

Alstom S.A. (Switzerland)

Case ID:

ST-37

Case Cluster :

Alstom S.A.

Jurisdiction of Settlement:

Switzerland

Jurisdiction of Settlement / Enforcement Agency:

Office of the Attorney General

Jurisdiction of Foreign Public Official(s) :

Latvia, Malaysia, Tunisia

Year of Settlement:

2011

Month/Day of Settlement (or Notes):

11/22

Other Jurisdictions of Settlement:

World Bank

Settlement with Individual or Legal Person?:

Legal Person

Type of Settlement:

Criminal

Legal Form of Settlement:

Payment of Reparation (Art. 53 Swiss Criminal Code)

Monetary Sanctions (Types):

Reparation

Total Monetary Sanctions (US\$):

\$1,089,510.00

Criminal Fine/Penalty (US\$) :

\$0

Criminal Restitution / Reparation (US\$):

\$1

089

510

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

\$1,089,510

Monetary Sanctions Returned / Ordered Returned (Explanation):

Reparations via International Committee of the Red Cross

UNCAC Articles(s) Implicated:

Art.16

Art.26

OECD Anti-Bribery Convention Articles Implicated:

Art. 1, Art. 2, Art. 8, Art. 9

Offenses - Alleged:

Art. 102 Criminal Code (Liability for acts committed by subsidiary)

Offenses - Settled:

Art. 53 Criminal Code (Costs of Prosecution)

Public Procurement Contract / SOE Involved?:

Yes

Summary:

According to the Press Release issued by the Swiss Office of Attorney General, "As far as the proceedings were also brought against Alstom SA, based in France, they have been dismissed with regard to the actions in Latvia, Tunisia and Malaysia based on Art. 53 SCC, imposing on the company the costs of the proceedings allotted to Alstom SA in this regard. In the opinion of the OAG, Alstom SA as the senior holding company is responsible in part for the organizational deficiencies identified. However, after payment of CHF 1 m as reparation and bearing the remaining costs of the proceedings by Alstom SA, the OAG refrained from sanctioning Alstom SA in addition to Alstom Network Schweiz AG regarding the established acts of bribery. It did so particularly considering the demonstrated willingness to cooperate and the considerable improvements in the internal compliance procedures before and after the opening of the investigations. Within the proceedings against Alstom Network Schweiz AG and Alstom SA, the OAG in close cooperation with the Federal Criminal Police investigated further twelve projects in the power station sector, divided over all continents. In this regard, it in some part detected additional breaches of internal compliance regulations. Despite considerable investigative efforts however, no additional acts of bribery could be established for the time after article 102 SCC had come into effect. The proceedings against the two defendant Alstom entities for these additionally investigated twelve projects were dismissed due to the lack of any criminal conduct (Art. 319(1)(a) Swiss Code of Criminal Procedure) and due to the lack of criminal liability of the companies prior to October 2003 (Art. 319(1)(b) Swiss Code of Criminal Procedure), without granting compensation and by imposing the costs allotted for this part of the proceedings on the two Alstom companies. [] The amount of CHF 1 m paid by Alstom SA as reparation under Art. 53 SCC was transferred to the International Committee of the Red Cross. One-third of these funds each shall be used in projects of the ICRC in Tunisia, Latvia and Malaysia respectively. The costs allotted for the part of the proceedings resulting in the dismissal amount to about CHF 90,000 and have been imposed on the two Alstom companies for which they are jointly liable. Due to Alstom renouncing to appeal, this decision also has become legally binding." (Source: The Office of the Attorney General Press Release, "Criminal proceedings against Alstom entities are brought to a close," November 22, 2011.) Please note that the CHF 90,000 in costs of the proceedings have been included only in the Alstom Network Schweiz AG entry so as to prevent double counting of the sum.

Sources :

Organisation of Economic Co-operation and Development, Phase 3 Report on Implementing the OECD Anti-Bribery Convention in Switzerland, Adopted by the OECD Working Group on Bribery on December 16, 2011, para 40, accessed at <http://www.oecd.org/daf/anti-bribery/anti-briberyconvention/Switzerlandphase3reportEN.pdf>

<http://www.oecd.org/dataoecd/59/53/49377354.pdf>; The [Swiss] Office of the Attorney General Press Release, "Criminal proceedings against Alstom entities are brought to a close," November 22, 2011, accessed at

<http://www.news.admin.ch/message/index.html?lang=en&msg-id=42300>

Documents:

Attachment


Size



Alstom_SA_Swiss_Attorney_General_Summary_Punishment_Order_PR_Nov_22_2011.pdf

115.3

KB

Attachment**Size** Alstom_Company_Statement_Nov_2011.pdf113.49
KB Switzerland_OECD_Phase_3_Report_Dec_2011.pdf621.44
KB