



PARIS COURT OF APPEAL

Paris District Court

NATIONAL FINANCIAL PROSECUTOR

Ref : PNF-16 159 000 839

Judicial Public Interest Agreement

between

**The French National Prosecutor's Office
At the Paris District Court**

and

**AIRBUS SE
Represented by**

Mr. John Harrison, Group General Counsel

* * *

Considering the preliminary investigation 16 159 000 839 opened on 20 July 2016 on charges of bribery of foreign public officials, misuse of corporate assets, breach of trust, conspiracy to defraud, money laundering of the proceeds of these offences, forgery and use of forged documents;

Considering Article 41-1-2 of the French Code of Criminal Procedure,

Considering Decree n°2017-660 of 27 April 2017 relating to the judicial public interest agreement and the "*cautionnement judiciaire*";

* * *

I – THE AIRBUS GROUP

1. The Airbus group was gradually formed following the merger of three European entities Aerospatiale-Matra, DASA and CASA in 2000. Airbus SE (formerly EADS NV) is now the parent company of this group. It is a *Societas Europaea* with its registered office in Leiden, the Netherlands, and its operational headquarters in Blagnac.

2. Airbus SE owns and controls, directly or indirectly, all the activities and entities of the Airbus group. Since 2013, the stake in Airbus' capital held by state shareholders (France, Germany, Spain) has been limited to 28% (the French State, via SOGEP, is currently an 11.1% shareholder) and the group has adopted a new governance structure, with an independent Board of Directors and Chairman. The Airbus group had 135,978 employees worldwide as of 30 September 2019, including 48,000 in France.

3. The Airbus group underwent numerous restructurings between 2004 and 2016, the period under investigation. Recently, EADS NV was renamed "Airbus Group NV" in January 2014 and then Airbus Group SE in May 2015. In April 2017, Airbus Group SE adopted its present name of "Airbus SE".

4. Following these restructurings, the activities of the Airbus group are split between the following three divisions: "Commercial Aircraft" (hereafter "Airbus Commercial"), "Defence and Space" (hereafter "Airbus Defence and Space") and "Helicopters" (hereafter "Airbus Helicopters").

5. Airbus Commercial hosts the activities of manufacturing and sales of commercial aircraft. It is controlled by Airbus SAS, which is headquartered in Blagnac. Airbus SAS is one of the two largest commercial aircraft manufacturers in the world. In 2016, its activity alone generated 73% of the Airbus group's turnover. Given its dominant role, the investigations mainly focused on the activity of this division.

6. In January 2017, Airbus SAS subsumed Airbus Group SAS (formerly EADS France SAS), the former operational group entity in France, to form a single legal entity combining the "headquarters" and "commercial aviation" activities.

7. The aircraft marketed by Airbus SAS are divided into several categories and sub-categories including variants: the A220 family (since 2018), the A320 family, the A330 family, the A350 family and finally the A380 family (the production of which will cease in 2021).

8. Airbus Defence and Space was formed by successive mergers between EADS CASA, EADS Defence and Security and EADS Astrium between 2000 and 2014. Airbus Defence and Space manufactures and sells, through subsidiaries and joint ventures, military aircraft, satellites, communication, intelligence and security systems, as well as components for the aerospace industry. Its headquarters are located in Ottobrunn, Germany. In 2016, the activities of Airbus Defence and Space represented 18% of the group's turnover.

9. Airbus Helicopters manufactures and sells civil and military helicopters. Airbus Helicopters Holding and Airbus Helicopters are located in Marignane and control all subsidiaries of the Helicopters division worldwide. In 2016, the activity of this division represented 9% of the group's turnover.

10. Between 2011 and 2018, the Airbus group's results, consolidated at the parent company level, are broken down as follows:

(EUR Millions)	2011	2012	2013	2014	2015	2016	2017	2018
Entity	EADS N.V	EADS N.V	EADS N.V	Airbus Group N.V	Airbus Group SE	Airbus Group SE	Airbus SE	Airbus SE
Turnover	49,128	56,480	57,567	60,713	64,450	66,581	59,022	63,707
Gross margin	6,777	7,898	7,954	8,937	8,851	5,264	6,873	8,787
Profit before finance costs and income taxes	1,541	2,089	2,570	3,991	4,062	2,258	2,665	5,048

II - THE MANAGEMENT OF COMMERCIAL INTERMEDIARIES AND DEVELOPMENT PROJECTS WITHIN AIRBUS

1- The SMO (Strategy and Marketing Organization)

11. Up until the beginning of 2015, Airbus engaged and paid many commercial intermediaries (internally referred to as "*business partners*"), in order to assist it in its commercial negotiations with its State and private customers.

12. Until 2008, each division of the Airbus group directly handled the management of the recruitment and remuneration of its intermediaries, under the supervision of the EADS international department at group level (part of EADS France SAS).

13. As of 2008, a new organization was created under the name of SMO. This organization ceased its activities in April 2015 and was formally dissolved in March 2016. The SMO was based within EADS France SAS (which later became Airbus Group SAS, before being subsumed by Airbus SAS) and had about 150 employees.

14. Within SMO, which encompassed several functions, SMO International oversaw the group's business development activities. SMO International's operational sub-divisions included one dedicated to international operations (hereafter "SMO/IO"), and another dedicated to international development (hereafter "SMO/ID").

15. SMO International's mission was to support sales across all divisions of the group, and specifically to manage Airbus' international development activities outside its home markets

and the United States, which included the identification, engagement and supervision of commercial intermediaries.

16. From 2008, SMO International also managed international market development projects ("IMD projects"), which were designed to develop Airbus' marketing footprint and were sometimes also used to offer additional remuneration to certain commercial intermediaries with whom these projects could be designed.

17. The SMO was headed by a Chief Strategy and Marketing Officer (CSMO) who held this position from 2008 to April 2015 and who held a Power of Attorney from the CEO of Airbus group. Each sub-department of the SMO was headed by a manager, who in turn held a Power of Attorney from the CSMO.

18. From 1 July 2014, the head of the SMO/IO reported to the head of the SMO/ID. The SMO International had its own legal and controlling departments. The SMO/IO also had its own compliance department.

19. In accordance with the internal rules established within the Airbus group, the sales teams were to be involved in selecting BPs and monitoring their activities, and the SMO/IO was to ensure that commercial intermediaries were independent from Airbus customers. When the SMO was created in 2008, it took over all the development activities of Airbus Commercial (i.e. the management of commercial intermediaries as well as the development and implementation of IMD projects). For these activities, SMO International's budget was set at USD 300 million for the first year, and at lower amounts for the following years. In practice, Airbus SAS would reimburse SMO International for the amounts actually paid to commercial intermediaries or invested in IMD projects, up to the level of this budget cap.

20. The other two divisions, Airbus Helicopters and Airbus Defence and Space, made less frequent use of the SMO to manage their commercial intermediaries. They generally continued to manage their own relationships with and payments to commercial intermediaries, although the engagements entered into still needed to be approved by SMO/IO.

