

Comment: US wins one extradition, but dozens of alleged price fixers remain out of reach

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IN BRIEF

US antitrust authorities have touted their recent success in extraditing an Italian businessman from Germany to serve time in an American jail for price fixing. But there are still plenty of businessmen who remain beyond the authorities' lengthening reach. Reporting yourself to local authorities and a willingness to not travel can keep you safe, one German fugitive told MLex.

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In addition to the businessman, who remains "at large," according to the Department of Justice, more than 42 Japanese, Korean and Taiwanese executives have been indicted in the US for price fixing, but remain outside the country.

Last month, Romano Piscioti, an Italian citizen, agreed to a prison sentence of 24 months and to pay a fine of \$50,000 for his part in an international cartel that fixed the prices of hoses used in harbors. His crime included a clandestine meeting in 2001 in Key Largo, Florida, where the illegal dealings took place, according to Piscioti's plea agreement (see [here](#)).

While this meeting resulted in a jail sentence for Piscioti, another businessman in the room, representing Dunlop Oil and Marine, has so far evaded US antitrust enforcers.

Uwe Bangert, a German citizen, is still at large.

"It's all concluded," Bangert told MLex, saying he had no contact from the US authorities.

As an Italian passing through a German airport, Piscioti could be arrested because he didn't benefit from the safeguards in Germany's extradition treaty with the US. That treaty ensures German citizens can't be sent to America, but it was no obstacle to Piscioti's extradition, despite his contention that he was

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the victim of discrimination because of his citizenship.

Bangert, a German citizen born in 1957, was CEO at Hamburg-based manufacturer Phoenix AG, the former parent company of Dunlop, beginning in 1998. He left the company in 2002.

On his way back from a business trip in Latin America in 2007, Bangert was detained in Colombia based on an Interpol Red Notice related to a US indictment for price fixing. Colombian authorities determined Bangert couldn't be extradited, so he was released. But he was taken into custody again as he passed through a Spanish airport. He spent the next three months in Spain – sometimes in custody, sometimes not – as the US authorities tried to arrange his extradition.

Bangert wouldn't discuss his contacts with the Spanish authorities, saying only "I left Spain on a plane."

Once back in Germany, he was safe from extradition under the terms of the US-German treaty. Bangert said he reported himself to prosecutors in Celle, Braunschweig and Hamburg.

From Hamburg, where the manufacturer is based, he received a notification that he wouldn't be extradited, and prosecutors in Celle and Braunschweig didn't take the case any further.

After a stint as head of a company making beer-bottle labels, Bangert is now a business consultant in the provincial town of Hannoversch Münden. He has found a part of the world beyond the reach of the US authorities, and as long as he remains there, he will likely be safe.

That could mean forgoing holidays to countries where the US might have a chance of persuading a court to extradite him.

"I don't travel," Bangert said.

Arguably, the DOJ has achieved at least part of its aim. Last month's extradition sent a signal to the cartel members that the US can persuade foreign judges to extradite them. Even absent a successful extradition, there is still a deterrent effect.

Bangert didn't suffer the same fate as Piscioti, but his movements are restricted. That, too, is deterrence.

– Japan –

While the comparison between Piscioti and Bangert reveals the vagaries of

Europe's patchwork of laws, the DOJ has more at stake in Asia.

In the last decade, a series of cartels in components used in consumer electronics saw numerous Korean and Japanese companies sanctioned by antitrust enforcers. Now, a cascade of investigations into as many as 100 separate automotive parts – such as wiring, ignitions and airbags – has snagged a multitude of companies that supply components to carmakers, including Toyota and Honda.

MLex research shows that US prosecutors have publicly indicted at least 31 Japanese and six Korean executives since 1996. Six Taiwanese individuals are also being sought.

Some of the individuals are likely on the Interpol's Red Notice list. In 2002, for example, Tamon Tanabe, an executive with Japan's Ajinomoto, was detained in New Delhi, India. His detention related to a 2001 indictment for fixing prices of nucleotides, which are used as a food flavor enhancer. He was eventually released, according to Indian court records.

The number of executives the US is seeking is likely higher than that. Prosecutors sometimes indict executives under seal and place their names on Interpol's Red Notice list – a tactic that was used in both the Piscioti and Bangert cases. An individual wouldn't know he or she had been indicted by US prosecutors until detained at an airport or border crossing.

Taiwan doesn't have an extradition treaty with the US, though both Korea and Japan do. The Korean and Japanese treaties have so-called dual-criminality provisions, which require the conduct for which an individual is being sought to be a crime punishable by jail time in those countries.

Japan's extradition treaty requires that the crime be punishable by three years or more in prison. Japan has the authority to prosecute cartel offenses criminally, and in 2010 the country strengthened its cartel sanctions to allow for prison sentences up to five years. While the dual-criminality provision of the treaty can be met, Japan has a three-year statute of limitations, requiring US officials to act more quickly than under the five-year US statute.

The Korean extradition treaty requires that the crime be punishable by at least a year in prison, and Korea's antitrust law does allow for criminal penalties of up to three years for cartel offenses.

Linked Case File(s)

[Cartel Marine hose - Bridgestone - Continental - Parker ITR - Trelleborg Industrie](#)
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