

The Swiss Office of Attorney General confirms the absence of any bribery system at Alstom. It fines the company for “corporate negligence” in three isolated cases

On 22 November 2011, the Swiss Office of Attorney General closed the investigations which it has pursued to determine whether the Alstom Group and some of its entities had not violated rules prohibiting the payment of foreign civil servants to unlawfully win commercial contracts.

These investigations were opened in October 2007. They led the Swiss federal prosecutors to examine several hundred contracts signed by the company with commercial agents and consultants. The investigated contracts covered the period commencing in the 1990s up to the present time.

As other companies providing capital goods, Alstom may use commercial or technical partners in certain projects which support its own teams for responding to complex calls for tender. Such a use of business partners is legal, as stressed by the Office of Attorney General, under the condition that payments correspond to actual services and do not contribute to illicit activities led by these partners.

Alstom notes with satisfaction that, after thorough investigations, the Office of Attorney General has concluded the absence of any system or so called slush funds used for bribery of civil servants to illegally obtain contracts. The Office underlines, on the contrary, that the company “*introduced progressively, and continually adapted and improved*” internal processes and organisation to prevent infringements of the strict rules of compliance set up by the group, including the decision taken in 2000 to centralise the management of commercial agents’ contracts to ensure a more comprehensive control. It notes “*considerable efforts to observe the applicable rules*” were undertaken by Alstom. In its conclusions, the Office mentions that the process set up to control the relationship with commercial agents was considered as best in class in a certification granted in 2009 by the independent agency ETHIC Intelligence, after an audit conducted by the Swiss company SGS. This certification has been renewed in 2011. In addition, the whole Integrity Programme of the company has been certified as well in 2011, a first for a French CAC40 listed company.

While recognizing Alstom’s efforts over a ten year period to protect the company from any breach of rules of the international trade, the Office of Attorney General has however noted

that, during a certain period, the efforts undertaken were insufficient, as it identified three cases in which it concludes that improper payments were made to civil servants in Latvia, Malaysia and Tunisia. In two out of these three cases, Alstom itself would appear to be a victim of the actions of some of its employees, who would have benefited from kickbacks, "*enriching themselves at the expense of the company.*" In the third one, Alstom was simply a subcontractor of a consortium.

The Office of Attorney General has therefore sanctioned the company for "corporate negligence" in the three abovementioned cases, imposing a fine of CHF 2.5 million (around €2 million), to which is added the payment of an amount corresponding to the estimated profits of the order of CHF 36 million (around €29 million).

Regarding any potential additional proceedings, the Office of Attorney General has issued a dismissal order acquitting the Alstom group and its entities of any additional wrongdoing, fully closing its investigations.

Since the onset of the case, Alstom has constantly stated that the company had never organised, authorised or allowed any act of bribery or any breach of the rules and current laws. Considering the conclusions of the investigations and the clearly demonstrated absence of any bribery system, Alstom has decided not to challenge the decision of the Office of Attorney General.

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