21. Although the SMO/IO was responsible for identifying, contracting and managing contractual relationships with commercial intermediaries, the decision to engage "business partners", as well as the decision to invest in an international m project, was subject to an internal approval procedure. This was conducted within the Company Development and Selection Committee ("CDSC"). This Committee was co-chaired by the head of SMO and the Chief Financial Officer of the Airbus group, who were both members of the Executive Committee and reported directly to the CEO of the Airbus Group. The CDSC also included among others the Group Compliance Officer, the head of compliance of the SMO International, the general counsel of the SMO/IO, a representative of Airbus Commercial and the head of the SMO/IO.

22. Because its members had difficulty meeting regularly, and in order to prepare for its decisions, the CDSC established two subcommittees: (i) the sub-CDSC (which proposed the engagement of commercial intermediaries for CDSC validation); and (ii) the pre-CDSC (which proposed international development projects for CDSC validation).

23. The head of the SMO/IO chaired the sub-CDSC, to which he presented the proposed engagements of commercial intermediaries. He was also in charge of structuring Airbus' financial commitments to these intermediaries.

24. According to Airbus' internal rules, SMO/IO would carry out due diligence before any recruitment of a commercial intermediary and any decision to invest in an IMD project, and would present its results to the sub-CDSC and pre-CDSC respectively.

25. However, the investigations have shown that in a number of cases, the information provided to these committees was incomplete, misleading or inaccurate, in particular as regards the process by which the commercial intermediary was identified, the amount of compensation secretly promised to the intermediary (for instance by means of comfort letters) the identity of the ultimate beneficiary of the remuneration provided for in the engagement contract or the underlying economic justification for an IMD project. In some cases, SMO/IO carried out the preliminary audit too quickly, and sometimes even *ex post facto*, after the sub-CDSC or pre-CDSC had already given its approval.

26. It was also apparent that the CDSC routinely approved the proposals put forward by the sub-committees without carrying out its own detailed examination of the proposed investment or of the terms of engagement of the intermediary. In practice, the head of the SMO/IO, who was himself responsible for proposing the engagement of commercial intermediaries and structuring their remuneration, played a leading role within the two sub-committees.

27. Once the CDSC approved a commercial intermediary's engagement, the SMO/IO monitored and managed the performance of the contract, in particular the payment of commission fees, on behalf of Airbus Commercial. In 2008, an internal guideline within Airbus provided that no remuneration in excess of USD 15 million could be paid to intermediaries. However, the investigations have shown that in several cases, much higher remuneration was promised to intermediaries and paid via various indirect means, for instance fictitious loans, without it being possible to identify precisely the nature and content of the services they had actually provided to Airbus (either because they did not draw up detailed reports of their activities, or because they provided fake reports which were in fact written by former Airbus employees, hired for this purpose by SMO/IO).

28. In the course of the investigation, Airbus provided the PNF with spreadsheets prepared by the SMO/IO in order to track the financial commitments made in relation to each sales campaign or commercial intermediary. On the basis of these documents, the investigation established that these commitments, entered into over several years, exceeded the annual budget allocated to the SMO International (although actual payments remained within budget). In addition, it became apparent that some commercial intermediaries were fictitiously engaged on sales campaigns in which they were not involved, or were engaged via shell companies, in order either to conceal their involvement in other campaigns, or to circumvent the maximum compensation amounts mentioned above, or because their engagement was motivated solely by their ability to transmit funds to third parties in complete secrecy.

2 – The internal policies within Airbus

29. During the investigation period, Airbus issued several internal procedural documents related specifically to payments to and the management of contractual relations with third parties. These comprised:

- a document entitled "Business Ethics, Policy and Rules", dated July 2008;
- a document entitled "SMO Process for Business Development", dated 2 February 2010;
- a document entitled "CDSC Terms of Reference", dated 9 May 2011.

30. The "Business Ethics Policy and Rules" contained the fundamental principles applicable to all employees. The introduction to this document, written by the CEO of Airbus, referred to "cutting-edge principles" in the conduct of business. This document described the due diligence procedures to be carried out regarding the engagement of commercial intermediaries. It noted that it was very important to pay attention to "*red flags*" and gave a list of examples.

31. The "SMO Process for Business Development" was an internal SMO International document that detailed the procedure to be followed for the engagement of commercial intermediaries and the implementation of IMD projects. It noted the need to follow the CDSC approval procedure, which included a due diligence audit before the entering into of the contract.

32. The "CDSC Terms of Reference" described the process to be followed for IMD projects and entrusted the SMO International with the task of reducing the risks linked to their implementation. It noted that the decision-making process needed to ensure that the financial and legal risks associated with contracts entered into with third parties were identified and mitigated, and that the management of these contracts did not generate any reputational risk.

33. The investigation has shown that in a number of cases, these procedures, and the principles which they were supposed to uphold, were not complied with or were even deliberately bypassed.

III - CONDUCT OF THE INVESTIGATION

1 – Cooperation between prosecuting authorities

34. Airbus Commercial's activity is supported by three export credit agencies: COFACE (now BPI France) in France, UK Export Finance (UKEF) in the United Kingdom and Euler-Hermes in Germany. These agencies allocate between themselves, by country and client, the roles of principal insurer, principal co-insurer and reinsurer. In order to obtain support from these agencies, Airbus is required to provide them with certain information about the contracts in respect of which a guarantee is sought.

35. At the end of 2015, a compliance review established that certain declarations made to UKEF regarding the use of commercial intermediaries within Airbus were incomplete. Since Airbus had a contractual obligation to correct inaccurate information communicated to the export credit agencies, it first drew these irregularities to the attention of UKEF in January 2016, before presenting a more detailed report in March 2016. Following the communication of this information to UKEF, UKEF also informed COFACE and Euler-Hermes of the disclosed irregularities. The initial findings submitted by Airbus to UKEF showed that in

some cases, Airbus had provided UKEF with incorrect or inaccurate information concerning the identity of the commercial intermediaries it had used or the amount of their remuneration.

36. On 1 April 2016, Airbus disclosed to the Serious Fraud Office in the United Kingdom (hereafter SFO) that it had identified issues in its UKEF applications. UKEF also forwarded the information provided by Airbus to the SFO, having given prior notification of this to the company.

37. On 6 June 2016, the PNF received an alert from the Director General of the Treasury, on the basis of Article 40 of the Code of Criminal Procedure, passing the information which UKEF had brought to the attention of COFACE.

38. This led the PNF, on 20 July 2016, to open a preliminary investigation on charges of bribery of foreign public officials, forgery and use of forged documents, conspiracy to defraud, breach of trust and money laundering of the proceeds of this offence, and misuse of corporate assets, committed between 2004 and 2016. The investigation was entrusted to the *Office Central de Lutte contre les Infractions Fiscales et Financières* (OCLCIFF).

