Steps taken to implement and enforce the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions

UNITED STATES

(Information as of 17 February 2009)

Date of deposit of instrument of ratification/acceptance or date of accession

Deposit of instrument of ratification/acceptance: December 8, 1998
Entry into force of the Convention: February 15, 1999
Entry into force of implementing legislation: November 10, 1998

Implementing legislation

Foreign Corrupt Practices Act (FCPA) of 1977, 15 U.S.C. §§ 78dd-1, et seq., as amended by the International Anti-Bribery and Fair Competition Act of 1998, Pub. L 105-366, signed on November 10, 1998.

Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or the Recommendations

- The Civil Asset Forfeiture Reform Act (CAFRA) of 2000 made it possible to seek civil and criminal forfeiture of the proceeds of foreign bribery.
- The President signed an executive order in March 2002 designating the European Union's organizations and Europol as public international organizations, making bribery of officials from these organizations a violation of the FCPA.
- The U.S. Sentencing Commission promulgated amendments, effective November 2002, making violations of the FCPA and violations of the domestic bribery law subject to the same sentencing guidelines.
- The Sarbanes-Oxley Act of 2002 made violations of foreign bribery laws as predicate offences under the Money Laundering Control Act, 18 U.S.C. § 1956.

Other information

Relevant authorities

U.S. Department of Justice
Criminal Division, Fraud Section
10th & Constitution Ave., NW (Bond Building, 4th floor)
Washington, D.C. 20530
Tel: 202-514-7023
Fax: 202-514-7021

U.S. Securities and Exchange Commission (SEC)
Enforcement Division
100 F. Street, N.E.
Washington, DC 20549

Tel: 202-551-4500
Fax: 202-772-9279

Relevant Internet links to national implementing legislation, for example

www.usdoj.gov/criminal/fraud/fcpa.html

Signature/Ratification of other relevant international instruments

The United States has also ratified the Inter-American Convention against Corruption, the Agreement establishing the Group of States against Corruption (GRECO), and has signed the Council of Europe Criminal Law Convention on Corruption. The United States ratified the United Nations Convention Against Corruption on October 30, 2006.

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation
http://www.oecd.org/dataoecd/16/50/2390377.pdf

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions
http://www.oecd.org/dataoecd/52/19/1962084.pdf

Phase 2: Follow-up Report on the Implementation of the Phase 2 Recommendations on the Application of the Convention and the 1997 Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions
http://www.oecd.org/dataoecd/7/35/35109576.pdf

Judicial decisions (and enforcement actions)

Court decisions, first instance and appeal courts, relevant to the enforcement of the Convention and other relevant legislation should be provided to the Group as soon as possible.

United States v. Kellogg Brown & Root LLC and SEC v. Kellogg Brown & Root (S.D. Tex., February 6, 2009): Kellogg Brown & Root LLC (KBR), a global engineering, construction, and services company based in Houston, Texas, pleaded guilty on February 11, 2009 to a five-count criminal information, filed on February 6, 2009, charging the company with one count of conspiracy to violate the FCPA and four counts of FCPA violations stemming from a decade-long scheme to bribe Nigerian government officials to obtain engineering, procurement and construction (EPC) contracts. KBR Inc. and Halliburton also jointly agreed to pay to the SEC $177 million in disgorgement of profits relating to those violations. The EPC contracts to build liquefied natural gas facilities on Bonny Island, Nigeria, were valued at more than $6 billion. KBR was sentenced to pay a $402 million fine, and under the terms of the plea agreement, KBR agreed to retain an independent compliance monitor for a three-year period to review the design and implementation of KBR's compliance program and to make reports to KBR and the Department of Justice.

