

# The FCPA Is Just as Relevant and Necessary Today as Thirty-Five Years Ago

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## TABLE OF CONTENTS

|   |      |
|---|------|
| I. INTRODUCTION .....                   | 1039 |
| II. THE WORLD IN 1977.....              | 1040 |
| III. WHAT IS THE WORLD LIKE TODAY?..... | 1045 |
| IV. CONCLUSION.....                     | 1046 |

## I. INTRODUCTION

Attorney General Eric Holder has said that “[c]orruption erodes trust in government and private institutions alike; it undermines confidence in the fairness of free and open markets; and it breeds contempt for the rule of law. Corruption is, simply put, a scourge on civil society.”<sup>1</sup> The Foreign Corrupt Practices Act, from its beginning, has been a powerful tool for fighting against corruption, for protecting markets, and for restoring faith in government processes. It is for that reason the United States Department of Justice (DOJ), in partnership with the Securities and Exchange Commission (SEC), will continue to enforce this statute with ever greater vigor.

Since 2009, DOJ has brought enforcement actions against approximately sixty companies for Foreign Corrupt Practices Act (FCPA)-related offenses with combined penalties in excess of \$2 billion.<sup>2</sup> In that same time frame, DOJ has secured FCPA convictions against more than three dozen individuals.<sup>3</sup>

While the total number of FCPA cases still falls below those of cases involving gangs, violence, or other types of fraud that DOJ handles each year, the impact of FCPA cases cannot be understated in terms of punishment for wrongdoing and deterrence from engaging in unlawful activity. Just as importantly, these cases, which are by nature high profile, also set a tone

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<sup>1</sup> Eric Holder, Attorney Gen., U.S. Dep’t of Justice, Opening Plenary of the VI Ministerial Global Forum on Fighting Corruption and Safeguarding Integrity (Nov. 7, 2009), available at <http://www.justice.gov/ag/speeches/2009/ag-speech-091107.html>.

<sup>2</sup> See *FCPA and Related Enforcement Actions*, U.S. DEP’T OF JUSTICE, <http://www.justice.gov/criminal/fraud/fcpa/cases/a.html> (last visited Oct. 15, 2012) (citing enforcement action data from the years 2009–2012).

<sup>3</sup> *Id.*

globally for other countries to join the U.S. in fighting corruption in a serious, methodical manner.

One indication of the FCPA's extraordinary impact is the fact that a lot of people are complaining about it in the press and elsewhere.<sup>4</sup> And judging from the panel discussions organized for today's Symposium, you will hear the good, the bad, and the ugly about the FCPA from a wide variety of perspectives.

Doubtless, you will hear about several high-profile failures on behalf of the government to prevail in some of these cases. But I want to emphasize that you cannot increase the number of cases as dramatically as DOJ has done over recent years without encountering failures. And any good prosecutor will tell you that some cases, because of their nature and fact patterns, are worth bringing even if success is not guaranteed.

This morning, I will leave to other panelists the detailed "nuts and bolts" of FCPA activities. My goal will be to stress why the FCPA is just as important and beneficial a tool now as it was when it was first created thirty-five years ago. And why it is needed more than ever to make a difference.

## II. THE WORLD IN 1977

Congress enacted the FCPA as a direct result of the Watergate scandal.<sup>5</sup>

In 1975, the Watergate Special Counsel prosecuted several large U.S. corporations for making illegal contributions to the Committee to Re-Elect President Richard Nixon.<sup>6</sup> A U.S. House of Representatives report found:

More than 400 corporations have admitted making questionable or illegal payments. The companies, most of them voluntarily, have reported paying out well in excess of \$300 million in corporate funds to foreign government officials, politicians, and political parties. These corporations have included