39. On 30 January 2017, the PNF and SFO signed a Joint Investigation Team Agreement (hereafter the "JIT") in order to establish a coordinated investigation strategy, to facilitate the collection of evidence and the technical analysis of data, to ensure the sharing of relevant information between authorities in accordance with the provisions of Law No. 68-678 of 26 July 1968, known as "the blocking statute", and to use this evidence with a view to bringing criminal charges or concluding settlement agreements.

40. The considerable number of documents collected by Airbus as part of its internal investigation (more than 30.5 million from more than 200 custodians) led to the development of new procedures to filter out classified information or information covered by attorney-client confidentiality, and to identify and analyze documents which were likely to be relevant to the judicial investigation. Throughout this investigation, Airbus kept the JIT informed of the results of its internal investigations via numerous presentations and the production of documents (contracts, bank documents, e-mail exchanges, transcripts of interviews with employees, etc....). These presentations focused on the sales campaigns where, on the basis of the information gathered initially, there were indicators of offences having been committed, and which the JIT had accordingly identified as priorities.

41. In parallel, commencing in late July 2016, the PNF and OCLCIFF conducted their own investigations, independently of the internal investigation conducted by Airbus, by carrying out an independent review of the relevant documents produced by Airbus, by conducting a large number of interviews of current and former Airbus employees, as well as of consultants and commercial intermediaries, by conducting search and seizure operations which facilitated the gathering of additional evidence, and by issuing several international mutual legal assistance requests.

42. The JIT's investigation covered all of the commercial intermediaries which were engaged by one of Airbus' divisions or subsidiaries up until 2016, i.e. more than 1,750 entities across the world. The JIT focused more particularly on Airbus' relations with 110 of these commercial intermediaries in respect of which red flags had been identified, and from which the JIT selected several investigation priorities.

43. The JIT agreement resulted in a division of these investigation priorities between the PNF and the SFO. The PNF focused its investigations more particularly on the conduct of Airbus, its divisions and/or its subsidiaries in the following countries: United Arab Emirates, China, South Korea, Nepal, India, Taiwan, Russia, Saudi Arabia, Vietnam, Japan, Turkey, Mexico, Thailand, Brazil, Kuwait, Colombia. The SFO focused its investigations on the conduct of Airbus, its divisions and/or its subsidiaries in the following countries: South Korea, Indonesia, Sri Lanka, Malaysia, Taiwan, Ghana and Mexico.

44. Within this scope, the PNF and SFO each selected a representative sample of the markets and concerns involved.

45. In accordance with the JIT agreement, the PNF shared the evidence gathered in the course of its investigation with the SFO. To ensure compliance with the blocking statute, Airbus communicated the documents resulting from its internal investigation only to the PNF, which forwarded them to the SFO in accordance with the provisions of article 694-4 of the Code of Criminal Procedure. On its part, the SFO also shared with the PNF the evidence obtained during the course of its own investigation.

46. The United States Department of Justice ("DOJ") has opened a parallel investigation into violations of the Foreign Corrupt Practices Act ("FCPA") and International Traffic in Arms Regulations ("ITAR")¹. The Department of State ("DOS") also conducted its own investigation into violations of the ITAR regulations. The PNF also shared some of the evidence from its investigation with the DOJ, in accordance with the provisions of Law no. 68-678 of 26 July 1968 and article 694-4 of the Code of Criminal Procedure.

2 – Airbus' cooperation with the prosecuting authorities' investigations

47. Starting in October 2014, Airbus froze payments of all outstanding amounts due to commercial intermediaries used by Airbus Commercial. In May 2015, this freeze was extended to intermediaries engaged by the other two group divisions.

48. As of Spring 2015, Airbus carried out its first checks on the facts relating to the irregularities which it subsequently disclosed to the British authorities.

49. In April 2016, Airbus instructed several law firms to carry out an internal investigation, and liaised with the SFO through these law firms.

50. On 15 March 2017, the PNF informed Airbus that it had opened a preliminary investigation in France and asked the company to appoint French counsel.

51. From the beginning of 2017 onwards, the internal investigations were carried out in coordination with the JIT's investigation. In particular, Airbus has:

¹ A set of US regulations governing the export and temporary import of defense articles and defense services. Under these regulations, a State Department license is required not only for export of defense articles and defense services from the U.S., but also for their reexport to a new country or retransfer to a new person within a country. This can result in U.S. jurisdiction extending to foreign-made aircraft or spacecraft manufactured outside of the US, but which incorporate ITAR-controlled components because a State Department license is required for reexport/retransfer of those components.

- made a clear commitment to fully cooperate with the JIT and allow it to interact directly with the Board of Directors and the Ethics and Compliance Committee;
- identified to the JIT the complete list of commercial intermediaries which its divisions have used historically, and highlighted those in respect of which red flags had been identified ;
- provided detailed presentations of internal investigation findings on each of the priorities identified by the prosecuting authorities as well as numerous documents, in particular organizational charts showing relevant departments, relevant e-mails and contracts, copies of invoices and payments made to third parties;
- produced all documents requested by the JIT and adopted a cooperative approach in compliance with common law principles of legal privilege and French *secret professionnel*, indicating the reasons why Airbus considered that a document was privileged in whole or in part;
- provided documents and information on the bank accounts through which payments to commercial intermediaries were processed, doing so as soon as the investigations were launched, which facilitated the issuing of international mutual legal assistance requests by the JIT;
- made available a team of internal accountants and external consultants to assist the JIT in reviewing the accounting and financial flows identified;
- appointed the Independent Compliance Review Panel ("ICRP") to report on Airbus' compliance improvements, and informed the JIT of the implementation of its new compliance program through a series of detailed presentations.

52. Accordingly, even though Airbus did not self-report to the PNF the facts which led it to start an internal investigation, from March 2017 the company offered exemplary cooperation with the JIT's investigation.

53. Airbus has committed to maintain this cooperation with the PNF following the approval of the CJIP. Airbus will communicate to the PNF any new information regarding the facts included in the CJIP, or regarding facts of which it may become aware after this agreement has been approved and which could be linked to the commission, in the course of its business, of one of the offences listed in Article 41-1-2 of the Code of Criminal Procedure.

IV – STATEMENT OF FACTS

1- SALES CAMPAIGNS WITH AIR ARABIA

54. On 12 November 2007, Airbus and Air Arabia entered into a purchase agreement in relation to 34 A320 aircraft, as well as options for an additional 15 A320 aircraft. Air Arabia exercised its options for 10 aircraft on 24 June 2008. This was the first time that Airbus managed to sell aircraft to the airline.

55. At an interview conducted as part of Airbus' compliance review, an SMO International executive stated that an Airbus Middle East executive had made a "commitment" to pay a concealed compensation to an Air Arabia executive in consideration of the purchase agreements mentioned above.

56. These allegations are strongly corroborated by several investigation findings.

57. From July to November 2007, Airbus Middle East, with the help of contract negotiators from Airbus Commercial, corresponded with several Air Arabia executives in order to finalize the terms of the order. Then, on 12 October and 20 December 2007, a proposal for a "project" was presented to the Business Development Committee, which was the Airbus Commercial committee tasked with approving investment projects involving commercial intermediaries before the creation of SMO and the CDSC in 2008.

