

Recent Statement concerning Corruption & USDOJ Efforts to Combat Foreign Bribery and Money Laundering

[Edited]

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.... Today, I want to speak with you about how the Criminal Division's work – in particular, our comprehensive approach to fighting corruption – supports the goals set forth by President Obama last week, and forms a critical piece of our government's collective effort to capitalize on this historic moment.

Corruption corrodes the public trust in countries rich and poor, and has particularly negative effects on emerging economies. When a developing country's public officials routinely abuse their power for personal gain, its people suffer tremendously. At a concrete level, roads are not built, schools lie in ruin, and basic public services go unprovided. At a more abstract, but no less important, level, political institutions lose legitimacy, threatening democratic stability and the rule of law, and people begin to lose hope that they will ever be able to improve their lot. As the President put it last week, you cannot reach your potential when you “cannot start a business without paying a bribe.”

There are of course many ways in which the U.S. government addresses the problem of corruption abroad. As the head of Criminal Division, I want to focus on three: our criminal prosecution efforts; our work to build the prosecutorial and law enforcement capacity of foreign nations; and our emerging focus on recovering and repatriating the proceeds of foreign official corruption.

Nevertheless, corruption remains a serious problem here, and we treat it that way. At the Justice Department, we have a dedicated group of criminal prosecutors – in the Public Integrity Section – whose sole task, along with the nation's 94 U.S. Attorneys' Offices, is to prosecute corruption cases involving federal, state, and local officials. These are not easy cases. But they are absolutely essential to preserving the integrity of our democratic institutions.

Moreover, we could not be effective abroad if we did not lead by example here at home. And you can see from our cases that we do not shy away from prosecuting powerful people.

At home, we pursue corruption at every level. This is important for our domestic stability – it strengthens the legitimacy of our democratic institutions, and shows that no person

here is above the law; and it is important for the work we do internationally – it shows the global community that we practice what we preach.

In the Criminal Division, we also investigate and prosecute corruption abroad – primarily through our enforcement of the **Foreign Corrupt Practices Act**. The FCPA was the first effort of any nation to specifically criminalize the act of bribing foreign officials. The statute was enacted in the wake of the Watergate scandal, which led to the resignation of President Richard Nixon in 1974 and resulted in a dramatic plunge in Americans’ overall trust in government.

In 1976, following certain prosecutions for illegal use of corporate funds arising out of Watergate, the U.S. Securities and Exchange Commission issued a report in which it determined that foreign bribery by U.S. corporations was “serious and sufficiently widespread to be a cause for deep concern.” S.E.C. investigations revealed that hundreds of U.S. companies had made corrupt foreign payments involving hundreds of millions of dollars. With this background, the Senate concluded that there was a strong need for anti-bribery legislation in the United States. “Corporate bribery is bad business,” the Senate Banking Committee said in its report on the legislation. “In our free market system it is basic that the sale of products should take place on the basis of price, quality, and service. Corporate bribery is fundamentally destructive of this basic tenet.”

That was true then, and it’s true now. And over the two-plus years of this Administration, we have dramatically increased our enforcement of the FCPA. The numbers speak for themselves. In 2004, the Justice Department charged two individuals under the Act and collected around \$11 million in criminal fines. In 2005, we charged five individuals and collected around \$16½ million. By contrast, in 2009 and 2010 combined, we charged over 50 individuals and collected nearly \$2 billion.

And we are only moving forward. Earlier this month, we secured the first jury conviction ever against a corporation in an FCPA case. The case, which also resulted in trial verdicts against the company’s president and its CFO, involved a scheme to pay bribes to Mexican government officials at CFE, a state-owned utility company.

Last week, the former CEO of a Miami-based telecommunications company pleaded guilty to conspiring to pay bribes to government officials in Honduras in connection with a scheme to secure contracts from Hondutel, the state-owned telecommunications authority. Last month, the former vice-president of sales for Europe, Africa, and the Middle East at the multi-national valve company Control Components Inc., or CCI, pleaded guilty to conspiring to bribe government officials in Saudi Arabia, Qatar, and other countries.

I could give you dozens of other examples, from countries across the world, including in Africa and the Middle East. But the point is this: **FCPA enforcement matters. When U.S. businesspersons, foreign executives, and even foreign officials know that they risk liability under the FCPA and related statutes, behavior changes.** In addition to motivating U.S. and foreign corporations to change the way they do business – something that I believe

is already happening – the threat of liability can help corporations resist corrupt demands from foreign officials, which can lead the officials themselves to alter their practices.

Another important component of our efforts is the work we do in helping foreign countries build up the **capacity to investigate and prosecute corruption cases on their own.** Since 1991, in partnership with the U.S. Department of State, we have placed legal advisors in dozens of countries around the world, including throughout North and Sub-Saharan Africa and the Middle East, to work with foreign prosecutors and judges to develop and sustain effective criminal justice institutions.

This capacity-building work is crucial – as crucial as our domestic prosecutions. It shows our faith in the rule of law; it helps countries that have the will to improve; and it forms part of the U.S. government’s multifaceted approach to improving the conditions for democracy abroad. That’s why, together with the Department of State, we devote as many resources to this work as we do.

There is one final aspect of our approach against corruption that I want to discuss with you today: **our new Kleptocracy Asset Recovery Initiative.** You heard President Obama say last week that the United States “will help newly democratic governments recover assets that were stolen.” In the Criminal Division’s Asset Forfeiture and Money Laundering Section, there is a dedicated group of prosecutors focused on doing exactly that.

The goal of the Kleptocracy Asset Recovery Initiative, which Attorney General Holder announced last July and which my team and I have been working to build over the past year, is to identify the proceeds of foreign official corruption, forfeit them, and repatriate the recouped funds for the benefit of the people harmed.

In the context of a criminal prosecution, a court can order forfeiture, upon conviction, as part of the defendant’s sentence. Thus, for example, if we were to bring a criminal case against a kleptocrat in the United States, we would be able to seek criminal forfeiture of his or her stolen assets.

Often, however, it may be impractical or impossible to bring a criminal prosecution against a kleptocrat. He or she may be immune from prosecution, beyond the jurisdiction of the United States, or otherwise unavailable. In these circumstances, the Kleptocracy Team can bring a civil forfeiture action to recover the stolen property. This is sometimes referred to internationally as non-conviction based confiscation.

At the World Bank, I know you understand the Kleptocracy Initiative’s importance, because you have been working hard to assist in the return of stolen assets and to promote non-conviction based confiscation abroad through the Stolen Asset Recovery Initiative, or StAR.

Like our criminal corruption prosecutions of domestic officials, our FCPA investigations, and our capacity-building efforts, **our work to recover and repatriate the stolen assets of foreign corrupt officials sends the message that we believe in the dignity of every citizen,**

and stand against foreign leaders who steal from their people. The Kleptocracy Initiative cannot alone create hope where there is none, or bring respect to ordinary people who have not been shown enough. But we believe it is an extremely important building block in our approach to one of the world's most intractable, and corrosive, problems.