brazil
- Canada
- Chile
- Colombia
- Cyprus
- Czech Republic
- Denmark
- Egypt
- Estonia
- France
- Germany
- Greece
- Hungary
- Ireland
- Israel
- Japan
- Kazakhstan
- Latvia
- Malta
- Mexico
- Norway
- Peru
- Romania
- Russia
- Slovak Republic
- Slovenia
- South Africa
- South Korea
- Taiwan
- United Kingdom
- United States
- Zambia

SIGNIFICANT INDIVIDUAL PRISON AND OTHER SENTENCES FOR CARTEL OFFENSES (WORLDWIDE)

AMERICAS

- Chief Executive Officer of Canadian Environmental Services Company Receives Long US Prison Term.** John Bennett, the second non-US national extradited to the United States to face trial in an antitrust case, was convicted at trial on March 16 on two counts for (1) committing major fraud against the United States and (2) conspiring to provide kickbacks and to commit major fraud. These charges were part of a bid rigging and fraud scheme in bidding for environmental services contracts to clean superfund sites in the United States. On August 9, he was sentenced to **63 months** in prison (with the length of the sentence based on the fraud counts) and ordered to pay a **\$12,500 fine** and **\$3.8 million in restitution**.
- Owner Industrial Pipe Supply Company Sentenced Prison Term Fine.** On February 2, a New Jersey industrial pipe supply company and its owner were sentenced for conspiring to commit fraud and pay bribes to an electricity service provider in New York in exchange for competitive bid information, which caused the provider to pay noncompetitive prices for materials from the pipe supply company. The owner was sentenced to serve **32 months** in prison and pay a **\$150,000 criminal fine**. The company was ordered to pay more than \$1.7 million in fines and restitution.
- Two Former Derivatives Traders Sentenced to Prison Terms Following Trial Convictions.** On March 10, two former derivatives traders who were convicted at trial on wire fraud and bank fraud charges were sentenced to prison terms for manipulating the London Interbank Offered Rates (LIBOR) for the US Dollar and Japanese Yen, benchmark interest rates to which trillions of dollars in interest rate contracts were tied. The former global head of liquidity and finance in London was sentenced to **24 months** in prison and a former senior trader on the bank's money markets desk in London was sentenced to **12 months and one day**.
- More Japanese Auto Parts Executives Agree to Serve Prison Terms in the United States.** On April 20, the former president of a Japanese auto parts company agreed to plead guilty and serve an **18-month** sentence in the United States and pay a **\$20,000 fine** for fixing prices of body sealing products used in automobiles.
- Tax Lien Auctions Bid-Rigging Trial Conviction Prison Term.** On March 29, a former investor was sentenced to prison for **12 months and 1 day**, fined **\$25,000**, and ordered to serve 200 hours of community service upon his release, following his October 2015 conviction for conspiring to rig bids at municipal tax lien auctions in New Jersey with three other co-conspirators over a 10-year period.
- First Prison Term in Heir Location Services Investigation.** On January 14, the president and sole owner of a Massachusetts-based heir location services firm pleaded guilty to violating the Sherman Act and was sentenced to a **one-year prison term** as part of the DOJ's investigation into a customer allocation agreement among heir location services providers. Another heir location services company and its president have recently been indicted as part of the same investigation.
- Canadian Court Sentences Executive to Suspended Prison Sentence and Education.** On August 24, a Canadian court sentenced an executive of an IT services firm to an 18-month suspended sentence including six months under house arrest and a fine of **CAD \$20,000 (US \$15,000)** for bid-rigging public procurement contracts for IT services to be provided to Canadian schools. The court also imposed on the executive the unusual requirement of providing two presentations to other organizations and businesspeople on the importance of antitrust compliance.
- Colombia Fines Tissue Paper Price Conspiracy.** On May 31, Colombia's competition agency doled out fines to 21 senior managers and former officials of four tissue paper manufacturers for entering into an agreement to fix the prices of tissue paper over a 13-year period with penalties ranging from **\$892 to more than \$113,000**.

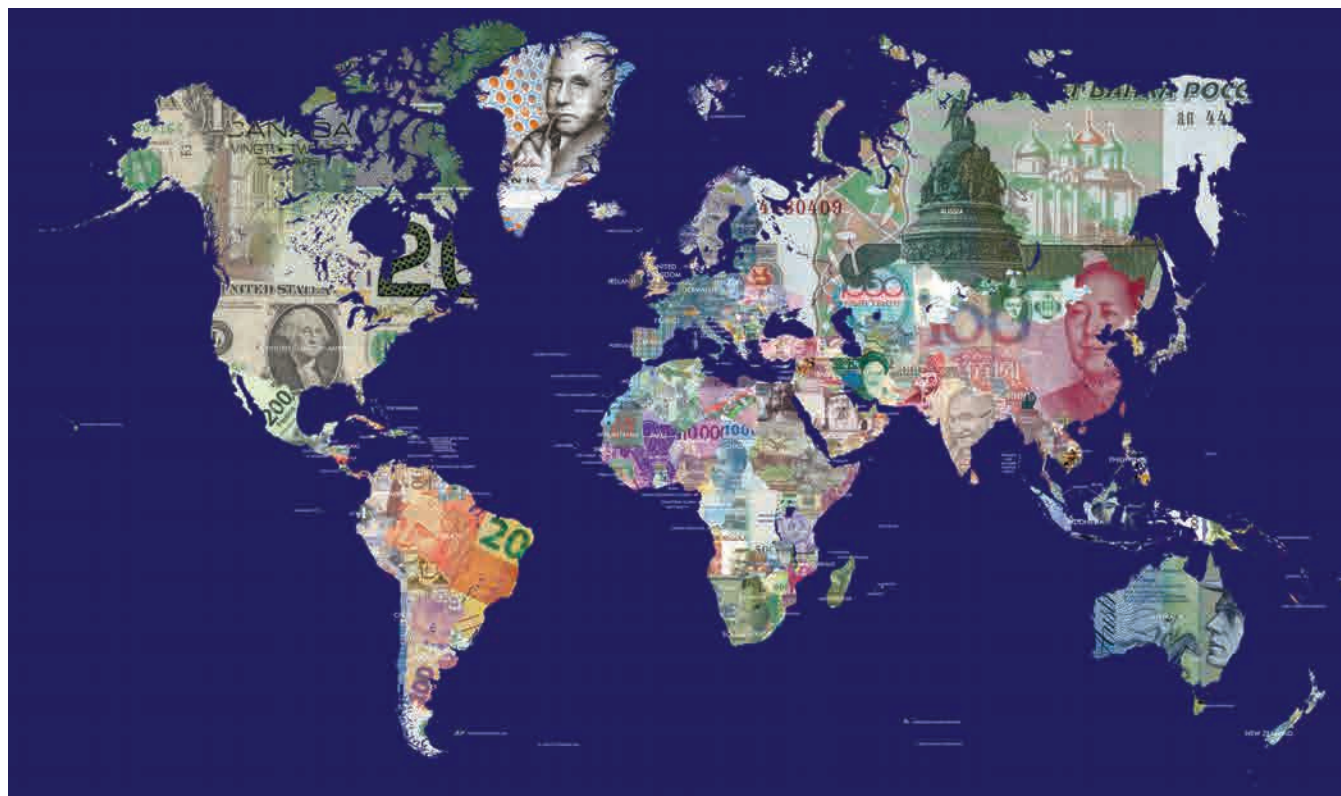
EUROPE

- UK Conviction of Executive Charged Conspiring to Fix Prices of Pre-Cast Concrete Drainage Pipes.** On March 21, the former chief executive of a pre-cast concrete drainage-pipe company agreed to plead guilty to one count under section 188 of the Enterprise Act 2002, the criminal cartel offense. The sentence is pending, but the former executive faces up to five years in prison and an unlimited fine.

