

AES:JN/GM
F. #2020R00927

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
----- X

UNITED STATES OF AMERICA

I N F O R M A T I O N

- against -

Cr. No. 21-CR-298 (KAM)
(T. 18, U.S.C., §§ 371 and 3551 et seq.)

AMEC FOSTER WHEELER ENERGY
LIMITED,

Defendant.

----- X

THE UNITED STATES CHARGES:

At all times relevant to this Information, unless otherwise stated:

I. The Defendant and Relevant Individuals and Entities

1. In and about and between 2011 and 2014 (the “Relevant Time Period”), the defendant AMEC FOSTER WHEELER ENERGY LIMITED (“AMEC FOSTER WHEELER” or the “Company”) was named FOSTER WHEELER ENERGY LIMITED (“FOSTER WHEELER ENERGY”). During the Relevant Time Period, FOSTER WHEELER ENERGY was incorporated in the United Kingdom and was a wholly owned subsidiary of Foster Wheeler AG (“Foster Wheeler”), a global provider of oil and gas technology and services. Foster Wheeler was a U.S. company founded in 1927 that moved its headquarters to Switzerland in 2008. Foster Wheeler had shares of stock that traded on the National Association of Securities Dealers Automated Quotations (“NASDAQ”) Stock Exchange. In November 2014 (after the Relevant Time Period), AMEC plc, an engineering and project management company based in the United Kingdom, acquired Foster Wheeler and its subsidiaries, including the

Company, and was renamed Amec Foster Wheeler plc (“AFW”). In connection with the transaction, the Company changed its name to AMEC FOSTER WHEELER, the defendant herein. In October 2017, John Wood Group PLC (“Wood”) acquired AFW and its subsidiaries, including the Company.

2. Petróleo Brasileiro S.A. - Petrobras (“Petrobras”) was a corporation in the petroleum industry headquartered in Rio de Janeiro, Brazil, which operated to refine, produce and distribute oil, oil products, gas, biofuels and energy. The Brazilian government directly owned a majority of Petrobras’s common shares with voting rights, while additional shares were controlled by the Brazilian Development Bank and Brazil’s Sovereign Wealth Fund. Petrobras was controlled by the Brazilian government and performed a function that the Brazilian government treated as its own, and thus was an “instrumentality” of the government as that term is used in the Foreign Corrupt Practices Act (“FCPA”), Title 15, United States Code, Section 78dd-3(f)(2)(A).

3. “Brazil Intermediary Company,” an entity the identity of which is known to the United States and the Company, was a Brazil-based oil and gas services intermediary company that was an agent of FOSTER WHEELER ENERGY in or about and between 2012 and 2014.

4. “Monaco Intermediary Company,” an entity the identity of which is known to the United States and the Company, was a Monaco-based oil and gas services intermediary company that provided sales and marketing services to clients throughout the world.

5. “Foster Wheeler Energy Executive 1,” an individual whose identity is known to the United States and the Company, was an Italian citizen. From at least in or about

and between 2011 and 2014, Foster Wheeler Energy Executive 1 was a high-level executive at FOSTER WHEELER ENERGY.

6. “Foster Wheeler Executive 2,” an individual whose identity is known to the United States and the Company, was a United States citizen. At least in or about 2011, Foster Wheeler Executive 2 was a high-level executive at Foster Wheeler.

7. “Foster Wheeler Employee 1,” an individual whose identity is known to the United States and the Company, was a citizen of the United Kingdom. From at least in or about and between 2011 and 2014, Foster Wheeler Employee 1 was a high-level employee at Foster Wheeler.

8. “Foster Wheeler Employee 2,” an individual whose identity is known to the United States and the Company, was a United States citizen. From at least in or about and between 2011 and 2014, Foster Wheeler Employee 2 was based in Foster Wheeler’s offices in Houston, Texas.

9. “Brazil Executive,” an individual whose identity is known to the United States and the Company, was a Brazilian citizen. From at least in or about and between 2011 and 2014, Brazil Executive was a high-level manager in Foster Wheeler’s operations in Brazil and reported to a high-level executive at Foster Wheeler.

10. “Italian Agent,” an individual whose identity is known to the United States and the Company, was an Italian citizen. Italian Agent was affiliated with Monaco Intermediary Company and an agent of FOSTER WHEELER ENERGY in or about and between 2012 and 2014.

