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Case Name:

Monsanto Company

Case ID:

272

Case Cluster :

Monsanto Company

Jurisdiction of Settlement:

United States

Jurisdiction of Settlement / Enforcement Agency:

Department of Justice

Jurisdiction of Foreign Public Official(s) :

Indonesia

Year of Settlement:

2005

Month/Day of Settlement (or Notes):

01/06

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\$):

\$1,000,000.00

Criminal Fine/Penalty (US\$) :

\$1,000,000

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:

Bribery of Foreign Officials, Falsification of Books and Records

Offenses - Settled:

Bribery of Foreign Officials, Falsification of Books and Records

Public Procurement Contract / SOE Involved?:

No (License)

Summary:

According to the June 2011 United States Report to the OECD, "Monsanto, a producer of various agricultural products, hired an Indonesian consulting company to assist it in obtaining various Indonesian governmental approvals and licenses necessary to sell its genetically modified products in Indonesia. At the time, the Indonesian government required an environmental impact study before authorizing the cultivation of genetically modified crops. After a change in governments in Indonesia, Monsanto sought, unsuccessfully, to have the new government, in which the senior environment official had a post, amend or repeal the requirement for the environmental impact statement. Having failed to obtain the senior environment official's agreement to amend or repeal this requirement, in 2002, Charles Martin, the Government Affairs Director for Asia for Monsanto, authorized and directed an Indonesian consulting firm to make an illegal payment totaling \$50,000 to the senior environment official to "incentivize" him to agree to do so. Martin also directed representatives of the Indonesian consulting company to submit false invoices to Monsanto for "consultant fees" to obtain reimbursement for the bribe, and agreed to pay the consulting company for taxes that company would owe by reporting income from the "consultant fees." In February 2002, an employee of the Indonesian consulting company delivered \$50,000 in cash to the senior environment official, explaining that Monsanto wanted to do something for him in exchange for repealing the environmental impact study requirement. The senior environment official promised that he would do so at an appropriate time. In March 2002, Monsanto, through its Indonesian subsidiary, paid the false invoices thus reimbursing the consulting company for the \$50,000 bribe, as well as the tax it owed on that income. A false entry for these "consulting services" was included in Monsanto's books and records. The senior environment official never authorized the repeal of the environmental impact study requirement." (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, Monsanto Company Case Summary at 108-109.)

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, Monsanto Company Case Summary at 108-109, accessed at <http://www.oecd.org/dataoecd/18/8/42103833.pdf>. US v. Monsanto Company, (D.D.C. 2005), Information filed January 6, 2005, accessed at <http://www.justice.gov/criminal/fraud/fcpa/cases/monsanto-co/01-06-05monsanto-info.pdf>; Deferred Prosecution Agreement and Statement of Facts filed January 6, 2005, accessed at <http://www.justice.gov/criminal/fraud/fcpa/cases/monsanto-co/01-06-05monsanto-agree.pdf>; Order Approving the Deferred Prosecution Agreement filed March 16, 2005, accessed at <http://www.justice.gov/criminal/fraud/fcpa/cases/monsanto-co/03-16-05monsanto-order-dpa.pdf>. See also, US Department of Justice Press Release. "Monsanto Company Charged with Bribing Indonesian Government Official: Prosecution Deferred for Three Years." Jan. 6, 2005, accessed at http://www.justice.gov/opa/pr/2005/January/05_crm_008.htm