

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

United States District Court  
Southern District of Texas  
FILED

SEP 15 2011

David J. Bradley, Clerk of Court

UNITED STATES OF AMERICA )  
)  
)  
v. )  
)  
BRIDGESTONE CORPORATION, )  
)  
Defendant. )  
\_\_\_\_\_ )

Criminal No. \_\_\_\_\_

H 11 - 651

**JOINT MOTION TO WAIVE PRESENTENCE INVESTIGATION  
AND TO CONSOLIDATE PLEA AND SENTENCING**

The United States of America, by and through its undersigned attorneys, and the defendant, Bridgestone Corporation (“Bridgestone”), by and through its undersigned attorneys, respectfully file this Joint Motion to Waive Presentence Investigation and to Consolidate Plea and Sentencing pursuant to Federal Rule of Criminal Procedure 32(c)(1)(A)(ii) and Criminal Local Rule 32.1.

The parties submit that the information contained in the record of this case, together with the agreed information included herein, are sufficient to enable the Court to exercise its sentencing authority under 18 U.S.C. § 3553 without the necessity of the preparation of a presentence investigation report.

**I. The Presentence Report Should Be Waived**

Federal Rule of Criminal Procedure 32(c)(1)(A)(ii) permits the Court to sentence the corporate defendant in this matter without the preparation of a presentence report if the Court finds that the information in the record enables it to exercise its sentencing authority meaningfully under 18 U.S.C. § 3553 and the Court explains this finding on the record. *See also* Criminal Local Rule 32.1. The parties submit that the information contained herein and the information to be proffered by the parties at sentencing satisfy the requirements of Rule 32(c)(1)(A)(ii) and allow the Court to exercise its sentencing authority meaningfully under 18 U.S.C. § 3553. The following information is submitted as required by Criminal Local Rule 32.1.

**A. Factual Summary of Defendant's Relevant Conduct**

Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C), the defendant has agreed to plead guilty to the two-count Information and to pay a fine of \$28 million. The Information alleges in Count One that the defendant conspired with persons known and unknown to violate the Sherman Antitrust Act, 15 U.S.C. § 1, by rigging bids, fixing prices, and allocating market shares of marine hose in the United States and elsewhere. Marine hose is a flexible rubber hose used to transfer oil between tankers and storage facilities. In Count Two, the Information alleges that the

defendant conspired with persons known and unknown to violate the Foreign Corrupt Practices Act (“FCPA”) by authorizing, agreeing to make, and approving payments to government officials employed by state-owned entities in Latin America in order to obtain contracts to sell marine hose and other industrial products to those state-owned entities. The defendant agrees to all the facts alleged in the Information and in the Factual Basis For Offenses Charged contained in paragraph 4 of the Plea Agreement.

Bridgestone is a corporation organized and existing under the laws of Japan with its principal place of business in Tokyo, Japan. At all relevant times, Bridgestone’s business included the manufacture and sale of diversified products (“Diversified Products”), including marine hose and other industrial products, Chemical Products, and Electro-Materials. Diversified Products employed over 2,300 individuals. The department within Diversified Products responsible for the sale of industrial products outside of Japan was the International Engineered Products Department (“IEPD”).

1. Bid-Rigging Conspiracy (Count One)

Beginning at least as early as 1999 and continuing until in or around May 2007, Bridgestone, through certain officers of Diversified Products and officers and employees of IEPD, participated in a conspiracy among major

marine hose manufacturers, the primary purpose of which was to suppress and eliminate competition by rigging bids, fixing prices and allocating market shares for sales of marine hose sold in the United States and elsewhere. During that period, the volume of U.S. commerce attributable to Bridgestone totaled at least \$24 million.

In furtherance of the conspiracy, Bridgestone, through certain officers and employees of IEPD, engaged in discussions and attended meetings with representatives of other marine hose manufacturers. During such meetings and discussions, the co-conspirators agreed to rig bids, fix prices and allocate market shares for the sale of marine hose in the United States and elsewhere. Each of the conspiring manufacturers provided a co-conspirator, who acted as a coordinator, with information about upcoming marine hose jobs. The coordinator then designated, based on rules agreed to by the conspirators, which of the conspiring manufacturers would win the job, referring to the winning conspirator as "champion." After the champion had been designated, the coordinator provided the other conspirators with instructions regarding how much to bid on the job to ensure that the designated champion would win the job.

During the relevant period, marine hose sold by one or more of the conspirator firms, and equipment and supplies necessary to the production

and distribution of marine hose, as well as payments for marine hose, traveled in interstate and foreign commerce. The business activities of Bridgestone and co-conspirators in connection with the manufacture and/or sale of marine hose affected by this conspiracy were within the flow of, and substantially affected, interstate and foreign trade and commerce.

2. Foreign Bribery Conspiracy (Count Two)

To sell its industrial products throughout the world, Bridgestone coordinated with and acted through its regional subsidiaries, including its U.S. subsidiary, Bridgestone Industrial Products of America, Inc. ("BIPA"). BIPA sold industrial products to customers within its assigned regions, including to foreign state-owned customers that were instrumentalities of foreign governments within the meaning of the FCPA, 15 U.S.C. § 78dd-3. BIPA's Houston sales office handled all of BIPA's Latin American industrial products sales. On behalf of Bridgestone, BIPA's Houston office entered into commission-based contracts with local sales agents in Argentina, Brazil, Ecuador, Mexico, and Venezuela, among other countries. Typically, BIPA's local sales agents were responsible for developing relationships with, and keeping apprised of, upcoming work with potential customers in their respective territories. Many of these local sales agents

had relationships with officials employed by the state-owned entities that were often defendant's customers for industrial products.