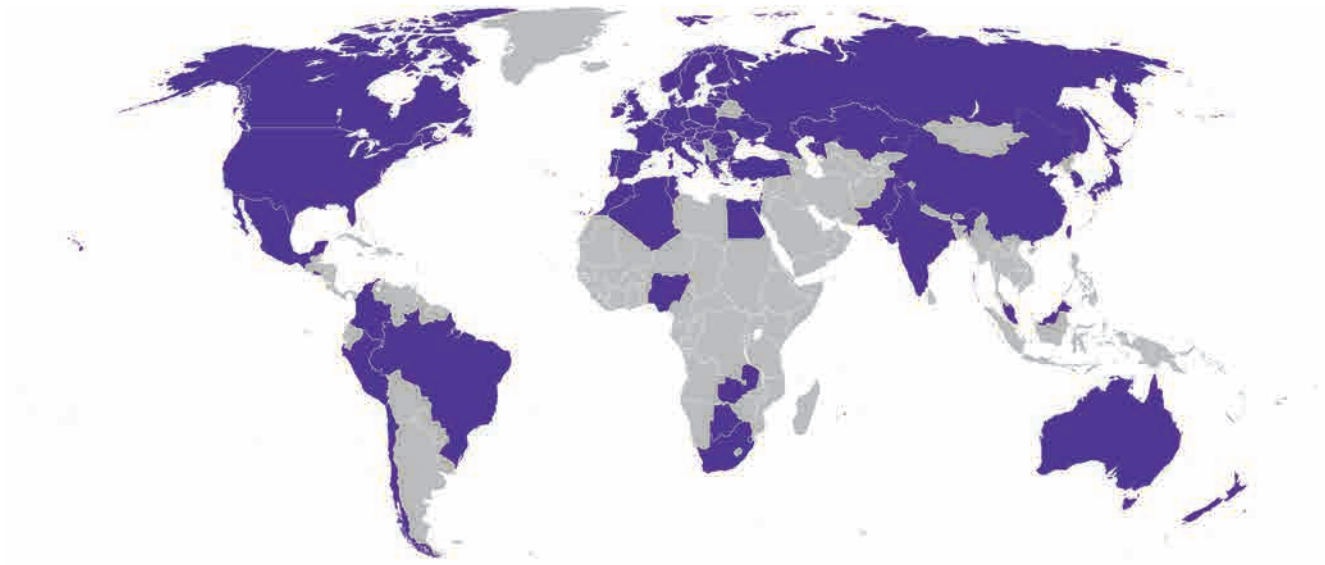
- **UK Disqualification of Director for Involvement in Cartel.** On December 1, the CMA announced that the managing director of an online poster supplier that had engaged in cartel conduct in respect of posters and frames sold on Amazon's UK website had given a disqualification undertaking not to act as a director of any UK company for five years.
- **Spain: Adult Diapers.** Spain's National Authority on Markets and Competition (CNMC) fined eight adult-diaper makers, their association, and four executives a total of **€128.8 million (\$144.4 million)** for forming a cartel for products eligible for subsidies and bought through pharmacies. This case represents the **first time** the Spanish authority CNMC has fined executives in an antitrust probe.
- **Spain: Rail Infrastructure.** On July 6, Spain's National Authority on Markets and Competition (CNMC) fined nine executives of railway construction companies **€65,550 (US\$69,000)** for market-sharing, fixing prices, and exchanging sensitive commercial information. The conduct occurred over 15 years, from July 1999 until at least October 2014.

MIDDLE EAST

- **Israel Imposes Prison Sentences on Presidents of Conspiring Bread Companies.** On January 13, the presidents of two bread companies in Israel were sentenced to one-year prison terms and fined significant amounts for participating in a conspiracy to fix the price of bread in Israel. The Israel Antitrust Authority's (IAA's) action signaled an increased enforcement focus on cartel violations in Israel and a greater willingness to utilize criminal penalties. The IAA also opened a criminal investigation into travel agencies that resulted in nine arrests on suspicion of participation in a conspiracy to fix prices and divide markets for travel services.



● JURISDICTIONS WITH CARTEL IMMUNITY/LENIENCY PROGRAMS



THE FOLLOWING 65 COUNTRIES OFFER LENIENCY OR CRIMINAL CARTEL IMMUNITY PROGRAMS:

- Albania
- Algeria
- Australia
- Austria
- Belgium
- Bosnia & Herzegovina
- Botswana
- Brazil
- Bulgaria
- Canada
- Chile
- China
- Colombia
- Croatia
- Czech Republic
- Cyprus
- Denmark
- Egypt
- El Salvador
- Estonia
- Finland
- France
- Germany
- Greece
- Hong Kong
- Hungary
- India
- Ireland
- Israel
- Italy
- Japan
- Kazakhstan
- Lithuania
- Luxembourg
- Malaysia
- Mauritius
- Mexico
- Morocco
- Netherlands
- New Zealand
- Nigeria
- Norway
- Pakistan
- Peru
- Poland
- Portugal
- Romania
- Russia
- Singapore
- Slovak Republic
- Slovenia
- South Africa
- South Korea
- Spain
- Sweden
- Switzerland
- Swaziland
- Taiwan
- Tunisia
- Turkey
- Ukraine
- United Kingdom
- United States
- Zambia

DAWN RAIDS

MONITORING DAWN RAIDS INCLUDING KEY DAWN-RAID RULINGS AND ISSUES

“Dawn raids” involve the legal authority to search and seize documents, electronic media, and other tangible materials as part of a cartel investigation. Depending on the jurisdiction, dawn raids often involve the execution of search warrants and occur during the early morning hours, which is why they are commonly referred to as “dawn raids.” In recent international investigations, dawn raids have been coordinated among enforcers around the world and are executed at or around the same time. Dawn raids are often not publicized by enforcers.

As a *new feature*, the **Cartel Enforcement Report** will identify selected recent dawn raids around the world based on publicly available information.

AMERICAS

Brazil: Fuel. On May 6, Brazil’s CADE, in conjunction with the Federal Police, raided the homes of four individuals as it continues to investigate a **fuel** cartel in Brazil’s capital. This is the second phase of the investigation that began in 2009. The first raid occurred in November 2015.

EUROPE

The **European Commission** has carried out a series of dawn raids including:

- June 28, unannounced inspections in **rail passenger transport** in Slovakia, Czech Republic, and Austria; the competition agencies in each country assisted;
- June 6, dawn raids accompanied by the **Romanian Competition Authority** at companies operating in the market for “the **supply and transport of natural gas in Romania**” involving anticompetitive agreements or abuse of dominant position on the market; and
- March 15, unannounced inspections at the premises of several companies in the **kraft and industrial paper sacks sector**.

The **Belgian Competition Authority (BCA)** has conducted a series of raids and inspections including:

- November 20, dawn raids at several companies involved in the wholesale distribution of **pharmaceutical and para-pharmaceuticals product** to pharmacies (see p. 23, Pharmaceuticals, for more information);

- October 20, an inspection of an undertaking in the distribution and sale of **infrared cabins**; and
- May 27, unannounced inspections of several companies concerning the sale of **nonprescription products** in pharmacies suspected of being involved in cartel agreements.

The **French Competition Authority** has carried out a series of dawn raids including:

- November 22, dawn raids at several companies in the energy services and supply sector; further details were not provided by the agency; and
- September 16, dawn raids on sandwich manufacturers for supermarkets; further details were not provided by the agency.

The **Germany Federal Cartel Office** conducted a series of dawn raids including:

- September 14, dawn raids of eight **wholesalers of pharmaceutical products** on suspicion of customer allocation agreements (see p. 23, Pharmaceuticals, for more information);
- June 23, dawn raids of three automotive OEMs and three automotive component suppliers on suspicion that the six companies participated in unlawful agreements concerning the **price for steel with the steel producers** from 2007 to 2015;
- March 10, dawn raids of several **rice and legume suppliers** (to the German retail sector) based on an investigation of unlawful agreements;
- January 26, dawn raids of several agricultural wholesalers based on an investigation of unlawful agreements in the prices for **agricultural equipment**.

Hungary: On April 11, the **Hungarian Competition Authority (GVH)** conducted dawn raids at the premises of several companies suspected of bid rigging and the sharing of information in the procurement of **diagnostic equipment**.

Portugal: On January 29, Portugal’s competition authority carried out surprise visits at 13 premises of specialized credit institutions in Lisbon based on investigation into the exchange of sensitive commercial information in the financial sector.

Romania: On December 2, the **Romanian Competition Council** raided three companies in the **wood processing industry**, based on an investigation into suspected market allocation and agreements to buy wood at minimum prices in government auctions.

The **Russia Federal Antimonopoly Service** conducted a series of dawn raids including:

- On November 17, dawn raids at the Moscow offices of two producers of personal computers in a cartel investigation involving state tenders for the supply of **personal computers** with the total value exceeding 1 billion Russian Rubles.
- On June 14, dawn raids culminated in the initiation of proceedings against three **respiratory protective producers** and 20 dealers under investigation for geographic division of the market and setting up mark-ups at state tenders.
- **Spain:** On June 7, the **National Commission of Markets and Competition (CNMC)** published guidance on dawn raid procedures. The summary of the process is intended to promote transparency and understanding concerning the rights and obligations of those subject to inspection and authority of law enforcement under the Competition Law. See Guidance: [Information note on inspections carried out by the Directorate Competition of the CNMC in the field of Defense of Competition](#) (in Spanish).

The **Spain National Commission of Markets and Competition** conducted a series of dawn raids including:

- On June 24, dawn raids at various companies involved in the transport, production, and setup of **artworks and elements for expositions** based on an investigation into price fixing, dividing the market, and exchanging sensitive data.
- On March 15, simultaneous unannounced inspections were conducted at several companies that manufacture **lining and hard-molded components for cars** based on an investigation into market partitioning and the exchange of commercially sensitive information.

The **Swedish Competition Authority** has conducted recent dawn raids:

- October 18, dawn raids of five **bathroom fitting retailers** in a price fixing investigation; and
- October 13, dawn raids of several companies active in the market for **building materials** on the suspicion of coordinated behavior.

