

BAE Systems / Tanzania Radar Defence System Case

Case ID:

ARW-22

Position of Public Official(s) (yrs in office):

Unknown

Jurisdiction of Asset Recovery:

United Kingdom

Jurisdiction of Asset Recovery ? Description:

Undertaking Recovery Effort, Location of Recovery Effort, Asset Location / Alleged Asset Location

Asset Recovery Start:

2010

Asset Recovery End:

2012

UNCAC Offenses Implicated:

Art.16

Money laundering Implicated:

Yes

Legal Basis for Asset Recovery:

Criminal Prosecution; Criminal Restitution

Intl.Cooperation: MLAT/Letter of Request?:

Other

Basis for Intl Cooperation:

Memorandum of Understanding

Contributing Factors in Asset Recovery:

Settlement agreement by the Serious Fraud Office and BAE included provision on ex gratia payment to Tanzania; Memorandum of Understanding by Serious Fraud Office, the Government of Tanzania, BAE Systems and the Department for International Development (DFID) (Source: UK Serious Fraud Office Press Release, "BAE Systems will pay towards educating children in Tanzania after signing an agreement brokered by the Serious Fraud Office," March 15, 2012.)

Status of Asset Recovery :

Completed

Stage in Asset Recovery Chain:

Final Judgment (No Appeal)

Agreement for Returned Assets:

Yes

Agreement for Returned Assets - Description:

"The Serious Fraud Office, the Government of Tanzania, BAE Systems and the Department for International Development (DFID) have now signed a Memorandum of Understanding enabling the payment of £29.5 million plus accrued interest to be paid by BAE Systems for educational projects in Tanzania." The funds will be used for the purchase of textbooks and other school supplies and equipment. (Source: UK Serious Fraud Office, "BAE Systems will pay towards educating children in Tanzania after signing an agreement brokered by the Serious Fraud Office," March 15, 2012.)

Case Summary:

As part of the February 2010 settlement agreement by the Serious Fraud Office (SFO) and BAE Systems Plc, BAE agreed to pay GBP 30 million in ex gratia payment for the benefit of the people of Tanzania in a manner to be agreed between the SFO and the Company, less any financial orders imposed by the Court. In December 2010, the Southwark Crown Court approved the settlement, and fined the company GBP 500,000 and ordered it to pay GBP 225,000 in costs to the Serious Fraud Office. (Sources: R v. BAE Systems PLC, Case No. S2010565, Southwark Crown Court, December 21, 2010; Serious Fraud Office Press Release, "BAE fined in Tanzania defense contract case," December 21, 2010.) The company had agreed to pay the legal costs separate from the GBP 30 million settlement amount. In March 2012, the SFO announced that a newly agreed upon Memorandum of Understanding will enable the GBP 29.5 million plus accrued interest [amount unspecified] to be spent towards education projects in Tanzania. (Source: UK Serious Fraud Office Press Release, "BAE Systems will pay towards educating children in Tanzania after signing an agreement brokered by the Serious Fraud Office," March 15, 2012.) For greater discussion of the case, see UK Parliament, House of Commons, The International Development Committee, "Financial Crime and Development, Eleventh Report of Session 2010?12," Volume I (30 November 2011) and Transparency International UK, "Deterring and Punishing Corporate Bribery: An Evaluation of UK Corporate Plea Agreements and Civil Recovery in Overseas Bribery Cases," (June 2012)

Disposition of Criminal Case(s):

According to a press release by the UK Serious Fraud Office, in December 2010, the Southwark Crown Court approved the February 2010 settlement agreement by the Serious Fraud Office (SFO) and BAE Systems Plc in which the company agreed to plead guilty to one count of breaching its duty to keep accounting records contrary to section 221 of the Companies Act 1985. (Source: Serious Fraud Office Press Release, "BAE fined in Tanzania defense contract case," December 21, 2010.)

Jurisdiction of Origin: Investigative Agency:

Unknown

Jurisdiction of Origin: Prosecuting Authority/Civil Attorney(s):

Unknown

Jurisdiction of Origin: Courts Involved:

Unknown

Jurisdiction of Asset Recovery: Investigative Agency:

Serious Fraud Office

Jurisdiction of Asset Recovery: Prosecuting Authority/Civil Attorney(s):

Crown Prosecution Service

Jurisdiction of Asset Recovery: Courts Involved:

Southwark Crown Court

Documents:

BAE_Tanzania_Charge.pdf

BAE_Tanzania_Prosecution_Opening_Nov_22_2010.pdf

BAE_Tanzania_Sentencing_Remarks_Dec_21_2010.pdf

BAE_Tanzania_Settlement_Agreement_Feb_2010.pdf

BAE_Tanzania_SFO_PR_DEC_21_2010.pdf


BAE_Tanzania_SFO_PR_Feb_5_2010.pdf

BAE_Tanzania_UK_DFID_Memorandum_to_Parliament_Apr_27_2011

Documents:

Attachment

Size

 BAE_SFO_Press_Release_Mar_2012.pdf 75.94 KB

 UK_Parliament_Finan_Crimes_Hearing_Report_Nov_2011.pdf 971.05 KB

Other Sources:

R v. BAE Systems PLC, Case No. S2010565, Southwark Crown Court Sentencing Remarks of December 21, 2010 (<http://www.judiciary.gov.uk/media/judgments/2010/r-v-bae-systems-plc>);

Prosecution Note for Opening; Settlement Agreement and Plea; and the Charge, all provided in links within the United Kingdom Serious Fraud Office Press Release, "BAE fined in Tanzania defence contract case," December 21, 2010, accessed at <http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-20...>);

UK Serious Fraud Office Press Release, "BAE Systems plc," February 5, 2010, posted at <http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-20...>

UK Serious Fraud Office Press Release, "BAE Systems will pay towards educating children in Tanzania after signing an agreement brokered by the Serious Fraud Office," March 15, 2012, accessed at <http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-20...>

UK Parliament, House of Commons, The International Development Committee, "Financial Crime and Development, Eleventh Report of Session 2010-12," Volume I (30 November 2011), accessed at <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmintdev/847/...>

Transparency International UK, "Deterring and Punishing Corporate Bribery: An Evaluation of UK Corporate Plea Agreements and Civil Recovery in Overseas Bribery Cases," (June 2012), accessed at <http://www.transparency.org.uk/our-work/publications/243-policy-paper-se...>