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<sup>4</sup> See, e.g., *Hearing on the Foreign Corrupt Practices Act Before the H. Judiciary Comm. and the Subcomm. on Crime, Terrorism and Homeland Sec.*, 112th Cong. 37–45 (2011) (testimony of George J. Terwilliger III) (proposing amendments to the FCPA), available at [http://judiciary.house.gov/hearings/printers/112th/112-47\\_66886.PDF](http://judiciary.house.gov/hearings/printers/112th/112-47_66886.PDF); ANDREW WEISSMAN & ALIXANDRA SMITH, U.S. CHAMBER INST. FOR LEGAL REFORM, U.S. CHAMBER OF COMMERCE, RESTORING BALANCE: PROPOSED AMENDMENTS TO THE FOREIGN CORRUPT PRACTICES ACT (2010), available at [http://www.instituteforlegalreform.com/sites/default/files/restoringbalance\\_fcpa.pdf](http://www.instituteforlegalreform.com/sites/default/files/restoringbalance_fcpa.pdf) (proposing amendments to the FCPA); Op.-Ed. *News and Its Critics*, WALL ST. J. (July 18, 2011), <http://online.wsj.com/article/SB10001424052702303661904576451812776293184.html> (criticizing investigation of parent company, News Corp., for possible violations of the FCPA for allegedly bribing Metropolitan Police officials for information to be published in news tabloid in United Kingdom). *But see* DAVID KENNEDY & DAN DANIELSEN, OPEN SOC'Y FOUNDS., BUSTING BRIBERY: SUSTAINING THE GLOBAL MOMENTUM OF THE FOREIGN CORRUPT PRACTICES ACT (Sept. 2011), available at <http://www.soros.org/sites/default/files/Busting%2520Bribery2011September.pdf> (advocating against the Chamber's proposed amendments contained in RESTORING BALANCE).

<sup>5</sup> See Alejandro Posadas, *Combating Corruption Under International Law*, 10 DUKE J. COMP. & INT'L L. 345, 348, 352–59 (2000).

<sup>6</sup> *Id.* at 348.

some of the largest and most widely held public companies in the United States; over 117 of them rank in the top Fortune 500 industries.<sup>7</sup>

The result of these findings was a concerted effort by the SEC to investigate these and related illicit practices, which resulted in voluntary disclosures by more than 400 corporations,<sup>8</sup> civil injunctive proceedings,<sup>9</sup> and, by the end of 1977, the enactment of the Foreign Corrupt Practices Act.<sup>10</sup> Assistant Attorney General (AAG) Lanny Breuer has called the FCPA the “first effort by any nation to specifically criminalize the act of bribing foreign officials.”<sup>11</sup>

Congressional intent in passing the FCPA was clear: bribery of foreign government officials undermined the relations between the U.S. and our allies, threatened the stability of governments, and damaged the reputation of American business throughout the world.<sup>12</sup>

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<sup>7</sup>H.R. REP. NO. 95-640, at 4 (1977).

<sup>8</sup>U.S. SEC. & EXCH. COMM’N, REPORT OF THE SECURITIES AND EXCHANGE COMMISSION ON QUESTIONABLE AND ILLEGAL CORPORATE PAYMENTS AND PRACTICES 2 (1976), reprinted in *Special Supplement*, Sec. Reg. & L. Rep. (BNA) No. 353 (May 19, 1976) [hereinafter SEC REPORT]; Alexandra A. Wrage, *Today, No Bribe Is Too Small*, LAW.COM (Mar. 25, 2008), <http://www.law.com/jsp/law/international/LawArticleIntl.jsp?id=900005560941&slreturn=20120808133105>.

<sup>9</sup>Prior to and shortly after the passage of the FCPA, during the 1970s, the SEC had litigated over forty domestic and foreign bribery civil enforcement actions involving pre-FCPA conduct alleging either Rule 10b-5 anti-fraud violations, or related violations of the corporate reporting or proxy rules pursuant to sections 12, 13 and 14 of the 1934 Act. See Arthur F. Matthews, *Enforcement of the Foreign Corrupt Practices Act*, in ALAN B. LEVENSON ET AL., FOREIGN CORRUPT PRACTICES AND INTERNAL ACCOUNTING CONTROLS: PRACTICAL SUGGESTIONS FOR THE PROBLEMS FACED BY INSIDE COUNSEL & ACCOUNTANTS 199, 219–20 (1980); see also SEC REPORT, *supra* note 8, at 3, Ex. B (describing fourteen cases brought prior to the enactment of the FCPA). For examples of civil injunctive cases brought by the SEC in the aftermath of the FCPA’s enactment, see SEC v. Joseph Schlitz Brewing Co., 452 F. Supp. 824 (E.D. Wis. 1978) (consent injunction); SEC v. Int’l Tel. & Tel. Corp., [1978 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶¶ 96,586, 96,452 (1978); ARTHUR F. MATTHEWS & ALAN B. LEVENSON, NEGOTIATING SEC CONSENT DECREES: TARGETS & TACTICS FOR SETTLING CIVIL INJUNCTIVE ACTIONS 10–69, 347–581 (1979).