Judicial Rulings

Recent judicial rulings have reviewed the scope and authority of dawn raids:

- **Czech Republic: Case Law Update.** On October 14, the Regional Court of Brno upheld the 2003 dawn raids on three bakeries executed by the Office for the Protection of Competition, concluding that the searches were lawful and “proportionate.” The Regional Court was asked by the Supreme Administrative Court of the Czech Republic to review whether fundamental rights under the European Convention on Human Rights had been violated. The parties are expected to appeal the ruling.
- **Ireland: Case Law Update.** On April 5, the High Court held that the Competition and Consumer Protection Commission (CCPC) exceeded the scope of a search warrant during a dawn raid in May 2015 as part of an investigation into anti-competitive practices in the supply of bagged cement. During the raid, the CCPC seized electronic records of current and former employees including emails of an employee that did not involve the company under investigation. The High Court held the CCPC was not authorized to review the emails unrelated to the company under investigation. To address this issue in the future, the High Court suggested that the CCPC may have adopted an approach similar to the review of legally privileged documents. Consequently, under this scenario independent third-party assessors may be asked to review the relevance of documents before they are released to the CCPC.
- **Spain: Case Law Update.** A Spanish court found that raids carried out in November 2013 at the premises of almond-candy makers did not breach any privacy rights in accessing personal data on a mobile phone. The scope of access to electronic data is a recurring issue in dawn raid cases.

MIDDLE EAST

- **Israel:** On January 18, the **Israeli Antitrust Authority** and **National Fraud Investigation Unit** conducted searches of offices and homes and arrested nine suspects and detained several others for interrogation in an investigation involving the fixing of prices and market allocation in marketing and organizing the travel packages for high school youth delegations to Poland.

ASIA

- **Hong Kong:** By the end of October 2016, Hong Kong's Competition Commission Chairwoman Anna Wu confirmed that the agency had conducted six raids since the Competition Ordinance became effective in December 2015. While the details of the raids have yet to be publicly confirmed, at least one investigation is focused on bid rigging in the **software technology sector**.
- **India:** On August 23, the Competition Commission of India (CCI) conducted a dawn raid on a leading **dry cell battery manufacturer** for suspected cartel behavior. This was the second time that the CCI had conducted dawn raids.

AFRICA

Namibia: On September 15 and 16, the **Namibian Competition Commission** conducted its first dawn raid in an investigation concerning alleged market manipulation practices. The raid was conducted against an energy company to seize documentary and electronic evidence on the pricing for the **supply of aviation fuel**.

- The **South Africa Competition Commission (SACC)** has conducted a series of raids including:
- September 28, a search and seizure operation at the premises of six cargo shipping companies related to an investigation of collusive practices to fix the incremental rates for the **shipment of cargo** from Asia to South Africa;
- May 26, a dawn raid in an ongoing investigation related to **packaging paper products**;
- March 31, a dawn raid in an ongoing investigation into suspected collusive practices between **manufacturers of particleboard and Medium Density Fiberboard**;
- March 23, a dawn raid at the premises of four firms in an ongoing investigation into allegations of price fixing and division of markets related to **automotive glass fitment and repair services** (see p. 26, Automotive Parts, for more information).
- To view our Dawn Raid Guidelines for companies, please see [Guidelines](#).



INDUSTRIES UNDER SCRUTINY

ANALYSIS

Several long-running investigations continued to result in significant enforcement attention and outcomes in 2016. We detail developments in key investigations in this section of the report.

1. GENERIC DRUGS AND PHARMACEUTICALS

2. ELECTRONIC COMPONENTS

3. AUTOMOTIVE PARTS

4. FINANCIAL BENCHMARKS

5. SHIPPING

6. PACKAGED SEAFOOD INDUSTRY

7. REAL ESTATE

GENERIC DRUGS AND PHARMACEUTICALS

ANALYSIS

The scope of the US investigation into potential collusion among generic pharmaceutical manufacturers expanded dramatically in 2016, and the year concluded with felony charges against two pharmaceutical executives. In addition, Germany and Belgium recently launched investigations of pharmaceutical wholesalers for possible collusion. There is also an ongoing investigation in the UK. Given these developments, we consider that further enforcement activity will focus on the pharmaceutical industry in 2017.

- **US Criminal Charges:** On December 14, separate two-count felony charges were filed in the US District Court for the Eastern District of Pennsylvania against the former chief executive officer and the former president of a generic pharmaceutical company. The DOJ alleges that these individuals conspired to fix prices, rig bids, and allocate customers for doxycycline hyclate, an antibiotic, and glyburide, a diabetes medication. The charges refer to other unnamed co-conspirators. DOJ's investigation of other manufacturers and possibly other medications remains ongoing.
- **US Federal and State Investigations:** A federal grand jury, likely located in the Eastern District of Pennsylvania, as well as various state attorneys general have issued subpoenas to a growing list of companies requesting pricing information and any information regarding communications among competitors about various generic drugs. So far, at least 12 companies have disclosed receiving subpoenas involving more than a dozen medications as part of the ongoing investigation into pricing.
- **Possible US Leniency Applicant:** Public reports have suggested that in the summer of 2016, a pharmaceutical company applied to the DOJ for leniency in its role in coordinating generic drug prices. The company is reported to be privately held and has not publicly disclosed its involvement in the investigation.
- **US Congressional Focus:** In October 2014, US Senator Bernard Sanders of Vermont (chairman of the Subcommittee on Primary Health and Retirement Security in the Senate Committee on Health, Education, Labor, and Pensions), and US Representative Elijah Cummings of Maryland (ranking member of the House of Representatives' Committee on Oversight and Government Reform)

announced that they were opening an investigation into "recent staggering price increases for generic drugs." Both congressional committees have issued various subpoenas requesting pricing information from targeted companies about various generic drugs. These investigations are ongoing. In November 2016, Messrs. Sanders and Cummings sent a letter to the DOJ and FTC requesting that the agencies investigate "whether pharmaceutical companies manufacturing insulin products have colluded or engaged in anticompetitive behavior in setting their drug prices." The agencies have not yet responded publicly to this request.



- **State Attorney General Activity:** On December 15, the day following the DOJ's unsealing of criminal charges, 20 state attorneys general filed a civil complaint in the US District Court for the District of Connecticut against numerous generic pharmaceutical manufacturers, alleging that the companies conspired to fix prices, rig bids, and allocate customers for doxycycline hyclate and glyburide. The complaint alleges that individuals from the named defendants coordinated activities in person, over the phone, and via text messages, and allegedly met in person at trade shows and over private dinners and meetings.
- **US Private Civil Litigation:** In 2016, following press reports of federal and state investigations, private litigants filed numerous putative class action lawsuits alleging that manufacturers agreed to raise prices of digoxin, doxycycline, pravastatin, and clobetasol propionate. Plaintiffs in these actions allege that the defendant manufacturers committed various conspiracies through trade associations. Lawyers for private plaintiffs have suggested that the list of generic medications included in these cases may expand.
- **Germany and Belgium Investigate Pharmaceutical Wholesalers:** In September 2016, Germany's Federal Cartel Office conducted dawn raids of several pharmaceutical wholesalers based on suspicions that the wholesalers colluded to restrict competition. German wholesalers were previously sanctioned in 2006 for entering into agreements that allegedly protected market shares of participants. In November 2016, Belgium's Competition Authority conducted dawn raids of several wholesalers after it received what it considered to be suspicious answers from two wholesalers undergoing a merger review regarding possible anticompetitive agreements. Belgium's Competition Authority stated that it chose to visit only some of the suspected companies, which suggests that additional investigative activity lies ahead in 2017.
- **UK Investigates Possible Anticompetitive Agreements in the Pharmaceutical Sector:** In April 2016, the UK's Competition and Market Authority announced that it was investigating possible anticompetitive agreements in the pharmaceutical sector and estimated that it would make a further decision on the next phase of the investigation in light of evidence received to date in January 2017.

ELECTRONIC COMPONENTS

ANALYSIS

The capacitors investigation continues to draw worldwide scrutiny by regulators in the United States, China, the EU, Japan, South Korea, Brazil, and Taiwan. Electrolytic capacitors store and regulate electrical current in a variety of electronic products, including computers, televisions, car engine and airbag systems, home appliances, and office equipment.

