

# Yara's corruption allegations will not hurt its reputation or damage the fertilizer sector

✘ Four former Yara International ASA (YAR.OS) **YAR.OS** in Your Value Your Change Short position executives have been charged with corruption, accused of having paid Libyan, Indian and Russian officials bribes of over USD\$ 8 million from 2004 to 2009. The bribes are said to have been accounted for as consultancy fees. The charges also concern Thorlief Enger, who was the chief executive during that period. Enger has denied the accusations, claiming he has “never known of any payment or any consulting agreement in connection with negotiations in Libya”. Enger added that rather than the usual practice of western companies in seeking officials to woo in order to secure lucrative deals, Libyan authorities from the equivalent of the then oil ministry (known as the National Oil Company, NOC) were the ones who chose Yara as a partner. This would normally be an advantage; however, in Qadhafi's Libya (the jury is still out on the current one) it was notoriously difficult to get anything done; indeed, even if Yara had been chosen by the Libyans, ‘service fees’ may have been paid to get things done after, even basic things like getting paid. Nevertheless, Enger dismissed any suggestions of wrongdoing, implying that Yara had a huge advantage in negotiations with Libyan officials, since they were the ones to approach.

As for the allegations of bribing Indian officials, Enger said that a payment to a consultant in India was legal and done in full transparency. Norwegian prosecutors have demanded Yara pay a fine of 295 million Kroner (about USD\$ 48 million). The new CEO Ole Haslestad has accepted the fine observing that it is a very serious matter for Yara and that the Company has

“zero tolerance for corruption”. The State of Norway owns 36.2% of Yara, which has inevitably drawn government departments into the allegations. Norwegian authorities find it aggravating that management participated in extensive corruption took place during a period of five years. Yara’s new CEO has accepted responsibility for the ‘economic crime’ charges, he stressed that the group’s own investigators worked on the case in what will surely be considered a very successful example of ‘internal whistle blowing’. Yara investigated the matter and notified Norway’s Economic Crime division on suspicion of corruption. In turn, the Economic Crime Division, which investigated the case for almost three years, says that for this reason Yara’s fine would be discounted. Tor Holba , executive director of Upstream Yara, alerted the company about possible corruption and wrongdoing in 2008. Holba himself is one of those charged in the case as is finance and strategy director Mr. Storvik.

While the corruption charges may bring yet another blemish on the struggling potash and phosphate sector, upon further analysis, the Yara ‘corruption’ case has a very positive side. As clear and strict regulations for bribing foreign officials may be, there are some parts of the world where it is very difficult to avoid them. Libya was one of the most extreme cases. Regular citizens at the height of the sanctions and low oil prices in the mid 1990’s had to bribe officials in order to pay their electricity or telephone bills! Let alone companies trying to secure deals with Libya’s oil company, the largest accumulator of revenue in the country. Moreover, as Norwegian authorities have recognized, Yara not only cooperated with state prosecutors but actually initiated the investigation, ultimately suggesting that the Company take corruption matters very seriously. If anything , this case should be come as a relief to current investors and in fact, Yara’s share price has been increasing over the past few weeks. Indeed, the case of SNC Lavalin, which faced a very embarrassing corruption scandal related to Libya in 2011, is

useful to demonstrate just how effectively Yara has managed its case.

SNC Lavalin (SNC) found out how high the cost of doing business in Libya could be after the start of the Libyan revolt in early 2011 forced SNC-Lavalin to halt its operations there. SNC did not grasp the gravity of the situation (frankly nobody could have foreseen the demise of Qadhafi in the first weeks of the revolt) and it left behind operators, who were allegedly involved in saving their friends among the fast collapsing regime, given SNC's substantial infrastructure projects that needed to be completed and worth billions. After the situation worsened and SNC ceased Libyan operations, it hired an 'analyst' with a background in kidnapping, ransom negotiations and asset recovery facilitation, to facilitate some Qadhafi family members to abandon Libya.

SNC took an extremely high reputation risk, especially considering the atrocities committed by Qadhafi loyalists during the revolt. Ultimately, the 'analyst' was arrested, drawing Canadian media attention on the entirety of SNC's Libyan interests. The media revealed that SNC was building a jail for Qadhafi's regime – notorious for jailing political prisoners and human rights abuses – and that the Company had secured many deals by dealing through one Mr. Riadh Ben Aissa who served as the company's Executive Vice President of Infrastructure, Water, Geotechnical and Laboratories until February 9, 2012. Ben Aissa got deals by befriending Saadi al-Qadhafi, one of the least pleasant of the Qadhafi children. The Canadian media says their relationship was so close that SNC covered all Saadi's travel expenses during a stay in Toronto. The aforementioned 'analyst' was apparently trying to help Saadi, a wanted man, to escape to Niger. The case made headlines for weeks and while SNC is still standing, its share price fell vigorously during that period. Yara, on the other hand, was the first to deal with the corruption problem and while officials have been taken in custody, the case will not

have any negative consequences for its investors and certainly not for the potash/mineral fertilizer sector.