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Brazil sues Trafigura and top executives over Petrobras bribes

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Brazilian prosecutors have accused Swiss commodities trader Trafigura and two of its top executives of bribing public officials to secure favourable oil deals.

The Brazilian Federal Prosecution Service (MPF) announced on 30 November that it is seeking up to \$196 million from Trafigura as well as the company's current chief operating officer, Mike Wainwright, and 11 other individuals who allegedly took part in or benefitted from the scheme.

The MPF alleges in its complaint filed with the federal court in Curitiba that Trafigura funnelled bribes worth \$1.3 million to Petrobras executives in return for favourable rates on 31 separate oil deals that were negotiated in Houston in 2012 and 2013. Prosecutors claim that Petrobras missed out on revenue worth \$37 million as a result of these sweetheart deals.

Brazilian authorities are seeking damages from a dozen individuals besides Geneva-based Trafigura and company subsidiaries in Brazil, Panama, the Netherlands and Singapore. These individuals include two current members of Trafigura's board of directors: chief operating officer Wainwright and global co-head of oil trading José Larocca.

Wainwright, a UK national, has been Trafigura's COO since 2008, according to the company's website. Swiss-born Larocca, meanwhile, has been with Trafigura since 1994 and has represented his native Argentina as a show-jumper in three Olympic games, according to his company profile.

The MPF also targeted Rodrigo Berkowitz, a former Houston-based Petrobras executive. He reportedly signed a plea bargain with Brazilian prosecutors in 2018 for accepting bribes from commodities trading companies Vitol, Glencore and Trafigura, and has pleaded guilty to a single money laundering conspiracy charge in the US, according to court documents unsealed on 30 November.

The other individuals named in the complaint are Houston-based former Trafigura oil trader Tim Waters, the company's former global head of oil Andy Summers, Brazil-based former Trafigura executive Marcio Magalhães, three former Petrobras officials based in Houston and Rio De Janeiro, as well as the widow and three children of the late Trafigura founder Claude Dauphin, who died in 2015.

Brazilian prosecutors said in their complaint that because Dauphin was Trafigura's CEO during the relevant period and allegedly participated in the scheme, his share of the damages should be taken from his heirs' inheritance.

Eloy Rizzo at Demarest Advogados in São Paulo said targeting an individual's descendants is an unusual move for prosecutors but one that has a legal footing in Brazil's Administrative Misconduct Law, which states that a person's heirs can be pursued for losses to public funds. Rizzo said the MPF brought a similar claim against the heirs of three deceased former Petrobras officials in 2018.

Brazilian prosecutors have previously detailed the alleged bribery scheme when they brought criminal charges against Magalhães and another former Trafigura executive in 2019. The civil complaint marks the first time prosecutors have pursued damages against Trafigura itself, which cannot be held criminally liable for the alleged corruption under Brazilian law.

Aside from Brazilian authorities and the US Department of Justice, the US Commodities and Futures Trading Commission (CFTC) is also investigating Trafigura, Vitol and Glencore companies over bribery allegations. The agency made headlines in 2019 when then-director James McDonald announced that it would investigate foreign bribery schemes that cause violations of the Commodity Exchange Act.

In response to the Brazilian lawsuit, Trafigura said in an emailed statement: "The Brazilian authorities' allegations against the Company and any suggestion that Trafigura's current management authorized or

had knowledge of improper payments to employees of Petrobras are not supported by evidence, and Trafigura strongly denies these allegations.”

A Trafigura spokesperson said they couldn’t provide comment on behalf of Wainwright or Larocca. The pair, along with Waters, Summers, Magalhães, and the Dauphin family, could not be reached for comment.

Brazilian lawyers said the local public docket indicates Trafigura has yet to instruct a local law firm to act for the company in this case. Figueiredo Basto Advogados Associados in Curitiba has previously acted for the company in the criminal case against former Trafigura executives in Brazil. The law firm did not answer phone calls seeking clarification.