United States v. Richard Morlok (C.D. Ca., January 7, 2009): On February 3, 2009, Richard Morlok pleaded guilty to a one-count criminal information, filed on January 7, 2009, charging him with conspiracy to violate the FCPA in connection with his role in a scheme to pay approximately $628,000 in bribes to foreign government officials for the purpose of securing business for an Orange County-based

valve company from state-owned enterprises in several countries, including China, Korea, Romania, and Saudi Arabia. Sentencing is scheduled for July 10, 2009. In connection with his guilty plea, Morlok admitted that from 2003 through 2006, he caused employees and agents of the valve company to make corrupt payments to foreign officials employed at state-owned enterprises in China, Korea, Romania, and Saudi Arabia in order to assist in obtaining and retaining business for the valve company. Morlok also admitted that the valve company earned approximately $3.5 million in profits from the contracts it obtained as a result of these corrupt payments and that he provided false and misleading information regarding the commission payments to internal and external auditors in 2004.

United States v. Fiat S.p.A. and SEC v. Fiat S.p.A. (D.D.C., December 22, 2008): On December 22, 2008, three subsidiaries of Fiat S.p.A. (Fiat), an Italian corporation based in Turin, Italy, were charged with conspiracy to commit wire fraud and violate the books and records provisions of the FCPA in separate one-count criminal informations stemming from improper payments to the Iraqi government in order to obtain contracts with Iraqi ministries to provide industrial pumps, gears, and other equipment under the United Nations Oil for Food Program. In addition, Fiat and the Department of Justice entered into a three-year deferred prosecution agreement that requires Fiat to pay a $7 million penalty. In a related matter, on December 22, 2008, Fiat reached a settlement with the Securities and Exchange Commission on a complaint and agreed to pay $3.6 million in civil penalties and $7,209,142 in disgorgement of profits, including prejudgment interest, in connection with contracts for which its subsidiaries paid kickbacks to the Iraqi government. According to the agreement and criminal informations, between 2000 and 2002, Iveco, CNH Italia, and CNH France paid a total of approximately $4.4 million to the Iraqi government by inflating the price of contracts by 10 percent before submitting the contracts to the United Nations for approval, and concealed from the United Nations the fact that the price contained a kickback to the Iraqi government.

United States v. Mario Covino (C.D. Ca., December 17, 2008): On January 8, 2009, in the Central District of California, Mario Covino, a former executive of a valve company based in Orange County, California, pleaded guilty to a one-count criminal information, filed on December 17, 2008, charging him with conspiracy to violate the FCPA. The charges stem from Covino's role in causing and approving approximately $1 million in corrupt payments to foreign government officials for the purpose of obtaining business for the Orange County valve company from state-owned enterprises in several countries including, but not limited to, Brazil, China, India, Korea, Malaysia, and the United Arab Emirates (UAE). As part of his plea agreement, Covino has agreed to cooperate with the Department in its ongoing investigation. Covino's sentencing is scheduled for July 20, 2009.

United States v. Siemens AG and SEC v. Siemens AG (D.D.C., December 11, 2008): On December 15, 2008, Siemens Aktiengesellschaft (Siemens AG), a German corporation, and three of its subsidiaries pleaded guilty to separate criminal informations, filed on December 11, charging them with violations of the FCPA. The court also imposed fines, as agreed to in the plea agreements, of $448.5 million on Siemens AG and of $500,000 each on Siemens Argentina, Siemens Bangladesh, and Siemens Venezuela, for a combined total criminal fine of $450 million. Under the terms of the plea agreement, Siemens AG agreed to retain an independent compliance monitor for a four-year period to oversee the continued implementation and maintenance of a robust compliance program and to make reports to the company and the Department of Justice. Also on December 15, Siemens AG also reached a settlement of a related civil complaint filed by the Securities and Exchange Commission, charging Siemens AG with violating the FCPA's anti-bribery, books and records, and internal controls provisions in connection with many of its international operations, including those discussed in the criminal charges. Siemens AG agreed to pay $350 million in disgorgement of profits relating to those violations. Also, Siemens AG agreed to a disposition resolving an ongoing investigation by the Munich Public Prosecutor's Office of Siemens AG's operating groups other than the Telecommunications group. The charges were based on corporate failure to supervise its officers and employees, and in connection with those charges, Siemens

AG agreed to pay €395 million, or approximately $569 million, including a €250,000 corporate fine and €394.75 million in disgorgement of profits.