A summary of recent global efforts follows:

- **United States:** To date, the DOJ has charged five companies and nine individuals in the same alleged conspiracy. Three of the five companies agreed to plead guilty in August, although the proposed sentences have yet to be confirmed.
 - › **Three Executives Charged:** On December 15, a federal grand jury returned a second superseding indictment charging three more executives from two different companies for participating in a price-fixing conspiracy in the electrolytic capacitors industry.
 - › **Five Executives Charged:** On November 2, a federal grand jury returned a superseding indictment charging an additional five executives from four different companies for participating in a price-fixing conspiracy in the capacitors industry.
 - › **Corporate Fine:** On January 21, a Japanese corporation pleaded guilty and was fined \$13.8 million for price fixing of tantalum electrolytic capacitors sold to customers in the United States and elsewhere. The DOJ had announced the company's decision to enter into a plea agreement in September 2015.
 - › **Court Inquiries:** The US District Court for the Northern District of California continues to raise questions about the proposed sentences in these capacitor cases, with one judge requesting a written proffer containing information about a defendant's ability to pay before he determines the sentence.
- **Japan:** On March 29, the JFTC issued cease-and-desist orders and surcharge payment orders totaling approximately ¥7 billion (\$68 million) to the manufacturers for fixing the price of aluminum electrolytic and tantalum electrolytic capacitors. A Japanese capacitor manufacturer also pleaded guilty in March to fixing prices of electrolytic capacitors and agreed to pay a fine of \$3.8 million. The manufacturer also agreed to serve a three-year probation and to revise its compliance policies and procedures.
- **Taiwan:** In December 2015, the TFTC fined seven aluminum capacitor companies and three tantalum capacitor companies \$177 million.
- **South Korea:** The KFTC indicated that it intends to issue charges and a decision imposing fines on capacitor manufacturers in the coming months.
- **Europe:** The European Commission also issued statements of objection in November 2015 against capacitor manufacturers in Asia. We will continue to monitor enforcement activity in Europe.
- **Brazil:** In August, Brazil's CADE entered into cease-and-desist agreements with three companies and two executives from a company concerning an alleged cartel involving the distribution of electrolytic capacitors and film capacitors. The companies were fined BRL 1.1 million (\$327,000).
- [U.S. District Court for the Northern District of California, Minutes before the Honorable James Donato \(Oct. 12, 2016\).](#)



AUTOMOTIVE PARTS

ANALYSIS

While the investigation into the automotive parts industry in the United States is winding down, active investigations are underway around the world. A number of enforcers are conducting dawn raids, announcing new investigations into this sector, or ramping up their reviews that likely will continue well into 2017.

UNITED STATES

The DOJ's investigation into the automotive parts industry is coming to an end, having surpassed the prior cartel investigations in the number of plea agreements and in the amount of criminal fines assessed in dozens of different auto parts inquiries.

As of December, a total of **65 individuals** and **47 companies** have been charged and have agreed to pay more than **\$2.9 billion in criminal fines** as part of the DOJ's investigation into the auto parts industry. For a "snapshot" summary of all of the charged cases, see the [appendices](#).

Most recently, a Japanese automotive parts manufacturer agreed to plead guilty and pay a \$7.2 million criminal fine for its role in a criminal conspiracy involving automotive steel tubes sold to automakers in the United States and elsewhere.

The DOJ has recently signaled that it will actively pursue individuals, both current and former employees, for covering up or destroying evidence. In September, one auto parts industry executive and one former executive were indicted in the US District Court for the Eastern District of Michigan for conspiring to obstruct justice in the auto parts investigation. According to the indictment, the two executives, along with their co-conspirators, conspired from as early as June 2008 until at least September 2012 to delete emails and electronic records and to destroy documents referring to communications with competitors. The DOJ said these executives also instructed others to ensure that no phone numbers or call records remained on their cellular phones and that no data remained on their computers that would reflect competitor communications.

The Antitrust Division has stayed focused on criminal fines and prison sentences for current and former employees of auto parts suppliers. In April, Keiji Kyomoto, a former executive of an automotive body sealing products supplier based in Hiroshima, Japan and former president of its US

joint venture, pleaded guilty in the US District Court for the Eastern District of Kentucky to a single-count indictment for bid-rigging and price-fixing. The executive was sentenced to 18 months in a US prison for his role in a conspiracy to fix prices and rig bids for the sale of automotive body sealing products sold in the United States. As part of his plea agreement, Kyomoto also agreed to pay a \$20,000 criminal fine. In May, a federal grand jury in the US District Court for the Eastern District of Michigan returned an indictment against Nobuhiko Niwa, a former auto parts executive, for his alleged participation in a conspiracy to fix prices, rig bids, and allocate the market for ceramic substrates used in catalytic converters supplied to automobile manufacturers in the United States and elsewhere. In June, a federal grand jury in the US District Court for the Southern District of Ohio returned an indictment charging a Japanese auto parts manufacturer and its US subsidiary, as well as an executive (Akitada Tazumi), with conspiring to rig bids for and fix the prices of automotive body sealing products. In a separate indictment filed in the same court, a different Japanese parts manufacturer, its US subsidiary, and four company executives were charged with conspiring to fix prices, allocate customers, and rig bids for automotive steel tubes sold in the United States and elsewhere.

As part of the auto parts investigation, the DOJ has been actively cooperating with foreign regulators. Most recently, Acting Assistant Attorney General for Antitrust Renata Hesse announced that the \$130 million criminal fine that the DOJ assessed against Nishikawa Rubber Co. Ltd. for price-fixing of automotive body sealing parts for vehicles sold to US consumers was a result of its cooperation and coordination with CCB. According to the DOJ, the Antitrust Division worked with CCB to identify affected sales of automotive parts manufactured in the United States, shipped to Canada for assembly into cars, and then imported back into the United States. The regulators determined that the effects of the cartel were felt primarily in the United States, and CCB decided that the \$130 million criminal fine was sufficient remedy for both jurisdictions and that there was no need to separately pursue additional enforcement action against Nishikawa in Canada.

CANADA

CCB's investigation into the auto parts industry has been ongoing since April 2013 and has resulted in nine guilty pleas and more than C\$70 million (\$54 million) in fines imposed by Canadian courts. In April 2016, a Japanese manufacturer and supplier of auto parts pleaded guilty to a bid-rigging of electronic power steering gears sold to Honda for cars manufactured in Canada. The fine was the second largest fine ever by a court in Canada for a bid-rigging offense.

MEXICO

On February 4, Mexico's COFECE announced that it informed several economic agents that it had issued a Statement of Probable Responsibility for allegedly participating in price-fixing and bid-rigging, market allocation, supply restriction, and information exchange for air conditioning compressors used in commercial vehicles.

BRAZIL

In 2016, Brazil's CADE continued to investigate auto parts companies involved in the production of spark plugs, anti-friction bearings, brake pads, thermal systems, clutch facings, thermal systems, windshield wipers, automotive safety devices, bumpers, automotive lighting, access mechanisms, emergency switches, and clutch facings for alleged price fixing and information exchanges.

On March 28, CADE confirmed that it had been investigating an alleged cartel in the market for electric assisted steering systems. According to CADE, the regulator has strong evidence that manufacturers fixed prices and exchanged commercially sensitive information on discounts and sales volumes. The investigation into this alleged cartel so far has uncovered 19 individuals who allegedly colluded with their competitors in person, over the phone, and by email from 2007 to 2011.

On September 29, CADE announced that it was investigating 28 companies and at least 66 individuals for participating in an alleged exchange of commercially sensitive information and widespread collusion across the automotive spare parts industry. CADE said the information exchanges involved the companies' respective revenues, prices, capacity, productivity, volume of production, sales, technical assistance, and transport and market shares. The investigation is likely a result of a leniency application filed earlier in 2016. The companies investigated face fines of up

to 20% of their sales if they are found to have violated Brazil's competition law. Any individuals found to have engaged in the conduct could be liable to pay 1% to 20% of the fines imposed on their corporate employers.



EUROPE

In September, Eric Van Ginderachter, director of cartels at the European Commission, said that the European Commission will pursue more cases against car-parts suppliers for alleged price collusion following five decisions that have imposed about €1.4 billion (\$1.6 billion) in fines. The Commission has already imposed fines against companies in markets for wire harnesses, foam, parking heaters, and engine starters. The Commission is also investigating manufacturers of airbags, thermal systems, and car lights.

GERMANY

Germany's FCO confirmed dawn raids of three automakers and three automotive part suppliers on June 23 on suspicion that the six companies participated in illegal agreements concerning the price for steel with steel producers from 2007 to 2015.

In December, a US manufacturer of automotive heat shields announced that it expects to pay approximately €3.3 million (\$3.5 million) in early 2017 to settle the German FCO's probe against European manufactures of automotive heat shields. The FCO initiated the probe into automotive heat shields in 2014 and investigated *inter alia* against one of the US manufacturers' German affiliates.

SPAIN

In March, Spain's CNMC carried out simultaneous unannounced inspections at several companies that manufacture lining and hard-molded components for cars. The raids concerned alleged market allocation and exchange of commercially sensitive information among the competitors in Spain. The CNMC collaborated with the competition authorities in other jurisdictions where the target companies had presence.

SOUTH AFRICA

On March 23, South Africa's Competition Commission announced it was conducting a dawn raid at the premises of four firms to find information relevant to its ongoing investigation into allegations of price-fixing and division of markets related to automotive glass fitment and repair services.

INDIA

The CCI has found five tire manufacturers guilty of conspiracy to fix prices of tires under the auspices of the Association of Tire Manufacturers from 2011 to 2014, and has filed a complaint against the companies.

SOUTH KOREA

The KFTC has continued its investigation into alleged price-fixing and market allocation by automotive parts manufacturers. On November 2, the KFTC imposed remedies and a combined surcharge of 11.112 billion won (\$9.59 million) against two Japanese auto parts manufacturers for colluding on auto compressor bids ordered by GM. On February 24, the KFTC issued a combined 1.14 billion won (\$1 million) fine against two Japanese manufacturers of starter motors for agreeing with each other to win supply contracts from GM.