<sup>10</sup>Foreign Corrupt Practices Act of 1977, Pub. L. No. 95-213, 91 Stat. 1494 (codified as amended in scattered sections of 15 U.S.C.).

<sup>11</sup>Lanny A. Breuer, Assistant Attorney Gen., U.S. Dep’t of Justice, Remarks at the United Nations for International Anti-corruption Day (Dec. 9, 2010), available at <http://www.justice.gov/criminal/pr/speeches/2010/crm-speech-101209.html>.

<sup>12</sup>In passing the FCPA, the U.S. Senate discussed the need for the law:

Corporate bribery is bad business. 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. Corporate bribery of foreign officials takes place primarily to assist corporations in gaining business. Thus foreign corporate bribery affects the very stability of overseas business. Foreign corporate bribes also affect our domestic competitive climate when domestic firms engage in such practices as a substitute for healthy competition for foreign business.

These concerns were particularly prominent in the 1970s because there was significant global unrest, including conflicts in the Middle East, rapidly rising oil prices, terrorist attacks, and the U.S. disengagement from a war on foreign soil (Vietnam) which had drained resources and battered the U.S.'s international image.

If we fast forward thirty-five years to today, guess what? We are still facing conflicts in the Middle East, rising oil prices, terrorist attacks, and the U.S. is now disengaging from a war on foreign soil (Afghanistan) which has drained resources and battered the U.S.'s international image.

But one key aspect has changed: because of advances in technology and business practices, we are more connected and more inter-dependent with other countries and international companies than ever before in history. While you may agree or disagree with the "butterfly effect," that is, that the flapping of a butterfly's wings in China can cause a thunderstorm in Ohio, there can be little dispute that corruption in a manufacturing company in China can have tremendous and significant consequences for the citizens of China, of Ohio, and beyond.

And therein lies the importance of the FCPA.

Corruption in the public sector, in any country that exports or imports goods, or which is otherwise engaged in the global economic trade system, threatens good governance, sustainable development, the democratic process, and fair business practices.

Corruption also:

- Causes a misallocation of capital;
- Undermines a business's control over its money;
- Often results in the depletion of a country's natural resources by leaders who enrich themselves and then transfer their ill-gotten gains to other countries, including financial-secrecy havens; and
- Ends up awarding contracts not to the corporation best suited for the job, but to the business willing and able to pay bribes.

In addition to enriching themselves, leaders often use money obtained from bribes to consolidate power, defeat opposition, and crush dissent.<sup>13</sup>

So, corruption is a resource issue, a public integrity issue, a corporate governance issue, a development issue, and, of course, at its core, a moral issue.

To return to the China example, if that factory supplies parts to companies in the U.S. to make automobiles or building materials, then corruption there can impact the price American companies pay for those materials as well as the

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S. REP. NO. 95-114, at 4 (1977), available at <http://www.justice.gov/criminal/fraud/fcpa/history/1977/senaterpt-95-114.pdf>.

<sup>13</sup> See, e.g., Nataliya Vasilyeva, *Bribes Part of Everyday Life in Putin's Russia*, GUARDIAN (Feb. 24, 2012), <http://www.guardian.co.uk/world/feedarticle/10110806> (detailing the Putin administration's comprehensive use of bribes to, among other things, solidify and centralize power).

safety of the products built using those components. There can be a negative trickle-down effect to consumers.

And, in other countries that are in desperate need of development, corruption leads to essential infrastructure projects not being completed, or not even beginning, or being done so poorly as to be of little or no value to the people who need them. This, in turn, undermines the people's faith in government, democracy, markets, and the rule of law. This can result in dramatic social upheavals as we all saw occur during the Arab Spring when disgruntled citizens, fed up with corrupt policies, basically overturned a series of governments.<sup>14</sup> Or it can have the opposite effect—the “why bother to fight” effect—where nothing changes and no one pushes for change.

By enacting the FCPA, the U.S. has taken the lead on fighting corruption. As with any leadership position, demonstrating by example is one of the best means of exhibiting that leadership. To that end, we must demonstrate our own faith in free markets, in fair trade, in democracy and the rule of law, and in the value of the goods and services that we are offering. And we must protect our national market, as zealously as we guard against corruption occurring overseas.

