

JUSTICE NEWS

Acting Assistant Attorney General Kenneth A. Blanco Delivers Remarks at Foreign Corrupt Practices Act/Organization for Economic Cooperation and Development Anniversary Conference at the NYU School of Law

New York, NY ~ Thursday, November 9, 2017

Good morning and thank you for that kind introduction, Sandra.

It is a pleasure to be here today. I want to start by thanking the U.S. Securities and Exchange Commission (SEC) and the Organization for Economic Cooperation and Development (OECD) for co-organizing this event with the Department of Justice. I also want to thank the New York University School of Law for hosting us.

Today, I have the honor and the privilege of speaking with you as the Acting Assistant Attorney General for the Criminal Division of the United States Department of Justice.

As many of you know, the Criminal Division spearheads the Department's efforts in financial investigations, transnational crime, health care fraud, securities fraud, intellectual property theft, computer hacking, money laundering, sanctions violations, illicit finance, asset recovery, and, of course, the Foreign Corrupt Practices Act (FCPA) and kleptocracy initiative, to name just a few areas in which we are leading.

It is a great honor to be the head of and to oversee the Criminal Division, and I am excited to be here today on its behalf as we celebrate two milestone events: the 40th Anniversary of the FCPA and the 20th Anniversary of the OECD Anti-Bribery Convention.

Today's conference is a testament to the wonderful working relationship between the Justice Department, the SEC and the OECD – and in particular the OECD's Working Group on Bribery.

It is astonishing to think about what the FCPA and OECD Anti-Bribery Convention have achieved in a relatively short period of time.

At the time of its passing in 1977, the FCPA was revolutionary, the first law of its kind. And as a result, the U.S. was at the forefront of fighting international corruption, fighting to level the playing field for all honest and ethical corporations and individuals to fairly compete.

In fact, before and for decades after the FCPA was enacted, international bribery remained an accepted practice in order to compete for overseas contracts. Some countries even permitted such bribes to be tax deductible.

Over time and persistence by prosecutors, agents, victims, and others – people like you here today – bad actors were exposed and the consequences of their bad acts were exposed as well. Their greed and lavish lifestyles, often flaunted in the face of their many victims, became too much. The public, everyday people, got tired of having their money stolen by corrupt individuals in the public and private sector. They demanded, and much like us, expected corruption to be punished.

Through the passage and enforcement of the FCPA, and the adoption of the OECD Anti-Bribery Convention, and other conventions like the United Nations Convention Against Corruption (UNCAC) and the Convention on Transnational Organized Crime (UNTOC), much has evolved and changed over the years, in a major way.

Forty-three nations are now signatories to the Anti-Bribery Convention and, as required, each has passed laws that criminalize the bribery of foreign officials. Because of the international norms created by the Convention, many

other countries have passed similar legislation and more are in the process of doing so. This international approach has dramatically advanced our collective efforts to uncover, punish and deter foreign corruption.

The stakes for continuing down this path could not be clearer or higher.

Bribery threatens national security, good governance, sustainable growth and development, and democratic processes. It undermines the rule of law and breeds distrust and instability. It facilitates organized crime and empowers authoritarian rulers and can destabilize entire regions. It corrodes public trust in countries rich and poor, inflicting particular harm on emerging economies.

Corruption punishes honest and ethical companies, unfairly and unjustly rewarding those companies willing to break the rules to get ahead, hurting our economy, businesses, investors, the ability of people to advance in life, harming society as a whole.

The commitment of the signatories to the Convention is grounded in the recognition of these harms and a collective desire to stand firm against them, united in our efforts.

But what makes the OECD Convention so unique, and so effective, is that it not only requires its signatories to affirm their commitment to fighting transnational corruption, or even that they pass laws to do so, but it also encourages cooperation and a collaborative approach.