United States v. Misao Hioki (S.D. Tex., December 8, 2008): On December 10, 2008, Misao Hioki, former general manager of his company's Industrial Engineered Products Department (IEP) in Tokyo, Japan, pleaded guilty to a two-count criminal information, filed on December 8, charging him with one count of conspiracy to violate the Sherman Antitrust Act and one count of conspiracy to violate the FCPA. Hioki also was sentenced to 24 months' imprisonment and payment of an $80,000 fine, following the Antitrust Division's established practice of negotiating agreed-to-dispositions. From January 2004 to the present, Hioki and others made more than $1 million in corrupt payments to foreign government officials in Latin America to secure or retain IEP business. Hioki also conspired to fix prices and allocate market share for marine hose in the United States and elsewhere. Hioki is the ninth individual to plead guilty in the marine hose bid-rigging investigation and the first individual to plead guilty in the investigation of the FCPA conspiracy.

United States v. Aibel Group Ltd. (S.D. Tex., November 21, 2008): On November 21, 2008, Aibel Group Limited, a United Kingdom corporation, pleaded guilty to a two-count superseding information charging the company with a conspiracy to violate the FCPA and a violation of the FCPA. Also on November 21, Aibel Group admitted that it was not in compliance with a deferred prosecution agreement it had entered into with the Department of Justice in February 2007 regarding the same underlying conduct. As part of the plea agreement, Aibel Group was ordered to pay a $4.2 million criminal fine and to serve a two-year term of organizational probation that requires, among other things, that it submit periodic reports regarding its progress in implementing anti-bribery compliance measures. According to court documents, beginning in February 2001, Aibel Group's predecessor company and several affiliated companies began providing engineering and procurement services, as well as subsea construction equipment, for Nigeria's first deepwater oil drilling operation, known as the Bonga Project. From at least September 2002 to at least April 2005, Aibel Group admitted to conspiring with others to make at least 378 corrupt payments totaling approximately $2.1 million to Nigerian customs service officials in an effort to induce those officials to provide the defendants with preferential treatment during the customs process.

United States v. Shu Quan-Sheng (E.D. Va., November 17, 2008): On November 17, 2008, Shu Quan-Sheng pleaded guilty to a three-count information alleging that from 2003 to 2007, he violated the Arms Export Control act by exporting defence services without a license and that he paid bribes to Chinese government officials of China's 101 Institute to obtain a contract for the development of a liquid hydrogen tank system. Sentencing is scheduled for April 6, 2009.

United States v. Nexus Technologies Inc. (E.D. Pa., September 4, 2008): Nexus Technologies, Inc. and four of its employees were indicted on September 4, 2008 on one count of conspiracy to bribe Vietnamese public officials in violation of the FCPA and four substantive counts of violating the FCPA. Over the course of the scheme, the defendants are alleged to have paid at least $150,000 in bribes to employees of state-owned enterprises in Vietnam.

United States v. Albert Stanley and SEC v. Stanley (S.D. Tex., September 3, 2008): Albert "Jack" Stanley, the former CEO of Kellogg, Brown & Root, Inc., pleaded guilty on September 3, 2008, to conspiring to violate the FCPA by participating in a decade-long scheme to bribe Nigerian government officials to obtain engineering, procurement, and construction contracts worth more than $6 billion and to conspiring to commit mail and wire fraud as part of a separate kickback scheme. The contracts were awarded to the four-company joint venture TSKJ. According to the terms of his plea agreement, he faces seven years in prison and payment of a $10.8 million fine. Stanley also settled civil charges with the Securities and Exchange Commission related to the same conduct.

