

**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,
Plaintiff,

v.

FIAT S.p.A., FIAT ACQUISITION
CORPORATION, NEW HOLLAND N.V., NEW
HOLLAND NORTH AMERICA, INC., and CASE
CORPORATION,
Defendants.

CASE NUMBER 1: 99CV0297

JUDGE: James Robertson

DECK TYPE: Antitrust

DATE STAMP: 11/04/1999

HOLD SEPARATE STIPULATION AND ORDER

It is hereby stipulated by and between the undersigned parties, by their respective attorneys
that:

I. DEFINITIONS

As used in this Hold Separate Stipulation and Order:

A. “Fiat” means defendant Fiat S.p.A, an Italian corporation with its headquarters in Turin, Italy, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents, and employees.

B. “Case” means Case Corporation, a Delaware corporation with its headquarters in Racine, Wisconsin, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents, and employees.

C. “HFI” means Hay and Forage Industries, the hay and forage equipment manufacturing joint venture between Case and AGCO Corporation (“AGCO”) whose plant is located in Hesston, Kansas.

D. “Hold Separate Assets” means the assets required to be divested under the proposed Final Judgment, as defined in Section II.J of the proposed Final Judgment.

II. OBJECTIVES

The proposed Final Judgment filed in this case is meant to ensure Fiat’s prompt divestiture of certain assets to remedy the effects that the United States alleges would otherwise result from Fiat’s proposed acquisition of Case. This Hold Separate Stipulation and Order ensures that, prior to such divestitures, the Hold Separate Assets be maintained and operated as independent, economically viable, ongoing business concerns in the manufacture and sale of tractors and hay and forage equipment until the required divestitures are complete.

III. JURISDICTION AND VENUE

The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the District of Columbia.

IV. COMPLIANCE WITH AND ENTRY OF FINAL JUDGMENT

A. The parties stipulate that a Final Judgment in the form attached hereto may be filed with and entered by the Court, upon the motion of any party or upon the Court’s own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that the United States has not

withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

B. Defendants shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Hold Separate Stipulation and Order by the parties, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an Order of the Court.

C. This Hold Separate Stipulation and Order shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

D. In the event the United States has withdrawn its consent, as provided in Paragraph IV.A above, or if the proposed Final Judgment is not entered pursuant to this Hold Separate Stipulation and Order, or if the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continuing compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Hold Separate Stipulation and Order, and the making of this Hold Separate Stipulation and Order shall be without prejudice to any party in this or any other proceeding.

E. Defendants represent that the divestiture ordered in the proposed Final Judgment can and will be made, and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained therein.

V. HOLD SEPARATE PROVISIONS

Until the divestitures required by the proposed Final Judgment have been accomplished:

A. Fiat shall preserve, maintain, and operate the Hold Separate Assets as viable competitive businesses, with management and direction of research, development, production, sales, and operations of such assets held entirely separate, distinct and apart from those of Fiat. Fiat shall not coordinate with the management of the Hold Separate Assets in its production, marketing or sale of any products with that of any of the Hold Separate Assets that Fiat will own as a result of the acquisition of Case. Within fifteen (15) days of the entering of this Hold Separate Stipulation and Order, Fiat will inform the United States of the steps taken to comply with this provision.

B. Fiat shall not influence or attempt to influence any operational or financial decision of HFI and shall not obtain, directly or indirectly, any information, except information that is clearly necessary for Fiat to comply with federal, state or local laws and regulations or financial information that has been made available to potential purchasers. Fiat or Case Corporation shall cause the Case-appointed members of the HFI Management Committee to resign and shall assign to AGCO Case's right to appoint members of the HFI Management Committee pending the divestiture. If AGCO agrees that the current Case-appointed HFI General Manager continues in his position, Fiat and Case will ensure that he complies with the firewall specified in Section V.D. In the event that the current Case-appointed HFI General Manager resigns his position as HFI General Manager, Fiat or Case shall assign to AGCO Case's right to appoint the HFI General Manager. In addition, Fiat or Case shall immediately vest all unvested pension and other equity rights of the current Case-appointed HFI General Manager and provide that employee all benefits the employee would be entitled to if terminated without cause. Within ten (10) working days of the entering of this Hold Separate Stipulation and Order by the Court, Fiat will inform the United States of the steps taken to comply with this provision.