FINANCIAL BENCHMARKS

ANALYSIS

The year 2016 saw significant activity in both government prosecutions and private litigation related to the alleged manipulation of various financial benchmarks—including LIBOR and other foreign exchange markets. The benchmark rate investigations, many of which are now several years old, generally appear to be shifting from corporate liability to personal liability as regulators seek to punish individual traders. Private litigation has also intensified, as several cases have survived motions to dismiss and discovery is underway.

LIBOR

- In March, two former Rabobank traders, Anthony Allen and Anthony Conti, were sentenced to two years and one year and one day, respectively, by a federal judge in New York for their role in LIBOR rate manipulation. The pair had been convicted by a jury in November 2015. Both are appealing their sentences.
- In May, the US Court of Appeals for the Second Circuit reversed a district court decision that dismissed investors' antitrust claims against 16 large banks. The appeals court found that the plaintiffs had pleaded facts sufficient to sustain claims that they paid artificial prices as a result of the alleged manipulation of the US dollar LIBOR benchmark.
- In July, the UK trial of five former employees of a UK-headquartered bank concluded with the jury finding three of the defendants guilty of US dollar LIBOR manipulation, but unable to reach a verdict on the remaining two employees. Two LIBOR traders—Jay Merchant and Alex Pabon—received sentences of six-and-a-half years and two years and nine months, respectively. Jonathan Mathew, a LIBOR submitter, was sentenced to four years.
- In November, former Rabobank swaps trader Paul Thompson was sentenced to three months in jail by a US district court judge in New York for his role in manipulating LIBOR. Thompson, who had pleaded guilty to conspiring to fix LIBOR rates in July 2016, received a relatively short sentence due to health issues and other mitigating factors.
- In November, former Rabobank swaps trader Paul Robson was sentenced in federal court in Manhattan by US District Judge Jed Rakoff to time served plus two years of supervised release. Robson had pleaded guilty in August 2014 to conspiring to fix LIBOR. The DOJ told the court that Robson's "substantial assistance," including waiving extradition to appear to testify at the trials of other former Rabobank employees, warranted a downward departure from the 48 to 51 months under the applicable sentencing guidelines.
- On December 21, the Swiss Competition Commission (COMCO) fined several large banks 99 million Swiss francs (\$96.3 million) for conspiring to rig multiple interest rate benchmarks and related derivatives. Separate fines were assessed to different groups of banks for their alleged participation in the rigging of the Swiss franc LIBOR, Yen LIBOR, and Euribor benchmarks.



FX

- In March, the United Kingdom's Serious Fraud Office (SFO) closed its investigation into misconduct in the foreign exchange (FX) market. After a year-and-a-half investigation, the SFO concluded that while there were reasonable grounds to suspect wrongdoing, there was insufficient evidence for a realistic prospect of conviction under UK law.
- In March, the KFTC fined two banks for colluding to manipulate foreign exchange swap transactions. In April, the KFTC widened its investigation to include 10 additional banks.
- In June, the European Union reportedly sought documents from banks to ramp up its FX probe—more than a year after the United States and the United Kingdom extracted several billion dollars in fines from the banks.
- In July, the global head of a major global bank's foreign exchange trading desk was arrested at JFK International Airport as he was boarding a flight to London. He and another FX trader were charged in a scheme to jack up the price of a currency in advance of a \$3.5 billion transaction. The charges were the first brought against individuals by the DOJ in its FX investigation. In November, a federal judge in New York set a trial date of September 18, 2017.
- In August, former Barclays plc trader Christopher Ashton was fined \$1.2 million by the Federal Reserve and permanently banned from banking in the United States for his alleged role in FX manipulation. Ashton is accused of using chat rooms to communicate with senior traders at other banks to share information and move currency benchmarks.

ISDAFIX

- In May, the US Commodity Futures Trading Commission (CFTC) ordered a US-based bank to pay \$250 million for attempted manipulation and false reporting of US dollar ISDAFIX benchmark rates. The order alleged that the bank, an ISDAFIX panel bank, made false rate submissions and engaged in trading activity to artificially influence USD ISDAFIX rates. The CFTC has been investigating ISDAFIX manipulation for more than four years, and the Citibank Order is only the second enforcement action against a bank to date. Citibank also agreed to pay the CFTC an additional \$175 million to resolve claims that it tried to manipulate the Yen LIBOR and Euroyen Tibor interest rate benchmarks.

- In December, the CFTC issued an order settling charges against a large US-based investment bank for attempted manipulation and false reporting of US dollar ISDAFIX benchmark rates. Under the order, the bank was required to pay \$120 million in civil fines, to cease and desist from further violations, and to undertake certain remedial measures to improve internal controls.

EURIBOR

- In December, the European Union concluded a five-year investigation into alleged manipulation of the Euribor benchmark by fining three additional banks more than EUR 485 million (\$520 million) for their alleged involvement in the rate-rigging cartel. The three banks had previously declined to settle with the EU in 2013 as part of a large multibank settlement in which the settling banks paid nearly \$900 million to the EU.

SIBOR/SOR

- In July, a class action lawsuit was filed in the US District Court for the Southern District of New York alleging that a group of banks conspired to manipulate the Singapore Interbank Offered Rate (SIBOR) and the Singapore Swap Offer Rate (SOR) by submitting artificial interest rate quotes and engaging in manipulative trades to maximize their own profits in SIBOR-and SOR-based derivatives at the expense of plaintiffs and the purported class. SIBOR/SOR manipulation has been investigated by the Monetary Authority of Singapore (MAS), the CFTC, and the UK Financial Conduct Authority (FCA), but this is the first private class action related to these claims.

TREASURY MARKET

- In March, roughly nine months into its US Treasury market manipulation probe, the DOJ reportedly zeroed in on a handful of banks. The investigation apparently was narrowed based on communications obtained by the DOJ that allegedly implicate the banks and potentially other banks in wrongdoing. The DOJ is investigating whether such banks are improperly using and sharing information on the demand for Treasuries to increase their profits in the secondary market for when-issued Treasuries securities.
- The US Securities and Exchange Commission (SEC), New York's Department of Financial Services, the CFTC,

and the European Commission are also investigating potential manipulation of the Treasury market.

BBSW

- In August, a class action lawsuit was filed against 16 major banks for the alleged manipulation of the Australian Bank Bill Swap Rate (BBSW), a key interest rate benchmark in Australia. The lawsuit follows legal actions brought by the Australian Securities and Investments Commission (ASIC) against three Australian banks for alleged BBSW manipulation.

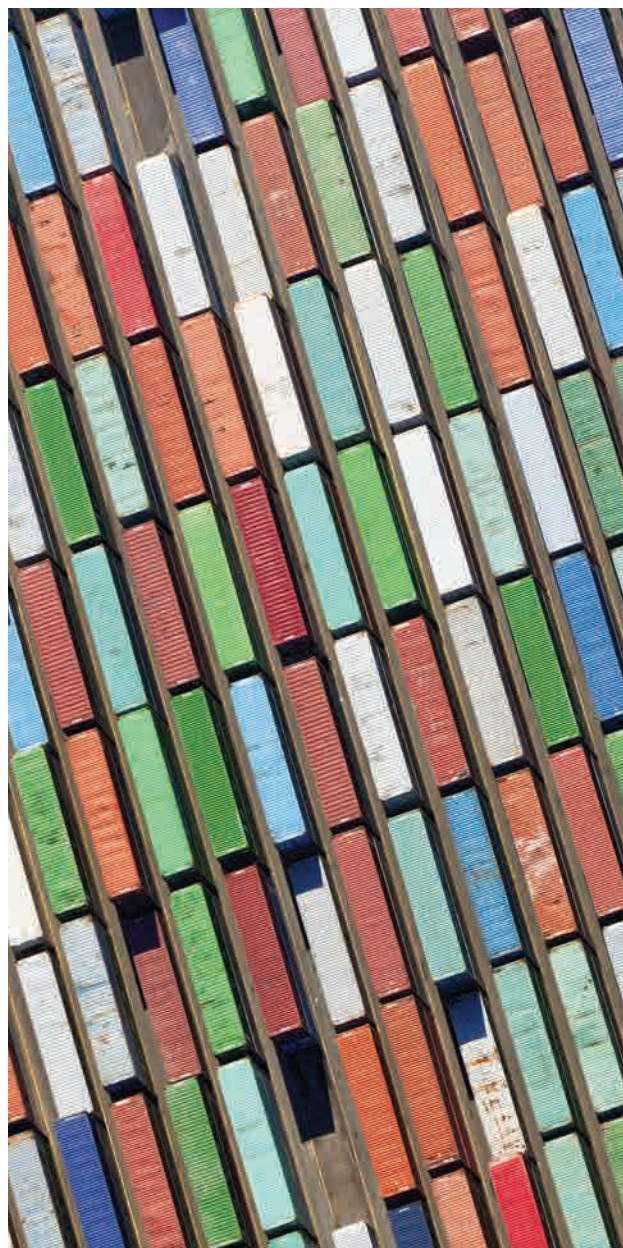
BRAZILIAN CURRENCY (REAL)

- In December, Brazil's CADE ordered four banks to pay fines of 183.5 million Reais (\$54 million) related to a cartel in the foreign exchange market (offshore), involving the Brazilian currency (Real) and foreign currencies. CADE also opened a new investigation into the Brazilian exchange market (onshore).



