

United States v. Alstom S.A. (D. Conn. 2014)

United States v. Alstom Network Schweiz AG (D. Conn. 2014)

United States v. Alstom Grid, Inc. (D. Conn. 2014)

United States v. Alstom Power, Inc. (D. Conn. 2014)

Nature of the Business.

Alstom S.A. is a French power and transportation company focused on constructing and providing services related to power generation facilities, power grids, and rail transportation systems around the world. Alstom S.A. maintained a class of securities on the New York Stock Exchange until August 2004. Alstom Network Schweiz AG is a subsidiary of Alstom S.A. headquartered in Switzerland. Alstom Grid, Inc. is a subsidiary of Alstom S.A. headquartered in New Jersey. Alstom Power, Inc. is a subsidiary of Alstom S.A. headquartered in Connecticut.

Influence to be Obtained.

According to court documents, Alstom S.A. and its subsidiaries (collectively “Alstom”) engaged in repeated acts of bribery for more than a decade in countries around the world. The most significant of the DOJ’s allegations concern Alstom’s practice of retaining “consultants” to funnel bribes to influential government officials in Indonesia, Saudi Arabia, Egypt, and the Bahamas in exchange for valuable power and infrastructure projects. According to the DOJ, the consultants were regularly paid large sums of money, which Alstom officials improperly recorded as “commissions” or “consultancy fees” despite knowing that most of the money would be used as bribes. According to the DOJ, the decision to hire the consultants should have raised several red flags in light of the fact that the consultants were often hired for duplicative services, appeared to have no relevant experience in the relevant industries, required that Alstom make large upfront payments in exchange for their services, and were often friends and family of high-ranking government officials.

The Department also makes reference to Alstom’s decision to hire a Taiwanese consultant. Although there are no specific allegations related to the payment of bribes, the DOJ highlights that the retention of the Taiwanese consultant was in violation of Alstom’s internal policies and that, despite numerous red flags, the company failed to ensure that the consultant could not be used to make improper payments to government officials.

Finally, in addition to using consultants to allegedly bribe government officials, the DOJ claims that Alstom paid for expensive travel and entertainment for an Egyptian official associated with a pair of Egyptian power projects.

Enforcement.

On December 22, 2014, the DOJ announced that it settled the charges against Alstom and its subsidiaries. According to a plea agreement reached with Alstom S.A., the company would agree to pay a criminal fine of \$772.3 million for violating the books-and-records and internal controls provisions of the FCPA. As part of the plea agreement, the DOJ would forgo the requirement that Alstom S.A. appoint an independent compliance monitor because the company was already subject to certain monitoring requirements as part of a November 2012 Negotiated Resolution Agreement between the World Bank Group. Alstom S.A. was formally sentenced to pay the \$772.3 million fine on November 13, 2015, by Judge Janet Bond Arterton of the District of Connecticut, making the DOJ’s case against Alstom S.A. the largest criminal FCPA fine ever.

Alstom Network Schweiz AG also entered into a plea agreement where the company agreed to plead guilty to conspiracy to violate the FCPA. Alstom Network Schweiz AG was also sentenced on November 13, 2015 alongside Alstom S.A. No additional fine was imposed on the company beyond the \$772.3

Key Facts

Citation. *United States v. Alstom S.A.*, No. 3:14–cr–00246 (D. Conn. 2014); *United States v. Alstom Network Schweiz AG*, No. 3:14–cr–00245 (D. Conn. 2014); *United States v. Alstom Grid, Inc.*, No. 3:14–cr–00247 (D. Conn. 2014); *United States v. Alstom Power, Inc.*, No. 3:14–cr–00248 (D. Conn. 2014).

Date Filed. December 22, 2014 (Alstom S.A.; Alstom Network Schweiz AG; Alstom Grid, Inc.; Alstom Power, Inc.).

Country. Indonesia, Saudi Arabia, Egypt, the Bahamas, and Taiwan.

Date of Conduct. 1999 – 2014.

Amount of the Value. Approximately \$75 million.

Amount of Business Related to the Payment. Approximately \$4 billion in projects with a gain of approximately \$296 million.

Intermediary. Consultants.

Foreign Official. Indonesian officials with the ability to influence the award of state infrastructure contracts; Officials from the Saudi Electric Company—the state-owned and controlled electric company of Saudi Arabia; Egyptian officials with the ability to influence the award of state infrastructure contracts; and Board member of the Bahamas Electrical Corporation—the state-owned and controlled electric company of the Bahamas.

FCPA Statutory Provision.

- **Alstom S.A.** Books-and-Records; Internal Controls.
- **Alstom Network Schweiz AG.** Conspiracy (Anti-Bribery).
- **Alstom Grid, Inc.** Conspiracy (Anti-Bribery).
- **Alstom Power, Inc.** Conspiracy (Anti-Bribery).

Other Statutory Provision. None

Disposition.

- **Alstom S.A.** Plea Agreement.
- **Alstom Network Schweiz AG.** Plea

million fine imposed on Alstom S.A.

Both Alstom Grid, Inc. and Alstom Power, Inc. entered into deferred prosecution agreements with the DOJ.

Agreement.

- **Alstom Grid, Inc.** Deferred Prosecution Agreement.
- **Alstom Power, Inc.** Deferred Prosecution Agreement.

Defendant Jurisdictional Basis. Issuer (Alstom S.A.); Domestic Concern (Alstom Grid, Inc.; Alstom Power, Inc.); Conspirator (Alstom Network Schweiz AG).

Defendant's Citizenship. France (Alstom S.A.); United States (Alstom Grid, Inc.; Alstom Power, Inc.); Switzerland (Alstom Network Schweiz AG).

Total Sanction. \$772,290,000.

Compliance Monitor/Reporting Requirements. Reporting Requirements.

Related Enforcement Actions. *United States v. Hoskins*; *United States v. Pierucci*; *United States v. Rothschild*; *United States v. Marubeni*.