

## The legal proceedings of 2022 and 2024

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The growth of Glencore was accompanied by a long series of accusations of corruption, environmental damage and human rights violations in the countries where it operated. In 2022, several of these accusations resulted in criminal convictions.

On 24 May 2022, Glencore International AG and Glencore Ltd. pleaded guilty in the United States to charges of foreign bribery and market manipulation. The bribery scheme had lasted for more than a decade, from about 2007 to 2018, and involved payments of more than 100 million dollars to intermediaries for the bribery of officials in Nigeria, Cameroon, Côte d'Ivoire, Equatorial Guinea, Brazil, Venezuela and the Democratic Republic of Congo. The market manipulation concerned the benchmark prices of fuel oil in the ports of Los Angeles and Houston between 2011 and 2019. The criminal penalties imposed by the Department of Justice amounted to more than 1.1 billion dollars. In addition, the company agreed to the appointment of independent compliance monitors for three years.<sup>1</sup> Together with the resolutions with the Commodity Futures Trading Commission, which imposed 333.5 million dollars, and with the Brazilian federal prosecutors, which imposed 39.6 million dollars, the coordinated resolutions amounted to about 1.5 billion dollars.<sup>2</sup>

In the United Kingdom, Glencore Energy UK Ltd pleaded guilty to five counts of bribery and two counts of failure to prevent bribery under the Bribery Act 2010. On 3 November 2022, it was ordered to pay 280,965,092.95 pounds, more than 400 million dollars. The company had paid 29 million dollars in bribes to obtain preferential access to oil in Nigeria, Cameroon, Côte d'Ivoire, Equatorial Guinea and South Sudan between 2011 and 2016. The judge, Mr Justice Fraser, described the corruption on the company's West Africa desk as endemic and bribery as "accepted as part of the West Africa desk's way of doing business". The case was the first conviction of a company under the substantive bribery

offences of the Act, as distinct from the offence of failing to prevent bribery, which meant that senior individuals had authorised the bribes.<sup>3</sup> In the same year, Glencore agreed with the government of the Democratic Republic of Congo to pay 180 million dollars to settle claims relating to alleged corruption between 2007 and 2018.<sup>4</sup>

On 5 August 2024, the Office of the Attorney General of Switzerland convicted Glencore International AG by summary penalty order under Article 102 of the Swiss Criminal Code, which establishes the criminal liability of a company for failing to take all reasonable and necessary organisational measures to prevent certain offences, including the bribery of foreign officials. The Office found that the company had failed to take the required precautions to prevent the bribery of a Congolese official by a business partner in 2011, in connection with the acquisition of stakes in mining companies in the Democratic Republic of Congo. It imposed a fine of 2 million francs and a compensation claim of 150 million dollars. Glencore stated that it did not accept the findings but waived its right to challenge the order in order to resolve the matter.<sup>5</sup>

For the canton of Zug, these proceedings were significant in several respects. They concerned conduct that had been directed from the group's trading desks, some of which were located in Baar and London. They showed that the authorities of the United States, the United Kingdom, Brazil and Switzerland were prepared to prosecute a commodity group headquartered in Zug for conduct in Africa and South America. And they confirmed that Swiss criminal law, through the corporate liability provision of Article 102 of the Criminal Code, can reach a company in Zug for its failure to prevent bribery abroad. Part E examines this provision and its significance for the compliance programmes of the traders.

## 1 Notes

1. US Department of Justice, Office of Public Affairs, "Glencore Entered Guilty Pleas to Foreign Bribery and Market Manipulation Schemes", 24 May 2022, [justice.gov: guilty pleas of Glencore International A.G. and Glencore Ltd.; total over \\$1.1 billion; FCPA criminal fine of \\$428.5 million and forfeiture and disgorgement of \\$272.2 million; scheme from about 2007 to 2018 with more than \\$100 million paid to intermediaries; countries: Nigeria, Cameroon, Ivory Coast, Equatorial Guinea, Brazil, Venezuela and the Democratic Republic of Congo; market manipulation fine of \\$341.2 million and forfeiture of \\$144.4 million for manipulation of fuel oil benchmark prices at the ports of Los Angeles and Houston from January 2011 to August 2019;](https://www.justice.gov/opa/pr/glencore-international-ag-guilty-pleas-foreign-bribery-and-market-manipulation-schemes)

independent compliance monitors for three years; credit of about \$256 million towards parallel resolutions in the United Kingdom, Brazil and Switzerland. ↩

2. Glencore, "Glencore reaches coordinated resolutions with US, UK and Brazilian authorities", 24 May 2022, [glencore.com](https://www.glencore.com): approximately \$1.5 billion across multiple jurisdictions; US DOJ FCPA \$700.7 million and market manipulation \$485.6 million; CFTC \$333.5 million; Brazil MPF \$39.6 million; Glencore Energy UK Limited pleaded guilty to five counts of bribery and two counts of failure to prevent bribery; investigations continuing in Switzerland and the Netherlands; statement of the chairman that "Glencore today is not the company it was when the unacceptable practices behind this misconduct occurred".  
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3. Serious Fraud Office, "Glencore to pay £280 million for 'highly corrosive' and 'endemic' corruption", 3 November 2022, [sfo.gov.uk](https://www.sfo.gov.uk): penalty of £280,965,092.95 (over \$400 million); bribes of US\$29 million to gain preferential access to oil in Nigeria, Cameroon, Ivory Coast, Equatorial Guinea and South Sudan; Mr Justice Fraser described the corruption as endemic and stated that "bribery was accepted as part of the West Africa desk's way of doing business"; first corporate conviction under the substantive bribery provisions of the Bribery Act 2010. The SFO summary refers to the period 2011–2015, the Glencore press release of May 2022 to 2011–2016. ↩
4. Wikipedia (English), "Glencore": payment of \$180 million in December 2022 to settle a Congo bribery case covering 2007–2018; [swissinfo.ch](https://www.swissinfo.ch), "Bundesanwaltschaft verurteilt Glencore zu Millionenstrafe": settlement with the government of the DRC in 2022 for \$180 million. ↩

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5. swissinfo.ch, "Bundesanwaltschaft verurteilt Glencore zu Millionenstrafe", 5 August 2024: conviction of Glencore International AG under Art. 102 of the Swiss Criminal Code (organisational deficiency); failure to take the required precautions to prevent the bribery of a Congolese official by a business partner in 2011 in connection with the acquisition of mining stakes; fine of CHF 2 million and compensation claim of US\$150 million; Glencore did not acknowledge the findings but waived its right to contest the penalty order. ↩

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