

The criminal liability of companies: Gunvor, Glencore, Trafigura — overview and summary

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Since 2003 Swiss law has made it possible to convict a company for offences committed within it where it has failed to take all the reasonable and necessary organisational measures to prevent them. This liability, long seldom applied, has in recent years struck three of the largest trading houses established in Geneva and Zug. Gunvor was convicted in 2019 and again in 2024 for corruption in Africa and in Ecuador, and Glencore in 2024 for corruption in the Democratic Republic of the Congo. Trafigura was convicted in January 2025, at the close of the first public trial of a company for corruption in Switzerland, for acts committed in Angola. This chapter presents the legal basis of that liability, retraces the three affairs, analyses their lessons and describes the compliance programmes that the sector has put in place in response.

1 In five sentences

1. Since 2003, Article 102 of the Criminal Code has made it possible to convict a company that has failed to take all the reasonable and necessary organisational measures to prevent the bribery of foreign public officials. The fine amounts to no more than CHF 5 million, supplemented by a compensatory claim absorbing the profits.
2. Gunvor was convicted on 14 October 2019 and ordered to pay CHF 94 million for corruption in the Congo and in Côte d'Ivoire. It was convicted again in 2024 for acts in Ecuador, being ordered to pay CHF 86.7 million in Switzerland and more than USD 661 million in the United States.
3. Glencore was convicted on 5 August 2024 and ordered to pay a fine of CHF 2 million and a compensatory claim of USD 150 million for having failed to prevent the bribery of Congolese public officials by a business partner.

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4. Trafigura was convicted on 31 January 2025, at the close of the first public trial of a company for corruption in Switzerland, and ordered to pay a fine of CHF 3 million and a compensatory claim of USD 145 million for acts committed in Angola. Its former second-in-command was sentenced to thirty-two months' imprisonment, twelve of them to be served.
5. These affairs teach the importance of controlling intermediaries, the convergence with the fight against money laundering, the limits of fines, the return of the liability of senior managers and the value of cooperation with the authorities.

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