58. SMO/IO's tracking spreadsheets – SMO/IO took over management of this commitment in 2008 – show an initial "Air Arabia" commitment of 1% of the price of the purchase agreement with Air Arabia, which was then brought down to USD 10 million. A few years later, in February 2014, another document prepared by SMO International, which summarized Airbus' most significant financial commitments towards its commercial intermediaries, stated in relation to Air Arabia: "USD 10 million still pending subject to proper project implementation".

59. The investigation has also established that the SMO International considered several arrangements to fulfill the commitment. In 2012, a first project consisted in the acquisition by Airbus of a company which belonged to the Air Arabia executive. Nevertheless, the pre-CDSC opposed the project, on the grounds that the target company's shareholder was an executive of a customer airline, which created a "potential conflict of interests". The pre-CDSC recommended using a financial structure, such as a bank or a vehicle without capital links to EADS and/or Airbus. The PNF considers that the issue for the pre-CDSC was therefore not to call into question the principle of a payment to the airline executive, but to find a more discreet way to perform it.

60. A second project, proposed in 2013, consisted of the acquisition of luxury real estate properties in order to place them at the disposal of the same executive. This project was not accepted either, due to its complex and opaque nature. In an internal email exchange, this transaction was described in the following fashion: "I want more direct structures, such as: (X)² helped us and we place at his disposal one flat, two flats, three flats, all of this appearing as marketing expenses".

61. Finally the investigations have shown that from September 2014 to May 2015 Airbus considered passing on the promised compensation through a fake "business partner" whose actual mission was therefore to pass on the funds while ensuring the opacity of the transaction. The fake intermediary was to receive USD 14 million in relation to another sales campaign through a shell company acquired solely for the purpose of this transaction. This solution was eventually abandoned because of the Airbus compliance department's (which was not involved in the arrangement) doubts about the fake intermediary's ability to carry out its mission.

62. Overall, it appears that Airbus tried by various means, through SMO International and including in the months that followed the payment freeze in October 2014, to offer the benefits mentioned above to an executive of the airline customer, in consideration of the signing of the 12 November 2007 purchase agreement. It should be noted, however, that the

² X refers to the airline executive.

vigilance of other departments within Airbus contributed to the fact that these attempts were never carried out.

63. The PNF considers that these facts could constitute the offence of bribery as provided by Article 445-1 of the Criminal Code.

2 – SALES CAMPAIGNS WITH CHINESE AIRLINES

64. In 2014, 2 GTAs ("*General Terms Agreements*") were entered into between Airbus and the Chinese central administration:

- The GTA of 26 March 2014 for the sale of 43 A320 aircraft and 27 A330 aircraft
- The GTA of 11 October 2014 for sale of 70 A320 aircraft.

65. GTAs are agreements entered into by aircraft manufacturers and the Chinese administration, and which provide the number of aircraft that Chinese airlines are authorized to purchase. These agreements do not include the essential terms of final binding purchase agreements, such as the sale price or the delivery date of the aircraft.

66. The GTAs signed in 2014 were intended to provide "validation" by the Chinese government of all or part of the sales contracts concluded by Airbus with these airlines. Nevertheless, while the signature of the purchase agreement between Airbus and a customer airline allows the manufacturer to receive the pre-delivery payment and to launch the production process for the aircraft ordered, only the signature of the GTA allows the aircraft to be imported into China. To make the aircraft production process more fluid, Airbus therefore had an interest in having the GTA signed as quickly as possible after the purchase contracts.

67. The signing of the GTA was an essential step without which the sales contracts concluded with the airlines could not be executed.

2.1 The China Aviation Cooperation Fund (CACF)

68. From 2011, Airbus agreed to make financial contributions to the CACF. Upon delivery of aircraft, Airbus issued a credit note dedicated to the CACF.

69. The stated purpose of the CACF was to finance cooperation projects with the Chinese aviation industry, such as training for pilots.

70. According to the information provided by Airbus, the total amount of funds allocated to the CACF amounted to USD 24,2 million between 2012 and 2017. For the same period, 13 projects and events were financed by Airbus from this fund, representing just over USD 2 million. These funds were primarily used for the benefit of government officials and Chinese airlines executives or Chinese public entities which played a role in the procurement process.

71. Some of the funds was used outside the initial purpose of the CACF to finance seminars, which consisted primarily of leisure activities. In particular, these seminars were organized while Airbus was in parallel negotiating the sale of aircraft.

72. In addition to the CACF, the investigation also revealed that Airbus had organised, for the benefit of Chinese public officials, several trips in and outside China, which were primarily or even exclusively composed of leisure activities. Airbus generally incurred the expenses of the participants in these trips, including at times those of their entourage.

73. Finally, the investigation identified numerous gifts and invitations offered to Chinese public officials and airline executives, in particular luxurious gifts and tickets for events.

2.2 The negotiation of the 2014 GTAs

74. Between 2013 and 2014, Airbus used the services of a commercial intermediary to assist in the negotiation of these GTAs.

75. The investigation identified that, despite the fact that this intermediary had represented that he was acting on behalf of Airbus when interacting with Chinese officials, no employment contract nor activity report had been submitted.

76. Nevertheless, the SMO International wrote a draft letter detailing the compensation which was allegedly promised to this intermediary for services provided to Airbus. This document specifies that USD 30 million was to be paid to him through "consultant contracts" and that the balance would be paid through industrial or commercial projects in which Airbus would invest alongside him.

77. This engagement letter was the subject of numerous correspondence between Airbus representatives and an Airbus consultant in Asia involved in the GTA negotiations with Chinese officials.

78. From this correspondence, it appears that the SMO International was expected to provide the Chinese commercial intermediary with a "*comfort paper*" designed to guarantee the amount of his compensation.

79. According to the investigation, several Airbus executives believed that this commercial intermediary had made certain commitments to Chinese officials as an extension of Airbus' promise that he would receive a "*comfort paper*".

80. In 2013, in an exchange of e-mails, the commercial intermediary indicated to an SMO executive: "I have made a commitment: all payments will be made in a manner acceptable to both parties. Our intention is also the same as yours: "do not create discomfort".

81. From the same e-mail exchanges, it appears that the delay by the SMO International in providing the expected document, and then in fulfilling the commitment to pay the funds to the intermediary, may have negatively affected the progress of the 2014 GTAs negotiations with the Chinese authorities.

82. In this regard, the Airbus consultant in Asia repeatedly mentioned the difficulty in "*aligning the planets*" as long as the "*comfort*" was not sufficient.

83. In another email exchange between this consultant and an Airbus Commercial manager, it was stated that:

- "*I'm beginning to think about the "unthinkable," an A330 campaign without SMO*"

- "When you say "without SMO" do you mean without any more "give pleasure"? Or something else?"
- "If (X)³ does not do his job, how can we drive the campaign?"

