

Westinghouse Air Brake Technologies Corporation

Case ID:

ST-383

Case Cluster :

Westinghouse Air Brake Technologies

Jurisdiction of Settlement:

United States

Jurisdiction of Settlement / Enforcement Agency:

Securities and Exchange Commission

Jurisdiction of Foreign Public Official(s) :

India

Year of Settlement:

2008

Month/Day of Settlement (or Notes):

02/14

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, Prejudgment Interest

Total Monetary Sanctions (US\$):

\$288,351.00

Criminal Fine / Penalty (Explanation):

NA

Civil Disgorgement of Profits (US\$) :

\$259,000

Civil Prejudgment Interest (US\$) :

\$29,351

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:

Bribery of Foreign Officials, Internal Controls Violations, Falsification of Books and Records

Offenses - Settled:

No admission or denial of alleged offenses

Public Procurement Contract / SOE Involved?:

Yes

Summary:

According to US Securities and Exchange Commission Litigation Release, "On February 14, 2008, the Securities and Exchange Commission filed two settled enforcement proceedings charging Westinghouse Air Brake Technologies Corporation ("Wabtec"), which is headquartered in western Pennsylvania, with violations of the Foreign Corrupt Practices Act ("FCPA") in connection with certain improper payments that Wabtec's Indian subsidiary, Pioneer Friction Limited ("Pioneer"), made to employees of the government of India in order to obtain or retain business from the Indian national railway system. Wabtec manufactures, among other things, brake subsystems and related products for locomotives, freight cars and passenger vehicles. The Commission filed a civil action in the United States District Court for the Eastern District of Pennsylvania charging Wabtec with violating the anti-bribery, books-and-records and internal controls provisions of the FCPA and seeking a civil penalty. The Commission also issued an administrative order finding that Wabtec violated the same provisions of the FCPA. In the administrative proceeding, the Commission ordered Wabtec to cease and desist from such violations, and to disgorge \$259,000, together with \$29,351 in prejudgment interest. The Commission also required Wabtec to retain an independent consultant to review and make recommendations concerning the company's FCPA compliance policies and procedures. In the federal civil action, Wabtec agreed to the entry of a final judgment requiring it to pay a civil penalty in the amount of \$87,000. Pioneer, incorporated and headquartered in India, manufactures low and high friction brake blocks for rail operations. Pioneer's financial results are reported on a consolidated basis as part of Wabtec's consolidated financial statements. In both its administrative order and federal court complaint, the Commission charged that, from at least 2001 through 2005, Pioneer made over \$137,400 in improper cash payments to employees of the Indian government in order to have its competitive bids for government business granted or considered. As a result of being awarded contracts in 2005, Pioneer realized profits of \$259,000. In connection with the improper payments, Wabtec failed to keep accurate books and records, and failed to devise and maintain effective internal accounting controls." (Source: US Securities and Exchange Commission Litigation Release No. 20457 / February 14, 2008, SEC v. Westinghouse Air Brake Technologies Corporation, Civil Action No. 08-CV-706 (E.D.Pa.), "SEC Sanctions Westinghouse Air Brake Technologies Corporation for Improper Payments to Indian Government Employees.")

Sources :

Report by the United States to the OECD, "Steps taken to implement and enforce the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions" (June 2011), Westinghouse Air Brake Technologies Corporation Case Summary at 85-86, accessed at <http://www.oecd.org/dataoecd/18/8/42103833.pdf>. US Securities and Exchange Commission Litigation Release No. 20457 / February 14, 2008, SEC v. Westinghouse Air Brake Technologies Corporation, Civil Action No. 08-CV-706 (E.D.Pa.), "SEC Sanctions Westinghouse Air Brake Technologies Corporation for Improper Payments to Indian Government Employees," accessed at <http://www.sec.gov/litigation/litreleases/2008/lr20457.htm>; Complaint filed February 14, 2008, accessed at <http://www.sec.gov/litigation/complaints/2008/comp20457.pdf>