

United States v. Amec Foster Wheeler Energy Ltd. (E.D.N.Y. 2021).

Nature of the Business.

Amec Foster Wheeler Energy Limited (“AFEW”) is the successor-in-interest to Foster Wheeler Energy Limited (“FWE”). During the relevant time, FWE was a United Kingdom company that operated as a global provider of oil and gas technology services. In 2014, Foster Wheeler AG (“FW”) and its subsidiaries, including FWE, was purchased by AMEC plc, thereby becoming Amec Foster Wheeler (“AFW”), the defendant in this matter.

In 2017, AFW was purchased by John Wood Group PLC (“Wood”).

Influence to be Obtained.

According to the DOJ, FWE made improper payments, through various intermediaries, to unnamed officials at Petrobras, a majority Brazilian state-owned energy company, in connection with FWE’s efforts to win an approximately \$190 million contract from Petrobras. FWE allegedly earned at least \$12.9 million in profits through this corruptly obtained business.

According to the DOJ, after learning of the upcoming Petrobras contract from Brazil Intermediary Company, an Italian agent began consistently contacting FW and FWE to assist in winning the contract and consult on the project. The Italian agent and its affiliate, a Monaco-based Intermediary Company, allegedly failed FW’s due diligence reviews. FWE nonetheless allegedly continued to informally engage with The Italian agent on the Petrobras contract. In 2012, FWE allegedly executed an agreement with Brazil Intermediary Company, entitling it to 2% commission on the \$190 million contract.

According to the DOJ, in 2012, The Italian agent and Brazil Intermediary Company paid bribes to Petrobras officials to obtain confidential documents, inside information, and secret assistance on FWE’s behalf to win the Petrobras contract. In 2013 and 2014, FWE allegedly made four payments to Brazil Intermediary Company, totaling approximately \$1.1 million. These payments were allegedly partially shared by The Italian agent and Brazil Intermediary Company, and partially allocated as payments to Petrobras officials.

Enforcement.

On June 24, 2021, the DOJ entered into a three-year deferred prosecution agreement with AFW, pursuant to which AFW agreed to pay a criminal monetary penalty of \$18,375,000 for its violations of the anti-bribery provision of the FCPA. This reflects a 25% discount from the Sentencing Guidelines fine range because AFW and Wood agreed to reporting requirements and their remedial efforts.

In parallel proceedings with the SEC, AFW was ordered to pay \$22,764,287 in disgorgement. Both the SEC and DOJ have offered to offset AFW’s sanctions based on disgorgement and penalties AFW will pay to Brazilian and U.K. authorities to resolve similar proceedings.

Key Facts

Citation. *United States v. Amec Foster Wheeler Energy Ltd.*, 21 Cr. 00298 (E.D.N.Y. 2021).

Date Filed. June 24, 2021.

Country. Brazil.

Date of Conduct. 2011 – 2014.

Amount of the Value. \$1.1 million.

Amount of Business Related to the Payment. \$190 million.

Intermediary. Brazil Intermediary Company; Monaco Intermediary Company; Italian Agent.

Foreign Official. Unnamed officials at Petrobras.

FCPA Statutory Provision. Anti-Bribery.

Other Statutory Provision. None.

Disposition. Deferred-Prosecution Agreement.

Defendant Jurisdictional Basis. Issuer.

Defendant’s Citizenship. United Kingdom.

Total Sanction. \$18,375,000.¹

Compliance Monitor/Reporting Requirements. Required to report annually during the Term.

Related Enforcement Actions. *In the Matter of Amec Foster Wheeler Ltd.*, Admin. Proc. File No. 3-20373 (June 25, 2021).

Total Combined Sanction. \$41,139,287.²

¹ AFW may receive a credit of up about \$10 million based on penalties paid to Brazilian and United Kingdom regulatory authorities in parallel proceedings.

² AFW may receive a disgorgement offset of about \$12 million based on disgorgement paid in parallel proceedings to Brazilian and United Kingdom regulatory authorities.