To recognize some of the critiques leveled against the FCPA, anti-corruption enforcement is also a competition issue. Much of the criticism directed against the FCPA is focused on the question of whether FCPA enforcement puts U.S. companies at a competitive disadvantage.<sup>15</sup>

The reality, however, is that the notion that the FCPA only punishes U.S. companies is not true. The FCPA reaches foreign companies that have certain classes of securities registered in the U.S., that are required to file reports with the SEC under the 1934 Act,<sup>16</sup> and that have a jurisdictional nexus to the U.S.,<sup>17</sup> which covers a lot of foreign companies, many of which have recently been the subject of FCPA investigations and resolutions.<sup>18</sup> “Indeed,” as Lanny Breuer of

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<sup>14</sup> For an overview of the Arab Spring, see, for example, Jon Lee Anderson, *The Arab Spring's Uncertain Birthday*, NEW YORKER (Jan. 26, 2012), [http://www.newyorker.com/online/blogs/comment/2012/01/the-arab-springs-uncertain-birthday.html#slide\\_ss\\_0=1](http://www.newyorker.com/online/blogs/comment/2012/01/the-arab-springs-uncertain-birthday.html#slide_ss_0=1).

<sup>15</sup> See, e.g., Steven R. Salbu, *Bribery in the Global Market: A Critical Analysis of the Foreign Corrupt Practices Act*, 54 WASH. & LEE L. REV. 229, 261–71 (1997).

<sup>16</sup> 15 U.S.C. § 78(m)(a) (2006).

<sup>17</sup> *Id.* § 78dd-1. A company is an “issuer” under the FCPA if it has a class of securities registered under Section 12 of the Exchange Act, 15 U.S.C. § 78l (2006), or is required to file periodic and other reports under Section 15(d) of the Exchange Act, 15 U.S.C. § 78o(d) (2006). The FCPA prohibits foreign issuers from making “use of the mails or any means or instrumentality of interstate commerce” to pay bribes to foreign officials to obtain or retain business. 15 U.S.C. § 78dd-1(a) (2006).

<sup>18</sup> As of December 31, 2011, there were 965 foreign companies registered with the U.S. Securities and Exchange Commission. U.S. SEC. & EXCH. COMM'N, SUMMARY INFORMATION FOR FOREIGN COMPANIES REGISTERED AND REPORTING WITH THE U.S. SECURITIES AND EXCHANGE COMMISSION (Dec. 31, 2011), available at <http://www.sec.gov/divisions/corpfin/internatl/foreignsummary2011.pdf>. The Department has brought a number of enforcement actions against foreign issuers. See, e.g., Information, United States v. Magyar Telekom, Plc., No. 11-cr-597 (E.D. Va. Dec. 29, 2011), ECF No. 1, available at

DOJ has noted, “over the last five years, more than half of [the] corporate FCPA resolutions have involved foreign companies or U.S. subsidiaries of foreign companies.”<sup>19</sup>

Thirty-eight countries are now parties to the Organisation for Economic Co-operation and Development (OECD) Anti-Bribery Convention,<sup>20</sup> and for over ten years now the OECD has been at the forefront in leading the international community in a truly global response to this global problem.

Country monitoring and extensive follow-ups, all under the auspices of the OECD’s Working Group on Bribery, are helping to fully engage these countries in the fight against bribery.

Just recently, the U.K. passed its Bribery Act,<sup>21</sup> which has sent a clear message to businesses coming within the U.K.’s jurisdiction that foreign bribery will not be tolerated.

An OECD 2010 review of the U.S. FCPA prosecutorial practices was very positive in its critique.<sup>22</sup> Where it was negative, DOJ and the SEC have responded. For example, DOJ and the SEC have committed to producing more detailed and comprehensive guidance concerning the FCPA and our approach to enforcement.<sup>23</sup> This is in addition to the service of providing opinions to companies seeking guidance to avoid inadvertent violations of the FCPA.<sup>24</sup>

