

## **ABB Ltd. (Matter #15) / Fernando Maya Basurto**

**Case ID:**

ST-8

**Case Cluster :**

ABB Ltd. (Matter #15)

**Jurisdiction of Settlement:**

United States

**Jurisdiction of Settlement / Enforcement Agency:**

Department of Justice

**Jurisdiction of Foreign Public Official(s) :**

Mexico

**Year of Settlement:**

2009

**Month/Day of Settlement (or Notes):**

11/16

**Other Jurisdictions of Settlement:**

Unknown

**Settlement with Individual or Legal Person?:**

Individual

**Type of Settlement:**

Criminal

**Legal Form of Settlement:**

Guilty Plea

**Monetary Sanctions (Types):**

Criminal Forfeiture

**Total Monetary Sanctions (US\$):**

\$2,030,076.74

**Criminal Fine/Penalty (US\$) :**

\$0

**Criminal Forfeiture / Confiscation (US\$):**

\$2

030

076.74

**Monetary Sanctions Returned / Ordered Returned (US\$):**

\$0

**UNCAC Articles(s) Implicated:**

Art.16

Art.23

**OECD Anti-Bribery Convention Articles Implicated:**

Art. 1, Art. 7

**Offenses - Alleged:**

Conspiracy to bribe foreign officials, Conspiracy to commit currency transfer structuring, Conspiracy to commit international money laundering, Conspiracy to falsify records in a federal investigation, Bribery of foreign officials, Currency transaction structuring

**Offenses - Settled:**

Conspiracy to bribe foreign officials, Conspiracy to commit money laundering, Falsification of records in a federal investigation

**Public Procurement Contract / SOE Involved?:**

Yes

**Summary:**




According to the June 2011 United States Report to the OECD, in 2005 ABB Ltd. self-reported to the US authorities that its Texan subsidiary ABB Inc. (which did business as ABB Network Management) may have made corrupt payments to public officials in Mexico to obtain contracts with the Comision Federal de Electricidad, a Mexican state-owned utility company. The bribe payments were allegedly funnelled through a Mexican company that ABB NM hired, as well as through a company controlled by its representatives. Mr. Basurto was an agent/intermediary; he pleaded guilty to charged offenses on November 16, 2009. (Source: US Report to the Organisation for Economic Co-operation and Development, "Steps taken to implement and enforce the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions," Information as of May 31, 2011, ABB Ltd. Case Summary (#15) at 37-39.) According to his plea agreement, Mr. Basurto "agrees to forfeit to the United States in the form of a money judgment against him, voluntarily and immediately, all of his right, title and interest to all assets, and/or their substitutes, which are subject to forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C), Title 21 United States Code, Section 853, and Title 28, United States Code, Section 2461 as follows: the sum of \$2,030,076.74. The defendant's forfeiture obligation shall be joint and several with that of his co-conspirators." (Source: US v. Basurto, Case No. 4:09-cr-325 (S.D. Tex.), Plea Agreement filed November 23, 2009, para 10.) On April 11, 2012, the \$2,030,076.74 was forfeited to the United States. (Source: US v. Basurto, Case No. 4\_09-cr-325 (S.D. Tex.), Order of Forfeiture filed April 11, 2012 and Judgment in a Criminal Case filed April 5, 2012.) The US Department of Justice Press Release acknowledged the assistance of the "Federal Republic of Germany for supplying evidence in connection with this investigation." (Source: US Department of Justice Press Release, "Former General Manager of Texas Business Arrested for Role in Alleged Scheme to Bribe Officials at Mexican State-Owned Electrical Utility / Mexican Intermediary Pleads Guilty for His Role in Foreign Bribery Scheme," November 23, 2009.)

**Sources :**

US Report to the Organisation for Economic Co-operation and Development, "Steps taken to implement and enforce the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions," Information as of May 31, 2011, ABB Ltd. Case Summary (#15) at 37-39, accessed at <http://www.oecd.org/dataoecd/18/8/42103833.pdf>. US v. Basurto, Case No. 4:09-cr-325 (S.D. Tex.), Superseding Information filed November 23, 2009, accessed at <http://www.justice.gov/criminal/fraud/fcpa/cases/basurto/11-16-09basurto-supersed-info.pdf>; Plea Agreement filed November 23, 2009, accessed at <http://www.justice.gov/criminal/fraud/fcpa/cases/basurto/11-23-09basurto-plea-agree.pdf> and Order of Forfeiture filed April 11, 2012 and Judgment in a Criminal Case filed April 5, 2012, both accessed via PACER; US Department of Justice Press Release, "Former General Manager of Texas Business Arrested for Role in Alleged Scheme to Bribe Officials at Mexican State-Owned Electrical Utility / Mexican Intermediary Pleads Guilty for His Role in Foreign Bribery Scheme," November 23, 2009, accessed at <http://www.justice.gov/opa/pr/2009/November/09-crm-1265.html>.

**Documents:**

<b>Attachment</b>	<b>Size</b>
 ABB_Basurto_Plea_Agreement_Nov_23_2009.pdf	656.66 KB

<b>Attachment</b>	<b>Size</b>
 ABB_Basurto_Plea_DOJ_PR_Nov_23_2008.pdf	79.15 KB
 ABB_Basurto_Judgment_Apr_5_2012.pdf	246.45 KB
 ABB_Basurto_Forfeiture_Order_Apr_11_2012.pdf	110.34 KB
 ABB_Basurto_Supeseding_Information_Nov_16_2009.pdf	905.74 KB