84. The SMO International initially considered remunerating this commercial intermediary through a company to which he was directly linked, by formally engaging that company as a consultant.

85. Finally, in June 2014, another solution was preferred: a third party company was recruited by Airbus to assist on a sales campaign with a leasing company. In fact, this campaign had already resulted in the sale of 70 A320 aircraft in March 2014, without any commercial intermediary assisting Airbus. However, in order to justify the payment of funds, a fictitious contract was signed retroactively between Airbus and this third company, whose engagement was motivated by the fact that it had allegedly assisted Airbus in obtaining this contract.

86. In compliance with this fictitious commitment, Airbus paid around EUR 10.3 million to the company. This company was managed by an individual for whom the investigation has revealed that he had on several other occasions been used by the SMO International to transit funds discreetly, without Airbus appearing directly.

87. Based on evidence identified as part of the investigation, this arrangement allowed the transfer of the EUR 10.3 million to a second company, owned by the same individual and based in Lebanon. It is this Lebanese company that would have then transferred funds to the Chinese commercial intermediary, under the cover of a similarly fictitious loan agreement concluded with the company of the Chinese commercial intermediary. Based on evidence identified as part of the investigation, it appears that part of these funds were intended to be passed on to Chinese public officials.

88. The SMO/IO tracking spreadsheets confirm that the funds paid in 2014 by Airbus through this fictitious employment contract were intended for the Chinese commercial intermediary and were linked to the conclusion of the GTAs.

89. Other annotations from the tracking spreadsheets suggest that an additional USD 13 million was intended to be paid to the commercial intermediary in 2015, also pursuant to the GTAs, using a similar "portage" mechanism. However, the payment freeze implemented in October 2014 interrupted this process.

90. The PNF considers that these facts could constitute the offence of bribery of a foreign public official, as provided by Article 435-3 of the Criminal Code.

3- SALES CAMPAIGNS WITH KOREAN AIR

91. Between 1996 and 2000, Airbus concluded three purchase agreements with Korean Air, a private South Korean airline:

- one contract for 4 A330 aircraft on 23 December 1996,
- one contract for 3 A330 aircraft on 2 March 1998,

³ X refers to an SMO International executive.

- and one contract for 3 A330 aircraft on 3 February 2000.

92. Findings from the investigation lead the PNF to consider that, in consideration of these purchase agreements, Airbus committed to pay an amount of USD 15 million to a former senior executive of the airline. The Airbus consultant for Asia appears to have played a very active role in the fulfilment of this commitment.

93. Numerous emails exchanged between this consultant and senior Airbus executives suggest that from 2008, the SMO International was tasked with implementing this commitment.

94. A first payment took place in 2010, through entities linked to a commercial intermediary who was then prosecuted and detained in the context of an investigation into acts of bribery opened by a foreign authority.

95. In September 2010, Airbus made a USD 10 million investment by purchasing the shares of an entity owned by a company which belonged to this commercial intermediary's son. The funds were paid from bank accounts opened in Lebanon by an Airbus subsidiary incorporated in the United Arab Emirates. The purpose of this transaction was to allow the transfer of part of this USD 10 million, i.e. at least USD 2 million according to the spreadsheets prepared by SMO International, to the former Korean Air executive. After the transaction, the Airbus consultant for Asia mentioned "*I felt confident enough to discuss again with [X]⁴ and to bring him some (small) good news, which I did yesterday. He understood. I believe it is better than nothing but it will not be sufficient soon.*"

96. Two weeks later, he mentioned to an Airbus Commercial executive: "*on my side I am currently implementing what was obtained from SMO...but it is only a very limited first phase...better than nothing...*".

97. A second payment of USD 6.5 million took place in 2011 through a different commercial intermediary. Airbus officially engaged this commercial intermediary for A320 aircraft sales campaign which had no relation to Korean Air and in which he had played no role. On 3 May 2011, Airbus and this commercial intermediary's company concluded a fictitious consulting agreement, pursuant to which Airbus paid him USD 6,5 million on 20 September 2011. It appears from the investigations that most of these funds were intended to be transferred to the Korean Air executive.

98. Later in 2012, an SMO International executive mentioned a future lunch with the Korean Air executive in an email to the consultant for Asia. He described the objectives of this lunch as follows: "*freeze the past and engage in practical discussions.*"

99. A third payment of USD 6 million took place in 2013 through a payment from Airbus to South Korean and American academic institutions, in relation to research projects involving these institutions, in which the Korean Air executive had personal interests⁵. The SMO/IO tracking spreadsheets establish a link between this payment and the Korean Air sales campaigns.

⁴ X refers to a senior executive of the airline.

⁵ The investigation has not established that the academic institutions who received these payments were themselves aware of their origin or cause.

100. The PNF considers that these facts could constitute the offence of bribery as provided by Article 445-1 of the Criminal Code.

4- SALES CAMPAIGN WITH NEPAL AIRLINES

101. Nepal Airlines (Nepal Airlines Corporation – NAC) is Nepal's national airline. It is owned and controlled by the Nepalese State. On 5 November 2009, Airbus entered into two Memoranda of understanding ("MoU") with Nepal Airlines in relation to the sale of one A330 aircraft and one A320 aircraft. This was the first time that Airbus sold aircraft to this airline.

102. The investigations have established that Airbus executives liaised with two Nepalese businessmen, who stated that they were in contact with Nepalese public officials and Nepal Airlines executives.

103. The discussions with the first intermediary started in 2007. Airbus had then considered hiring him officially as an agent. However, in the course of 2009, while this process was called into question following checks carried out by the Airbus compliance department, the intermediary stated in an email to an Airbus executive : "*Unfortunately, till date, we do not have any commitments from EADS towards us and consequently we have not been able to make any firm commitments to our contacts in NAC. At a decisive stage, I believe that this will be very detrimental for the Project*".

104. After the MoUs were signed, the Nepalese administration opened an inquiry into procurement process of these aircraft. The investigation focused on the issue of whether the payment of a USD 750,000 commitment fee to Airbus, made in accordance with the MoUs and before the financing details were finalized, constituted an abuse of authority by Nepal Airlines executives.

105. In this context, Airbus was in contact, from 2010, with a second intermediary. In an email sent to an SMO International manager, this intermediary indicated that the lack of "*effective convincing from top to bottom and left to right*" of the Nepalese authorities needed to be addressed. In other emails, a Nepal Airlines executive stated that, according to him, this intermediary needed to "*present new proposals with concrete figures*" in order to convince the Nepalese administration not to cancel the MoUs. He asked Airbus to "*support the project*" and "*to urgently take the necessary steps in order to make this small project succeed*".

106. Ultimately, the MoUs were not canceled and the negotiations went on until the signature of a purchase agreement dated 27 June 2013 relating to the purchase of two A320 aircraft, which were delivered in February 2015 and April 2015 respectively.

