Media Statement:

In the Case of Airbus’ Systemic Bribery

Justice Must be Done and be Seen to be Done

The Airbus Annual General Meeting, taking place today, provides an opportunity for the company to show how it intends to make real amends following allegations of systemic bribery spanning decades and continents. It is also an important moment for enforcement authorities in multiple jurisdictions to consider their responsibilities in ensuring that justice is done.

Corruption Watch is deeply concerned by reports of egregious corruption against Airbus in at least 12 countries, with $689.3 million worth of alleged bribes and commission payments allegedly paid or promised on $33.1 billion worth of contracts, across its defence and aerospace businesses.

Media reports indicate that the SFO (UK), PNF (France) and DOJ (US) are all investigating the alleged wrongdoing. Austrian, Kuwaiti and Sri Lankan authorities are also investigating alleged corruption. We welcome the fact that the SFO and the PNF have set up a joint investigation team in close coordination with the DOJ, as cross-national efforts are required to meaningfully address global malfeasance.

Corruption Watch urges authorities to only take enforcement action against Airbus that ensures justice is done and that the harm caused by any wrongdoing is properly assessed and compensated for. Such action might range from criminal prosecution to settlements. In particular, we exhort enforcement authorities to ensure that:

1. Any enforcement action taken against Airbus fully respects Article 5 of the OECD Convention, namely that national economic interest, the impact of relations with a foreign state, and the identity of the legal person involved will not influence investigation and prosecution of any wrongdoing.
2. Individuals responsible for any malfeasance, including intermediaries, are actively prosecuted irrespective of any settlement that may be reached with the company.
3. No formal or informal immunity from prosecution be given as part of any enforcement action either to individuals or to the company and its subsidiaries for any wrongdoing outside of the terms of any enforcement action.

4. A settlement is only given where there has been total and extensive cooperation including full disclosure of all wrongdoing uncovered by the company and of individuals responsible. Such settlement must take into account how widespread and egregious the conduct has been. In that regard, we encourage prosecutors to consider the full scale of offending including actions outside their jurisdictions when reaching any decision, to ensure that any penalty imposed truly reflects the company’s conduct as a whole.

5. A settlement is only given if the company has committed to full and appropriate remediation as required under the DOJ’s Corporate Enforcement policy, including appropriate discipline of employees, and genuine change of corporate culture in line with the DOJ’s Evaluation Guidance to ensure that any future offending is highly unlikely. Any settlement must include extensive and adequate monitoring of the company and its behaviour to ensure this outcome.

6. Any monetary penalty imposed must make certain that the company is deprived of the full benefit of its wrongdoing.

7. Compensation is given to countries and communities affected by any wrongdoing by Airbus. Such compensation should be based on an in-depth analysis of the full harm of the wrongdoing and not simply on the amount of any bribe payment made. Expert witnesses should be sought where appropriate.

8. Affected countries and communities must be advised of legal avenues available to them to participate in the ongoing investigation, including the right to make representations to the judge responsible for either approving a settlement or hearing a prosecution. They should also be encouraged to seek compensation and/or damages.

9. A comprehensive and publicly available statement of facts should be produced, covering the full range of illegality uncovered by investigators, accompanied by an admission of wrongdoing.

While we have focused on Airbus as it represents a clear example of a global, multijurisdictional investigation into widespread wrongdoing, we believe that these are principles that should apply to all such egregious cases.

For further information and comment please contact:

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1 Following Airbus’ termination of many agency agreements in 2014, some of these commissions were not paid, leading to multiple suits by agents against Airbus.