

Fiat S.p.A. / Iveco S.p.A., CNH Italia S.p.A. and CNH France S.A.

Case ID:

ST-154

Case Cluster :

Fiat S.p.A.

Jurisdiction of Settlement:

United States

Jurisdiction of Settlement / Enforcement Agency:

Department of Justice

Jurisdiction of Foreign Public Official(s) :

Iraq (UN Oil-for-Food)

Year of Settlement:

2008

Month/Day of Settlement (or Notes):

12/22

Other Jurisdictions of Settlement:

Unknown

Settlement with Individual or Legal Person?:

Legal Person

Type of Settlement:

Criminal

Legal Form of Settlement:

Deferred Prosecution Agreement

Monetary Sanctions (Types):

Criminal Fine

Total Monetary Sanctions (US\$):

\$7,000,000

Criminal Fine/Penalty (US\$) :

\$7,000,000

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:

Internal controls violations, Falsification of books and records

Offenses - Settled:

No admission or denial of allegations

Public Procurement Contract / SOE Involved?:

Yes

Summary:

According to the June 2011 US Report to the OECD, "On December 22, 2008, three subsidiaries of Fiat S.p.A. (Fiat), an Italian corporation based in Turin, Italy, were charged in the U.S. District Court for the District of Columbia in connection with a scheme to pay bribes to Iraqi government officials in order to win contracts under the U.N. Oil-for-Food Program (OFFP). Two Fiat subsidiaries, Iveco S.p.A. (Iveco) and CNH Italia S.p.A. (CNH Italia), were each charged with one count of conspiracy to commit wire fraud and to violate the books and records provisions of the FCPA. A third subsidiary, CNH France S.A. (CNH France), was charged with one count of conspiracy to commit wire fraud. The SEC simultaneously filed a civil complaint against Fiat and CNH Global N.V., alleging that Fiat and its subsidiaries violated the books and records and internal controls provisions of the FCPA in relation to the same conduct. These charges stemmed from a series of improper payments made by Fiat to Iraqi government officials in order to obtain contracts with Iraqi ministries to provide industrial pumps, gears, and other equipment. According to court documents, between 2000 and 2002, Iveco, CNH Italia, and CNH France paid a total of approximately \$4.4 million in kickbacks (referred to as "after sales service fees" (ASSFs)) to the Iraqi government by inflating the price of contracts by 10 percent before submitting the contracts to the U.N. for approval, and concealed from the U.N. the fact that the price contained a kickback to the Iraqi government. Iveco and CNH Italia also inaccurately recorded the kickback payments as commissions and service fees for its agents in its books and records." (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, Fiat S.p.A. Case Summary at 73-74.) Fiat settled the charges against its subsidiaries by entering a Deferred Prosecution Agreement with the Department of Justice that required the company to pay \$7 million criminal penalty. (Source: Ibid.) According to the Statements of Facts accompanying the Deferred Prosecution Agreement: "Company X," a Lebanese company, acted as both an agent and distributor for Iveco in connection with sales to the Iraqi government under the OFFP; and "Company Y," a United Arab Emirates company, acted as a conduit for payments to the Iraqi government under the OFFP. (Source: In Re Fiat S.p.A., et al, Deferred Prosecution Agreement (December 20, 2008), paras 15 and 16.)

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, Fiat S.p.A. Case Summary at 73-74, accessed at <http://www.oecd.org/dataoecd/18/8/42103833.pdf>; In Re: Fiat S.p.A., et. al; United States v. Iveco S.p.A.; United States v. CNH Italia S.p.A.; and United States v. CNH France S.A., Deferred Prosecution Agreement (December 22, 2008), accessed at <http://www.justice.gov/opa/documents/flat-dpa.pdf>; US Department of Justice Press Release, "Fiat Agrees to \$7 Million Fine in Connection with Payment of \$4.4 Million in Kickbacks by Three Subsidiaries Under the U.N. Oil for Food Program," December 22, 2008, accessed at <http://www.justice.gov/opa/pr/2008/December/08-crm-1140.html>