UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	**CRIMINAL NO. ____________________**
Plaintiff,	**VIOLATION: 18 U.S.C. § 371**
v.	
AGCO LIMITED,	
Defendant.	

INFORMATION

The United States Department of Justice, Criminal Division, Fraud Section, charges that at all times material to this Information (unless otherwise specified):

GENERAL ALLEGATIONS

1. AGCO Corporation was headquartered in Duluth, Georgia, and was a manufacturer and supplier of agricultural machinery and equipment. AGCO was publicly traded on the New York Stock Exchange. AGCO issued and maintained a class of publicly-traded securities registered pursuant to Section 12(b) of the Securities Exchange Act of 1934, 15 U.S.C. § 78l, and was required to file periodic reports with the United States Securities and Exchange Commission under Section 13 of the Securities Exchange Act, 15 U.S.C. § 78m. Accordingly, AGCO was an "issuer" within the meaning of the Foreign Corrupt Practices Act ("FCPA"), 15 U.S.C. § 78dd-1(a). By virtue of its status as an issuer within the meaning of the FCPA, AGCO was required to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflected the transactions and disposition of assets of AGCO and its subsidiaries, including those of AGCO LIMITED, AGCO Danmark A/S ("AGCO Denmark"),

and AGCO S.A. (collectively referred to as the "AGCO Subsidiaries"), the books, records and accounts of which were incorporated into the books, records, and accounts of AGCO.

2. AGCO LIMITED ("AGCO LTD."), a wholly-owned subsidiary of AGCO, was a British corporation, headquartered in Coventry, England. AGCO LTD. was responsible for AGCO's business operations in Europe, Africa, and the Middle East. During the Oil-for-Food Program, AGCO LTD. marketed, directed, and assisted in the negotiations and sales of equipment to Iraq through AGCO S.A. and AGCO Denmark.

3. AGCO S.A., a wholly-owned subsidiary of AGCO, was a French corporation, headquartered in Beauvais, France. AGCO S.A. sold agricultural equipment and parts to Iraq during the Oil-for-Food Program at the direction and with the assistance of employees of AGCO LTD.

4. AGCO Denmark, a wholly-owned subsidiary of AGCO, was a Danish company based in Copenhagen, Denmark. AGCO Denmark sold agricultural equipment and parts to Iraq during the Oil-for-Food Program at the direction and with the assistance of employees of AGCO LTD.

5. Employee A, a British citizen, was employed by AGCO LTD. as its Business Manager for the Middle East region.

6. Employee B, a British citizen, was employed by AGCO LTD. as the Sales Director for the Middle East region.

7. Employee C, a British citizen, was employed by AGCO LTD. as the Business Manager for spare parts.

8. Employee D, a British citizen, was employed by AGCO LTD. as the Director of Exports and Business Development.

9. Employee E, a Danish citizen, was employed by AGCO Denmark as Sales and Service Manager.

10. Agent Y was a Jordanian citizen and owner of a Jordanian company that acted as an agent and distributor for AGCO LTD. in connection with sales made through the Oil-for-Food Program.

The United Nations Oil-For-Food Program

11. On or about August 6, 1990, days after the Republic of Iraq's invasion of Kuwait, the United Nations ("U.N.") adopted Security Council Resolution 661, which prohibited U.N. member-states from transacting business with Iraq, except for the purchase and sale of humanitarian supplies. Resolution 661 prohibited virtually all direct financial transactions with the government of Iraq.

12. On or about April 15, 1995, the U.N. adopted Security Council Resolution 986, which served as a limited exception to the Iraq sanctions regime in that it allowed Iraq to sell its oil. However, Resolution 986 required the proceeds from oil sales be used by the Iraqi government to purchase humanitarian supplies, including but not limited to food, for the Iraqi people. Hence, this program became known as the Oil-for-Food Program ("OFFP"). Payments made to the Iraqi government which were not approved by the U.N. and which were outside the strict contours of the OFFP were prohibited.

13. The rules of the OFFP required that the proceeds of all sales of Iraqi oil be deposited into a U.N.-controlled escrow account at the New York branch of Banque Nationale de Paris ("BNP-Paribas"). That escrow account funded the purchase of humanitarian goods by the Iraqi government.

