

## **Novo Nordisk A/S**

**Case ID:**

ST-289

**Case Cluster :**

Novo Nordisk A/S

**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:**

2013

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

5/6

**Other Jurisdictions of Settlement:**

Denmark

**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\$):**

\$9,000,000.00

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

\$9,000,000

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

\$0

**UNCAC Articles(s) Implicated:**

Art.16

Art.26

**Offenses - Alleged:**

Conspiracy to Commit Wire Fraud, Conspiracy to Falsify Books and Records

**Offenses - Settled:**

Conspiracy to Commit Wire Fraud, Conspiracy to Falsify Books and Records

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

Yes

**Summary:**

According to the June 2011 United States Report to the OECD, "On May 11, 2009, Novo Nordisk A/S (Novo), a Danish corporation based in Bagsvaerd, Denmark, was charged in a one-count criminal information with conspiracy to commit wire fraud and to violate the books and records provisions of the FCPA. On the same date, the SEC filed a settled civil complaint

against Novo in the U.S. District Court for the District of Columbia. According to court documents, between 2001 and 2003, a Jordan-based agent acting on behalf of Novo, an international manufacturer of insulin, medicines and other pharmaceutical supplies, made improper payments worth approximately \$1.4 million to the former Iraqi government in order to obtain contracts with the Iraqi Ministry of Health to provide insulin and other medicines as part of the Oil-for-Food Program (OFFP). Novo engaged its long-time Jordan-based agent to submit bids on Novo's behalf to Kimadia, the Iraqi State Company for the Importation and Distribution of Drugs and Medical Appliances, a state-owned company which was part of the Iraqi Ministry of Health. Two branches of Novo Nordisk - RONE, based in Athens, Greece, and NEO, based in Amman, Jordan - handled the sales to the Iraq and supplied the agent with bid prices for each contract. In late 2000 or early 2001, a Kimadia import manager advised the agent that Kimadia required Novo Nordisk to pay a ten percent kickback in order to obtain a contract under the Program. The Kimadia import manager told the agent that Novo Nordisk should increase its prices by ten percent and pay that amount to Kimadia. By doing so, Novo would recover the secret kickback from the U.N. escrow account when the contract, with the inflated price, was subsequently approved for disbursement and paid by the U.N. Beginning in 2001 and continuing through 2003, Novo paid these kickbacks, characterized as "after-sales service fees" ("ASSFs"), by inflating the price of contracts by 10 percent before submitting the contracts to the U.N. for approval. Novo also concealed from the U.N. the fact that the price contained a kickback to the former Iraqi government. In addition, on at least two occasions in 2001, Novo paid increased commissions to its agent to pay the kickbacks to Kimadia. The agent's commission was increased under the guise that the payment was used to cover the agent's increased distribution and marketing costs. All together, Novo paid over \$1.4 million in kickbacks payments on eleven contracts through the agent, and agreed to pay approximately \$1.3 million in ASSFs on two additional contracts. Novo then inaccurately recorded the kickback payments as "commissions" 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, Novo Nordisk A/S Case Summary at 66-68, accessed at <http://www.oecd.org/dataoecd/18/8/42103833.pdf>.)

#### **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, Novo Nordisk A/S Case Summary at 66-68, accessed at <http://www.oecd.org/dataoecd/18/8/42103833.pdf>. US v. Novo Nordisk A/S, Case No. 1:09-cr-00126-RJL (D.D.C.), Information filed May 11, 2009, accessed at <http://www.justice.gov/criminal/fraud/fcpa/cases/nordiskn/05-11-09novo-info.pdf>; Deferred Prosecution Agreement filed May 11, 2009, accessed at <http://www.justice.gov/criminal/fraud/fcpa/cases/nordiskn/05-06-09novo-agree.pdf>; US Department of Justice Press Release, "Novo Nordisk Agrees to Pay \$9 Million Fine in Connection with Payment of \$1.4 Million in Kickbacks Through the United Nations Oil-for-food Program," May 11, 2009, accessed at <http://www.justice.gov/criminal/fraud/fcpa/cases/nordiskn/05-06-09novo-agree.pdf>