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<http://www.justice.gov/criminal/fraud/fcpa/cases/magyar-telekom/2011-12-29-information-magyar-telekom.pdf>; Non-Prosecution Agreement, *In re Deutsche Telekom AG* (Dec. 29, 2011), *available at* <http://www.justice.gov/criminal/fraud/fcpa/cases/deutsche-telekom/2011-12-29-deutsche-telekom-npa.pdf>; Information, *United States v. Alcatel-Lucent, S.A.*, No. 10-cr-20907 (S.D. Fla. Dec. 27, 2010), ECF No. 1, *available at* <http://www.justice.gov/criminal/fraud/fcpa/cases/alcatel-et-al/12-27-10alcatel-et-al-info.pdf>; Information, *United States v. Daimler AG*, No. 10-cr-00063 (D.D.C. Mar. 24, 2010), ECF No. 1, *available at* <http://www.justice.gov/criminal/fraud/fcpa/cases/daimler/03-22-10daimlerag-info.pdf>; Information, *United States v. Siemens Aktiengesellschaft*, No. 08-cr-367-rjl (D.D.C. Dec. 12, 2008), ECF No. 1, *available at* <http://www.justice.gov/criminal/fraud/fcpa/cases/siemens/12-12-08siemensakt-info.pdf>.

<sup>19</sup>Lanny A. Breuer, Assistant Attorney Gen., Remarks at the 24th National Conference on the Foreign Corrupt Practices Act (Nov. 16, 2010), *available at* <http://www.justice.gov/criminal/pr/speeches/2010/crm-speech-101116.html>.

<sup>20</sup>ORG. FOR ECON. CO-OPERATION & DEV., OECD ANTI-BRIBERY CONVENTION: OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES I (2011), *available at* <http://www.oecd.org/daf/briberyininternationalbusiness/antibriberyconvention/46510795.pdf>.

<sup>21</sup>Bribery Act 2010 c. 23 (U.K.), *available at* <http://www.legislation.gov.uk/ukpga/2010/23/pdfs/vkpga-20100023-en.pdf>.

<sup>22</sup>ORG. FOR ECON. CO-OPERATION & DEV., UNITED STATES: PHASE 3: REPORT ON THE APPLICATION OF THE CONVENTION ON COMBATING BRIBERY OF FOREIGN PUBLIC OFFICIALS IN INTERNATIONAL BUSINESS TRANSACTIONS AND THE 2009 REVISED RECOMMENDATION ON COMBATING BRIBERY IN INTERNATIONAL BUSINESS TRANSACTIONS 4 (2010), *available at* <http://www.oecd.org/investment/briberyininternationalbusiness/anti-briberyconvention/46213841.pdf> (“Good practices developed within the U.S. legal and policy framework that have helped achieve a significant enforcement level are described in several areas of this report.”).

<sup>23</sup>See Lanny A. Breuer, Assistant Attorney Gen., Criminal Div., U.S. Dep’t of Justice, Remarks at the 26th National Conference on the Foreign Corrupt Practices Act (Nov. 8, 2011), *available at*

Further, following the OECD's review, AAG Breuer and others from DOJ have met with members of the private sector to hear their concerns and to explain DOJ's practices, such as during a business roundtable event held last summer at the Department of Commerce.<sup>25</sup>

These efforts indicate that the government is sensitive to critiques of the FCPA and will seek to address those problems where it can.

### III. WHAT IS THE WORLD LIKE TODAY?

As you know, FCPA investigations and enforcement have been on the rise, which in our view is a good thing. The global economic crisis has led countries around the world to pump large amounts of money into public works and financial institutions, as well as many other companies in the private sector.<sup>26</sup>

Many companies are fighting for their survival, and as a result, there is an increase in pressure to obtain business any way they can, and a corresponding decrease in the willingness of some companies to spend their precious capital on expensive compliance programs.

Unfortunately, despite the gradual adoption of the U.S. model for anti-bribery efforts by a growing number of countries, the sad fact is that corruption remains widespread, deeply rooted, and sizeable. I will not bore you with all the statistics, but let me give you just a few that make the point:

- The World Bank has estimated that more than \$1 trillion in bribes is paid each year;<sup>27</sup>
- That amounts to 3% of the world economy;<sup>28</sup> and

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111108.html; *see also* U.S. DEP'T OF JUSTICE & U.S. SEC. & EXCH. COMM'N, A RESOURCE GUIDE TO THE U.S. FOREIGN CORRUPT PRACTICES ACT (forthcoming).

<sup>24</sup> *See* 15 U.S.C. §§ 78dd-1(e), 78dd-2(f) (2006) (provisions for issuing opinions of the Attorney General); 28 C.F.R. pt. 80 (1999) (regulations implementing opinion release procedure), *available at* <http://www.justice.gov/criminal/fraud/fcpa/docs/frgncrpt.pdf>.

