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Walmart Walmart's Mexican morass

MEXICO CITY AND NEW YORK

The world's biggest retailer is sent reeling by allegations of bribery

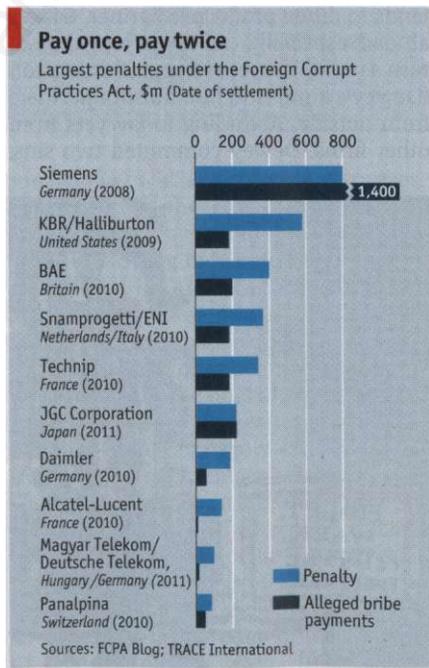
MOST weeks it slashes prices. This week it was Walmart's turn to be slashed. Jittery investors cut \$10 billion from the value of its shares after the New York Times on April 22nd reported insiders' accounts of bribery in Mexico to accelerate the retailer's expansion there.

Walmart's Mexican arm, Walmex, stands accused of greasing local officials' palms over several years to speed the granting of permits to open new stores. Managers at group headquarters in Bentonville, Arkansas, were apparently informed about the payments (which were said to be made through intermediaries) in 2005. They launched a probe, but wound it down without disciplining anyone. They did not disclose any of this to the authorities until last December. Walmart says it began an "extensive" investigation last autumn into its compliance with the Foreign Corrupt Practices Act (FCPA), America's anti-bribery law. In a statement after the article appeared, it said: "If these allegations are true, it is not a reflection of who we are or what we stand for."

Since venturing across the Rio Grande in 1991, the company has quickly come to dominate Mexican shopping. It accounts for half of Mexico's formal retail market and has nearly four times as many stores as its nearest rival, Soriana. It is Mexico's largest private employer, with 200,000 staff. And Walmex contributes nearly a quarter of Walmart's foreign sales.

Corruption is a huge problem for busi-

nesses in Mexico. Builders typically add 10% to their budgets to give to municipal officials whose sign-off is needed, says Marco Escotto of IPADE, a business school. Knotty rules give bureaucrats power. Some go out of their way to be obstructive in the hope that companies will bribe them to lay off. According to the World Bank, getting a building permit in Mexico takes 81 days, versus 26 in the United States.



For Walmart, the case could not have come at a worse time. The firm is seeking to expand outside its home market in the face of furious opposition from unions and small-shop owners. Protesters will be delighted to have something new to write on their placards. The case could damage the most buoyant part of Walmart's business: its foreign sales grew by 15% last year, when domestic sales were sluggish.

At the same time, the us government is busily seeking to punish American firms that bribe abroad. Most of the largest fines under the FCPA have been levied in the past two years (see chart). The Department of Justice may be tempted to make an example of Walmart, given its high profile and its failure to disclose its problems. The department relies mostly on self-disclosure in bribery cases, offering leniency to those who come forward. "It may feel it has no choice but to clobber [Walmart], if only to protect the integrity of that system and ensure a continuing stream of disclosures," says Jeff Kaplan of Kaplan & Walker, a law firm. The Mexican government has also started an investigation.

Competitors who feel harmed may file racketeering suits, seeking triple damages (though to do this safely, they would have to be confident that no one acting on their behalf has ever paid a bribe). Walmart is also being sued by shareholders.

The firm will have to pay for an internal investigation to satisfy the American government. This may need to span the world, not just Mexico, and it may have to report the results in real time to the Justice Department, reckons Richard Cassin of Cassin Law. Such probes cost a lot: an estimated \$1 billion in the case of Germany's Siemens. (Foreign firms that issue shares in America are subject to the FCPA.)

Walmart's top managers are in a jumbo jar of pickles. Eduardo Castro-Wright, who was head of Walmex at the time of the al-

• leged bribes, was once tipped to run the whole firm. No longer. Michael Duke, Walmart's boss, who led the international division during the controversial period, could also face scrutiny, as could Lee Scott, who was chief executive at the time, FCPA violators face up to five years in prison, though individuals have proved harder to prosecute than their employers.

If the government has a strong case, it typically puts pressure on the company to dump senior figures. That was the case with Siemens, which brought in a new boss. Even if Walmart keeps its upper ranks intact, dealing with the fallout will distract them, possibly for years.

Goldman Sachs reckons that FCPA violations typically cast a three-year cloud over a company under investigation, and that the overall cost can reach 9% of profits before interest, taxes, depreciation and amortisation over that period. That would lighten Walmart's tills by \$6.5 billion.

Walmart's decision not to alert the authorities sooner may have been a gamble. The benefits of self-disclosure vary from case to case. The Justice Department has

no public guidelines on its treatment of those who confess. It is not clear whether self-disclosing firms get a better deal at all. A study of FCPA cases from 2002 to 2009 found that voluntary disclosers paid a higher fine per dollar given in bribes than non-disclosers. A more recent study, covering 2002-11, found disclosers more likely to be allowed to strike non-prosecution agreements, which carry less of a stigma than pleas or deferred prosecutions. Oddly, however, non-disclosers that co-operated thoroughly once caught reaped bigger reductions in their penalties than co-operating disclosers.

The affair could scupper the campaign to defang the FCPA. American firms have long grumbled that they are at a competitive disadvantage because other countries' anti-bribery laws are laxer. Transparency International, a watchdog, rates 21 of the 38 countries that have signed the OECD's anti-bribery convention as weak enforcers, including Mexico. But Walmart's travails will surely dent support for reform. Right now, no politician wants to be seen in bed with the Beast of Bentonville. •

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