Each of the signatories to the Convention has agreed to abide by strong provisions for mutual assistance, peer evaluation, and systematic monitoring. In particular, the comprehensive peer review process motivates countries to ensure the highest level of compliance with the Convention and to take concrete action to fight foreign bribery and corruption.

For example, the Phase 4 evaluation process, which began in 2016, focuses on enforcement and covers in-depth exploration of issues such as detection, corporate criminal liability, mutual legal assistance, as well as unresolved issues from prior review periods.

These peer review mechanisms have ultimately made the compact an incredibly effective tool for combatting corruption.

In addition, over the past 10 years, law enforcement officials of the now 43 Parties have met twice a year to share experiences and information on foreign bribery enforcement. These meetings have been instrumental in fostering contacts between law enforcement officials and facilitating international cooperation in foreign bribery cases.

The criminals we seek to identify and bring to justice move quickly, and it is imperative that we, collectively, do the same, moving as quickly as we can, using all of our collective tools.

Because of the efforts of the OECD Working Group on Bribery, and our law enforcement partners at home and overseas, we have transitioned from a world in which bribery of foreign officials was considered a sound business strategy, to one in which bribery is treated like the corrosive crime that it is.

The Department's FCPA enforcement program would not be where it is today without the help of the OECD's Working Group on Bribery and the member countries it comprises.

We are committed to continuing to work together with our overseas partners, to hold accountable individuals and companies who engage in corruption, regardless of where they operate or reside.

Our efforts in this respect, due to the tireless work performed by our prosecutors, the SEC, the FBI and other law enforcement agencies, has been remarkable.

Since 2016 alone, the Justice Department has brought more than 35 criminal cases against individuals and 17 cases against corporations in connection with foreign bribery charges. These efforts have resulted in the collection of more than \$1.6 billion in fines, penalties and disgorgement. Going forward, we will continue to work closely with the SEC, the FBI and other law enforcement agencies.

We will work with our foreign counterparts to make sure that businesses and organizations that refuse to play by the rules are held responsible.

Countries around the world are strengthening their laws, and investigating and bringing impactful cases.

In this context, we have found that not only is there a need to cooperate with our partners on the investigative side, but also on global resolutions that apportion penalties between the relevant jurisdictions.

I would like to take a moment and mention a few cases that show the extraordinary results we have obtained by working with our foreign counterparts, all of whom are members of the Working Group on Bribery.

Odebrecht, one of the world's largest construction companies, paid an unparalleled amount of bribes to high-level officials in a dozen countries to secure billions of dollars' worth of projects around the globe. The United States, Brazil and Switzerland were able to achieve the largest global fine ever imposed in a corruption case.

The company pleaded guilty in the United States and is required to cooperate with the respective countries' ongoing investigations of individuals, as well as to retain an independent compliance monitor for three years.

Approximately 80 people have been charged in connection with the cases so far.

By working together, these three countries not only assisted one another in gathering evidence and building the case, but made sure to credit the fines and penalties paid to each country, rather than imposing duplicative fines and penalties. This ensures fairness to the companies and provides the right incentives for companies to cooperate fully with the relevant jurisdictions implicated in the case.

In our prosecution of Rolls-Royce, the company paid about \$170 million in U.S. penalties as part of an \$800 million global resolution to investigations in three countries – the United States, the United Kingdom and Brazil.

As with Odebrecht, the Rolls-Royce investigation reflected the seriousness of the misconduct, which involved payments of \$35 million in bribes to officials in six countries.

And just this week, we announced the prosecution of senior executives at the company, as well as other employees and intermediaries. Two executives, one employee and one intermediary have all pleaded guilty in connection with the scheme thus far.

In September, the United States, the Netherlands and Sweden announced another large-scale global corporate settlement against Stockholm-based telecommunications company Telia. That case followed on the heels of the 2016 settlement against Amsterdam-based Vimpelcom; both of these companies admitted to paying over \$440 million in bribes to a corrupt official in Uzbekistan.

