



Schweizerische Eidgenossenschaft  
Confédération suisse  
Confederazione Svizzera  
Confederaziun svizra

The Federal Council  
The portal of the Swiss government

# TRAFIGURA BEHEER BV and three individuals referred to the Federal Criminal Court

**Bern, 06.12.2023 - On 5 December 2023, the Office of the Attorney General of Switzerland filed an indictment in the Federal Criminal Court against three individuals and against the commodities trading company TRAFIGURA BEHEER BV. A former Angolan public official is charged with having accepted, between April 2009 and October 2011, bribes of more than EUR 4.3 million and USD 604,000.- from the TRAFIGURA Group, in relation to its activities in the petroleum industry in Angola. In addition, a former intermediary and a former senior executive of the TRAFIGURA Group are charged with being involved in this corruption scheme. Finally, TRAFIGURA BEHEER BV is charged with failing to take all reasonable and necessary organisational measures to prevent the payment of these bribes. For the first time, the Federal Criminal Court is called upon to judge the criminal liability of a company for bribery of foreign public officials.**

The Office of the Attorney General of Switzerland (OAG) opened a criminal investigation against persons unknown in July 2020 on suspicion of bribery of foreign public officials (Art. 322septies Swiss Criminal Code (SCC)) and of money laundering (Art. 305bis SCC) related to potential corrupt payments to Angolan public officials. In August 2021, the investigation was extended to include the first defendant, former Chief Executive Officer and executive member of the board of SONANGOL DISTRIBUIDORA SA, a subsidiary of the Angolan state-owned petroleum company SOCIEDADE NACIONAL DE COMBUSTÍVEIS DE ANGOLA EP (SONANGOL EP), on suspicion of bribery of foreign public officials (Art. 322septies SCC) and of money laundering (Art. 305bis SCC). Between January and March 2023, the criminal investigation was further extended to include the second defendant, a former intermediary for the TRAFIGURA Group in Angola, and the third defendant, former Chief Operating Officer and member of the management board of TRAFIGURA BEHEER BV, both on suspicion of bribery of foreign public officials (Art. 322septies para. 1 SCC), as well as the company TRAFIGURA BEHEER BV on suspicion of bribery of foreign public officials (Art. 322septies para. 1 SCC in conjunction with Art. 102 para. 2 SCC).

## **Alleged corrupt payments**

Between 2009 and 2011, TRAFIGURA BEHEER BV, headquartered in the Netherlands, was the reference parent company of the TRAFIGURA commodities trading group and had branches in Geneva and Lucerne. At the time, the TRAFIGURA Group was active in Angola in the ship chartering and bunkering sectors, its main

clients being the Angolan government, respectively SONANGOL EP and its subsidiaries, in particular SONANGOL DISTRIBUIDORA SA. The latter was responsible for the distribution and marketing of petroleum products, both on the domestic and foreign markets.

According to the indictment, the first defendant is alleged to have accepted, between April 2009 and October 2011, in his capacity as an Angolan public official, undue advantages from the TRAFIGURA Group in the form of bank transfers totalling EUR 4,346,176.60 made to a bank account in Geneva, cash payments totalling USD 604,000.- in Angola, and payment of hotel and meal expenses totalling CHF 797.25 related to a stay in Geneva. These facts would amount to passive bribery of foreign public officials (Art. 322septies para. 2 SCC).

The second defendant, acting through an offshore company as an intermediary for the TRAFIGURA Group, of which he is a former employee, is alleged to have granted, between August 2009 and October 2011, part of the above-mentioned undue advantages to the Angolan public official in the form of bank transfers totalling EUR 3,991,315.- to a bank account in Geneva and cash payments totalling USD 604,000.- in Angola. These facts would amount to active bribery of foreign public officials (Art. 322septies para. 1 SCC).

The third defendant, according to the main charge brought against him, is alleged to have granted, between July 2009 and October 2011, in his capacity as a senior executive of the TRAFIGURA Group based in Geneva, part of the above-mentioned undue advantages to the Angolan public official in the form of bank transfers totalling EUR 4,346,176.60 made to a bank account in Geneva and cash payments totalling USD 604,000.- in Angola. Subsidiarily, he is alleged to have granted these undue advantages by omission, while holding a position of guarantor within the TRAFIGURA Group. These facts would amount to active bribery of foreign public officials (Art. 322septies para. 1 SCC).

In return for the above-mentioned undue advantages, the Angolan public official is alleged to have favoured the TRAFIGURA Group's interests by enabling the development of ship chartering and bunkering activities between the TRAFIGURA Group and SONANGOL DISTRIBUIDORA SA, in particular the conclusion, between June 2009 and July 2010, of eight ship chartering contracts and one ship bunkering contract. Thanks to the income that arose from these contracts, the TRAFIGURA Group is alleged to have made profits amounting to this day to USD 143.7 million.

### **Alleged lack of organisation**

Lastly, the OAG accuses TRAFIGURA BEHEER BV of failing to take, between April 2009 and October 2011, all reasonable and necessary organisational measures to prevent the commission, within the company, of offences of bribery of foreign public officials according to Article 322septies paragraph 1 SCC in conjunction with Article 102 paragraph 2 SCC.

According to the indictment, the TRAFIGURA Group's internal regulations applicable between April 2009 and October 2011 are alleged to have not been in conformity with international standards on preventing and combating corruption and to have not been apt to prevent the high risk of corruption associated with the TRAFIGURA Group's activities in the petroleum industry in Angola, said risk being all the greater given that the TRAFIGURA Group was involved with an Angolan state-owned company and resorting to intermediaries to develop its business in that country. In addition, the aforementioned internal regulations and international standards, particularly in relation to due diligence and monitoring of the intermediaries'

activities, are alleged to have not been effectively implemented within the TRAFIGURA Group. As a result of this disorganisation, which is alleged to have manifested itself up to the highest level of the company, the above-mentioned offences of active bribery of foreign public officials would have been rendered possible.

### **Partial abandonment**

With regard to the allegation of money laundering (Art. 305bis SCC), as the investigation was unable to establish the element of intent with respect to the offence, the OAG issued on 5 December 2023 an order abandoning proceedings against the former Angolan public official. The order abandoning proceedings may still be subject to appeal and is currently unavailable for consultation.

The presumption of innocence applies to the accused until a final judgment is rendered. Once the indictment has been filed, the Federal Criminal Court has sole competence to provide any other information.

*Original version of the text in French.*

---

### **Address for enquiries**

Communications Service of the Office of the Attorney General of Switzerland, [info@ba.admin.ch](mailto:info@ba.admin.ch), +41 58 464 32 40

---

### **Publisher**

Office of the Attorney General of Switzerland

<http://www.ba.admin.ch/>