11. “Brazil Intermediary Company Executive 1,” an individual whose identity is known to the United States and the Company, was a Brazilian citizen. Brazil Intermediary

Company Executive 1 was an agent of FOSTER WHEELER ENERGY in or about and between 2012 and 2014.

12. “Brazil Intermediary Company Executive 2,” an individual whose identity is known to the United States and the defendant, was a Brazilian citizen. Brazil Intermediary Company Executive 2 was an agent of FOSTER WHEELER ENERGY in or about and between 2012 and 2014.

13. “New York Clothing Store Manager,” an individual whose identity is known to the United States and the Company, was a manager of a high-end men’s clothing store in New York, New York, whose clients included Foster Wheeler Executive 2.

14. “Petrobras Manager 1,” an individual whose identity is known to the United States and the Company, was a manager in the Petrobras Engineering Department. Petrobras Manager 1 was a “foreign official” as that term is used in the FCPA, Title 15, United States Code, Section 78dd-3(f)(2)(A).

II. The FCPA

15. The FCPA was enacted by Congress for the purpose of, among other things, making it unlawful to act corruptly in furtherance of an offer, promise, authorization, or payment of money or anything of value, directly or indirectly, to a foreign official to secure an improper advantage for the purpose of obtaining or retaining business for, or directing business to, any person.

III. The Criminal Scheme

16. During the Relevant Time Period, FOSTER WHEELER ENERGY, through certain of its employees and agents, knowingly and willfully conspired and agreed with others to corruptly offer and pay bribes to, and for the benefit of, decision-makers at Petrobras

(who were “foreign officials” as that term is used in the FCPA, Title 15, United States Code, Section 78dd-3(f)(2)(A)) to secure an improper advantage in order to obtain and retain business from Petrobras in connection with FOSTER WHEELER ENERGY’s efforts to win an approximately \$190 million contract from Petrobras to design a gas-to-chemicals complex in Brazil called Complexo Gás-Químico UFN-IV (“UFN-IV”). FOSTER WHEELER ENERGY, through certain of its employees and agents, took acts in furtherance of the scheme while located in New York and Texas, and FOSTER WHEELER ENERGY earned at least \$12.9 million in profits from the corruptly obtained business.

17. In furtherance of the scheme, among other things, FOSTER WHEELER ENERGY, through certain of its employees, entered into a sham agency agreement with the Brazil Intermediary Company for the purpose of funding and paying bribes to decision-makers at Petrobras to win the UFN-IV contract. In exchange for making the bribe payments, and after obtaining confidential documents, inside information and secret assistance from Petrobras Manager 1, FOSTER WHEELER ENERGY won the contract from Petrobras.

A. Italian Agent Seeks to Be Hired as an Intermediary By Foster Wheeler for the UFN-IV Contract with Petrobras

18. In or about 2011, Foster Wheeler decided to establish a business presence in Brazil’s oil and gas industry. A significant part of Foster Wheeler’s Brazil initiative was FOSTER WHEELER ENERGY’s bid on the contract to design Petrobras’ UFN-IV gas-to-chemicals complex.

19. In or about September 2011, Italian Agent and Brazil Intermediary Company Executive 1 met in New York, New York to discuss pitching themselves as sales agents for Foster Wheeler in connection with the upcoming bid on the UFN-IV contract. After the meeting, Brazil Intermediary Company Executive 2 sent Italian Agent internal, confidential

Petrobras documents concerning its planned UFN-IV project. Italian Agent then shared the confidential Petrobras documents with the New York Clothing Store Manager, whose clients included Foster Wheeler Executive 2, in an effort to convince Foster Wheeler Executive 2 to hire Italian Agent as a sales agent to help FOSTER WHEELER ENERGY win the UFN-IV contract with Petrobras.

20. On or about September 14, 2011, Italian Agent explained to the New York Clothing Store Manager in an email that the Brazil Intermediary Company “will have the support of at least three [Petrobras] executives” for FOSTER WHEELER ENERGY to win the UFN-IV contract. At this time, Petrobras had not yet solicited any bid for the UFN-IV contract from FOSTER WHEELER ENERGY.

