

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA)	
)	
v.)	
)	
CNH ITALIA, S.p.A.)	Crim. No. 08-0378 (RJL)
)	
Defendants.)	
)	

**GOVERNMENT’S MOTION TO
DISMISS CRIMINAL INFORMATIONS**

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure, the United States of America, by and through its undersigned counsel, hereby moves to dismiss the criminal information filed in the above-captioned cases against defendants Iveco S.p.A, (“Iveco”), CNH Italia, S.p.A. (“CNH Italia”), and CNH France S.A (“CNH France”) (collectively “Defendants”). In support of this motion, the government states as follows:

1. On or about December 22, 2008, the United States filed an information charging Iveco with conspiracy to commit wire fraud and to violate the books and records provisions of the Foreign Corrupt Practices Act (“FCPA”), in violation of Title 18, United States Code, Section 371. Crim. No. 08cr377. Dkt. Entry No. 1.

2. On or about December 22, 2008, the United States filed an information charging CNH Italia with conspiracy to commit wire fraud and to violate the books and records provisions of FCPA, in violation of Title 18, United States Code, Section 371. Crim. No. 08cr378. Dkt. Entry No. 1.

3. On or about December 22, 2008, the United States filed an information charging Iveco with conspiracy to commit wire fraud and to violate the books and records provisions of the FCPA, in violation of Title 18, United States Code, Section 371. Crim. No. 08cr379. Dkt. Entry No. 1.

4. On the same date, the United States and Fiat S.p.A, on behalf of its subsidiaries Iveco, CNH Italia and CNH France (collectively “the defendants”), entered into a three-year deferred prosecution agreement (“DPA”), which was filed with the Court on the same date. *See* Attachment 1 to Dkt. Entry. No. 1 for Crim. Nos. 08cr377, 08cr378 and 08cr379. The DPA required, among other things, that Fiat acknowledge responsibility for the actions of its three subsidiaries, Iveco, CNH Italia and CNH France, whose employees and agents made improper payments to the former Iraqi government in order to obtain contracts with Iraqi ministries to provide industrial pumps, gears and other equipment in order to obtain contracts with Iraqi ministries during the United Nations Oil-for-Food Program. DPA ¶ 4 and App. A (Statement of Facts). As part of the DPA, defendants also agreed, among other things, to pay a \$7 million penalty; continue to cooperate with the United States; and adhere to certain compliance undertakings. DPA ¶¶ 5, 7 and 8.

5. Fiat paid the \$7 million penalty on or about January 2, 2009. Defendants have also fully met their obligation of cooperating with the United States. In addition, Defendants have represented to the United States that it has adhered to its compliance undertakings by, among other things, developing and implementing a new ethics and compliance program, including implementing amendments to its anti-corruption program. Remedial measures and internal control improvements included enhanced policies and a revised code of conduct directed to prohibiting corruption; notice to and additional and more frequent training for

employees, intermediaries, contractors, joint venture partners, subcontractors, and consultants on the enhanced anticorruption policies and procedures; additional staffing and resources dedicated to coordinating and overseeing the implementation of the anticorruption program; deployment of a whistle blowing program; and improved due diligence and review processes for agreements with agents, consultants, advisors and others, including an express clause related to anticorruption.

6. Pursuant to the DPA, if Defendants fully complied with all of their obligations under the DPA, the United States would not continue the criminal prosecution against Defendants and would move to dismiss the criminal informations. *See* DPA ¶ 10.

7. Given that Defendants have paid the \$7 million penalty, fully cooperated with the United States, met its compliance obligations and has not otherwise breached the DPA, the United States believes that dismissal is appropriate under the circumstances and is called for by the DPA.

WHEREFORE, pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure and by leave of Court endorsed hereon, the United States hereby moves to dismiss with prejudice the criminal informations filed in the instant cases. A proposed order is submitted herewith.

Respectfully submitted,

DENIS J. McINERNEY
CHIEF, FRAUD SECTION
Criminal Division
United States Department of Justice

DATED: March 5, 2012
Washington, D.C.

By: /s/ Nathaniel B. Edmonds
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CERTIFICATE OF SERVICE

I certify that March 5, 2012, I served a copy of the foregoing motion using electronic mail and the CM/ECF system on the following:

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Nathaniel B. Edmonds

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ORDER

Upon the unopposed motion of the United States dated March 5, 2012, pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure, to dismiss the informations in these cases, and the Court having fully considered the motion, it is hereby

ORDERED that the Government's motion is granted and the criminal informations in the above-captioned cases are hereby dismissed with prejudice.

DONE AND ORDERED in chambers in Washington, D.C., on _____, 2012.

HON. RICHARD J. LEON
United States District Judge

cc: United States Marshals Service
Chief Probation Officer

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