SEC v. Con-Way Inc. (D.D.C., August 27, 2008): The Securities and Exchange Commission settled a civil action with California Company Con-Way Inc., an international freight transportation company, for violations of the books and records and internal controls provisions of the FCPA. The complaint alleges that Emery Transnational, Con-Way's Philippine subsidiary, made approximately $244,000 in improper payments to Philippine customs officials to settle customs disputes and reduce or not enforce otherwise legitimate fines. The complaint also alleges that the company made approximately $173,000 in improper payments to officials at fourteen state-owned airlines. Con-Way paid a $300,000 civil penalty.

Faro Technologies Inc. (June 5, 2008): Faro Technologies Inc. entered into agreements with the Department of Justice and the Securities and Exchange Commission regarding corrupt payments to Chinese government officials in order to secure business with state-owned entities. Faro paid approximately $238,000 in bribes, which it recorded in its books and records as "referral fees." Faro disgorged $1.85 million in profits and prejudgment interest and paid a $1.1 million criminal fine.

United States v. AGA Medical (D. Minn., June 3, 2008): AGA Medical Corporation entered into a deferred prosecution agreement on June 3, 2008 with the Department of Justice in connection with corrupt payments made to doctors in China who were employed by government-owned hospitals to induce them to purchase AGA products, as well as payments to the Chinese State Intellectual Property Office in order to secure approval of patents on AGA products. AGA agreed to pay a $2 million dollar criminal fine.

United States v. Willbros Group Inc. and SEC v. Willbros Group Inc. (S.D. Tex., May 14, 2008): On May 14, 2008, Willbros Group Inc. entered into a deferred prosecution agreement with the Department of Justice in connection with bribes paid through its subsidiary, Willbros International, to Nigerian and Ecuadorian government officials. Willbros paid more than $6.3 million to Nigerian officials in connection with gas pipeline construction project and $300,000 to Ecuadorian officials in connection with a gas pipeline rehabilitation project. As part of the agreement with the Department of Justice and a simultaneous agreement with the Securities and Exchange Commission, Willbros disgorged $10.3 million in profits and prejudgment interest and paid a criminal fine of $22 million.

United States v. Martin Eric Self (C.D. Ca., May 8, 2008): Former Pacific Consolidated Industries LP (PCI) President Martin Self pleaded guilty on May 8, 2008 to charges that he bribed an official of the United Kingdom Ministry of Defence to obtain equipment contracts with the Royal Air Force. Self, a U.S. citizen, conspired with Leo Winston Smith to bribe the official through a fake marketing contract. Smith was indicted in April 2007 (see below). The United Kingdom official pleaded guilty in the United Kingdom for his role in the scheme and was sentenced to two years in prison.

United States v. AB Volvo and SEC v. AB Volvo (D.D.C., March 20, 2008): AB Volvo entered into a deferred prosecution agreement with the Department of Justice and a settlement agreement with the SEC on March 20, 2008 in connection with payments made by two of its subsidiaries to obtain contracts administered by the United Nations Oil for Food Program. The subsidiaries, Renault Trucks SAS and Volvo Construction Equipment AB, made approximately $6 million in kickback payments to the Iraqi government. As part of the agreements, AB Volvo disgorged $8.6 million in profits and prejudgment interest, paid a civil penalty of $4 million, and paid a criminal fine of $7 million.

United States v. Flowserve and SEC v. Flowserve (D.D.C., February 21, 2008): On February 21, 2008 Flowserve Corporation ("Flowserve") agreed to pay a total of $10.5 million to the Department of Justice and the SEC to settle charges that it made improper payments to the Iraqi government under the United Nations Oil for Food Program. Flowserve manufactures pumps, valves, seals, and related automation services to the oil and gas, chemical, and power industries. Flowserve acknowledged that its French and Dutch subsidiaries paid approximately $820,246 in connection with the sale of industrial equipment to the Iraqi government. Flowserve Pompes, Flowserve's French subsidiary, concealed illegal

payments to the Iraqi government totaling $604,651 through a Jordanian entity that was its exclusive agent for Iraqi contracts. Flowserve entered into a three-year deferred prosecution agreement with the DOJ and paid a $4 million fine. In addition, Flowserve agreed to pay a $3 million civil penalty and approximately $3.5 million is disgorgement and prejudgment interest.