SHIPPING

- The global investigation of roll-on roll-off shipping services continued to produce additional prosecutions in 2016. Dawn raids were conducted globally of various roll-on roll-off shipping companies in September 2012. The following countries (and possibly/among) others, have engaged in investigations and announced prosecutions: the United States, China, Japan, Chile, New Zealand, and Australia.
- In the United States, four companies have pleaded guilty and agreed to pay fines totaling more than \$230 million. In addition, eight executives have been charged as part of the investigation, with four pleading guilty and agreeing to serve lengthy prison terms. The most recent fine of \$98.9 million, imposed on a Norwegian company, was announced in July 2016.
- China also imposed fines totaling 407 million yuan (\$58 million) on seven roll-on roll-off shipping companies in early 2016. The same seven companies were previously fined ¥22.7 billion (\$221 million) by the JFTC in 2014 and 4.4 billion pesos (\$6.6 million) by Chile.
- In Australia, on July 14 the ACCC filed its first-ever corporate criminal case in the roll-on roll-off global investigation. The charges were filed against a global shipping company alleging cartel conduct concerning the transportation of cars, trucks, and buses to Australia during July 2009 and September 2012. On November 15, a second criminal case was filed against another global shipping company in the expanding investigation. These cases represented the first time that criminal charges were filed against a corporation under the criminal cartel provisions of the Competition and Consumer Act 2010.
- In Mexico, on November 15 three shipping companies were fined 45.2 million pesos (\$2.2 million) by the COFECE for conspiring to coordinate fares and days of service.



PACKAGED SEAFOOD INDUSTRY

- On December 7, the DOJ announced the first charges in its Packaged Seafood Industry investigation. A senior vice president of sales of a leading packaged seafood company agreed to plead guilty to a Sherman Act violation for conspiring to fix the prices of packaged seafood, including shelf-stable canned tuna, from as early as 2011 until about 2013.
- On December 21, the DOJ announced the second charges in the investigation. The second case was filed against a current senior vice president of trade marketing for a leading packaged seafood company for participating in a conspiracy to fix the prices of packaged seafood, including canned tuna, during the same period as the first case.
- More charges are expected in 2017 as part of the ongoing investigation. Based on news reports, at least one corporation is seeking to obtain a resolution with the DOJ early in 2017. The investigation is based out of the San Francisco office of the Antitrust Division.



REAL ESTATE AUCTIONS

ANALYSIS

UNITED STATES

The year 2016 saw significant activity in both government prosecutions and private litigation related to the alleged manipulation of various financial benchmarks—including LIBOR and other foreign exchange markets. The benchmark rate investigations, many of which are now several years old, generally appear to be shifting from corporate liability to personal liability as regulators seek to punish individual traders. Private litigation has also intensified, as several cases have survived motions to dismiss and discovery is underway.

- On December 15, the DOJ reported that four real estate investors were convicted at trial of conspiring to rig bids at foreclosure auctions between May 2008 and December 2010. The jury-trial convictions were obtained in the US District Court for the Northern District of California.
- Separately, the DOJ has announced that 59 individuals have agreed to plead guilty or have pleaded guilty to criminal charges in the District Court for the Northern District of California as a result of the DOJ's ongoing investigations into bid-rigging and fraud at public foreclosure auctions in Northern California. Additional

indictments are pending against at least 16 real estate investors.

- In the US District Court for the Eastern District of California, 13 individuals pleaded guilty or were convicted in a trial, including 10 real estate investors who were sentenced to five to eight months in prison in mid-September. The defendants were also ordered to pay more than \$6 million in fines and restitution.
- To date, the DOJ has filed 23 criminal cases in Georgia as a result of the ongoing investigation. Of those, 21 have either pleaded guilty or agreed to plead guilty.
- To date, 14 defendants have been prosecuted in the ongoing investigation of the Alabama real estate foreclosure industry. More than 100 individuals have been charged since the investigation began.

The investigation is taking significant DOJ resources to prosecute out of various offices. Multiple trials have been scheduled for early 2017 in California and Georgia. In the California cases, a federal judge in August excluded wiretap evidence that had been gathered by the FBI without a warrant (individuals were taped as they spoke outside of



courthouses where real estate foreclosure auctions were held). This highlights the aggressiveness of the FBI in seeking information in cartel investigations. In mid-October, however, the federal judge, at the DOJ's request, dismissed several of the mail fraud claims in these cases involving the illegal wiretaps.

BRAZIL

Another enforcer is also focusing on cartel activity in the real estate sector. In November, Brazil's CADE launched an investigation into the country's real estate sector after uncovering evidence of cartel activity among the country's federal real estate regulator, COFECI, regional regulators, and local housing brokers. CADE said 35 brokerage unions were complicit in the agreements, including in the drafting of price tables. The Brazilian enforcer is also investigating 22 regional regulators that it suspects were involved in monitoring and helping implement the misconduct. CADE said the regulators may have opened disciplinary proceedings against brokers that failed to follow uniform charges issued by COFECI. CADE can fine companies up to 20% of their turnover if it finds that they infringed competition law.

NEW ZEALAND

In December 2015, the New Zealand Commerce Commission initiated proceedings alleging price-fixing and anti-competitive conduct by 13 real estate agencies, a company owned by several national real estate agencies, and three individuals. The commission has begun entering into settlements with real estate companies, including those announced in July and November. (See page 34.) To date, court-imposed penalties total NZ \$5.6 million (\$3.9 million).

MAJOR DEVELOPMENTS

DOJ TO BRING CRIMINAL ACTIONS FOR WAGE FIXING AND NO-POACHING AGREEMENTS

On October 20, the DOJ and FTC issued “Antitrust Guidance for Human Resource Professionals” (Guidance), indicating, for the first time, that they will criminally investigate and prosecute employers, including individual employees, who enter into certain “naked” wage-fixing and no-poaching agreements (i.e., wage-fixing and no-poaching agreements not tied to a legitimate business purpose). The new guidance parallels other recent DOJ efforts to focus on individual accountability in both criminal and civil cases. Based on the new guidance, this will certainly be an enforcement area to watch in 2017.

The guidance marks a significant turning point, as the DOJ and FTC had previously only pursued civil enforcement actions with respect to employment-related conduct. The guidance mentions, for example, the high-profile civil actions against high-tech companies for, *inter alia*, agreeing not to cold-call each other’s employees and agreeing to limit the number of new hires from competitors. Although the DOJ will pursue naked wage-fixing and no-poaching agreements criminally, the guidance notes that the DOJ and the FTC will still pursue civil actions against other types of employment-related conduct, such as companies sharing sensitive employee compensation information without actually agreeing to fix wages.

In bringing criminal actions for wage-fixing and no-poaching agreements, the DOJ intends to promote competition for the benefit of both employees and consumers: “[C]ompetition among employers helps actual and potential employees through higher wages, better benefits, or other terms of employment. Consumers can also gain from competition among employers because a more competitive workforce may create more or better goods and services.” Guidance, at 2. According to the DOJ and FTC, human resource (HR) professionals are well situated to monitor companies’ hiring practices, ensure antitrust compliance, and report any potential violations.

The guidance is part of the Obama administration’s larger initiative to increase competition and decrease allegedly anti-competitive practices. On October 25, the White House called on states to enact reforms to limit or ban the use of noncompete agreements and to adequately enforce such bans. It remains to be seen how, if at all, these priorities will shift under the Trump administration.

Nevertheless, the DOJ has continued to emphasize its commitment to ensure greater competition in the employment context. Following the election, Acting Assistant Attorney General Renata Hesse noted that, with the help of HR professions, the DOJ can further its ongoing efforts to protect workers and promote competition.

For more information, see the Law Flash [FTC and DOJ Issue Antitrust Guidance for HR Professionals](#).

CRIMINALIZATION TREND CONTINUES

In the last year, two countries enacted criminal statutes for cartels. This is part of an ongoing global trend. (See page 15 for a listing of Jurisdictions with Criminal Penalties for Cartel Activities)

South Africa and Chile passed laws making cartel violations criminal:

- Chile introduces new statute criminalizing cartels and boosting maximum fines for anticompetitive conduct:** In July, Chile’s upper house of parliament and Senate approved legislation that introduces criminal liability for participation in cartels and boosts maximum fines for anticompetitive conduct. The bill remains subject to review by Chile’s government and constitutional court, but is expected to pass. Most significantly, the legislation removes the US\$22.5 million cap on the maximum fine that the Competition Tribunal can impose on individual companies for cartel activity. Upon enactment, the Tribunal will be able to order maximum fines equivalent to either 30% of turnover generated by the line of commerce in which misconduct took place or double the economic benefit earned by the offender. Individuals involved in the cartel would also face three to 10 years’ imprisonment and potential disqualifications from holding certain government roles or positions in listed companies. The introduction of these new statutes likely stems from the insufficiency of previously implemented fines to deter conduct.
- South Africa introduces new statute criminalizing cartels.** On May 1, new legislation went into effect in South Africa introducing criminal liability for directors and managers of companies involved in cartel activity. Under the new statute, individuals can face penalties

including fines of up to 500,000 rand (equal to more than \$35,000) and prison sentences up to 10 years based on cartel activity. These penalties apply not only to those directors and managers who had an active role in the cartel, but also those who knowingly acquiesced in the companies' involvement in the cartel. This legislation is likely to have an effect on how companies approach corporate leniency, and some think it may affect the effectiveness of cartel investigations. The legislation had first been introduced in 2008, but it took until 2016 for it to be signed into law. While the new law has already faced some criticism, it brings South Africa's cartel policies in line with many other countries worldwide.