107. However, as early as 2009, the SMO/IO tracking spreadsheets mentioned a financial commitment linked to the Nepal Airlines campaign, which suggested that a payment had been promised to one or both intermediaries in relation to the purchase agreements eventually signed in 2013. Email exchanges between SMO International executives and the second Nepalese intermediary followed the conclusion of the 2013 purchase agreement. In this correspondence, several options were contemplated to transfer the funds. Under the guise of coded language, the goal was to transfer to the second intermediary funds which appeared to be intended for third parties which the intermediary was in contact with. In this

correspondence, the Nepalese intermediary often referred to the pressure he was under or to the embarrassing nature of the situation created by the delays in payment of the promised funds.

108. At the same time, Airbus signed an agreement with another company, who was entrusted with a mission of "*advising on the Sub Indian Continent*". Evidence shows that this mission was in fact very likely used to facilitate the transfer of funds to the second intermediary. Airbus' accounts show that between February 2014 and April 2015, 340,000 euros were paid to this company to this end. The SMO/IO tracking spreadsheets mention a commitment to pay a total of USD 1.8 million in relation to the Nepal Airlines campaign.

109. The PNF considers that these facts could constitute the offence of bribery of a foreign public official provided by Article 435-3 of the Criminal Code.

5 – SALES CAMPAIGN WITH CHINA AIRLINES (TAIWAN)

110. On 22 January 2008, Airbus signed a Purchase Agreement with the state-owned Taiwanese airline China Airlines, for the sale of fourteen A350 aircraft with an option for an additional six.

111. The investigation revealed that Airbus engaged two commercial intermediaries to assist on this campaign. However, the materiality of the advisory services which these intermediaries allegedly provided has not been established. In addition, the agreements with these consultants, which were signed after the successful conclusion of the sales campaign, cite remuneration figures which are substantially lower than those that were actually promised.

112. Intermediary A, who had a close relationship with an SMO International executive, was engaged retroactively pursuant to a contract dated 18 December 2008, entered into by a Hong Kong company which he owned and had created only a few months earlier.

113. The evidence gathered during the investigation shows that Intermediary A had contacts within China Airlines through whom he was able to obtain confidential information regarding the ongoing negotiations.

114. The SMO/IO tracking spreadsheets indicate that the initial financial commitment to this intermediary was almost USD 60 million, which was subsequently reduced to USD 45 million, while the contract signed on 18 December 2008 cited an official remuneration of USD 8 million.

115. Airbus contemplated several legal and financial arrangements, whose complexity and opacity were clearly intended to allow the transfer of funds in complete discretion.

116. The funds were channelled through jurisdictions with strict banking secrecy and no objective link to Taiwan. Part of the funds appear to have been invested in a mining venture in Africa in 2012, in which the intermediary in question appears to have had a financial interest. Notwithstanding internal warnings, Airbus' EUR 15 million investment in the multi-layered structure which owned part of this mine resulted in an almost total loss, following a rapid and significant depreciation of the underlying assets. An SMO/IO tracking spreadsheet suggests

that this investment was linked to the intention to transfer funds to Intermediary A in a discreet manner.

117. The investigation showed that the SMO/IO also made use of the facilities provided by a subsidiary of the Airbus group based in the United Arab Emirates with bank accounts in Lebanon, which were at the disposal of a senior SMO International executive.

118. This executive organized the payment, from these accounts, of EUR 5.75 million to the commercial intermediary engaged on 8 December 2008, who acknowledged receipt on 25 July 2011 by sending an e-mail to SMO International in the following terms: "*Rainfall HK [Hong Kong]: "happy to report rainfall in HK of 5.075 mm = 7.308 instead of required 8.000. How and when will the 0.692 be resolved?"*".

119. The SMO/IO tracking spreadsheet also shows that afterwards, Intermediary A received an additional EUR 1.765 million through a fictitious engagement on another sales campaign in Taiwan, which served as a justification for the corresponding payment.

120. Finally, the SMO/IO tracking spreadsheet mentions a last payment via another commercial intermediary, who was officially engaged and paid on a separate sales campaign, even though the investigation has not been able to establish his specific role in it. This arrangement may have allowed Airbus to transfer, via this intermediary, a further USD 5 million to Intermediary A.

121. Intermediary B, for his part, acknowledged during an interview conducted as part of Airbus' compliance review that he was close to a member of China Airlines' board of directors who provided him with information on the ongoing campaign. Although he claimed that this information had been provided for free, this second intermediary mentioned, in several particularly pressing and even threatening e-mails to SMO International employees, the fact that his "*friends*" or "*counterparts*" were waiting for the funds to be released and for the promises made to be fulfilled, stating that without their help the business relationship with China Airlines would be compromised.

122. In order to satisfy this demand, the SMO International set up a consultant agreement with Intermediary B on 20 July 2012, under which he received remuneration of USD 500,000.

123. The slow pace of the payment process organized by the SMO International gave rise to much tension with Intermediary B, who stated as follows in an email on 27 March 2013: "*Please advise the situation as I have to explain to my counterparts the reason why it has been delayed and when it will arrive. The schedule was discussed and agreed by you. Basing [sic] on the agreement I've reached with relevant people, it is important to keep the schedule intact and not make people anxious*". In a later message, he stated: "*understand our counter parties here have been losing patience [...], any further delay will not only cause damage to our reputation but also impact the on-going opportunity for your company*".

124. Ultimately, the SMO International managed to arrange the payment of the outstanding sums due to Intermediary B in several instalments, including by again using a "portage" mechanism for the funds via a third party and an offshore structure, which enabled additional transfers of more than USD 2 million to be made in 2013.

125. A further USD 5.5 million was due to be paid to Intermediary B in 2015, but eventually this payment could not be made because of the freeze of payments to intermediaries in October 2014.

126. The PNF considers that these facts could constitute the offence of bribery of a foreign public official provided by Article 435-3 of the Criminal Code.

6 – SALES CAMPAIGN WITH RSCC

127. The Russian Satellites Communications Company (RSCC) is the Russian national satellite operator, established in 1967. RSCC is a state-owned company owned by the Russian Federal State. Its headquarters are located in Moscow.

128. In December 2011, RSCC entered into a two contracts to purchase an Astrium AM7 satellite and an Astrium AM4R satellite (to replace another satellite). As part of this campaign, Astrium (now Airbus Defence and Space), assisted by the SMO/IO, fictitiously engaged a commercial intermediary through a consultant contract signed retroactively on 6 June 2012. Three payments to the benefit of this commercial intermediary were identified for a total of EUR 8.674 million.

