ICIG (Miteni): Drinking water pollution and tax avoidance

Italian chemical company Miteni, a subsidiary of International Chemical Investors Group (ICIG), has contaminated the soil and water in an area of around 200 km^2, affecting more than 350,000 people: but the Italian authorities have so far been unable to provide any remedy.

Problem Analysis

This case shows how ineffective national and regional governments and the judiciary system in Italy stood by as Miteni SpA released hazardous chemicals associated with cancer in humans into the Italian water supply, impacting at least 350,000 people. The damage has been estimated at €200 million but so far no efforts have been made to punish the company or to recover these costs.

Miteni's parent, ICIG group, has engaged in aggressive tax avoidance throughout its operations. This illustrates how the current system of financial contributions by corporations to society is broken. Corporations can amass huge profits while neither being held responsible for externalities nor being made to contribute their fair share to the society which hosts them.

Company

Company: International Chemical Investors Group (ICIG)

Head office: Luxembourg

Subsidiary: Miteni SpA[1], Italy. ICIG bought Miteni from Japanese Mitsubishi Corp. in 2009. Miteni was formerly called Rimar Chimica, set up by the Marzotto textile group in 1965.

Company background

Privately owned

Shareholders: Susi and Achim Riemann jointly control 50 per cent of ICIG through Acsuri GmbH. Patrick Schnitzer and any other possible owners of PE Investors Ltd. own the remaining 50 per cent of ICIG through PE Investors Ltd.[2]

The group's parent company is located in Luxembourg.[3]

CEO MITENI: Mr. Antonio Nardone (income data not public)

President MITENI: Brian A. McGlynn

Annual profit: € 76.5 million (2016)[4]

Annual turnover: € 1,920 million (2016)[5]

Presence: ICIG companies operate 29 manufacturing plants, ten in Germany, five in Italy, four in France, three in the United States, two in Belgium, two in the United Kingdom, one in Poland, one in Switzerland and one in the Netherlands. The Group has sales or research and development offices in Germany, the United States, Switzerland, France, Italy, the United Kingdom, Finland, Russia and China.[6]

Number of employees: More than 6,000 employees worldwide.

Company activity

ICIG is active in pharmaceuticals (CordenPharma brand), Fine Chemicals (WeylChem brand) and Chlorovinyls (VYNOVA brand).

Miteni, formerly called Rimar Chimica, started as a research and development operation for a textile group (Marzotto Group) and was later expanded to develop fluorochemicals, which are used to make stain-resistant, waterproof or non-stick finishes.

Country and location in which the violation occurred

Trissino (VI), Italy

Luxembourg

Summary of the case

Water pollution resulting in increased cancer and mortality rates

In 2013, the Italian National Research Council published a study accusing the Italian chemical company Miteni SpA of causing water pollution and contamination on a large scale across the Veneto Region in northeast Italy. The study stated that Miteni SpA was responsible for large quantities of Per- and Polyfluoroalkyl Substances (PFASs) leaking into water sources around the chemical manufacturing plant, and of contaminating drinking water.

PFASs are resistant to heat, water and oil and do not easily degrade in the natural environment. PFASs can also bioaccumulate, meaning their concentration in the blood and organs can increase over time as people ingest these chemicals through their drinking water. PFASs have a multitude of adverse health effects on animals and people, including causing liver damage, cancer and child mortality.[7,8] The 2013 research covered a 150 km2 area spanning the three Italian municipalities of Vicenza, Padua and Verona in the Veneto region, where between 350,000 and 400,000 people were believed to have been potentially exposed to PFASs.

The levels of PFASs in surface water and drinking water in the area were found to be much higher than usual. Concentrations of one possible carcinogenic PFAS called Perfluoro-octanoic Acid (PFOA) were found to be between 230 and 3,600 times the usual level. Higher than normal concentrations were confirmed in a follow-up study by the Veneto regional government (May 2015), and a 2017 study by the Universities of Padua and Verona found that incidences of cancer, diabetes and hypertension, as well as mortality rates, among Miteni's workers were significantly higher than average. The pollution by Miteni was found to have polluted the soil and water of 23 municipalities, affecting a total of 120,000 people. A study of the blood of 14 people living in the polluted area found PFAS levels that were 30 times higher than normal.

At this stage no real action has been taken other than installing an active carbon filter for filtering drinking water. The regional and national government have not taken action to stop the pollution. Restoring the water system of the region would cost € 200 million. However, the total costs are expected to be much higher, because the costs for environmental and health impacts as well as restorations for the affected population have as yet not been estimated by the authorities.

