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REMARKS AS PREPARED FOR DELIVERY BY ASSISTANT ATTORNEY GENERAL LANNY A. BREUER
AT IBC LEGAL'S WORLD BRIBERY & CORRUPTION COMPLIANCE FORUM

LONDON

Thank you, Howard, for that kind introduction. I am honored to be here with you and the other participants in this bribery and corruption conference.

I am asked to speak about efforts in the United States to fight foreign bribery perhaps more than on any other subject, and all over the world. In Russia, Romania, Liberia, Sweden and other countries, I have been privileged to discuss our anti-corruption enforcement efforts, and I am delighted to do so here in London – particularly because of the close working relationship that U.S. prosecutors have with their U.K. counterparts.

This is a critically important time in United States enforcement of anti-bribery laws, and other anti-fraud measures, so I am grateful for the opportunity to share my thoughts with you today.

I want to speak with you this afternoon about what the U.S. Justice Department is doing to fight corruption around the globe, and how we do it.

I have been Assistant Attorney General of the Criminal Division for three-and-a-half years, which I am told makes me the longest serving head of the Division in nearly 50 years. The Justice Department's Criminal Division is based in Washington, D.C., and has approximately 600 lawyers across 15 sections. Division lawyers prosecute an array of federal crimes – from public corruption, to cybercrime, to violent and organized crime, to financial fraud.

Since 2009, my team and I have changed the division in significant ways – bringing in new, energetic leadership in virtually all of our sections, and prosecuting the highest-impact cases in the country.

One section whose work may be of particular interest to you is our Fraud Section, which has primary responsibility for criminal enforcement of the Foreign Corrupt Practices Act. As you may know, no criminal FCPA case can be brought in the United States without the Fraud Section's authorization.

I have said before that I personally believe our FCPA work is so important. It helps to level the playing field for U.S. and foreign companies, and motivates corporations to create genuine cultures of compliance. Moreover, corruption has such negative effects, particular in emerging economies, that we must use every tool at our disposal to fight it. Not only does corruption corrode the public trust and weaken democratic institutions, but it also creates gaps in government structures that organized criminal groups and terrorist networks can exploit.

The FCPA, which has been on the books for approximately 35 years, was the first effort of any nation to specifically criminalize the act of bribing foreign officials. But only in the last several years has the law become a strong enforcement tool.

Although we of course bring our cases in the United States, our anti-corruption work has become increasingly global in scope, with ramifications for companies around the world, including here in the United Kingdom.

As just one example of the international nature of the Criminal Division's work in general – not having to do with corporations – last week, Colombian prosecutor Ramiro Anturi Larrahondo pleaded guilty to providing law enforcement information to drug traffickers as part of a cocaine trafficking conspiracy. Anturi Larrahondo was the first Colombian prosecutor ever to be extradited to the United States.

As I mentioned, I have traveled to many countries as head of the Criminal Division, and perceptions about corruption – and of our prosecutorial efforts – differ widely.

I was in Russia earlier this year, for example, where the issue of corruption is front and center. Last year, Russia passed a law criminalizing foreign bribery and joined the OECD Working Group on Bribery.

These developments notwithstanding, Russia is still a place where corruption is perceived to be a very significant problem. Transparency International ranked Russia 143rd on its most recent Corruption Perceptions Index. Yet, based on my discussions there, it is clear to me that companies that take a hard line against corruption, and develop strong cultures of compliance, can thrive in Russia, as they do elsewhere.

My sense is that in the United Kingdom, over the past two years, attitudes toward foreign bribery have changed in light of the U.K. Bribery Act. But, as it did in the United States, I expect it will take time for the full impact of the law to sink in.

Criminal enforcement is a critically important aspect of our anti-corruption work. But, in the Criminal Division, we have also been developing an asset forfeiture initiative – the Kleptocracy Asset Recovery Initiative – that involves civil actions against the proceeds of foreign official corruption.

Attorney General Holder announced the initiative in Uganda in 2010, and my team and I have been building the initiative in the Criminal Division's Asset Forfeiture and Money

Laundering Section since then. Our theory is simple: Even if we cannot pursue you criminally in the United States – because we lack criminal jurisdiction, for example – corrupt leaders should not be permitted to use the United States as a safe haven for the proceeds of their corrupt activities.

We have recently had our first Kleptocracy Initiative successes. In July, for example, we announced that we had secured a restraining order against more than $3 million in corruption proceeds related to James Onanefe Ibori, the former governor of the oil-producing Delta State in Nigeria; and, earlier this month, we executed restraints against an additional $4 million in Ibori assets, including the proceeds from the sale of a penthouse unit in the Ritz-Carlton in Washington, D.C. Ibori was previously convicted here in the United Kingdom on money laundering and fraud charges and sentenced to 13 years in prison.