21. On or about September 21, 2011, Petrobras sent Foster Wheeler a request for a proposal to design the UFN-IV complex.

22. In or about October 2011, the New York Clothing Store Manager arranged for Italian Agent to meet with Foster Wheeler Executive 2 in Switzerland. During the meeting, Italian Agent attempted to persuade Foster Wheeler Executive 2 to hire Italian Agent as a sales agent to help FOSTER WHEELER ENERGY win the UFN-IV contract. At a significantly later point in time, Italian Agent explained to the New York Clothing Store Manager that in his experience it was necessary to pay people under the table to get oil and gas contracts in developing countries.

23. On or about November 7, 2011, Italian Agent informed Brazil Intermediary Company Executives 1 and 2 in an email that Italian Agent had told Foster Wheeler Executive 2 that Italian Agent had “privileged relations with certain people in the client [i.e., Petrobras] that (by chance and by luck) are now in charge of the new UFN IV plus senior people

that are not in the Client [i.e., Petrobras] anymore but are the Godfathers of the entire system. They accepted my explanation and they are eager to meet.”

24. Thereafter, in an effort to convince Foster Wheeler to hire Italian Agent to help with the UFN-IV bid, in or about December 2011, Italian Agent requested that FOSTER WHEELER ENERGY enter into an agency agreement with Monaco Intermediary Company because Italian Agent believed Monaco Intermediary Company could pass Foster Wheeler’s due diligence process, whereas Italian Agent may not have been able to do so independently.

25. On or about January 12, 2012, Foster Wheeler Employee 1 told several Monaco Intermediary Company employees that Foster Wheeler could not retain Monaco Intermediary Company and Italian Agent as agents for the UFN-IV contract because “[i]t came very late in the day, not at an early enough point in the bidding process. [Italian Agent] does not spend enough time in country or speak Portuguese. Neither [Monaco Intermediary Company] or [Italian Agent] have anything like a proper set up in territory [i.e., Brazil].”

26. On or about January 20, 2012, Italian Agent stated to Brazil Executive in an email, “[i]t seems that the issue of the project has major problems To discuss about compliance (for which I insist we have a solution) it is irrelevant now when you are facing [an] uphill battle during which we could be of some real professional help. I had mentioned to you before: you do not achieve success today without [] intense ground work at various levels, which you do not have enough and we can provide.”

27. On or about January 28, 2012, Italian Agent emailed the Chief Executive Officer of Monaco Intermediary Company and indicated that it was important for a legitimate-seeming sales intermediary company to sign the agreement with FOSTER WHEELER ENERGY. Italian Agent stated that Brazil Executive “need[s] a Company that passed due

diligence” such as Monaco Intermediary Company, that an agency “agreement must be signed with a Company . . . that does not and should not interfere but only sign agreement” and thereby act as a “front” for Italian Agent and Brazil Intermediary Company. Italian Agent further stated that Brazil Executive “suspects who are the friends of my friends and he wants a full screen from them and from my friends too,” to minimize the chance that the Brazil Executive would be implicated in corruption. In this communication, Italian Agent’s “friends” were the owners of Brazil Intermediary Company and the “friends” of Brazil Intermediary Company were corrupt Petrobras officials.

B. Foster Wheeler Considers Officially Retaining Italian Agent

28. On or about April 11, 2012, seven days before FOSTER WHEELER ENERGY submitted its bid to Petrobras for the UFN-IV contract, FOSTER WHEELER ENERGY offered Italian Agent an “interim” agency agreement before completing due diligence on Italian Agent. Foster Wheeler Energy Executive 1 signed the “interim” agency agreement between FOSTER WHEELER ENERGY and Italian Agent.

29. On or about April 12, 2012, the Chief Executive Officer of Monaco Intermediary Company sent Brazil Executive a completed set of Foster Wheeler’s due diligence forms on behalf of Italian Agent, which included a note indicating that Italian Agent and Monaco Intermediary Company wanted Brazil Executive to decide whether to disclose the relationship between Italian Agent and Brazil Intermediary Company in the due diligence forms.

