

United States v. Ingersoll-Rand Co. Ltd. (D.D.C. 2007)

United States v. Ingersoll-Rand Italiana SpA (D.D.C. 2007)

United States v. Thermo King Ireland Ltd. (D.D.C. 2007)

Nature of the Business.

Procurement of humanitarian contracts to provide road construction equipment, air compressors and parts, and refrigerated trucks to Iraqi ministries by including kickbacks in contracts under the United Nations Oil-for-Food Program. Ingersoll-Rand Co. Ltd. ("Ingersoll-Rand") is a Bermuda corporation.

Influence to be Obtained.

In April 1995, the U.N. adopted Security Council Resolution 986, which permitted the government of Iraq to sell oil and to use proceeds from those sales to purchase humanitarian supplies such as food for the Iraqi people ("U.N. Oil-for-Food Program"). In an extensive scheme, the Iraqi government received illicit payments in the form of surcharges from oil purchasers and kickbacks, often termed "after sales service fees," from humanitarian goods suppliers. The kickback payments were masked by inflating the contract price, usually by 10% of the contract value.

From October 2000 to August 2003, Ingersoll-Rand's Italian and Irish wholly-owned subsidiaries (Ingersoll-Rand Italiana, SpA, and Thermo King Ireland Limited) paid kickbacks to the Iraqi government, and the Italian subsidiary paid for travel, entertainment, and "pocket money" for eight Iraqi government officials, to obtain humanitarian contracts with Iraqi ministries to provide road construction equipment, air compressors and parts, and refrigerated trucks.

Enforcement.

On October 31, 2007, the DOJ filed a criminal information in the U.S. District Court for the District of Columbia charging Thermo King Ireland Limited with conspiracy to commit wire fraud. The information alleges that the Irish subsidiary secured contracts as described above with the Iraqi government by offering to pay kickbacks of 10%. The DOJ filed another criminal information in the U.S. District Court for the District of Columbia charging Ingersoll-Rand Italiana, SpA, with conspiracy to commit wire fraud and to violate the books and records provisions of the FCPA. The information alleges a similar kickback scheme as well as the facilitation of travel for Iraqi officials for the same purpose.

Ingersoll-Rand entered into a 3-year deferred prosecution agreement with the DOJ on October 31, 2007, on behalf of itself and these subsidiaries. Ingersoll-Rand agreed to pay a monetary penalty of \$2.5 million, accept responsibility for the alleged misconduct, continue to cooperate with the DOJ, adopt an FCPA compliance program as well as a set of internal controls designed to prevent future violations, and retain an independent compliance expert for a period of three years. Ingersoll-Rand also consented to the entry of a final judgment with the SEC, agreeing to a cease and desist order and to pay disgorgement of profits of \$1,710,034 plus prejudgment interest of \$560,953, and a further civil penalty of \$1,950,000, and to retain a compliance monitor.

Key Facts

Citation. *United States v. Ingersoll-Rand Co. Ltd.*, No. 1:07-cr-00294 (D.D.C. 2007); *United States v. Ingersoll-Rand Italiana SpA*, No. 1:07-cr-00294 (D.D.C. 2007); *United States v. Thermo King Ir. Ltd.*, No. 1:07-cr-00296 (D.D.C. 2007).

Date Filed. October 31, 2007.

Country. Iraq.

Date of Conduct. 2000 – 2003.

Amount of the Value. Approximately \$850,000 in kickbacks to the Iraqi government.

Amount of Business Related to the Payment. \$2.27 million in profits.

Intermediary. Agent/Distributor.

Foreign Official. Unspecified Iraqi Officials.

FCPA Statutory Provision.

- **Ingersoll-Rand Co.** None.
- **Ingersoll-Rand Italiana.** Conspiracy (Books-and-Records).
- **Thermo King Ireland.** None.

Other Statutory Provision.

- **Ingersoll-Rand Co.** None.
- **Ingersoll-Rand Italiana.** Conspiracy (Wire Fraud).
- **Thermo King Ireland.** Conspiracy (Wire Fraud).

Disposition.

- **Ingersoll-Rand Co.** Deferred Prosecution Agreement.
- **Ingersoll-Rand Italiana.** Deferred Prosecution Agreement.
- **Thermo King Ireland.** Deferred Prosecution Agreement.

Defendant Jurisdictional Basis.

- **Ingersoll-Rand Co.** Issuer.
- **Ingersoll-Rand Italiana.** Conspiracy; Agent of Issuer.
- **Thermo King Ireland.** Conspiracy; Agent

of Issuer.

Defendant's Citizenship.

- **Ingersoll-Rand Co.** United States/Bermuda.
- **Ingersoll-Rand Italiana.** Italy.
- **Thermo King Ireland.** Ireland.

Total Sanction. \$2,500,000.

Compliance Monitor/Reporting Requirements.
None.

Related Enforcement Actions. *SEC v. Ingersoll-Rand Co. Ltd.*

Total Combined Sanction. \$6,720,987.