

Daimler AG

Case ID:

ST-129

Case Cluster :

Daimler AG

Jurisdiction of Settlement:

United States

Jurisdiction of Settlement / Enforcement Agency:

Securities and Exchange Commission

Jurisdiction of Foreign Public Official(s) :

China, Croatia, Egypt, Greece, Hungary, Indonesia, Iraq (UN Oil-for-Food), Ivory Coast, Latvia, Nigeria, Russia, Serbia and Montenegro, Thailand, Turkey, Turkmenistan, Uzbekistan, Vietnam and other unspecified countries (at least 22 countries)

Year of Settlement:

2010

Month/Day of Settlement (or Notes):

04/01

Other Jurisdictions of Settlement:

Unknown

Settlement with Individual or Legal Person?:

Legal Person

Type of Settlement:

Civil

Legal Form of Settlement:

Consent to Cease-and-Desist Order

Monetary Sanctions (Types):

Disgorgement of Profits

Total Monetary Sanctions (US\$):

\$91,432,867.00

Civil Disgorgement of Profits (US\$) :

\$91,432,867

Civil Prejudgment Interest (US\$) :

\$0

Civil Fine / Penalty (US\$):

\$0

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

\$0

UNCAC Articles(s) Implicated:

Art.16

Art.23

Art.26

OECD Anti-Bribery Convention Articles Implicated:

Art. 1, Art. 2, Art. 7, Art. 8

Offenses - Alleged:

Bribery of foreign officials, 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 Press Release, the Commission "today announced a settlement with Daimler AG for violations of the Foreign Corrupt Practices Act (FCPA), alleging that the Stuttgart, Germany-based automobile manufacturer engaged in a repeated and systematic practice of paying bribes to foreign government officials to secure business in Asia, Africa, Eastern Europe and the Middle East. Daimler agreed to pay \$91.4 million in disgorgement to settle the SEC's charges and pay \$93.6 million in fines to settle charges in separate criminal proceedings announced today by the U.S. Department of Justice. The SEC alleges that Daimler paid at least \$56 million in improper payments over a period of more than 10 years. The payments involved more than 200 transactions in at least 22 countries. Daimler earned \$1.9 billion in revenue and at least \$90 million in illegal profits through these tainted sales transactions, which involved at least 6,300 commercial vehicles and 500 passenger cars. Daimler also paid kickbacks to Iraqi ministries in connection with direct and indirect sales of motor vehicles and spare parts under the United Nations Oil for Food Program. [] The SEC's complaint, filed in U.S. District Court for the District of Columbia, alleges that Daimler used bribes to further government sales in such countries as Russia, China, Vietnam, Nigeria, Hungary, Latvia, Croatia, and Bosnia. Among other means, Daimler used dozens of ledger accounts, known internally as "interne Fremdkonten" or "internal third party accounts" to maintain credit balances for the benefit of government officials. These credit balances were controlled by Daimler subsidiaries or outside third parties, including foreign government officials or Daimler's dealers, distributors or other agents who were at times used as intermediaries to make payments to foreign government officials. The accounts were funded through several bogus pricing mechanisms, such as "price surcharges," "price inclusions," or excessive commissions. Daimler also used artificial discounts or rebates on sales contracts to effectuate bribes. In those instances, all or a portion of the discount was kicked back through a ledger account to a foreign government official, rather than credited to the purchasing government customer." (Source: US Securities and Exchange Commission Press Release, "SEC Charges Daimler AG with Global Bribery," April 1, 2010.)

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, Daimler AG Case Summary at 49-50, accessed at <http://www.oecd.org/dataoecd/18/8/42103833.pdf>; US Securities and Exchange Commission Press Release, "SEC Charges Daimler AG with Global Bribery," April 1, 2010, accessed at <http://www.sec.gov/news/press/2010/2010-51.htm>; Complaint assigned March 22, 2010, accessed at <http://www.sec.gov/litigation/complaints/2010/comp-pr2010-51.pdf>