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Justice Department Agrees to Defer Prosecution of York International Corporation in Connection With Payment of Kickbacks Under the U.N. Oil For Food Program

WASHINGTON – As part of the Justice Department's ongoing investigation into activity involving the United Nations Oil for Food program, the Department has agreed to defer the prosecution of York International Corporation, headquartered in York, Pa., for three years, Assistant Attorney General Alice S. Fisher of the Criminal Division announced today. The agreement calls for York to pay a \$10 million penalty, and have its compliance program and procedures reviewed by an independent monitor.

According to the deferred prosecution agreement and a criminal information filed today in U.S. District Court for the District of Columbia, York has acknowledged responsibility for the actions of two of its subsidiaries, York Air Conditioning and Refrigeration (YACR) and York Air Conditioning and Refrigeration FZE (FZE), whose employees and agents paid kickbacks to the Iraqi government in order to obtain contracts with Iraqi ministries to provide air-conditioning, ventilation and refrigeration equipment and services, and paid kickbacks and bribes in connection with other government contract work in Bahrain, Egypt, India, Turkey and the United Arab Emirates. The criminal information charges York with conspiracy to commit wire fraud and to violate the books and records provision of the Foreign Corrupt Practices Act. The deferred prosecution agreement requires the company to cooperate fully with the Justice Department's ongoing Oil for Food investigations.

In a related matter, York reached a settlement today with the Securities and Exchange Commission (SEC) under which it consented to the filing of a complaint and agreed to pay \$2 million in civil penalties and approximately \$10 million in disgorgement of profits, including pre-judgment interest, in connection with contracts for which its subsidiaries paid kickbacks to the Iraqi government and to employees of government customers and contractors of government customers in other countries.

The Justice Department has agreed to defer prosecution of the charges against York and its subsidiaries for three years, in recognition of York's early discovery and reporting of the kickback payments, its thorough review of those payments, as well as its discovery and review of improper payments made in other countries, the company's implementation of enhanced compliance policies and procedures, and the company's willingness to have its compliance program and procedures reviewed by an independent monitor for three years. The Justice Department will not bring charges in connection with this conduct if York abides by the terms of the deferred prosecution agreement.

The Oil for Food program was established by the United Nations to enable Iraq to sell its oil for humanitarian purposes, in the context of an extensive international sanctions regime. The program mandated that the proceeds of oil sales be deposited in a U.N. bank account and that those proceeds be used by the Iraqi government only to purchase humanitarian goods and services, such as food and medicine, approved by the United Nations. Beginning in 2000, the Iraqi government began requiring companies wishing to sell humanitarian goods to government ministries to pay a kickback, often mischaracterized as an "after sales services fee," to the government in order to be granted a contract. The amount of that fee was usually 10 percent of the contract price. Such payments were not permitted under the Oil for Food program or other sanction regimes then in place.

According to the criminal information filed today, between November 2000 and March 2003, employees of York's subsidiaries YACR and FZE paid a total of approximately \$647,000 in kickbacks to the Iraqi government by inflating the price of contracts by 10 percent before submitting the contracts to the United Nations for approval, and concealing from the United Nations the fact that the prices contained a kickback to the Iraqi government.

York's investigation of its illicit payments in Iraq also led the company to discover that from 1999 through 2005, YACR and FZE made and authorized hundreds of kickbacks and bribes to employees of government customers and

contractors of government customers in order to obtain and retain contracts on governmental projects in Bahrain, Egypt, India, Turkey and UAE.

The Justice Department's investigation of York, and of other humanitarian goods suppliers involved with the Oil for Food Program, is being conducted by the Fraud Section of the Criminal Division and the Federal Bureau of Investigation. This case is being prosecuted by Deputy Chief Mark F. Mendelsohn, Assistant Chiefs William B. Jacobson and Robertson Park and Trial Attorney Hank Walther. Significant assistance was provided by the Enforcement Division of the SEC.

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