129. Although he later retracted his position, an SMO International executive acknowledged during an interview conducted as part of the intermediary compliance review that the involvement of this commercial intermediary was fictitious and had been a means of channeling funds. He stated that Astrium executives allegedly contacted him in 2012 indicating that *"they needed to pass payments on to certain RSCC employees."* This SMO executive explained the proposed mechanism to the fictitious commercial intermediary and asked him to assist in *"channeling funds to the intended ultimate beneficiaries."*

130. The same SMO International senior executive explained that the aim was *"to reduce the risk to the company by remunerating RSCC employees for the sale of satellites since (...) is able to transfer funds to ultimate beneficiaries by removing any trace of Airbus as the originator of the payments..."*

131. During the first half of 2012, the SMO International executive and the fictitious commercial intermediary regularly discussed the requests made by the Airbus Compliance department as part of the "commercial intermediary" engagement process. For example, on 11 April 2012, the SMO International manager wrote to the commercial intermediary: *"Compliance is buying the story, we now only need to 'justify' your past experience"*, to which the commercial intermediary replied: *"Sir, Yes Sir! [...] I am going to try to find something to write for you ;-)."*

132. The SMO/IO instructed an external company to conduct due diligence on the company behind which the fictitious commercial intermediary was operating. It revealed that the registered office of this company could not be identified, that no financial accounts were available and that the company's ability to provide the services offered was questionable. Despite these red flags, an engagement contract was concluded and Astrium transferred the funds to the commercial intermediary.

133. The PNF considers that these facts could constitute the offence of bribery of a foreign public official provided by Article 435-3 of the Criminal Code.

8 – SALES CAMPAIGN WITH ARABSAT

134. Arabsat is an intergovernmental organization created by the Member States of the Arab League in 1976. Arabsat provides international civil telecommunications services. The shareholders of Arabsat are the 21 Member States of the Arab League. Its headquarters are located in Riyadh, Saudi Arabia.

135. In February 2009, Arabsat and Astrium entered into a contract to purchase the Arabsat-5C satellite.

136. Although he later retracted his position, in an interview during the Airbus compliance review of intermediaries, the SMO International senior executive stated that Astrium had engaged the same commercial intermediary used for the RSCC campaign to pass funds to an Arabsat official this time. The SMO International senior executive referred to a remuneration paid to the recipient of these funds which may have amounted to USD 1 million.

137. The investigation identified evidence that Astrium entered into a consultant agreement regarding the Arabsat campaign with the intermediary mentioned above on 2 March 2009. Eight payments to this intermediary were identified for a total of EUR 1 million.

138. The PNF considers that these facts could constitute the offence of bribery of a foreign public official provided by Article 435-3 of the Criminal Code.

8 – SALES CAMPAIGN WITH AVIANCA

139. Aerovías del Continente Americano S.A. Avianca ("Avianca") is the national airline of Colombia. It was part of the Synergy Group, a South American conglomerate which owns several other airlines operating mainly in South America. Avianca Holdings SA ("Avianca Holdings") is the parent company of Avianca.

140. Between 2006 and 2014, Airbus signed several consultant agreements with a commercial intermediary acting through a company incorporated in Colombia, in order for him to assist on Airbus campaigns with Avianca and with companies of the Synergy group.

141. Some of these agreements provided for the payment of a success fee to the intermediary, either as a fixed fee per aircraft or per campaign, or as a percentage of price of the aircraft. A fraction of the total compensation due to this intermediary for services on Avianca and Synergy campaigns was to be paid through these consultant agreements and another through investment projects.

142. The investigation revealed that from the end of 2014, a fraction of the compensation due to the commercial intermediary, which was then being globally renegotiated, was contemplated to be transferred secretly to a senior executive of Avianca Holdings. This executive was a key contact for Airbus during the ongoing commercial negotiations between Avianca and Airbus regarding the sale of A320neo aircraft. According to a November 2013 email from an Airbus employee, it was appropriate to give him an "AAA *treatment as we are in campaign mode with Avianca/Synergy*".

143. In October 2014, an Airbus manager emailed an SMO International employee to ask him if he had managed to talk to the senior executive of Avianca Holdings. This employee confirmed, in the course of the internal investigation conducted by Airbus, that the Avianca Holdings senior executive had asked for a commission in consideration of the role he had played to support the A320neo sales campaign with Avianca, which was ongoing.

144. On 17 November 2014, the SMO International employee emailed two senior executives of SMO International, informing them that the discussions regarding the commercial intermediary's outstanding remuneration were progressing and that he had proposed to the intermediary "*a global negotiation regarding the past and the future*". This email also mentioned that the aforementioned Airbus manager agreed with this negotiation.

145. On 25 November 2014, this Airbus manager emailed two SMO International employees indicating: "*What (X) said is that for the past, instead of 20 to do 15, of which 5 to (Y). And for the new contract 4 for (Y) and 2 for the other*"⁶.

146. Over the course of the internal investigation conducted by Airbus, this Airbus manager later confirmed that the figures mentioned in this email referred to "millions" and that they referred to a payment under negotiation with the commercial intermediary, of which a fraction was to be paid on to the senior executive of Avianca Holdings.

147. This Airbus manager forwarded his email dated 25 November 2014 to an Airbus employee with compliance responsibilities with the following comment: "*Let's discuss.*"

148. On 27 November 2014, the senior executive of Avianca Holdings sent the Airbus sales department an email attaching a firm proposal for the purchase of 100 aircraft and for options on further aircraft.

149. During the week of 1 December 2014, Airbus Commercial hosted representatives of Avianca/Synergy in Toulouse, among which was the senior executive of Avianca Holdings, in order to discuss the purchase proposal sent on 27 November 2014. At the end of December 2014, Airbus and Avianca (and other affiliated entities) signed an MOU for the purchase of A320neo family aircraft. This order was finalized by the purchase agreement for 133 A320neo aircraft signed on 30 April 2015.

150. On 22 January 2016, the aforementioned Airbus manager sent the following email to the SMO International employee: "*Was with (Y) who gave me his numbers. We agreed to a strategy (originally suggested by X) that (Z) has to pay him before he receives any additional compensation. Give me a call at your convenience.*"⁷

151. This email was sent after the implementation of the 2014 payment freeze and of enhanced compliance measures, when the commercial intermediary had received no payments for over a year. In March 2016, the Airbus manager sent another email to two SMO International employees, noting that: "*...and you can tell (XX) that (Z) has not respected*

⁶ X refers to a senior executive of Airbus Commercial. Y refers to the senior executive of Avianca Holdings.

⁷ Y refers to the senior executive of Avianca Holdings. X refers to a senior executive of Airbus Commercial. Z refers to the commercial intermediary.

commitments with Y and others!!! which resulted in an extremely difficult and costly negotiation of our last deal".⁸

152. Ultimately, the freeze of payments to commercial intermediaries and the enhancement of Airbus' compliance measures prevented the promised payment from being made.

153. The PNF considers that these facts could constitute the offence of bribery provided by Article 445-1 of the Criminal Code.

V – PUBLIC INTEREST FINE

154. Under article 41-1-2 of the Code of Criminal Procedure, the amount of the public interest fine is determined in proportion to the benefits derived from the wrongdoing, capped at 30% of the company's average annual turnover, calculated on the basis of the turnovers of the last three years available on the date the wrongdoing is recognized.

155. Airbus' gross turnovers for the years 2018, 2017 and 2016 amount to EUR 63.707 billion, EUR 59.022 billion and EUR 66.581 billion, i.e. an average gross turnover of EUR 63.103 billion over the period 2016-2018. The theoretical maximum amount of the public interest fine incurred is therefore EUR 18.931 billion.

