

AGCO Corporation

Case ID:

ST-17

Case Cluster :

AGCO Corporation

Jurisdiction of Settlement:

United States

Jurisdiction of Settlement / Enforcement Agency:

Securities and Exchange Commission

Jurisdiction of Foreign Public Official(s) :

Iraq (UN Oil-for-Food)

Year of Settlement:

2009

Month/Day of Settlement (or Notes):

09/30

Other Jurisdictions of Settlement:

Denmark

Settlement with Individual or Legal Person?:

Legal Person

Type of Settlement:

Civil

Legal Form of Settlement:

Consent to Permanent Injunction

Monetary Sanctions (Types):

Disgorgement of Profits, Prejudgment Interest, Civil Penalty

Total Monetary Sanctions (US\$):

\$18,307,393.00

Civil Disgorgement of Profits (US\$) :

\$13,907,393

Civil Prejudgment Interest (US\$) :

\$2,000,000

Civil Fine / Penalty (US\$):

\$2,400,000

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

\$0

UNCAC Articles(s) Implicated:

Art.16

Art.26

OECD Anti-Bribery Convention Articles Implicated:

Art. 1, Art. 2, Art. 8

Offenses - Alleged:

Falsification of books and records, Internal controls violations

Offenses - Settled:

No admission or denial of alleged offenses

Public Procurement Contract / SOE Involved?:

Yes

Summary:

According to the US Securities and Exchange Commission's Litigation Release, the SEC's "complaint alleges that from 2000 through 2003, certain AGCO subsidiaries made approximately \$5.9 million in kickback payments in connection with their sales of equipment to Iraq under the United Nations Oil for Food Program (the "Program"). The kickbacks were characterized as "after sales service fees" ("ASSFs"), but no bona fide services were performed. The Program was intended to provide humanitarian relief for the Iraqi population, which faced severe hardship under international trade sanctions. The Program required the Iraqi government to purchase humanitarian goods through a U.N. escrow account; however, AGCO's subsidiaries' kickbacks diverted funds out of the escrow account and into Iraqi-controlled accounts at banks in Jordan." (Source: US Securities and Exchange Commission, Litigation Release No. 21229 / September 30, 2009, SEC v. AGCO Corporation, Civil Action No. 1:09-CV-01865-RMU (D.D.C.), "SEC Files Settled Books and Records and Internal Controls Charges Against AGCO Corporation For Improper Payments to Iraq Under the U.N. Oil for Food Program - AGCO Agrees to Pay Over \$18.3 Million in Disgorgement, Interest, and Penalties.") Please note that as part of its settlement with the SEC, AGCO Corporation did not admit or deny the agency's allegations against it.

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, AGCO Corporation Case Summary at 58-59, accessed at <http://www.oecd.org/dataoecd/18/8/42103833.pdf>. US Securities and Exchange Commission, Litigation Release No. 21229 / September 30, 2009, SEC v. AGCO Corporation, Civil Action No. 1:09-CV-01865-RMU (D.D.C.), "SEC Files Settled Books and Records and Internal Controls Charges Against AGCO Corporation For Improper Payments to Iraq Under the U.N. Oil for Food Program - AGCO Agrees to Pay Over \$18.3 Million in Disgorgement, Interest, and Penalties," accessed at <http://www.sec.gov/litigation/litreleases/2009/lr21229.htm>; SEC v. AGCO Corporation, Civil Action No. 1:09-CV-01865-RMU (D.D.C.), Complaint filed September 30, 2009, accessed at <http://www.sec.gov/litigation/complaints/2009/comp21229.pdf>.