OPENING REMARKS FOR INTER-AMERICAN DIALOGUE AND INTER-AMERICAN DEVELOPMENT BANK SYMPOSIUM:
“CORRUPTION PROSECUTIONS IN THE AMERICAS: A COMPARATIVE ANALYSIS.”

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Thank you, Michael, for that kind introduction, and thank you to the Inter-American Dialogue and the Inter-American Development Bank for hosting this event. It is a privilege to join such esteemed co-panelists and to help launch what I believe will be an important symposia series on understanding and combating corruption in the Americas.

Until June of last year, I had the honor of serving as a criminal prosecutor at the Department of Justice, where I spent much of my professional career. In my last four-and-a-half years at the Department, I was part of the Criminal Division’s Fraud Section, and specifically the Foreign Corrupt Practices Act (FCPA) Unit. In that role I was part of a team of prosecutors, paralegals, law clerks, analysts, and law enforcement agents, who investigated and prosecuted individuals and corporations for violations of the FCPA, and other related complex white-collar crimes. I had the privilege to work alongside my foreign counterparts in conducting investigations that were truly global in scope, throughout a wide variety of industries, and I am extremely proud of the success we were able to achieve together.

Some of that work is particularly relevant to today’s discussion. I was one of the prosecutors for the United States in the Odebrecht and Braskem prosecutions, which, as others have mentioned, resulted in both companies pleading guilty in December 2016 to criminal charges in a New York federal court for conspiring to violate the FCPA. The companies admitted to bribery and corruption schemes that everyone here today knows well – they were truly breathtaking in scope, spanning over a decade and a dozen countries. The resolution with the United States was closely coordinated with Brazilian and Swiss authorities, resulting in an important global settlement, and of course setting the stage for some of the victim countries to begin their own investigations – with varying degrees of success – which we are here to discuss today.

I also had the privilege to serve as the lead prosecutor for the United States in the investigation into Rolls-Royce Plc., which resulted in a deferred prosecution agreement with the company here in the United States. In that case, we worked closely and coordinated our resolution with the United Kingdom and, again, Brazil. The company admitted to conspiring to violate the FCPA for more than a decade by paying bribes to secure contracts in an effort to obtain a competitive edge in countries all over the world. In the case of the United Kingdom, the Serious Fraud Office’s deferred prosecution agreement with the company (the third ever deferred prosecution agreement for the United Kingdom), concluded its largest-ever investigation and foreign-bribery settlement. In total, Rolls-Royce agreed to pay approximately $800 million dollars in fines and criminal penalties to Brazil, the United Kingdom, and the United States. By the time I had left the Department we had also charged seven individuals in the United States for their roles in the conspiracy and secured the guilty pleas of four individuals, including three Rolls-Royce company executives.

These successful parallel investigations and prosecutions, and many others that my former colleagues at the FCPA Unit worked on together, are examples of how crucial it is to work cooperatively alongside our international partners to achieve resolutions that are fair, meaningful, and hold companies and individuals accountable. They also reflect the immense reach and capabilities of a collective effort to combat corruption in international business and to ensure that ethical companies can compete on an even playing field anywhere in the world.
The Department of Justice, and the FCPA Unit in particular, have long recognized that the most effective way to battle transnational bribery and corruption, at least in the criminal justice context, is to work closely with its foreign counterparts. As these crimes continue to grow in scope and complexity, regulators and prosecutors face increasingly difficult challenges to build the cases, piece by piece, in cross-border investigations with evidence and witnesses spread across the globe. These challenges require a global response. The more countries engaged and working together in a robust enforcement effort to combat corruption, the easier it will be to share evidence, craft enforcement strategies that are targeted and efficient, and deter individuals and corporations who use national borders as an advantage in advancing criminal enterprises. I think the FCPA Unit has done that with increasing success over the last few years. And I do not believe it is a coincidence that that increasing success has occurred in conjunction with the rise in global efforts to combat corruption.

In my experience, the FCPA Unit’s approach was, and continues to be, a deliberate one. In certain circumstances, we had partners with whom we had successfully collaborated many times before, whether in the corruption context or otherwise -- the Serious Fraud Office in the United Kingdom is probably the most obvious example. Working in those circumstances, we already knew the paths of collaboration well, while some of the challenges were also well-known and could be appreciated for what they were: be it a difference in laws or culture or what have you. But there was a structure for such dialogue and cooperation, in my view, that had been built upon a foundation of belief about the intention, and will, on each side, to achieve just results. And that facilitated a certain level of trust and understanding.

In the case of countries with whom we may not have previously worked extensively, we would try at the outset – meeting-by-meeting, phone call-by-phone call – to establish a common base and then build an effective working relationship. A recent and successful example of this effort is of course our work with the Brazilian Ministério Público Federal. In those circumstances, we constantly strived to understand each other, to navigate differences in language, law, and culture, where we could, all in an effort to help each other achieve the goals of our separate but parallel investigations.

As a prosecutor, the most fruitful relationships I had working with international colleagues usually began informally. Beginning with informal cooperation and informal requests -- whether through phone calls, or in face-to-face meetings -- is an ever faster and more efficient method of getting the answers that advance cases-cases that could stall if you started with official requests for mutual legal assistance or by writing letters of request from the beginning. The personal element necessary in such interactions is also essential in establishing trust and building lasting partnerships. That was certainly the case in our work with Brazil. And in my experience, we could not ask for a better partnership in battling corruption than the one with Brazil – that is reflected in the results we achieved in cases like Odebrecht, Braskem, and Rolls-Royce among others. One could say that our separate but parallel cases achieved unparalleled results.

Of course, not every country and not every agency is a willing partner. Whether because of legal obstacles, or perhaps political impediments, or simply a deeply ingrained mistrust based on some past conflict (real or imagined) between international counterparts, there were countries with whom we tried but were never able to work with in any meaningful sense. But the trend has been that – where countries are serious about combatting corruption – the Department of Justice finds ways to cooperate and partner with its foreign counterparts in battling international corruption.

If you take a look at just the last fiscal year, four of the eight corporate FCPA resolutions with the Department of Justice were coordinated with foreign authorities, two for the first time. Keppel Offshore was the Department of Justice’s first coordinated FCPA resolution with Singapore. The Department’s resolution with Société Générale for LIBOR manipulation and FCPA violations was the first-ever
coordinated resolution with France in a foreign bribery case. And, the close relationship with Brazil continues to give rise to some of the Department’s most significant FCPA resolutions as reflected in the coordinated resolutions in the Petrobras case, the SBM Offshore case, and Keppel Offshore.

I believe, given the increasing sophistication of international corruption schemes, the rise in global anti-corruption enforcement, and the Department’s belief that we need strong international partnerships, that this trend of cooperation among the US and foreign prosecutors will continue and continue to produce important wins in the fight against corruption. And I am thrilled to be here today to discuss that trend and the challenges and opportunities it presents.