14. Under the rules of the OFFP, a supplier of humanitarian goods contracted with a ministry or other department of the Iraqi government to sell goods to the government. Once that contract was finalized, the contract was submitted to a U.N. Committee ("the 661 Committee") which reviewed the contracts to ensure that their terms complied with all U.N. OFFP and Iraqi sanction regulations. The 661 Committee accepted the contracts, rejected them or asked the supplier to provide additional information upon which the committee could make a decision.

15. If a contract was approved by the 661 Committee, a letter of credit was issued by BNP-Paribas to the supplier's bank stating that the supplier would be paid by the OFFP for the relevant goods once certain conditions were met, including delivery of the goods to Iraq and inspection of the goods by a U.N. contractor. Once those conditions were deemed by the U.N. to have been met, the U.N. would direct BNP-Paribas to release payment to the supplier.

16. On or about December 10, 1996, the first Iraqi oil exports under the U.N. OFFP began. The OFFP continued from in or about December 1996 until the United States invasion of Iraq on or about March 19, 2003. From in or about December 1996 through March 2003, the United States government prohibited United States companies and individuals from engaging in transactions with the government of Iraq, unless such transactions were authorized by the U.N. pursuant to the OFFP.

17. Beginning in approximately August 2000, the Iraqi government demanded that the suppliers of humanitarian goods pay a kickback, usually valued at 10% of the contract price, to the Iraqi government in order to be awarded a contract by the government. These kickbacks violated U.N. OFFP regulations and U.N. sanctions which prohibited payments to the Iraqi government which were not expressly approved by the U.N. and which were not contemplated by the guidelines of the OFFP.

18. Often, these kickbacks were termed "after sales service fees" ("ASSFs"), but did not represent any actual service being performed by the supplier. These ASSFs were usually included in the contract price submitted by the supplier to the U.N. without the U.N. knowing that the contract contained an extra 10% which would be returned to the Iraqi government. Including the 10% in the contract price allowed the supplier to avoid paying the 10% out of its profits; instead, the suppliers caused the U.N., unknowingly, to fund the kickbacks to the Iraqi government.

19. Some suppliers labeled the ASSFs as such, thereby leading the U.N. to believe that actual after-sales services were being provided by the supplier. Other suppliers disguised the ASSFs by inserting fictitious line items into the contracts for goods or services that were not being provided. Still other suppliers simply inflated their contract prices by 10% to account for the payments they would make, or cause to be made, to the Iraqi government.

20. Prior to the Oil-for-Food Program, AGCO's predecessor, Massey-Ferguson, sold vehicles, equipment, and parts in Iraq; however, after AGCO purchased Massey-Ferguson in 1994, AGCO's sales decreased due, in part, to the political instability in the region. Upon the creation of the Oil-for-Food Program, AGCO attempted to increase its business operations in Iraq. To assist with the marketing and sales within Iraq, AGCO Ltd. hired Agent Y.

21. AGCO Ltd. compensated Agent Y through the payment of commission fees, including: (a) a flat rate commission; (b) a variable commission based upon the value of the sales contract; and (c) an "After Sales" commission. The "After Sales" commission was intended to be used by Agent Y to support AGCO's equipment, by providing training to service personnel and providing repair and operator instructions on AGCO's equipment.

22. Agent Y's total commission payments, combined, were generally between 3 and 7 percent of the total contract price.

The AGCO Subsidiaries' Kickback Scheme

23. From approximately 1997 to 2003, the AGCO Subsidiaries participated in the Oil-for-Food Program.

24. From in or about 2000 to March 2003, the Iraqi Ministry of Agriculture awarded the AGCO Subsidiaries sixteen (16) Oil-for-Food Program contracts for agricultural equipment and farm machinery. To obtain three of these contracts, the AGCO Subsidiaries paid kickbacks to the government of Iraq through Agent Y. Specifically, between early 2001 and June 2002, AGCO and the AGCO Subsidiaries caused Agent Y to pay the Iraqi government approximately $553,173 in kickbacks in connection with contracts 800948, 801388, and 1100173.