Another example involves two civil forfeiture complaints we have filed against approximately $70 million in assets allegedly belonging to Teodoro Nguema Obiang Mangue, a government minister for Equatorial Guinea and the son of that country's president. According to the complaints, despite an official government salary of less than $100,000 per year, Minister Obiang corruptly amassed wealth of more than $100 million. Among the items that we are seeking to forfeit are a Gulfstream jet, a mansion in Malibu, Calif., and $1.8 million worth of Michael Jackson memorabilia.

There is plenty of corporate misconduct to keep prosecutors in the United States busy – both FCPA-related and non-FCPA-related.

We have ongoing investigations of several large financial institutions, and we have resolved cases against many others. Earlier in my tenure, for example, we resolved a case against Credit Suisse, which agreed to forfeit $536 million in connection with violations relating to transactions the bank conducted on behalf of customers from Iran, Sudan and other sanctioned countries.

As a result both of increased FCPA enforcement and increased policing of corporate conduct in general, I think that the culture of corporate compliance has improved in recent years. As I explained in a speech in New York City recently, until roughly 20 years ago, prosecutors in the United States, when they encountered corporate misconduct, were usually faced with a stark choice – either to indict, or walk away.

That began to change in the 1990s, when the government started doing something new: agreeing to defer prosecution against the corporation in exchange for an admission of wrongdoing; cooperation with the government's investigation, including against individual employees; payment of monetary penalties; and concrete steps to improve the company's behavior. And, over the past decade, deferred prosecution agreements, or DPAs, have become an important part of corporate criminal law enforcement.

I am aware that the U.K. government recently put forth a proposal to introduce DPAs as a way of resolving corporate cases in the U.K. Based on the United States experience, my sense is that the availability of DPAs here would represent a positive step forward.

In the United States, the increased use of DPAs has meant far greater accountability for corporate wrongdoing. Whereas prosecutors often declined when their only choice was to indict or walk away, now companies know that avoiding the disaster scenario of an indictment does not mean an escape from accountability.

This past June, for example, the Fraud Section resolved allegations of criminal wrongdoing against Barclays Bank over the bank's role in the manipulation of the London Interbank Offered Rate, or LIBOR. Barclays, which entered into a non-prosecution agreement, or NPA, with the government, paid a significant price for its egregious conduct. In the wake of our announcement, the top management of the bank was replaced. But, as we also recognized at the time, Barclays's cooperation with our investigation was extraordinary, which is why an NPA was appropriate in that case.

DPAs and NPAs are appropriate in certain circumstances and, therefore, they can be useful alternatives to criminal indictments. But they cannot be a substitute for criminal charges. Just last week, for example, we announced criminal trade secret theft charges against Kolon Industries, a South Korean corporation, and five Kolon executives and employees. As the Kolon case shows, we do not hesitate to charge corporations criminally in appropriate circumstances, in addition to holding individuals accountable.

As I have said repeatedly, the strongest deterrent against corporate wrongdoing is the prospect of prison time. That is why I have put such a high priority on making sure that individuals are prosecuted when the evidence warrants prosecution. To give you just two Criminal Division examples: Lee Bentley Farkas, the former chairman of Taylor Bean & Whitaker, which was one of the largest private mortgage lending companies in the country, is serving a 30-year prison sentence for having masterminded a nearly $3 billion bank and securities fraud, and several of his co-conspirators are also serving substantial prison sentences. R. Allen Stanford, who misappropriated $7 billion from Stanford International Bank to finance his personal businesses, is serving a 110-year sentence.

A third example involves the prosecution of Garth Peterson. A former managing director of Morgan Stanley, Peterson pleaded guilty to conspiring to evade the bank's internal FCPA controls and was sentenced to prison in August. Because Morgan Stanley voluntarily disclosed Peterson's misconduct, fully cooperated with our investigation and showed us that it maintained a rigorous compliance program, including extensive training of bank employees on the FCPA and other anti-corruption measures, we declined to bring any enforcement action against the institution in connection with Peterson's conduct.

Prosecutors need to be smart about how they use their discretion in the FCPA context, as in every context. And, as we did in the Peterson case, we always attempt to strike an appropriate balance between vigorous and responsible enforcement.

In recent years, we have witnessed a significant awakening to the problem of corruption around the globe. Russia, China and India are taking foreign bribery more seriously than ever before; the U.K. has an important new Bribery Act; and, perhaps due in part to United States

enforcement efforts, companies and individuals doing business around the world are coming to appreciate that they will be held accountable for the way they conduct business with foreign officials. In short, the world is moving in one direction only with respect to anti-corruption efforts. There is still plenty of work to be done. But we are making progress, and I hope and believe that we will continue to make strides in this area together.

Thank you.

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