

## **Archer Daniels Midland Company / Alfred C. Toepfer International G.m.b.H. (ACTI Hamburg)**

**Case ID:**

ST-408

**Case Cluster :**

Archer Daniels Midland Company

**Jurisdiction of Settlement:**

Germany

**Jurisdiction of Settlement / Enforcement Agency:**

Unspecified

**Jurisdiction of Foreign Public Official(s) :**

Ukraine

**Year of Settlement:**

2013

**Other Jurisdictions of Settlement:**

United States

**Settlement with Individual or Legal Person?:**

Legal Person

**Type of Settlement:**

Criminal

**Legal Form of Settlement:**

Unknown

**Monetary Sanctions (Types):**

Criminal Fine

**Total Monetary Sanctions (US\$):**

\$1,338,387

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

\$1,338,387

**Criminal Fine / Penalty (Explanation):**

Noted in ACTI Hamburg Plea Agreement

**Criminal Forfeiture / Confiscation (US\$):**

\$0

**Criminal Restitution / Reparation (US\$):**

\$0

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

\$0

**Monetary Sanctions Returned / Ordered Returned (Explanation):**

NA

**UNCAC Articles(s) Implicated:**

Art.16

**OECD Anti-Bribery Convention Articles Implicated:**

Art. 1, Art. 2

**Offenses - Alleged:**

Unspecified

**Offenses - Settled:**

Unspecified

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

Na (VAT Fraud - Ukraine)

**Summary:**

According to the US Department of Justice, "Alfred C. Toepfer International Ukraine Ltd. (ACTI Ukraine), a subsidiary of ADM, pleaded guilty in the Central District of Illinois to one count of conspiracy to violate the anti-bribery provisions of the FCPA and agreed to pay \$17.8 million in criminal fines. The Department of Justice also entered into a non-prosecution agreement (NPA) with ADM in connection with the company's failure to implement an adequate system of internal financial controls to address the making of improper payments both in Ukraine and by an ADM joint venture in Venezuela. [ ] According to the charges, from 2002 to 2008, ACTI Ukraine, a trader and seller of commodities based in the Ukraine, together with Alfred C. Toepfer International G.m.b.H. (ACTI Hamburg), another subsidiary of ADM, paid third-party vendors to pass on bribes to Ukrainian government officials to obtain VAT refunds. The charges allege that, in total, ACTI Ukraine and ACTI Hamburg paid roughly \$22 million to two vendors, nearly all of which was to be passed on to Ukrainian government officials to obtain over \$100 million in VAT refunds, resulting in a benefit to ACTI Ukraine and ACTI Hamburg of roughly \$41 million. According to the NPA with ADM, a number of concerns were expressed to ADM executives, including an e-mail calling into question potentially illegal ?donations? by ACTI Ukraine and ACTI Hamburg to recover the VAT refunds, yet nonetheless failed to implement sufficient anti-bribery compliance policies and procedures to prevent corrupt payments." (Source: US DOJ Press Release, "ADM Subsidiary Pleads Guilty to Conspiracy to Violate the Foreign Corrupt Practices Act," December 20, 2013.)

**Sources :**

US Department of Justice Press Release, "ADM Subsidiary Pleads Guilty to Conspiracy to Violate the Foreign Corrupt Practices Act," December 20, 2013, at <https://www.justice.gov/opa/pr/adm-subsubsidiary-pleads-guilty-conspiracy-violate-foreign-corrupt-practices-act> and plea agreement