DOJ INCREASING EXTRADITIONS

ANALYSIS

The DOJ continued to build on its recent extradition efforts in 2016. In October, the department's Antitrust Division announced its fifth successful extradition of a foreign executive since 2010. The latest extradition was once again based on the use of the Interpol Red Notice process, which allows participating countries to request an arrest of designated individuals who are traveling in other countries.

In the last two-and-a-half years, three foreign executives have been extradited by the Antitrust Division. The five prior extraditions are summarized in the adjacent table.

The following cases involved extradition matters in 2016:

- **Israeli Executive Extradited from Bulgaria.** On October 14, Yuval Marshak, an Israeli executive, was extradited from Bulgaria based on an Interpol Red Notice. He was charged with defrauding the Foreign Military Financing (FMF) program, and money laundering related to "falsified bid documents to make it appear that certain FMF contracts had been competitively bid when they had not." He remains detained while his case is pending trial in the US District Court for the District of Connecticut.
- **Chief Executive Officer of Canadian Environmental Services Company Receives Prison Term.** On March 16, John Bennett was convicted at trial on two counts for (1) committing major fraud against the United States and (2) conspiring to provide kickbacks and to commit major fraud. These charges were part of a bid-rigging and fraud scheme in a bidding for environmental services contracts to clean Superfund sites in the United States. On August 9, he was sentenced to 63 months in

prison and ordered to pay a \$12,500 fine and \$3.8 million in restitution.

For more information on the prior extraditions by the Antitrust Division, see:

- [Extradition Lessons Learned from Mlex](#) (Nov. 2016).
- [Extradition in International Antitrust Enforcement Cases from The Antitrust Source](#) (April 2015).



EXTRADITIONS BY THE ANTITRUST DIVISION

NO.	NAME / CITIZENSHIP	DATE / COUNTRY OF EXTRADITION	CHARGES ORIGINALLY FILED	INVESTIGATION	RESOLUTION	NOTES
1	Ian P. Norris / British citizen	March 23, 2010 / United Kingdom	Sept. 24, 2003 original counts filed; superseding charges filed Oct. 15, 2003 included four counts: (1) conspiring to fix prices for certain carbon products sold in the United States (Sherman Act); (2) conspiring to obstruct justice; (3) corruptly persuading and attempting to corruptly persuade other persons with intent to influence their testimony; and (4) corruptly persuading other persons to alter, destroy, mutilate, or conceal documents with the intent to impair their availability for use in an official proceeding	Carbon Graphite Investigation	Extradited from the UK to face prosecution only on Counts (2) through (4); July 27, 2010 trial conviction on one count of conspiring to obstruct justice, acquitted on remaining counts; sentenced to serve 18 months in prison and a three-year term of supervised release, and a \$25,000 fine; conviction was affirmed on appeal	Fought extradition for six and a half years contending that the charges were not covered under prior UK extradition law; conviction based on obstruction of justice charge and not Sherman Act charge
2	David Porath / Israeli and US citizen	Feb. 16, 2012 / Israel	Feb. 18, 2010, charged with (1) conspiring to rig bids; (2) conspiring to defraud the Internal Revenue Service; and (3) filing a false tax return	New York Presbyterian Hospital Investigation Concerning Award of Contracts	July 11, 2012, pleaded guilty as charged; sentenced to time served (just under one year) and a one year term of supervised release with three months of home confinement, and ordered to pay a \$7,500 fine and \$78,980 in restitution	Extradition based on Sherman Act and other nonantitrust charges
3	Romano Piscioti / Italian citizen	April 3, 2014 / Germany	March 28, 2011 sealed indictment charging one count of rigging bids, fixing prices, and allocating market shares involving sales of marine hose; indictment unsealed by court order on Aug. 5, 2013	Marine Hose Investigation	April 24, 2014 pleaded guilty to sole Sherman Act count; sentenced to serve 24 months in prison and pay a \$50,000 fine (including credit for nine months and 16 days held in custody during extradition proceedings in Germany)	Arrest warrant (under an Interpol Red Notice) based on sealed charges while traveling in Germany; described by DOJ as “the first successfully litigated extradition on an antitrust charge”
4	John Bennett / Canadian citizen	Nov. 14, 2014 / Canada	Aug. 31, 2009 charged with two counts: (1) kickback and fraud conspiracy and (2) major fraud against the United States	Federal Creosote Superfund Site Investigation	March 16, 2016, trial conviction on two counts for (1) committing major fraud against the United States and (2) conspiring to provide kickbacks and to commit major fraud; sentenced to 63 months in prison, two years of supervised release, a \$12,500 fine and \$3.8 million in restitution	Fought extradition for more than five years; trial conviction following three-week jury trial
5	Yuval Marshak / Israeli citizen	Oct. 14, 2016 / Bulgaria	Jan. 21 2016 sealed charging five counts: (1)-(2) two counts of wire fraud, (3) mail fraud, (4) major fraud against the United States, and (5) international money laundering	Foreign Military Financing Program Investigation	Pending trial in 2017	Arrest warrant (under an Interpol Red Notice) during travel

KEY POLICY DEVELOPMENTS

NEW BELGIAN 2016 LENIENCY GUIDELINES

On March 1, the BCA issued new guidelines on the leniency regime under Belgian competition law (the 2016 Leniency Guidelines). These guidelines entered into force on March 22 and reflect several key developments since the adoption of the prior guidelines in 2007. Given the significance of this new development, we review the key features of the new guidelines.

The adoption of the new guidelines reflects the increasing role of leniency applications in the BCA's fight against cartels. On August 19, the BCA's Chief Prosecutor Véronique Thirion indicated that by mid-August 2016 the authority had already opened more cases based on leniency applications than during all of 2015 (i.e., eight cases). Asked about the Belgian sectors posing the highest risk to competition, the chief prosecutor said that telecommunications were limited to two dominant players, while the country's retail is divided among three dominant supermarkets with different clienteles. In a recent interview, Ms. Thirion also indicated that she did not expect the EU Cartel Damage Directive to have a negative impact on leniency proceedings in Belgium.

An undertaking that is a participant in a cartel (e.g., price agreements among competitors, restriction of production, allocation of markets), risks a fine of up to 10% of its turnover. (Article IV.70, § 1 Code of Economic Law) However, the leniency system allows participants in a cartel to obtain full or partial immunity from fines, if they bring such an infringement to the attention of the BCA or produce evidence that provides substantial added value to the investigation.

The 2016 Leniency Guidelines do not apply to all the practices covered by the Belgian leniency program, only to cartels. Hence, they do not cover vertical agreements or horizontal practices that do not correspond to the definition of a cartel. However, the 2016 Leniency Guidelines expressly state that the concept of "cartel" also covers agreements or concerted practices between competitors in which also one or more "non competing undertakings" are participating (see hub-and-spoke infringements, for instance).

Rules on confidentiality have also been reinforced. The 2016 Leniency Guidelines clarify that leniency applications will not be disclosed to civil courts, or to other parties in the context of damage actions against the applicants. This is consistent with the confidential treatment of leniency statements under Article 6(6)(a) of the Cartel Damages Directive.

The main changes brought about by the 2016 Leniency Guidelines concern the following aspects: (i) immunity from prosecution for individuals; (ii) overlapping percentages of fine reductions; and (iii) implementation of the ECN Model Leniency Programme.

IMMUNITY FROM PROSECUTION FOR INDIVIDUALS

In 2013, the Belgian Code on Economic Law (Articles IV.1, § 4 and IV.70, § 2) introduced fines for individuals under which directors or senior employees engaging in cartel behavior on behalf of an undertaking may incur administrative fines ranging from €100 to €10,000 (** add U.S. equivalents **) (no criminal penalties can be imposed). Although in practice the BCA has already accepted leniency applications made by individuals, the 2016 Leniency Guidelines now clarify the conditions and under which individuals can apply for leniency and describe the interplay between leniency applications made by individuals and leniency applications made by undertakings.

The leniency regime for individuals is significantly different from the one for undertakings. First, the leniency granted to individuals means immunity from prosecution, rather than leniency from fines. Second, individuals' immunity applies regardless of the chronological ranking of their application. Third, individuals' leniency applications are not taken into account to determine the rank of an undertaking. A prior application by an individual will, therefore, not prevent an undertaking from being granted first rank and thus immunity from fines. To obtain full immunity from fines, the individual has to (i) be involved in one or more prohibited practices of price fixing, output limitation, or market sharing; and (ii) contribute to proving the existence of these prohibited practices, including providing information that the BCA did not have before, or acknowledging the existence of a prohibited practice.