SEC v. Wabtec (D.D.C., February 14, 2008): Westinghouse Air Brake Technologies Corporation (Wabtec), a manufacturer of brake subsystems and related products for locomotives, freight cars, and passenger vehicles, entered into a non-prosecution agreement with the U.S. Department of Justice regarding improper payments made by its Indian subsidiary, Pioneer Friction Limited (Pioneer), to officials of the Indian Railway Board (IRB) in violation of the FCPA. From at least 2001 through 2005, Pioneer made over $137,400 in improper cash payments to employees of the Indian government in order to have its competitive bids for government business granted or considered. As part of the agreement, Wabtec agreed to pay a $300,000 fine, adopt rigorous internal controls, and continue cooperating fully with the Department. In a related matter, the SEC filed settled enforcement proceedings charging Wabtec with violations of the anti-bribery, internal controls, and books and records provisions of the FCPA in connection with the payments made by Pioneer to employees of the Indian government in order to obtain or retain business from the Indian national railway system. Wabtec agreed to pay a civil penalty of $87,000, and to disgorge $259,000, together with $29,351 in prejudgment interest.

United States v. James K. Tillery and Paul G. Novak (S.D. Tex., January 17, 2008): On December 19, 2008, the U.S. District Court for the Southern District of Texas unsealed a four-count indictment, filed on January 17, 2008, charging James K. Tillery, a former senior executive of Willbros International, Inc. (WII), a subsidiary of Houston-based Willbros Group, Inc. (Willbros), and Paul G. Novak, a consultant to WII, each with one count of conspiracy to violate the FCPA, two substantive counts of violating the FCPA, and one count of conspiracy to launder the proceeds of their crimes. The charges stem from a conspiracy from late 2003 through March 2005 to pay $6 million in bribes to government officials in Nigeria and Ecuador in connection with WII's efforts to obtain and retain gas pipeline construction and rehabilitation business from state-owned oil companies in Nigeria and Ecuador. The indictment was unsealed by the Court after Novak was arrested upon his arrival into Houston, Texas. Novak returned to the United States from Constantia, South Africa, after his U.S. passport was revoked. Tillery remains at large.

Lucent (December 21, 2007): On December 21, 2007, the Department of Justice and the SEC settled a multi-year investigation into whether global communications provider Lucent Technologies Inc. provided travel and other things of value to Chinese government officials. Lucent acknowledged that it spent over $1.3 million on trips for senior-level government officials, with the assistance of employees in the United States. Lucent also improperly recorded the trips in its books and records, booking the costs to Lucent's "Factory Inspection Account." Lucent agreed to pay a $1 million criminal fine and $1.5 in civil penalties.

Akzo Nobel (December 20, 2007): On December 20, 2007, the Department of Justice and the SEC settled allegations against the Netherlands pharmaceutical company, Akzo Nobel N.V. (Akzo), for its participation kickbacks surrounding the United Nations Oil for Food program. Two of Akzo's subsidiaries made nearly $280,000 in kickback payments to the Iraqi government from 2000-2003. Both subsidiaries – Intervet International B.V. and N.V. Organon – are involved in violations located in the Netherlands, and both are expected to close by the end of the year. The agreement stipulates that if N.V. Organon reaches a resolution with the Dutch National Public Prosecutor's Office for Financial, Economic and Environmental Offences regarding its conduct, including payment of a criminal fine of approximately €381,000 in the Netherlands, then it paid no fine in the U.S. If no agreement had been reached with Dutch authorities in that time, Akzo would have paid a fine of $800,000. The SEC settlement required the corporation to disgorge $2,231,513 in profits and prejudgment interest and pay a $750,000 civil penalty.