C. Fiat shall take all steps necessary to ensure that the Hold Separate Assets will be maintained and operated as ongoing, economically viable and active competitors in the development, production and sale of tractors and hay and foraging equipment, that the management of the Hold Separate Assets will not be influenced by Fiat, and that the books, records, competitively sensitive sales, marketing and pricing information, and decision-making associated with the Hold Separate Assets, including the performance and decision-making functions regarding internal research and development, sales and pricing, will be kept separate and apart from the business of Fiat. Fiat's influence over the Hold Separate Assets shall be limited to that necessary to carry out Fiat's obligations under this Hold Separate Stipulation and Order and the proposed Final Judgment.

D. Defendants shall construct and maintain in place a firewall that prevents any information about the Hold Separate Assets, including but not limited to information about AGCO's and defendants' requirements, purchases, or future requirements for tractors and for hay and foraging equipment manufactured by HFI, from flowing to any employee of defendants not involved in the operation of the Hold Separate Assets. To implement this provision, defendants shall identify those employees involved in the operation of the Hold Separate Assets, and all employees not so identified shall be prohibited from receiving any information from or about the Hold Separate Assets, including but not limited to defendants' and AGCO's requirements, purchases, or future requirements for tractors and for hay and foraging equipment from HFI. All identified employees who receive any such information shall be prohibited from passing on such information to employees not so identified.

E. Fiat shall, within ten (10) business days of the filing of the Complaint, submit to the Department of Justice a document setting forth in detail the procedures to effect compliance with

Paragraph D. The Department of Justice shall have the sole discretion to approve the compliance plan and shall notify defendants within three (3) business days whether it approves of or rejects the compliance plan. In the event that the compliance plan is rejected, the reasons for the rejection shall be provided to defendants and defendants shall be given the opportunity to submit, within two (2) business days of receiving the notice of rejection, a revised compliance plan. If the parties cannot agree on a compliance plan within an additional three (3) business days, a plan will be devised by the Department of Justice and implemented by defendants.

F. Fiat shall provide and maintain sufficient working capital to maintain the Hold Separate Assets as viable, ongoing operations, consistent with current business plans.

G. Fiat shall provide and maintain sufficient lines and sources of credit to maintain the Hold Separate Assets as viable, ongoing operations, consistent with current business plans.

H. Fiat shall use all reasonable efforts to maintain and increase the sales of the Hold Separate Assets, including funding at previously approved levels for 1999 for internal research and development, sales, marketing, and support for the Hold Separate Assets.

I. Fiat shall not sell, lease, assign, transfer or otherwise dispose of, or pledge as collateral for loans, assets that may be required to be divested pursuant to the proposed Final Judgment.

J. Except in the ordinary course of business or as is otherwise consistent with this Hold Separate Stipulation and Order, defendants shall not transfer or terminate, or alter, to the detriment of any employee, any current employment or salary agreements for any employee who, on the date of entry of this Hold Separate Stipulation and Order, works for Case or Fiat and whose primary responsibility relates to the Hold Separate Assets.

K. Within ten (10) days of the filing of this Hold Separate Stipulation and Order, defendants shall appoint one or more persons from current management, acceptable to the United States in its sole discretion, who shall have complete managerial responsibility for the Hold Separate Assets, subject to the provisions of this Hold Separate Stipulation and Order and the proposed Final Judgment, until such time as this Hold Separate Stipulation and Order is terminated. In the event that such manager(s) is unable to perform his or her duties, Fiat shall appoint from the current management of the Hold Separate Assets, subject to the approval of the United States in its sole discretion, a replacement within ten (10) working days. Should Fiat fail to initially appoint a manager acceptable to the United States, or fail to appoint any replacement required within ten (10) working days, the United States shall appoint the manager.

L. Fiat shall take no action that would interfere with the ability of any trustee appointed pursuant to the proposed Final Judgment to complete the divestiture pursuant to the proposed Final Judgment to a suitable purchaser.

M. This Hold Separate Order and Stipulation shall remain in effect until the divestitures required by the proposed Final Judgment are complete, or until further Order of the Court.

Dated: November 04, 1999

FOR PLAINTIFF UNITED STATES
OF AMERICA:

_____/s/_____
Joan Farragher, Esquire
U.S. Department of Justice
Antitrust Division
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FOR DEFENDANTS

_____/s/_____
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_____/s/_____
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SO ORDERED:

Dated: _____

United States District Judge