

U.S. Secures First Ever Extradition on Antitrust Charge

The recent U.S. extradition and conviction of a foreign national in connection with his participation in the worldwide marine hose criminal anti-trust cartel serves as a reminder to all that national borders may not insulate offenders from the international reach of competition/antitrust laws.

Indictment, Extradition and Sentence

On April 3, 2014, Romano Piscioti, an Italian national and former executive of marine hose manufacturer Parker ITR S.r.l., was extradited from Germany to the U.S. on a charge of participating in a conspiracy to suppress and eliminate competition for marine hose sold in the U.S. and elsewhere. Marine hose is used to transfer oil between tankers and storage facilities. The U.S. Department of Justice ("DOJ") secured guilty pleas from five companies, including Parker ITR S.r.l., and nine other individuals in its ongoing investigation into the marine hose conspiracy.

The indictment against Piscioti alleged that, from at least 1999 to November 2006, Piscioti and his co-conspirators, among other things:

- attended meetings and engaged in discussions in the U.S. and elsewhere regarding the sale of marine hose;
- agreed to allocate market shares among the conspirators during the meetings and discussions;
- agreed to a price list for marine hose during the meetings and discussions;
- agreed, during the meetings and discussions, not to compete for one another's customers; and

- shared and received information regarding marine hose projects and prices through a co-conspirator who served as a "clearinghouse" for information.

Following his extradition, on April 24, 2014, Piscioti pleaded guilty and was sentenced by a U.S. District Court in Florida to serve a two-year prison sentence, with credit for time served upon his initial arrest in Germany, and a \$50,000 fine.

Implications for International Companies

This case marks the first successfully litigated extradition by the U.S. in a competition/antitrust matter¹ and may have significant ramifications for international companies and their executives. Price fixing and bid rigging offences carry serious penalties around the world, including in Canada and the U.S. Of particular note to Canadian executives is the *Extradition Treaty Between the United States of America and Canada* (the "Treaty") that allows for extradition of persons charged or convicted of a number of offences including involvement in conspiracy or bid rigging offences. The *Extradition Act* governs the process for extraditing a person in Canada under one of the extradition agreements to which Canada is a party. Article 2(1) of the Treaty provides that:

Extradition shall be granted for conduct which constitutes an offense punishable by the laws of both Contracting Parties by imprisonment or other form of detention for a term exceeding one year or any greater punishment.²

Under the Canadian *Competition Act*, an individual found guilty of a conspiracy offence is liable to imprisonment for a maximum term

¹ As part of the DOJ's investigation into price fixing in the carbon products industry, Ian Norris, a citizen of the United Kingdom and former CEO of The Morgan Crucible Company plc, was also successfully extradited to the U.S. in 2010. However, Norris was extradited on obstruction charges. For more information, see: <http://www.justice.gov/opa/pr/2010/July/10-at-859.html>.

² *Extradition Treaty Between the United States of America and Canada*, United States and Canada, 3 December 1971, CTS 1976 No 3 (entered into force 22 March 1976), amended by *Protocol Amending the Extradition Treaty with Canada*, United States and Canada, 11 January 1988, CTS 1991 No 37 (entered into force 26 November 1991).

of 14 years or a fine of up to \$25 million or both. The bid rigging offence carries a maximum sentence of 14 years' imprisonment, a fine amount at the discretion of the court, or both. Under the *Sherman Act*, these offences carry a maximum sentence of 10 years' imprisonment, or a \$1 million fine, or both.

Within this case, and the earlier extradition in the Morgan Crucible case, the U.S. DOJ has shown itself willing to go through the legal hoops necessary to extradite foreign executives. The DOJ's pursuit of extradition may embolden other jurisdictions to do the same. In Canada, the Competition Bureau has secured a number of guilty pleas from foreign nationals in connection with their roles in international conspiracies, but, to date, it has not sought prison sentences or extradition of any foreign nationals. Whether this will change with DOJ's increased activity remains to be seen.

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[a cautionary note](#)

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