30. On or about April 26, 2012, Brazil Intermediary Company also submitted due diligence forms to Foster Wheeler. On or about August 16, 2012, Foster Wheeler Employee 2, who was based in Houston, Texas, told the Brazil Executive to take action that prevented the disclosure, in due diligence materials, of Italian Agent’s involvement with Brazil

Intermediary Company, which left the false impression that Brazil Intermediary Company was not working with Italian Agent.

31. On or about April 30, 2012, Petrobras informed Foster Wheeler that FOSTER WHEELER ENERGY was the only remaining qualified bidder for the UFN-IV contract. After learning this information, that same day, Foster Wheeler Employee 1 wrote to Brazil Executive that they should “chat re: need for agent on this matter.”

32. On or about May 1, 2012, Foster Wheeler Energy Executive 1 wrote to Brazil Executive and other Foster Wheeler employees, “[f]rom previous discussions I remember the preference to have a contract with one entity, [the Brazil Intermediary Company], and have [Italian Agent] as nominated consultant or subcontractor.”

33. On or about May 4, 2012, Foster Wheeler received a third-party due diligence report on Italian Agent stating that the investigators were “not . . . able to verify any of the information that [Italian Agent] presents in his CV,” and found it “surprising” that “none of the dozen or so contacts [they] spoke to had ever heard of [Italian Agent] . . . includ[ing] senior executives . . . who have worked on projects . . . that [Italian Agent] claims to have consulted on.” A high-level Foster Wheeler executive called the report “very concerning.”

C. Italian Agent Assists Foster Wheeler in Obtaining the UFN-IV Contract

34. On or about May 24, 2012, Brazil Executive, using his U.S.-based, personal email account, wrote to Italian Agent, “[r]ight now we are analyzing [the Brazil Intermediary Company’s] application [for an agency agreement] as there is already a decision not to hire you yourself individual services.” Italian Agent stated that he had no concern as long as he was permitted to proceed with his job behind the scenes, as an “unofficial” agent, and

responded, “I don’t feel as uncomfortable as long as you are convinced that me and all the others are and will be acting throughout of the life of project the way you expect.”

35. To help FOSTER WHEELER ENERGY win the UFN-IV contract, Brazil Intermediary Company and Italian Agent obtained confidential documents, inside information and secret assistance from Petrobras Manager 1. For example, early in the morning on or about June 1, 2012, Brazil Intermediary Company Executive 2 informed Italian Agent that his “friend,” Petrobras Manager 1, who had a management role on the UFN-IV project at Petrobras, would secretly “help” FOSTER WHEELER ENERGY resolve a contracting dispute with Petrobras at an 8:00 a.m. meeting later that day.

36. Italian Agent then emailed Brazil Executive, “I understand that you are now very busy for the important early [8:00 a.m.] meeting this morning,” and added that if Foster Wheeler were to approve the retention of the Brazil Intermediary Company as a sales agent, it would enable Italian Agent and the Brazil Intermediary Company to work more “efficiently.”

37. In advance of the 8:00 a.m. meeting, at or about 6:30 a.m. on June 1, 2012, Brazil Executive called Italian Agent with news that Foster Wheeler had approved the Brazil Intermediary Company as a sales agent to help FOSTER WHEELER ENERGY win the UFN-IV contract. Later that day, after the 8:00 a.m. meeting, Italian Agent wrote to Brazil Executive, “Perhaps some help is now materializing in a more convincing way: keep struggling[,] you are not alone.” As Petrobras Manager 1 had secretly helped to resolve the contracting dispute in a manner favorable to FOSTER WHEELER ENERGY, Brazil Executive responded to Italian Agent that FOSTER WHEELER ENERGY would “make all the changes requested” at the

meeting. At the time, Petrobras Manager 1 personally owed Brazil Intermediary Company Executive 2 approximately \$200,000.

38. On or about July 20, 2012, Italian Agent wrote an email to Brazil Intermediary Company Executive 1 complaining about how long it was taking for FOSTER WHEELER ENERGY to sign the agency agreement, suggesting that the Brazil Intermediary Company should “insist” that FOSTER WHEELER ENERGY arrange for a “definite meeting [for] a signature” because “[Italian Agent] ha[s] obligations for two more groups, you and [Brazil Intermediary Company Executive 2] have obligations, we have done everything we were supposed to do, etc.” These “obligations” included bribe payments to Petrobras officials.

