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How slush funds, 'success payments' and lavish hospitality landed Airbus with a 3.6bn euro fine

Given the unprecedented level of corruption, the plane maker is fortunate to escape with a fine rather than a conviction

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It was no joke when Airbus contacted the Serious Fraud Office on April Fool's Day in 2016. The pan-European plane-maker's lawyers told the regulator issues had been identified that needed to be discussed.

Five days later the two parties met in London. It was the first such meeting in a process that would take four years and involve hundreds of lawyers trawling through more than 30 million documents such as contracts, bank documents, emails, and transcripts of employee interviews.

Unprecedented in scale, the investigation unearthed a global web of corruption and bribery reaching the highest levels of the aerospace giant.

It resulted in Airbus paying a record-breaking 3.6bn euro fine in a deferred prosecution agreement (DPA) that ended investigations by the SFO, its French counterpart the PNF, and the US Justice and State departments.

How that initial contact with the SFO came about goes back to 2015. "Statements of facts" detailing the investigation reveal that state-backed UK Export Finance raised concerns about an Airbus sale to Sri Lanka which it was underwriting.

The company's anti-bribery policies had come under scrutiny, with concerns about its use of "business partners" – or middlemen – to facilitate deals.

Airbus gave a fuller report to UK Export Finance in March 2016 covering the concerns, on the understanding its findings “could not be shared with other relevant UK agencies”. However, UKEF said it was obliged to report corruption suspicions.

Officials at the export finance agency unearthed efforts to win multi-billion dollar sales of jet fighters, military cargo planes and even satellites, through bribes, political donations, fake invoices, loans never intended to be repaid, and lavish hospitality.

Airbus military cargo plane

Military cargo planes are among the products Airbus is accused of using bribes to sell CREDIT: Airbus

Central to the corruption was Airbus’s Sales and Marketing Organisation (SMO), and its SMI International (SMOI) division.

With a $300m annual budget, SMOI was tasked with business development and responsible for agreements with and payments to business partners.

It operated from 2008 until October 2014, when an internal audit found “significant breaches of compliance policies” and concluded the “majority” of its projects “performed poorly”. As a result, all payments made to business partners and related projects were frozen – a halt soon extended company-wide.

Tip of the iceberg

Unravelling SMOI’s actions involved examining relationships with 1,750 business partners. Of these 110 raised bribery suspicions, with Airbus eventually agreeing a settlement covering more than a dozen charges of bribery and international arms trafficking violations.

“The cases the DPA resolves were the ones where the evidence met the standard of proof,” says one legal source. “In the others there where red flags, but the evidence was not sufficient.”

Examining the evidence was described as being a "mini-United Nations" with simultaneous translation of documents and witness interviews as lawyers around the world looked for wrongdoing.

Airbus's co-operation was wide-ranging and key in getting a DPA rather than being prosecuted for what Judge Dame Victoria Sharp, president of the Queen's Bench, described as criminality that was "grave, endemic and pernicious".

"This was a lawyer-led prosecution," says one source. "They weren't replacing the SFO, but bringing in private sector resources and expertise to help. That meant it took four years, not the 10 years the public sector would have alone."

Exposed in legal documents, some SMOI activities look amateurish. In one case involving the sale of military transports to Ghana, the company used a middleman who was a UK national of Ghanaian descent and who had re-established contact with family in his native country. He was also a close relative of a government official in the African nation.

The middleman had no prior aerospace experience, and a CV he gave Airbus listed previous jobs including "events manager for a local authority" and "director of a football merchandising company". Working with him were two former UK television actors.

Despite this, Airbus offered them up to 5m euro in "success payments" if the sales were landed, with the money "intended to induce or reward improper favour by the Ghanaian official towards Airbus".

When Airbus's own due diligence report raised concerns about the middleman's relationship with the official, Airbus staff argued about how he would have to find "another reliable company" to funnel cash through to hide the links.

What's in a name?

In a sale of jets to Sri Lankan Airlines, Airbus used an intermediary who was wife of one of the airline's executives. She had no aerospace expertise but was offered $17m to influence the sale through her Brunei-registered straw company. This was despite Airbus's own compliance staff raising concerns.

UK Export Finance was suspicious, questioning her lack of aerospace experience and why she was being paid outside Sri Lanka.

UKEF was also misled about her name and sex, with Airbus trying to clear this up with a report identifying her as both "he" and "she".

When UKEF asked if the business partner was the wife of the executive, Airbus said she was not and had no airline connection, adding it was a "homonymy but certainly not the same person".

Soon after emails between Airbus staff described the truth as "most unfortunate", adding: "We know the truth I suspect, but is that what we are intending to inform UKEF?".

Soon after, UKEF questioned the middleman's identity and Airbus withdrew its application for the export agency to underwrite the deal.

Child labour

To win sales to Taiwanese airline TNA, Airbus employed as middlemen children of executives at companies that controlled TNA, funnelling almost $15m in payments their way.

Coded emails tried to disguise payments by referring to them as medical dosages and times the "prescription" should be administered to "the patient" by "Dr Brown". Airbus staff used aliases for the beneficiaries of the payments, including "Van Gogh" and "Fu Fu".

"It's not sophisticated once found," said an insider familiar with the investigation. "It was in plain sight then – what innocent explanation could there be for such a code? But it's not apparent until it's found in the first place."

Other inducements were more blatant. A slush fund was set up to influence Chinese airline and government officials. Its activities included entertainment for them at home and abroad, including all-expenses-paid events at ski resort Park City in Utah, and trips to Hawaii where golf, scuba-diving and surfing lessons were the main attractions, with only a daily 30-minute business presentation before heading for the tee or beach.

To influence a deal for the sale of Eurofighters in which Airbus had a stake, the company offered political donations and fees, as well as helping fund an airshow.

For the Taiwan deal, Airbus's internal spreadsheets refer to a commitment to pay up to $45m to an intermediary, with the $15m used to invest in an African mine to mask payments.

Airbus also bought a $10m stake in a company owned by the son of a Korean Air executive, and donated to Korean and US academic institutions in which the executive had an interest.

Too big to prosecute

With such global criminality, it may seem surprising Airbus avoided a conviction that could bar it from contracts in many nations and was instead able to settle.

However, in her judgement, Dame Victoria flagged the consequences that a criminal prosecution could have on a company that has some 130,000 staff, a massive global supply chain and customers who depend on its products.

"The effects of a prosecution on Airbus and the collateral effects on thousands of innocent third parties would be disproportionate, notwithstanding the egregious nature of the conduct engaged in," the judge said.

Her judgement referred to a study that suggested the UK, US, German, French and Spanish economies could take a combined €500bn hit to GDP if Airbus were barred from tendering for public contacts as a result of conviction. This graphic shows the size of the company's UK footprint alone.

Despite the record fine, to many, the DPA might indicate that Airbus was just too big to prosecute.