156. The investigations have allowed the PNF to evaluate **the profit derived from the purchase agreements obtained in consideration of the wrongdoing described in the present agreement to EUR 1,053,377,113. This amount corresponds to the sum which Airbus SE will pay as disgorgement of its tainted profits.**

157. Moreover, to determine the additional penalty, the following aggravating factors must be taken into account:

- the repeated nature of the wrongdoing over a very long period of time, with respect to agreements with no links between themselves;
- the offence of bribery of public officials considered by the PNF to apply;
- the use of Airbus' resources to conceal the wrongdoing;

158. However, the fact that Airbus is a company falling within the scope of Articles 3 (3°) and 17 of Law n°2016-1691 of 9 December 2016 will not be taken into account, as these provisions had not entered into force at the time of the facts.

159. Taking all these factors into account, **the multiplier has been set at 275%.**

160. Mitigating factors include the following facts:

- the exemplary level of cooperation to the JIT investigations provided by the company ;
- the conduct of a thorough internal investigation in coordination with the judicial investigation;
- the implementation of corrective compliance measures designed to prevent reoccurrence of the conduct at the very start of the investigation.

⁸ XX refers to a senior executive of SMO. Z refers to the commercial intermediary. Y refers to the senior executive of Avianca Holdings.

161. These mitigating factors justify the use of a **50% discount rate** on the amount of the additional penalty.

162. Also to be deducted is the fine of EUR 265,953,892, which the company agrees to pay as part of the Deferred Prosecution Agreement concluded with the DOJ in relation with the conduct that took place during the sales campaigns in China, which violated the Foreign Corrupt Practices Act.

163. In light of all these factors, and after restatement of certain costs, **the total amount of the additional penalty imposed on Airbus SE is EUR 1,029,760,342.**

164. **The total amount of the public interest fine imposed on Airbus SE under this Agreement shall therefore be set at EUR 2,083,137,455.**

VI – COORDINATION WITH PENALTIES IMPOSED BY THE OTHER PROSECUTING AUTHORITIES

165. The present agreement is entered into in coordination with two other Deferred Prosecution Agreements which Airbus SE has concluded separately with the SFO and DOJ.

166. As part of the agreement with the SFO, Airbus SE agrees to pay a fine of EUR 983,974,311 as a result of violations of the Bribery Act 2010.

167. As part of the agreement with the DOJ, Airbus SE agrees to pay a total fine of EUR 525,655,000 as a result of violations of the FCPA and ITAR.

168. In parallel, Airbus SE has entered into an agreement with the DOS, under which it agrees to pay USD 5,000,000 as a result of violations of ITAR.

169. The total amount of fines imposed on Airbus SE appears proportionate to the benefits derived from the wrongdoing.

VII - COMPLIANCE

170. Under the terms of Article 41-1-2 of the Criminal Procedure Code, the *Convention Judiciaire d'Intérêt Public* may require the legal entity to "*be subject to to a maximum three-year compliance programme, under the supervision of the French Anti-Corruption Agency, designed to ensure the existence and implementation within it of the measures and procedures listed in I°) of Article 131-39-2 of the Criminal Code.*"

171. Airbus SE presented to the prosecuting authorities the far-reaching improvements that have been made to its anti-bribery compliance programme.

172. As requested, the French Anti-Corruption Agency ("AFA") communicated to the Financial Prosecutor a preliminary examination report for the establishment of a CJIP on 12 November 2019.

173. This review was conducted on the basis of information available to date in relation to measures taken by Airbus to strengthen the Group's anticorruption compliance policy.

174. The AFA mentions that the Airbus group has completed the design of its programme⁹. However, the AFA recommends that its deployment be monitored.

175. The AFA recalls that Airbus has worked from 2015 to 2019 on designing a compliance programme worthy of the highest standards in this area. Its development was based on several in-depth audits, conducted by both the Independent Compliance Review Panel as well as an audit firm instructed by the export credit agencies and by the AFA itself, as part of an own-initiative audit that was completed in July 2018. The company took into account the resulting recommendations to strengthen its compliance programme, which the AFA described as "successful."

176. This programme includes, pursuant to Article 131-39-2 (II) of the Criminal Code:

1° A code of conduct defining and illustrating the different types of behavior to be avoided as being likely to be considered as corruption or influence peddling;

2° An internal whistleblowing system designed to allow the collection of reports issued by employees and concerning the existence of conduct or situations contrary to the company's code of conduct;

3° A risk mapping taking the form of regularly updated documentation aiming at identifying, analyzing and prioritizing the risks exposure of the company to external solicitations for the purpose of corruption, depending in particular on the business sectors and geographical areas in which the company carries out its business;

4° Due diligence Procedures to assess the situation of customers, first-tier and intermediate suppliers with regards to risk mapping;

5° Procedures for internal or external accounting controls aiming at ensuring that books, records and accounts are not used to conceal acts of corruption or influence peddling. Such controls may be carried out either by the company's own accounting and financial control departments or by using an external auditor in the context of completing the audits of certification of the accounts provided in Article L. 823- 9 of the Commercial Code;

6° A training process for executives and staff who are the most exposed to the risks of corruption and influence peddling;

7° A disciplinary system to sanction employees of the company in the event of a violation of the company's code of conduct.

177. In this context, there is no need for the CJIP to provide for the implementation of measures designed to ensure the existence of a compliance programme within the Airbus Group, as already demonstrated by the audits and controls referred to above.

178. However, it is still necessary to carry out targeted audits in order to ensure that this compliance program has been fully rolled out to the Group's entities and subsidiaries.

⁹ The Airbus compliance programme has been presented by the company to the PNF, SFO and AFA on 20 September 2019.

179. As a consequence, Airbus SE commits, for a period of three years, to comply with the checks which will be carried out by AFA.

Airbus SE will bear the costs arising out of the AFA's potential use of qualified experts or authorities which would prove necessary to its testing mission, up to the total amount of EUR **8,500,000** (incl. tax), which the company agrees to provision and to deposit to the account of the ministerial controller, within a timeframe to be set by the AFA.

180. The AFA will report at least once a year to PNF on the performance of this obligation. The PNF will inform SFO and DOJ of the same, in compliance with the provisions of Act n° 68-678 of 26 July 1968.

VIII ACCEPTANCE OF THE AGREEMENT

181. Airbus SE shall inform the PNF that it accepts this Agreement, by registered letter or express declaration at the PNF's administrative office within 5 days after receiving the Agreement.

IX PERFORMANCE OF THE AGREEMENT

182. **Airbus SE shall pay the sum of 2,083,137,455 euros as provided by Article R.15-33-60-6 of the Code of criminal procedure within TEN DAYS after the Agreement becomes final.**

Paris, 29 January 2020

John HARRISON

Group General Counsel Airbus SE

Jean-François BOHNERT

Procureur de la République financier