25. In order to generate the funds to pay the kickbacks to the Iraqi government, and to conceal the payments, the AGCO Subsidiaries secretly inflated the price of the contracts from 13 to 21 percent per contract before submitting them to the U.N. for approval. When the contracts were submitted to the U.N. for approval, AGCO and the AGCO Subsidiaries failed to disclose that they were paying kickbacks to the Iraqi government in direct contravention of the Oil-for-Food Program regulations.

26. After the U.N. approved the contracts, BNP-Paribas issued letters of credit, via international wire communication, to the bank used by the AGCO Subsidiaries, in the amount of the contract price. These letters of credit authorized the AGCO Subsidiaries to be paid the amounts specified in the contracts, which included the kickbacks to be paid to the Iraqi government.

27. In order to pay the kickbacks, the AGCO Subsidiaries increased the payments to Agent Y. Agent Y, in turn, used the excess funds to pay the kickbacks to the Iraqi government on behalf of the AGCO Subsidiaries.

COUNT ONE
(Conspiracy)

THE CONSPIRACY AND ITS OBJECTS

28. Paragraphs 1 through 27 of this Information are re-alleged and incorporated by reference as if set out in full.

29. From in or about October 2000 through March 2003, within the territory of the United States and elsewhere, **AGCO LTD.** did unlawfully and knowingly agree, combine and conspire together and with AGCO, AGCO Denmark, AGCO S.A., Employees A, B, C, D, and E, and Agent Y, and others known and unknown, to commit the following offenses against the United States:

a. to knowingly devise, and intend to devise a scheme and artifice to defraud the U.N. and the Oil-for-Food Program, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, through the use of interstate and foreign wire communications, in violation of Title 18, United States Code, Section 1343; and

b. to knowingly falsify and cause to be falsified books, records, and accounts, which, in reasonable detail, accurately and fairly reflected the transactions and dispositions of the assets of AGCO, an issuer within the meaning of the FCPA, contrary to Title 15, United States Code, Sections 78m(b)(2)(A), 78m(b)(5) and 78ff(a).

PURPOSE OF THE CONSPIRACY

30. The primary purpose of the conspiracy was to obtain lucrative business opportunities from the Iraqi government by paying unlawful kickbacks to the Iraqi government in exchange for being awarded contracts for the purchase of AGCO agricultural machinery and equipment.

MANNER AND MEANS OF THE CONSPIRACY

31. To achieve the objects of the conspiracy, AGCO LTD. and others used the following manner and means, among others:

a. It was part of the conspiracy that AGCO LTD. agreed to cause kickbacks to be paid to the government of Iraq in exchange for being awarded contracts by the government.

b. It was a further part of the conspiracy that AGCO LTD. inflated the prices of contracts submitted to the U.N. for approval under the OFFP between 13 and 21 percent, without notifying the U.N. of this price inflation, in order to generate the money that would be paid to the government of Iraq and to conceal from the U.N. the fact that kickbacks would be paid to the government.

c. It was a further part of the conspiracy that AGCO LTD. increased the amount of money it paid to its agent so that Agent Y would pass on the extra money to the Iraqi government.

d. It was a further part of the conspiracy that AGCO LTD. caused the transmittal of international wire communications, to and from the United States, to provide notice to the U.N. that AGCO goods had been shipped to, and inspected in, Iraq and to transmit notice to AGCO Denmark's bank in Copenhagen and AGCO S.A.'s bank in Paris that the U.N. was authorizing payments pursuant to the contracts.

e. It was further part of the conspiracy that AGCO LTD. falsely described the kickbacks paid to the Iraqi government in its corporate books and records as "Ministry Accruals" it paid to its agent in Iraq.