<sup>25</sup> Cameron Kerry, *Business Roundtable on the Foreign Corrupt Practices Act (FCPA)*, U.S. DEP'T OF COMMERCE (July 28, 2011, 8:25 AM), <http://www.commerce.gov/os/ogc/developments/business-roundtable-foreign-corrupt-practices-act-fcpa>.

<sup>26</sup> *See, e.g.*, SAMEER KHATIWADA, INT'L INST. FOR LABOUR STUDIES, STIMULUS PACKAGES TO COUNTER GLOBAL ECONOMIC CRISIS: A REVIEW I (2009), *available at* <http://www.ilo.org/public/english/bureau/inst/publications/discussion/dp19609.pdf> ("The total global stimulus spending is \$1.98 trillion. Among 32 countries (including the G20), the stimulus spending in 2009 accounts for approximately 1.7% of GDP as compared to the 2% recommended by the IMF. Furthermore, fiscal stimulus as a percentage of global GDP is 1.4%.").

<sup>27</sup> *The Costs of Corruption*, WORLD BANK (Apr. 8, 2004), <http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:20190187~menuPK:34457~pagePK:34370~piPK:34424~theSitePK:4607,00.html>.

<sup>28</sup> *See id.* ("The \$1 trillion figure, calculated using 2001–02 economic data compares with an estimated size of the world economy at that time of just over US \$30 trillion . . .").

- By some estimates, the amount that some companies pay foreign governments in bribes essentially equals a 20% tax on foreign investment.<sup>29</sup>

The corruption that I have just described conflicts with the underlying tenet of a free-market system: that products should be sold based on price, quality, and service. That was the conclusion of the Senate Banking Committee in 1977.<sup>30</sup> The same is true today.

Going forward, DOJ will continue to enforce the FCPA, based on the three-pronged strategy outlined last November by AAG Breuer:

First, through criminal prosecution of domestic officials who abuse their power for personal gain. Second, by assisting foreign nations to strengthen their government institutions so that they can more effectively resist the corrosive effects of corruption. And third, by focusing on identifying and repatriating the proceeds of foreign official corruption.<sup>31</sup>

At the end of the day, however, we cannot prosecute our way out of this problem. In the same way that combating drug use and gang violence requires a community-based approach, not just a law enforcement one, so, too, does fighting the problem of public corruption on a global scale require the support of the global community.

It requires companies to develop and maintain rigorous compliance protocols. It requires governments to draft clear rules and regulations protecting markets and market participants, and it requires leadership from the top levels of government and corporate entities to set a tone that corruption will not be tolerated.

#### IV. CONCLUSION

I would like to close with a direct connection between my office and support for the rule of law on a global level. For three years, our office has been part of an effort to help the Republic of Georgia refine its criminal code.

These efforts began in 2003 after the “Rose Revolution”—a shift of power after disputed national elections. Since then, Georgia established its first adversarial form of justice based on the U.S. model.<sup>32</sup>

Assistant U.S. Attorneys from Southern Ohio have traveled there to teach subjects such as evidence, use of witnesses, victim rights, and trial practice.

Georgia held its first-ever jury trial in November 2011.<sup>33</sup>

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<sup>29</sup> INT’L CHAMBER OF COMMERCE ET AL., CLEAN BUSINESS IS GOOD BUSINESS: THE BUSINESS CASE AGAINST CORRUPTION 2, available at <https://members.weforum.org/pdf/paci/BusinessCaseAgainstCorruption.pdf>.

<sup>30</sup> S. REP. NO. 95-114, at 4 (1977).

<sup>31</sup> Breuer, *supra* note 23.

<sup>32</sup> *See id.*

<sup>33</sup> *Id.*



As my colleague Dave Devillers, who has been over there for almost three years, wrote to me following the trial:

What all citizens of Georgia derived from this first jury trial was the understanding that common people—average Georgians with no legal training[—]can play a very critical role in their nation’s system of criminal justice. Based on observations and critique of this first case, jury trials in Georgia are viable as an arbiter of justice . . . [I]t is the citizens of Georgia and not their government that are determining guilt or innocence.<sup>34</sup>

The bottom line for me is that the rule of law protects and levels the playing field. And that is just what the FCPA does.

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<sup>34</sup>Letter from David Devillers, Assistant U.S. Attorney for the S. Dist. of Ohio, to Carter Stewart, U.S. Attorney Gen. for the S. Dist. of Ohio (Feb. 24, 2012) (on file with author).