Beginning at least as early as 1999 and continuing until in or around May 2007, Bridgestone authorized and approved corrupt payments to be made through BIPA's local sales agents to foreign government officials employed at state-owned customers in various countries in Latin America in order to secure contracts for its industrial products, including marine hose. While the specifics varied among the different industrial products, most affected sales within IEPD generally followed a similar pattern. Local sales agents in various countries in Latin America gathered information related to potential projects and relayed that information to their respective contacts at BIPA. BIPA then forwarded the information provided by the local agents to the IEPD employee in Japan responsible for the particular product. The local agents often agreed to pay officials within the state-owned customer a percentage of the total value of the proposed deal. Employees of BIPA and IEPD in Japan were aware of and authorized these payments.

Employees of BIPA and IEPD also took steps to conceal these payments. For example, to avoid creating a written record of the corrupt payments, some of the facsimiles sent from BIPA to defendant's IEPD that contained details of the payments – often including the percentage amounts

of the payments and the individuals within the customer to whom the payments would be made – reflected the handwritten notation: “Read and Destroy.” In addition, on many occasions, defendant’s IEPD and BIPA employees made a point of addressing any issues surrounding the corrupt payments by telephone rather than in writing.

Bridgestone’s IEPD employees within the marine hose section indicated their approval of a proposed marine hose deal by stamping their names on a cost and profit analysis spreadsheet that outlined the terms of the particular deal. At IEPD in Japan, this spreadsheet was called a Kessai Sho. The Kessai Sho would include the expected sales price and/or profit and would sometimes include the commission percentage for the particular deal. In certain circumstances, the IEPD General Manager sought the approval of the head of the Industrial Products Division for deals that included corrupt payments. The Kessai Sho was kept within the IEPD. After Bridgestone agreed to authorize and approve corrupt payments to employees of the customer to secure a project, BIPA would place the bid through the local sales agent. Typically, if BIPA secured the project, it would pay the local sales agent a “commission,” which included not only the local sales agent’s actual commission, but also whatever corrupt payments were to be paid to employees of the customer. The local sales agent would then be responsible

for passing the agreed-upon corrupt payment to the employees of the customer.

During the relevant period, Bridgestone authorized and approved more than \$2 million in corrupt payments to be made through BIPA's local sales agents to employees of state-owned customers. These corrupt payments resulted in a profit to Bridgestone and BIPA of \$17,103,694.

**B. Defendant's Criminal History**

The defendant does not have any prior convictions.

**C. Guidelines Calculation**

The parties agree that a faithful application of the United States Sentencing Guidelines (USSG) to determine the applicable fine range yields the following analysis:

1. The 2010 USSG Manual sets forth the appropriate guidelines to be used in this matter.
2. Base Fine for Count 1: Based upon USSG § 8C2.4(b) and USSG §2R1.1(d)(1), the base fine for Count 1 is \$4.8 million.
3. Base Fine for Count 2: Based upon USSG § 8C2.4(a)(1) and USSG § 2C1.1(a) and (b), the base fine for Count 2 is \$28.5 million.
4. Culpability Score: Based upon USSG § 8C2.5, the culpability score is 7, summarized as follows:
  - (a) Base Culpability Score 5
  - (b)(2) The relevant unit of the organization



(Diversified Products) had more than 1,000, but fewer than 5,000, employees, and individuals within high-level personnel of the unit participated in, condoned, or were willfully ignorant of the offense 4

(g) The organization fully cooperated in the investigation and clearly demonstrated recognition and affirmative acceptance of responsibility for criminal conduct -2

Total 7

5. Calculation of Fine Range for Count 1:

Base Fine \$4.8 million  
 Multipliers (§ 8C2.6) 1.4/ 2.8  
 Fine Range (§ 8C2.7) \$6.72 million/ \$13.44 million

6. Calculation of Fine Range for Count 2:

Base Fine \$28.5 million  
 Multipliers (§ 8C2.6) 1.4/ 2.8  
 Fine Range (§ 8C2.7) \$39.9 million/\$79.8 million

7. Under USSG § 3D1.2, Counts 1 and 2 should not be grouped together as “closely related counts.”

8. Applicable Guidelines Range: Pursuant to USSG § 3D1.4(c), the combined offense level is 34, and the applicable Guidelines range is the range for Count 2: \$39,900,000-\$79,800,000.

**D. Fine and Organizational Probation**

Pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, the parties agree that the following represents the appropriate disposition of the case:

1. Fine. The parties agree that the imposition of a fine in the amount of \$28 million is appropriate in this case. The parties agree that this fine is the appropriate disposition based on the following factors and those in 18 U.S.C. § 3553(a): (1) Bridgestone's cooperation with the Department of Justice's investigation has been extraordinary, including conducting an extensive worldwide internal investigation, voluntarily making Japanese and other employees available for interviews, and collecting, analyzing, and organizing voluminous evidence and information for the United States; (2) Bridgestone has engaged in extensive remediation, including dismantling its IEPD, closing its Houston BIPA office, terminating many of its third-party agents, and taking remedial actions with respect to employees responsible for many of the corrupt payments; and (3) Bridgestone has committed to continue to enhance its anti-corruption compliance program and internal controls, including ensuring that its compliance program satisfies the minimum elements set forth in Attachment B to the Plea Agreement. The parties request that the Court exercise its

authority under 18 U.S.C. § 3572(d) to order that this fine amount be paid within ten (10) business days after the imposition of sentence in this matter.

2. Organizational Probation. The parties agree that no term of probation should be imposed.

## II. Consolidation of the Plea and Sentencing

The parties respectfully request, given the facts and circumstances of the case as described above, that the Court consolidate the plea and sentencing.

Respectfully submitted,

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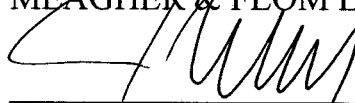
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