SEC v. Robert W. Philip (D.D.C., December 13, 2007): On December 13, 2007, former Chairman and CEO of Schnitzer Steel Industries, Inc. (Schnitzer), Robert W. Philip, settled charges with the SEC for violating the FCPA. Philip agreed to pay a total of $250,000 to settle the SEC's charges, including $169,863.79 in disgorgement of bonuses and pay, $16,536.63 in prejudgment interest, and a $75,000 civil penalty. According to the SEC complaint, from 1999 to 2004, Philip authorized the payment of more than $200,000 to managers of government-owned steel mills in China in order to induce them to purchase scrap metal from Schnitzer. In addition, the complaint charged Philip with authorizing more than $1.7 million in payments to managers of privately-owned steel mills in both China and South Korea. Schnitzer described these payments as "sales commissions," "commissions to the customer," "refunds," or "rebates" in its books and records

United States v. Gerald Green and Patricia Green (C.D. Ca., December 7, 2007): On October 1, 2008, Los Angeles-area film executive Gerald Green and his wife, Patricia Green, were charged in a superseding indictment with one count of conspiracy to commit an offense against the United States by paying bribes to a foreign public official in violation of the FCPA and engaging in money laundering, ten counts of violating the FCPA, seven counts of transportation promotion money laundering, one count of transaction in criminally derived property, two counts of false subscription of tax return, and one count of forfeiture. The charges relate to bribes paid to secure contracts in Thailand, including contracts for a film festival in Bangkok, a promotional book on Thailand, and other Thailand tourism initiatives. These contracts resulted in over $14 million in revenue to businesses owned by the Greens and approximately $1.8 million in bribe payments for the benefit of the public official.

New York v. Vitol SA (New York County, November 20, 2007): Swiss oil trading firm Vitol SA pleaded guilty to grand larceny in connection with a scheme to pay kickbacks to the Iraqi government in exchange for contracts administered by the United Nations Oil for Food Program. Pursuant to the plea, Vitol agreed to pay $13 million in restitution and a fine of $4.5 million.

United States v. Chevron Corporation, New York v. Chevron Corporation, SEC v. Chevron Corporation (S.D.N.Y., November 14, 2007): In a joint settlement with the SEC, the Department of Justice, and the New York County District Attorney's Office, Chevron Corporation agreed to forfeit $25 million in profits and pay an additional $5 million in civil penalties related to payments made by it to the Iraqi government in exchange for contracts administered by the United Nations Oil for Food Program. The $25 million forfeiture is pursuant to agreements with the Department of Justice and the New York County District Attorney's Office. The $5 million in civil penalties will be paid pursuant to agreements with the SEC and the Office of Foreign Asset Control of the Department of the Treasury.

United States v. Ingersoll-Rand, SEC v. Ingersoll-Rand (D.D.C., October 31, 2007): Ingersoll-Rand entered into a deferred prosecution agreement with the Department of Justice in connection with payments made by three of its subsidiaries to obtain contracts administered by the U.N. Oil for Food Program. The subsidiaries, Allgemeine Baumaschinen Gesellschaft, Ingersoll-Rand Italiana, and Thermo King Ireland Limited, made $963,148 in kickback payments to the Iraqi government, and promised an additional $544,697, in exchange for the contracts. As part of the agreement with the Department of Justice and a simultaneous agreement with the Securities and Exchange Commission, Ingersoll-Rand disgorged $2.4 million in profits and prejudgment interest, paid a civil penalty of $1.9 million, and paid a criminal fine of $2.5 million.

United States v. York, SEC v. York (D.D.C., October 1, 2007): York International agreed to an injunction from the SEC, a deferred prosecution agreement with the Department of Justice, fines from both agencies, and a compliance monitor, all for paying kickbacks in connection with contracts under the United Nations Oil for Food Program. Two of York's subsidiaries, York Air Conditioning and Refrigeration and York Air Conditioning and Refrigeration FZE, paid approximately $647,110 in kickbacks on humanitarian

Oil for Food contracts. In addition, York acknowledged that the same two subsidiaries made over 850 improper consultancy payments, totaling more than $7.5 million, to officials in Europe, the Middle East, Asia, and Africa. York disgorged $9,032,880 in profits and prejudgment interest, paid a civil penalty of $2 million, and paid a criminal fine of $10 million.