OVERT ACTS

32. In furtherance of the conspiracy and to accomplish its unlawful objects, the following acts, among others, were committed within the territory of the United States and elsewhere:

Contract 800948

a. On or about October 14, 2000, Employee A, an employee of AGCO LTD., executed a contract on behalf of AGCO S.A., referenced by the U.N. as Contract 800948. The contract was for the sale of tractors and related spare parts. The contract was for €2,183,328, including an extra 14.05 percent to be used to pay a kickback to the Iraqi government.

b. On or about February 5, 2001, BNP-Paribas issued a letter of credit, via international wire communication, to BNP-Paribas, located in Paris, France, the bank used by AGCO S.A. This letter of credit authorized AGCO to be paid the amount in Contract 800948, which included the kickback to be paid to the Iraqi government.

c. On or about April 12, 2001, AGCO caused its products purchased pursuant to Contract 800948 to be delivered to Iraq, prompting a company based in Geneva, Switzerland, that provided commercial inspection services on behalf of the U.N. in Iraq (the "inspection company") to send a facsimile from Iraq to the U.N. in New York notifying the U.N. that the products had been received and inspected upon entry into Iraq. This notification, in turn, triggered payment by the U.N. to AGCO for Contract 800948.

d. On our about June 2, 2001, Agent Y sent an email to Employee A providing a break down of the costs associated with the contract, noting that Contract 800948 included an "extra commission which you know" is a "third party expense" and the money is to be paid to the "Ministry."

Contract 801388

e. On or about October 30, 2000, Employee A, an employee of AGCO LTD., executed a contract on behalf of AGCO S.A., referenced by the U.N. as Contract 801388. The contract was for the sale of tractors and related spare parts. The contract was for €10,933,000, including an extra 21 percent to be used to pay a kickback to the Iraqi government.

f. On or about December 7, 2000, Employee C sent an email to Employee A about Contracts 801388 and 800948, noting "as these contracts were negotiated and signed by your good self in Baghdad…you would of course have a better understanding of the commercials of these contracts, ie you mention [sic] up to 30% kick backs to the ministry etc."

g. This email was forwarded on or about the same day to Employees B and D.

h. On or about February 16, 2001, BNP-Paribas, located in New York, issued a letter of credit, via international wire communication, to BNP-Paribas, located in Paris, France. This letter of credit authorized AGCO to be paid the amount in Contract 801388, which included the kickback to be paid to the Iraqi government.

i. Between on or about April 5, 2001, and June 30, 2001, AGCO caused its products purchased pursuant to Contract 801388 to be delivered to Iraq, prompting the inspection company to send a facsimile from Iraq to the U.N. in New York notifying the U.N. that the products had been received and inspected upon entry into Iraq. This notification, in turn, triggered payment by the U.N. to AGCO for Contract 801388.

Contracts 1100173

j. On or about August 18, 2001, Employee E, on behalf of AGCO Denmark, but at the direction of AGCO LTD., executed one contract, referenced by the U.N. as Contract 1100173. The contract was for the sale of a tractor and related spare parts. The contract was for €4,783,646 which included an extra 13.47 percent to be used to pay a kickback to the Iraqi government.

k. On or about April 10, 2002, BNP-Paribas issued a letter of credit, via international wire communication, to Danske Bank A/S Copenhagen, the bank used by AGCO. This letter of credit authorized AGCO Denmark to be paid the amount in Contract 1100173, which included the kickback to be paid to the Iraqi government.

l. Between on or about June 7, 2002, and June 14, 2002, AGCO caused its products purchased pursuant to Contract 1100173 to be delivered to Iraq, prompting the inspection company to send a facsimile from Iraq to the U.N. in New York notifying the U.N. that the products had been received and inspected upon entry into Iraq. This notification, in turn, triggered payment by the U.N. to AGCO for Contract 1100173.

Books and Records

m. From in or about 2001 through in or about 2003, Employees A and B, AGCO LTD., and others, mischaracterized AGCO LTD.'s payments of kickbacks to the Iraqi government through Agent Y on its books and records. The payments were described as "Ministry Accruals" to Agent Y when, in truth and in fact, AGCO LTD. was aware that a portion of the money it had paid to Agent Y was being paid as kickbacks to the Iraqi government in exchange for being awarded contracts with the Iraqi government.

n. At the end of AGCO LTD.'s fiscal years 2001, 2002, and 2003, the books, records, and accounts of AGCO LTD., including those containing false characterizations of the payments to the Iraqi government, were incorporated into the books, records and accounts of AGCO for purposes of preparing AGCO's year-end financial statements.

(All in violation of Title 18 U.S.C. § 371).

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