39. On or about July 25, 2012, FOSTER WHEELER ENERGY still had not signed an agency agreement with the Brazil Intermediary Company. Brazil Intermediary Company Executive 1 wrote to Italian Agent that Brazil Intermediary Company Executive 1 had told Brazil Executive that Brazil Intermediary Company’s “friends in the client [i.e., Petrobras] are uncomfortable [sic] because we [i.e., Brazil Intermediary Company] didn’t sign our [agency] contract” with FOSTER WHEELER ENERGY.

40. On or about August 23, 2012, FOSTER WHEELER ENERGY won the UFN-IV contract from Petrobras. On or about August 27, 2012, Brazil Intermediary Company Executive 1 sent Italian Agent “confidential emails” between “people from Gas & Energy Department” at Petrobras, including Petrobras Manager 1, and noted that “our friend [i.e., Petrobras Manager 1] will send to [Brazil Intermediary Company Executive 2] a copy of the contract between [Foster Wheeler] and [Petrobras].”

41. In or about August 2012, while Foster Wheeler was negotiating the final terms of its agency agreement with Brazil Intermediary Company, at a meeting to discuss the

agency agreement, Foster Wheeler Energy Executive 1 told an in-house attorney at FOSTER WHEELER ENERGY that Foster Wheeler Energy Executive 1 believed that Italian Agent might have promised to pay bribes to Petrobras officials. Foster Wheeler Energy Executive 1 further stated that he wanted to ensure that FOSTER WHEELER ENERGY entered into the agency agreement with Brazil Intermediary Company because there could be a problem with the UFN-IV contract if Italian Agent were not to receive funds to pay those bribes through Brazil Intermediary Company's agency commissions.

42. On or about November 5, 2012, FOSTER WHEELER ENERGY executed an agency agreement with Brazil Intermediary Company, which entitled the Brazil Intermediary Company to a two percent commission on FOSTER WHEELER ENERGY's approximately \$190 million UFN-IV contract with Petrobras. Foster Wheeler ultimately earned approximately \$12.9 million in profits from the UFN-IV contract.

D. Corrupt Payments Made By Foster Wheeler

43. In or about and between February 2013 and July 2014, Brazil Intermediary Company submitted four quarterly reports to FOSTER WHEELER ENERGY and invoices for payment, none of which documented any meaningful work by Brazil Intermediary Company to justify the two percent commission.

44. On or about and between June 25, 2013 and October 19, 2014, FOSTER WHEELER ENERGY made four payments to Brazil Intermediary Company totaling approximately \$1.1 million through a correspondent account at an American bank in New York, New York. The payments were credited to the Brazil Intermediary Company's bank account in Brazil.

45. In or about July 2013, Italian Agent and Brazil Intermediary Company Executive 1 discussed how to split 80 percent of the commission funds received from FOSTER WHEELER ENERGY, which left a 20 percent share available for bribe payments.

46. In or about February 2014, Brazil Intermediary Company Executive 1 decided to use a *doleiro* (a money launderer in Brazil) to transfer Italian Agent's share of the second commission payment from FOSTER WHEELER ENERGY. In March 2014, Brazil Intermediary Company Executive 1 explained that he would give Brazilian reais in cash to the *doleiro*, who would convert them to U.S. dollars and deposit the money into an account in Switzerland designated by Italian Agent. Afterward, Brazil Intermediary Company Executive 1 made at least three withdrawals of Brazilian reais from a Brazilian bank on different days to avoid detection. Italian Agent then received at least approximately \$89,000 from the *doleiro* in Italian Agent's bank account in Switzerland.

CONSPIRACY TO VIOLATE THE FCPA

47. The allegations contained in paragraphs one through 46 are realleged and incorporated as if fully set forth in this paragraph.