Each of these cases involved significant international cooperation, and demonstrate that we can achieve great things when we work together to combat corruption.

While the United States and our international partners are working together to investigate and bring criminal cases, particularly those involving corruption, the United States also stands ready to assist with the seizure of illegally obtained assets, even where a criminal case may not be brought in the United States.

The Criminal Division's Money Laundering and Asset Recovery Section's Kleptocracy Asset Recovery Initiative, which is specifically designed to target and recover the proceeds of foreign official corruption that have been laundered into or through the United States, has proven to be an incredibly valuable tool to fight corruption. The results of this initiative have been outstanding.

For example, in 2016, the Department filed the largest single action ever brought under the Kleptocracy Initiative. The case involved multiple bond offerings through which 1Malaysia Development Berhad (1MDB) raised money to benefit the people of Malaysia. Money that was instead allegedly stolen by corrupt officials and their associates.

Just this year, additional complaints were filed in that case, bringing the total amount that we are working to recover to well over \$1.7 billion.

I want to stress that in these kleptocracy cases, one of our goals is to return the assets to those harmed by the criminal conduct.

In October 2014, the Department settled civil forfeiture cases against assets in the United States owned by the Second Vice President of the Republic of Equatorial Guinea, Teodoro Nguema Obiang Mangue, that he purchased with the proceeds of corruption. Under the terms of the settlement, Obiang was required to disgorge over \$30 million, \$10 million of which was to be forfeited and another \$20 million to be used to benefit the people of Equatorial Guinea through a charity.

The Department also forfeited \$480 million embezzled by Nigerian dictator Sani Abacha and his associates. To be clear, we will protect our financial system here in the United States, we will not allow it to be polluted with illicit proceeds or used as a conduit or tool for corruption or other crimes which in turn damage its integrity and security.

With the help of our foreign counterparts, 2017 has been another clear demonstration of our collective resolve to fight transnational corruption.

The Justice Department has secured trial convictions in three foreign bribery cases this year so far – two foreign officials who laundered proceeds of foreign bribery violations in the United States and a Chinese businessman who bribed United Nations officials to secure their support for a lucrative conference center in Macau.

We have announced FCPA resolutions with five corporations, resulting in penalties, forfeiture, and disgorgement of approximately \$500 million. We have also announced convictions or guilty pleas by 17 individuals in FCPA-related cases, which is more than in any previous year and there is more to come.

Our foreign counterparts have likewise brought significant cases against companies and individuals, including high-level executives of major corporations.

Earlier this year, prosecutors in Brazil charged former president Dilma Rousseff and won a guilty verdict against former President Lula da Silva, who was charged with receiving bribes from the engineering firm OAS in return for his help in winning contracts with the state oil company Petrobras.

New international partners continue to emerge. I was in Argentina this week, meeting with the highest levels of the Macri government, and with their Chief Justice of the Supreme Court. For the last year, we have been working closely with the Argentines in the areas of corruption, organized crime and money laundering. I am impressed with their strong commitment and the actions they are taking, towards rooting out corruption in all its forms. We share a common commitment to continue working closely together.

The fight is never easy and a great deal of work remains to be done.

We at the Department of Justice will continue, as we have for years, to push forward against corruption wherever our laws permit.

We are proud to stand with our fellow counterparts around the world who are joining us in this fight, shoulder to shoulder, steadfast.

I am confident that if we continue to adhere to the spirit of trust and cooperation that has brought us this far, we will achieve results that seemed inconceivable just 20 years ago.

So, it seems clear from all this hard work and success, that there is a lot to be proud of in celebrating the 40th anniversary of the FCPA, and the 20th anniversary of the OECD Anti-Bribery Convention.

I want to congratulate all of you for your work and your dedication in this regard. I want to also thank you for allowing me some time today to share my thoughts with you.

Thank you, and have a wonderful rest of the day.

Speaker:

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Component(s):
Criminal Division

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