The 2016 Leniency Guidelines clarify that individuals can only be prosecuted when an undertaking or an association of undertakings is also prosecuted and convicted for the same conduct. The BCA can thus not prosecute individuals who are not undertakings for stand-alone infringements.

OVERLAPPING PERCENTAGES OF FINE REDUCTIONS

Under the 2016 Leniency Guidelines, the fine reduction percentages now overlap: 30% to 50% reduction for the first applicant; 20% to 40% for the second applicant; 10% to 30% for further applicants. The overlapping percentages allow the BCA to take into account the quality of the information provided by the applicants, in addition to the timing of the application. As a result of the overlapping percentages, even if an applicant has a lower rank (because the application was filed later than other leniency applications), it may still obtain a higher reduction of fines if the information provided is particularly high quality.

The 2016 Leniency Guidelines clarify what is considered valuable information in different types of leniency applications. An applicant for full immunity must be the first to provide information and evidence that allows the BCA to obtain a warrant and conduct a dawn raid or to establish a cartel infringement. Applicants for a reduction of fines should provide information that has additional value compared with the information that is already in the BCA's possession at the time of the application.

IMPLEMENTATION OF THE ECN MODEL LENIENCY PROGRAMME

The Leniency Guidelines bring the Belgian leniency program in line with the Model Leniency Programme of the European Competition Network (ECN), which was adopted in 2012 to harmonize leniency programs of national competition authorities within the European Union. So-called "summary applications" are now admissible for all leniency applications, irrespective of type or ranking. (Under the 2007 guidelines, such summary applications were reserved for the immunity applicant.) This innovation significantly reduces the administrative burden associated with filing a leniency application when different national competition authorities may have jurisdiction. An undertaking that has filed or intends to file a leniency application with the European Commission can file a summary application with the BCA if it considers that the BCA is also "well placed" to act. The latter will then grant the applicant a marker to safeguard the applicant's rank in a possible Belgian cartel procedure. The summary application must be identical in content to the application submitted to the commission and must be updated if the commission investigation shows that the scope of the alleged cartel differs significantly from the original description in the summary application. If

the undertaking fails to update its summary application, it may lose its rank in a subsequent national procedure.



COMPLIANCE PROGRAMS UPDATE

Compliance programs are essential to prevent, detect, and mitigate potential cartel violations. For example, the early detection of a cartel issue may allow a company to seek leniency or amnesty. The design and development of effective compliance programs can be used in some jurisdictions to mitigate the potential fines or penalties.

Many enforcers continue to issue guidance and policy updates on compliance. For example:

- [The European Commission provides compliance resources on a dedicated page.](#)
- In 2015, the CCB issued [updated compliance guidelines](#).
- In 2014, Deputy Assistant Attorney General Brent Snyder issued guidance for the DOJ in a policy speech, "[Compliance Is A Culture, Not Just A Policy.](#)"

Some compliance developments among other enforcers during the last year are highlighted:

Algeria: Conseil de la concurrence: On July 13, the Conseil issued letters to the largest Algerian companies launching its Competition Compliance Program (CCP) initiative. The CCP, which is voluntary, provides a framework for antitrust compliance plans by local companies/adapters. CPP participants may be eligible to lower antitrust sanctions (up to 12% turnover). The initiative includes the following requirements:

- Adopters must commit to antitrust rules and objectives;
- Plans need to include details of employees' communications, training, and antitrust awareness;
- Plans need to include rules on control, audit, and whistleblowing (including follow-up on alerts);
- Managers of adopters need to commit clearly and publicly to antitrust rules;
- Adopters must appoint one of several employees to set up the compliance plans and ensure that they are adhered to.

Belgian Competition Authority: In July, the BCA issued guidelines describing, among other subjects, how to draft an effective compliance program. While the guidelines are addressed to small and medium-sized enterprises (SMEs), it provides insight on [key compliance factors](#).

Brazil's Administrative Council for Economic Defense (CADE): On January 20, CADE issued compliance guidelines that allow companies to earn as much as a 50% discount of fines for adopting compliance programs. [Under this guidance](#), a robust compliance program requires (1) commitment from the top, (2) appropriate resources, (3) autonomy and independence, (4) risk analysis, (5) risk mitigation, and (6) regular review of the program.

KEY JUDICIAL DEVELOPMENTS

DISTRICT COURTS BROADEN SCOPE OF “IMPORT COMMERCE” AND “DOMESTIC EFFECTS” EXCEPTIONS UNDER THE FOREIGN TRADE ANTITRUST IMPROVEMENTS ACT

In 1982, Congress passed the Foreign Trade Antitrust Improvements Act (FTAIA) to help address the circumstances in which US antitrust law applies to foreign conduct. The scope of the FTAIA remains a continuing issue.

As we reported in last year’s *2015 Global Cartel Enforcement Report*, in January 2016, the US Supreme Court declined to resolve a circuit split between the Seventh and Ninth Circuits interpreting the scope of the FTAIA, leaving it open for further development in the lower courts.

In two separate cases this last year, the US District Court for the Northern District of California broadened the scope of exceptions to the FTAIA, making it easier for plaintiffs to seek relief under the Sherman Act for purchases of products from non-US entities. In each case, the court determined whether the “import commerce” and “domestic effects” exceptions to the FTAIA applied.

- In *In re Capacitors Antitrust Litigation*, 2016 WL 5724960, No. 14-CV-03264-JD (N.D. Cal. Sept. 30, 2016), the court focused on applying the “import commerce” exception to the FTAIA with respect to (a) products billed to US entities but delivered abroad; and (b) products billed to non-US entities but shipped by the defendants to the United States. The court held that products billed to US entities constitute import commerce, regardless of whether the products were ultimately shipped to the US. The court also held that the products billed to non-US entities but shipped by defendants to the United States also constituted import commerce because the defendants “not only knew and intended that the goods would be delivered to the United States, they themselves shipped them here.” Finally, the court held that the plaintiffs were not barred under the FTAIA from bringing Sherman Act claims for purchases made abroad by non-US entities, which did not constitute “import commerce,” under the “domestic effects” test. However, the court held that the plaintiffs could not rely upon a “global pricing” theory (i.e., that the defendants “made sales to a US corporate family member and to a foreign corporate family member as part of a global pricing system”) in the plaintiffs’ complaint to allege that the domestic effects applied.

- In *In re Cathode Ray Tube (CRT) Antitrust Litigation*, 2016 WL 5725008, No. 07-CV-05944-JST (N.D. Cal. Sept. 30, 2016), in seeking summary judgment, the defendants argued that the plaintiffs lacked standing under the FTAIA with respect to their purchase of CRTs (which are used in televisions) from non-US conspirators because such purchases did not constitute “import commerce.” The court disagreed with the defendants, holding that it “is sufficient that a conspiring defendant negotiated to set the price of a good that was imported into the United States, even if that good was sold by another conspirator or imported by someone else” for the import commerce exception to be satisfied. Moreover, the court found that the plaintiffs’ importation of finished products that contain the price-fixed CRTs also constituted “import commerce” even if the plaintiffs purchased the finished-product televisions and not the CRTs. Finally, the court noted that, regardless of whether the import of finished products constituted “import commerce,” there was at least a material issue of triable fact as to whether the defendants’ price-fixing of CRTs had a “direct effect” on the prices that plaintiffs paid for CRTs and products containing CRTs. Therefore, the court found that, regardless of the “import commerce” exception to the FTAIA, the plaintiffs’ action could proceed under the domestic effects exception to the FTAIA.

These cases show a willingness of the courts to apply the “import commerce” and “domestic effects” exceptions to the FTAIA with respect to different types of international commerce, expanding the ability to seek relief under the Sherman Act for purchases of products from non-US entities. These cases also underscore the difficulty courts have in applying the FTAIA statute to different types of transactions. In fact, the *In re Capacitors*’s ruling noted that the “myriad of complex business practices” found in the global economy has “bedeviled the courts” and that cases with a serious FTAIA component are a “time and money sinkhole” for litigants.

OUR PRACTICE

Morgan Lewis has acted as US, European, and global coordinating counsel for multinational corporations in virtually every major international cartel investigation of the last 20 years, guiding clients through every stage of the process. Our antitrust lawyers have coordinated multijurisdictional cartel investigations and civil litigation and defended some of the world's largest corporations in high-stakes treble damages class actions involving allegations of price-fixing and other cartel conduct.

We also assist clients in establishing compliance programs to prevent or detect potential cartel conduct that may result in substantial criminal liability. We help design compliance programs that mitigate the sentencing consequences in the criminal justice system that are consistent with recent DOJ compliance standards.

More than 20 Morgan Lewis lawyers have previously served as prosecutors with the DOJ, including partners that have direct experience prosecuting cartel matters. Our team includes Mark Krotoski, former Assistant Chief of the National Criminal Enforcement Section in the DOJ's Antitrust Division, as well as a former Assistant Attorney General in charge of the Antitrust Division, US Attorney for the District of Delaware, White House Counsel, Chief of Staff at the Antitrust Division, Counselor to the head of the Antitrust Division, Assistant Chief in the Antitrust Division's National Criminal Enforcement Section, and Trial Attorney in the Antitrust Division's National Criminal Enforcement Section.

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