48. In or about and between 2011 and 2014, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant AMEC FOSTER WHEELER, together with others, did knowingly and willfully conspire to commit one or more offenses against the United States, to wit: while in the territory of the United States, to willfully make use of the mails and means and instrumentalities of interstate commerce and to commit an act corruptly in furtherance of an offer, payment, promise to pay, and authorization of the payment of any money, offer, gift, promise to give, and authorization of the giving of anything of value to a foreign official, to a foreign political party and official thereof, and to a person while knowing that all or a portion of such money and thing of value would be offered,

given, and promised to a foreign official and to a foreign political party and official thereof, for purposes of: (i) influencing acts and decisions of such foreign official, foreign political party and official thereof in his, her and its official capacity; (ii) inducing such foreign official, foreign political party and official thereof to do and omit to do acts in violation of the lawful duty of such official and party; (iii) securing any improper advantage; and (iv) inducing such foreign official, foreign political party and official thereof to use his, her and its influence with a foreign government and agencies and instrumentalities thereof to affect and influence acts and decisions of such government and agencies and instrumentalities, in order to assist certain persons in obtaining and retaining business for and with, and directing business to, AMEC FOSTER WHEELER and others, contrary to Title 15, United States Code, Section 78dd-3.

49. In furtherance of the conspiracy and to effect its objects, within the Eastern District of New York and elsewhere, the defendant AMEC FOSTER WHEELER, together with others, committed, and caused to be committed, among others, at least one of the following:

OVERT ACTS

a. Between on or about September 12, 2011 and September 14, 2011, Brazil Intermediary Company Executive 1 traveled to New York, New York to discuss pitching Brazil Intermediary Company Executive 1 and Brazil Intermediary Company as sales agents for Foster Wheeler in connection with the upcoming bid on the UFN-IV contract. After the meeting, Brazil Intermediary Company Executive 2 sent Italian Agent internal, confidential Petrobras documents concerning its planned UFN-IV project.

b. On or about May 24, 2012, Brazil Executive, using his U.S.-based, personal email account, wrote to Italian Agent, “[r]ight now we are analyzing [the Brazil Intermediary Company’s] application [for an agency agreement] as there is already a decision

not to hire you yourself [*sic*] individual services.” Italian Agent responded that he had no concern as long as he was permitted to proceed with his job behind the scenes, as an “unofficial” agent, stating, “I don’t feel as uncomfortable as long as you are convinced that me and all the others are and will be acting throughout of the life of project the way you expect.”

c. On or about June 1, 2012, Brazil Intermediary Company Executive 2 informed Italian Agent that his “friend,” Petrobras Manager 1, who had a management role on the UFN-IV project at Petrobras, would secretly “help” FOSTER WHEELER ENERGY resolve a contracting dispute with Petrobras at an 8:00 a.m. meeting later that day.

d. On or about July 20, 2012, Italian Agent wrote an email to Brazil Intermediary Company Executive 1 complaining about how long it was taking for FOSTER WHEELER ENERGY to sign the agency agreement, suggesting that the Brazil Intermediary Company should “insist” that FOSTER WHEELER ENERGY arrange for a “definite meeting [for] a signature” because “[Italian Agent] ha[s] obligations for two more groups, you and [Brazil Intermediary Company Executive 2] have obligations, we have done everything we were supposed to do, etc.”

e. On or about July 25, 2012, Brazil Intermediary Company Executive 1 wrote to Italian Agent that Brazil Intermediary Company Executive 1 had told Brazil Executive that Brazil Intermediary Company’s “friends in the client [i.e., Petrobras] are uncomfortable [*sic*] because we [i.e., Brazil Intermediary Company] didn’t sign our [agency] contract” with FOSTER WHEELER ENERGY.

f. In or about August 2012, Foster Wheeler Energy Executive 1 told an in-house attorney at FOSTER WHEELER ENERGY that Foster Wheeler Energy Executive 1

believed that Italian Agent might have promised to pay bribes to Petrobras officials. Foster Wheeler Energy Executive 1 further stated that he wanted to ensure that FOSTER WHEELER ENERGY entered into the agency agreement with Brazil Intermediary Company because there could be a problem with the UFN-IV contract if Italian Agent were not to receive funds to pay those bribes through Brazil Intermediary Company's agency commissions.

g. In or about and between June 25, 2013 and October 19, 2014, FOSTER WHEELER ENERGY made four payments to Brazil Intermediary Company totaling approximately \$1.1 million through a correspondent account at an American bank in New York, New York.

(Title 18, United States Code, Sections 371 and 3551 et seq.)


JACQUELYN M. KASULIS
Acting United States Attorney
Eastern District of New York
JOSEPH BEEMSTERBOER
Acting Chief, Fraud Section
Criminal Division, Department of Justice