Tax avoidance

There are a number of indications that ICIG, Miteni's parent company, engages in aggressive tax avoidance. First, all of the controlling (parent) holding companies are based in tax havens (Luxembourg, Switzerland and Delaware/ USA), despite the company having no operations in these countries. Secondly, based on their annual accounts and consolidated figures the group's parent company ICI SE and the corporate group appear to enjoy very low effective tax rates, of 3.19% and 13.3% respectively. These are far below Luxembourg's official statutory corporate income tax rate of 29.22%, and below the rates that apply in every country where ICIG operates; where they are also obliged to pay corporate income taxes.

These low effective tax rates are achieved in a number of ways. A large part is a result of profit-shifting, whereby subsidiaries are kept unprofitable by creating artificial costs, such as interest payments to the parent company, management fees or royalty payments for use of intellectual property. ICI SE has €45.9 million outstanding in loans to its subsidiaries, which generate costs for them. Financing through equity, which does not generate costs for subsidiaries, is much lower. ICI SE owns just €9.9 million worth of shares in its subsidiaries. The company also owns intangible assets in the form of patents or trademarks valued at €149,000. Together, these three asset types make up 84% of ICI SE's €66.8 million in assets. ICI SE's profit is derived from passive income, such as interest payments on loans, dividend payments from shareholdings, capital gains on the sale of subsidiaries and royalty payments for intangible assets.

Given that ICI SE's subsidiaries deduct interest payments for the loans from their pre-tax profit, these interest payments effectively shift profit to ICI SE from its subsidiaries. Considering ICI SE's low effective tax rate, it appears that the income that ICI SE in Luxembourg receives as interest payments from its operational subsidiaries is taxed at a lower rate than it would have been had it been taxed in the country where it operates. Furthermore, ICIG has trademarks registered in Luxembourg, which generate costs for subsidiaries who use them. Again, this indicates profit-shifting.

As an example, ICIG acquired the company Enka GmbH in 2005. Its 'Enka' trademark is controlled by ICIG's subsidiary International Chemical Investors IV SA (ICI IV), registered in Luxembourg. As the value of that trademark was created in Germany, it should be taxed there, where all of Enka's operations are located. Whilst there is not sufficient financial transparency at subsidiary level to identify the volume of these transactions and related tax losses, it is likely Enka GmbH makes use of its own trademark and pays royalties to its parent company in Luxembourg, thereby lowering its profits in Germany, where a tax rate of 29.79% applies.

Until 2014 ICIG undertook research and development (R&D) activities in Ireland, at its subsidiary Corden Pharma Ltd. Corden Pharma Ltd. made annual royalty payments to one of its subsidiaries, called Corden Pharma IP Ltd. for the use of its patents. In the years 2009, 2010 and 2011, these payments amounted to €589,000, €92,000 and €33,000, respectively. During these years, royalty payments from its parent company made up Corden Pharma IP Ltd.'s entire turnover. Due to a lack of publicly available information, any payments that were made in others years could not be identified.

In its 2010 annual accounts, Corden Pharma IP Ltd. reported that its profits arising from patent income were exempted from corporate income tax. This allowed the company to pay nothing in corporate income taxes. Its parent company, Corden Pharma Ltd., was reportedly subject to Ireland's regular 12.5 per cent statutory tax rate. However, following an explosion at its facilities in 2008, Corden Pharma Ltd. suffered a loss and subsequently received a tax credit. This tax credit allowed the company to pay nothing in taxes from 2010 until it was wound down in 2015.

Endnotes

1 See International Chemical Investors (ICI) company website at http://www.miteni.com (accessed at 4-12-2017)
2 See International Chemical Investors (ICI) company website at http://www.ic-investors.com/index.php?id=2 ; ownership relations are analysed in SOMO & Greenpeace (September 2017), The International Chemical Investors Group (ICIG). Controversy and Tax Avoidance Scan, pp. 10-11 at http://www.greenpeace.org/italy/Global/italy/report/2017/Inquinamento/The_International_Chemical_Investors_Group_(ICIG).pdf (accessed at 4-12-2017)
3 Vincent Kiezebrink, "The International Chemical Investors Group (ICIG)," SOMO, 2017, p. 8 (accessed at 7-12-2017)
4 "Konzernabschluss für das geschäftsjahr mit Abschluss zum 31. Dezember 2016," International Chemical Investors S.E., 2017
5 ibid.
6 See International Chemical Investors (ICI) company website: http://www.ic-investors.com/our-investments/companies.html (accessed at 4-12-2017)
7 "Basic Information about Per- and Polyfluoroalkyl Substances (PFASs)," United States Environmental Protection Agency website, undated at https://www.epa.gov/pfas/basic-information-about-and-polyfluoroalkyl-substances-pfass#use
8 "The International Chemical Investors Group (ICIG). Controversy and Tax Avoidance Scan," SOMO & Greenpeace, September 2017 at http://www.greenpeace.org/italy/Global/italy/report/2017/Inquinamento/The_International_Chemical_Investors_Group_(ICIG).pdf