

# Monsanto Charged With Bribing Indonesian Environment Official

WASHINGTON, DC, January 7, 2005, (ENS) - The Monsanto Company has been charged with violating the Foreign Corrupt Practices Act in connection with an illegal payment of \$50,000 to a senior Indonesian Ministry of Environment official, and the false certification of the bribe as "consultant fees" in the company's books and records. The bribe was intended to sidestep an Indonesian environmental impact study required before cultivation of genetically modified crops could be authorized.

U.S. Assistant Attorney General Christopher Wray of the Criminal Division said the criminal charges filed Thursday in the District of Columbia allege that Monsanto violated the anti-bribery and false books and records provisions of the act.

Monsanto has agreed to pay a monetary penalty of \$1 million, and the Justice Department has agreed to defer prosecution of the criminal charges for three years, said Wray. The charges will be dismissed after three years if Monsanto fully complies with the terms of the deferred prosecution agreement, which is still subject to judicial approval.

The global producer of biotech agricultural products and pesticides is a publicly traded company based in St. Louis, Missouri. The company has agreed to accept responsibility for the conduct of its employees and to adopt internal compliance measures. In addition, the company has agreed to cooperate with the ongoing criminal investigation and with a separate Securities and Exchange Commission civil investigation.

***Monsanto's Bollgard cotton contains an insecticidal protein from *Bacillus thuringiensis*. (Photo courtesy Monsanto)***

According to the information filed in court and the agreed statement of facts, the agricultural products marketed by Monsanto include genetically modified crops, including cotton.

Monsanto hired an Indonesian consulting company to help the company obtain Indonesian government approvals and licenses to sell its products in Indonesia. At the time, the Indonesian government required an environmental impact study before authorizing the cultivation of genetically modified crops.



After a change of governments in Indonesia, Monsanto sought, unsuccessfully, to have the new government, in which the senior environment official had a post, amend or repeal the requirement for the environmental impact statement.

Having failed to obtain the senior environment official's agreement to amend or repeal this requirement, in 2002 a Monsanto employee responsible for company activities in the Asia-Pacific Region authorized and directed the Indonesian consulting firm to make an illegal payment of \$50,000 to the senior environment official to "incentivize" him to agree to do so.

The Monsanto employee also directed representatives of the Indonesian consulting company to submit false invoices to Monsanto for "consultant fees" to obtain reimbursement for the bribe, and agreed to pay the consulting company for taxes that company would owe by reporting income from the "consultant fees."

In February 2002, an employee of the Indonesian consulting company delivered \$50,000 in cash to the senior environment official, explaining that Monsanto wanted to do something for him in exchange for repealing the environmental impact study requirement. The senior environment official promised that he would do so at an appropriate time.



***U.S. Assistant Attorney General Christopher Wray (Photo courtesy USDOJ)***

In March 2002, Monsanto, through its Indonesian subsidiary, paid the false invoices thus reimbursing the consulting company for the \$50,000 bribe, as well as the tax it owed on that income," Wray said. A false entry for these "consulting services" was included in Monsanto's books and records.

The senior environment official never authorized the repeal of the environmental impact study requirement, the Justice Department said.

Monsanto says it became aware of financial irregularities in its Indonesian affiliates in 2001 and then began an internal investigation, which continued at the direction of the Board of Directors.

"Subsequent governmental investigations revealed the \$50,000 payment to the Indonesian official," the company stated Thursday.

Monsanto says the company voluntarily disclosed the results of its internal investigation to the Department of Justice and to the Securities and Exchange Commission and disclosed the books and records and compliance irregularities involving the Indonesian affiliates.

"Monsanto accepts full responsibility for these improper activities, and we sincerely regret that people working on behalf of Monsanto engaged in such behavior," Monsanto Executive Vice President, Secretary and General Counsel Charles Burson said Thursday. "The company has taken remedial actions to address the activities in Indonesia."



***Charles Burson is executive vice president, secretary and general counsel, Monsanto Company, and a former Tennessee attorney general. He is a former chief of staff and counselor to former Vice President Al Gore. (Photo courtesy Washington University School of Law)***

"At every stage of this process - beginning with our voluntary disclosure and throughout the governmental investigations and settlement process - Monsanto has been fully cooperative, and has made clear that improper activities will not be tolerated by the company," Burson said. "We are pleased today to begin the process of putting these matters to rest."

An independent compliance expert will be chosen by the Justice Department to audit the company's compliance program and monitor its implementation of and compliance with new internal policies and procedures.

Thursday the Securities and Exchange Commission filed a federal court complaint charging Monsanto with violating the Foreign Corrupt Practices Act and issued an administrative order finding that Monsanto violated the anti-bribery, books and records, and internal controls provisions of the act.

Monsanto consented to the entry of a final judgment in the federal lawsuit requiring it to pay a \$500,000 civil penalty and consented to the Commission's issuance of its administrative order.

In South Sulawesi, Indonesia, more than 6,000 small holders planted Monsanto's Bollgard insect resistant cotton in 2001, the first biotechnology product introduced in Indonesia, the company says.

The plantings were permitted in February 2001 after the Minister of Agriculture issued a decree (No. 107/2001) permitting limited sales of genetically modified cotton from plantations in seven districts in South Sulawesi.

The NGO Coalition for Biosafety and Food Safety - representing six NGOs and supported by another 72 - filed a lawsuit challenging the decree.

They claimed that it was issued hastily, without consideration of the consequences of using transgenic products. They claimed that the decree violated Indonesia's environmental law (23/1997) because no environmental impact assessment was conducted and because the public's right to information and to be involved in decisionmaking was not upheld.

The NGO Coalition lost its court case on September 27, 2001.

The Indonesian government extended the permit to Monsanto's Indonesian subsidiary PT Monagro Kimia to continue planting Bt cotton in South Sulawesi in 2002. The Agriculture Minister declared Bt cotton would be planted on a larger scale, and in two more provinces - East and Central Java.

The NGO Coalition maintains that the Bt cotton has succumbed to drought and does not resist the insects found in Indonesia. Farmers have complained about the claims of superior performance of the Bollgard cotton crop. On September 13, 2001 farmers burned down their plantations, destroying at least three hectares of the Bt cotton. Indonesia is a major importer of cotton, a raw material for its textile industry.

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