

## Case 7: Switzerland. HOLCIM

### UPDATE TO AFTERWORD

#### **BAD THINGS CAN HAPPEN TO A HONEYBEE**

**By Marilyn Smith**

Holcim has been involved in two court cases that have marred its reputation as a Honeybee. The first incident involved a large French Cement Group, Lafarge, that became a wholly-owned subsidiary of Holcim in 2015 following a \$25 billion merger. This created LafargeHolcim, an entity with a combined market value exceeding \$USD50 billion. The second incident involved Holcim (US) in a major abuse of the environment in New York.

#### **1. Lafarge**

Lafarge's Syrian subsidiary was convicted of financing terrorism and complicity in crimes against humanity in Syria. Via four separate subsidiaries, Lafarge indirectly owned approximately 98.7% of its subsidiary, Lafarge Cement Syria (LCS). Around 2011, after a civil war began in Syria, LCS was found guilty of engaging in transactions, through intermediaries, with numerous armed factions in the region of LCS's Jalabiyeh Cement Plant, ultimately including the US-designated foreign terrorist organisations ISIS and ANF. While other multinational corporations withdrew from, and ceased operations in Syria, LAFARGE and LCS executives, through intermediaries, negotiated agreements to pay these armed groups to protect LCS.

According to the formal statement of facts, (<https://www.justice.gov/usao-edny/press-release/file/1545016/download>), between 2013-2014, Lafarge and LCS paid ISIS and ANF the equivalent of approximately \$5.92 million. These payments consisted of fixed monthly "donations" to ISIS and ANF, payments to ISIS-controlled suppliers to purchase raw materials, and variable payments based on LCS's cement sales. Lafarge and LCS also paid the equivalent of approximately \$1.11 million to the third-party intermediaries for negotiating on Lafarge's and LCS's behalf. In addition, when LCS eventually evacuated the Jalabiyeh Cement Plant in September 2014, ISIS took possession of cement that LCS had produced, and sold the cement at prices that would have yielded ISIS approximately \$3.21 million. As a result of the scheme, LCS obtained approximately \$70.30 million in total sales revenue from August 2013 through 2014. The gains to all participants in the conspiracy, including LCS, the intermediaries and the terrorist groups, totalled approximately \$80.54 million.

Lafarge executives knew about, but did not disclose, LCS's payments to ISIS and ANF to Holcim during pre-acquisition diligence meetings, and Holcim conducted neither pre- nor post-acquisition due diligence of LCS's operations in Syria, which had terminated by the time the merger transaction closed in 2015. Lafarge, LCS and Holcim also did not self-report the conduct or fully cooperate in the investigation.

Lafarge and its subsidiary pleaded guilty to conspiring to provide material support to designated foreign terrorist organisations and admitted to negotiating with and paying armed groups and terrorists, negotiating revenue-sharing agreements with ISIS to seek economic advantage, and concealing their payments, falsified records, and backdated contracts.

Outcome: Lafarge paid US \$778 million in fines and forfeiture (<https://www.justice.gov/opa/pr/lafarge-pleads-guilty-conspiring-provide-material-support-foreign-terrorist-organizations>).

#### **2. Holcim (US) Inc.**

The complaint alleged that between April 2015 and April 2021, Holcim (US)'s facility at Ravena, New York, violated effluent limitations 273 times for pollutants such as biological oxygen demand, faecal coliform, total suspended solids, settleable solids, pH, and temperature differential, plus three prior administrative consent orders issued from 2011 to 2015. This was in addition to other effluent limitation violations and violations of the federal Clean Water Act and New York State water quality regulations.

During the negotiations over the terms of the Consent Decree, Holcim made substantial improvements to its stormwater and leachate management practices to address the violations and agreed to undertake additional

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measures to ensure that the facility was fully compliant by October, 2022. In addition to actions to further clean up its operations, Holcim had to invest in an Environmental Benefit Project to improve the health of the Hudson River. (<https://www.justice.gov/usao-ndny/pr/us-attorneys-office-epa-and-state-new-york-announce-settlement-holcim-us-inc-address>)

Outcome: On April 29, 2021, the U.S. Attorney's Office, EPA and State of New York settled with Holcim (US) Inc. on its environmental violations at Ravena. The settlement required Holcim to comply with the terms of New York's State Pollutant Discharge Elimination System permit, pay US \$850,000 in civil penalties (\$212,000 of which was for a NYS Environmental Benefit Project improving stormwater management at Coeymans Landing Park in the Town of Coeymans, New York), and make other physical and operational improvements to the facility.

"For years, Holcim failed to live up to its legal responsibilities, repeatedly violating laws established to ensure the health of our waters," said New York Attorney General Letitia James. "Today, we hold this company accountable for polluting our natural resources and we ensure that proper measures are taken to remediate the harm caused to our communities. My office will continue to aggressively enforce the laws that protect the health and safety of our environment and of all New Yorkers."

### QUESTIONS TO REFLECT ON

1. Both these incidents occurred away from the Holcim Zurich head office, in subsidiaries located in two of the 70 countries in which Holcim operates.
2. How difficult is it for a Honeybee to monitor its foreign operations? Even if compliance systems are in place, how can the company enforce their standards?
3. Which Honeybee practices might have been instrumental in these violations occurring? Ethical practices? Environmental responsibility? Training and development? Shared vision and purpose? Trust?
4. What kind of role might trust have played in the pre-merger due diligence process between Lafarge and Holcim? Could Honeybee leadership be over-trusting and assume that others are also honest and ethical?
5. Holcim claims that significant changes and developments have since been made to the compliance program and infrastructure. Is that sufficient to prevent such incidents from recurring?
6. What would be the benefits in changing the Group's name back to Holcim in 2021?
7. How should a company handle scandals like these?