United States v. Oscar Wyatt (S.D.N.Y., October 1, 2007): After approximately four weeks of trial, Oscar Wyatt, founder and former president of Costal Corporation (which later became El Paso) pleaded guilty to conspiring to commit wire fraud in connection with paying kickbacks to the Iraqi government in exchange for contracts administered by the United Nations Oil for Food Program. Wyatt was sentenced on November 27, 2007 to 13 months in prison.

SEC v. Monty Fu (D.D.C., September 27, 2007): Syncor International founder and former chairman Monty Fu agreed to $75,000 in civil penalties relating to payments made to Syncor International by a former subsidiary, Syncor Taiwan, in a settlement with the SEC relating to improper accounting of referral fees paid to doctors in Taiwan. In addition to $75,000 in civil penalties, Mr. Fu has, without admitting or denying the more recent SEC allegations, agreed to a permanent injunction against future violations of the FCPA.

Paradigm (September 24, 2007): On September 24, 2007 the Department of Justice resolved allegations against Paradigm, B.V., a Dutch LLC with its principal place of business in Houston, Texas. Paradigm B.V. uncovered improper payments to foreign officials as it undertook the due diligence required for its anticipated initial public offering, including corrupt payments to employees of state-owned oil and gas companies in China, Indonesia, Kazakhstan, Latvia, Mexico, and Nigeria. Because Paradigm self-reported and undertook full cooperation with enforcement authorities, the Department agreed not to prosecute on condition that Paradigm upholds its obligations under their non-prosecution agreement for a period of 18 months. The agreement obliges Paradigm to continue its full cooperation with the investigation, institute rigorous internal controls and other remedial steps, pay a $1 million criminal fine, and retain outside compliance counsel.

Textron (D.D.C., August 23, 2007): On August 23, 2007, Textron, Inc., a Rhode Island industrial equipment company, settled allegations relating to the United Nations Oil for Food program with the Department of Justice and the SEC. As part of a consent agreement with the SEC and a non-prosecution agreement with the Department of Justice, Textron acknowledged responsibility for kickbacks paid to the Iraqi government by its French subsidiaries in exchange for humanitarian assistance contracts administered under the Oil for Food program. Textron also agreed to disgorge $2,284,579 in profits and pay $450,461.68 in prejudgment interest, an $800,000 civil penalty, and a $1,150,000 criminal fine. According to settlement documents, the subsidiaries made more than $650,000 in kickback payments, which bypassed the UN escrow account and were paid by third parties to Iraqi government-controlled accounts. An additional 36 transactions totaling almost $115,000 were made by Textron to countries other than Iraq, including the United Arab Emirates, Bangladesh, Indonesia, Egypt, and India.

United States v. Steven Ott and Roger Young (D.N.J., July 25, 2007): Steven J. Ott and Roger Michael Young, former executives of the global telecommunications company ITXC Corporation, pleaded guilty on July 25, 2007, to separate one-count criminal informations charging them with conspiring to violate the FCPA and the Travel Act. ITXC was a publicly traded company that provided telecommunication services, primarily Voice Over Internet Protocol (VOIP) services, to carriers across the globe. Ott served as ITXC's Executive Vice-President of Global Sales and Young served as ITXC's Managing Director for Africa and the Middle East. In pleading, both defendants admitted that between September 1999 and October 2004, they conspired with each other and other former ITXC employees and officers to make corrupt payments totaling approximately $450,000 to employees of foreign state-owned and foreign-owned telecommunications carriers in Nigeria, Rwanda, and Senegal to obtain and retain

contracts for ITXC. On September 2, 2008, Young was sentenced to 3 months home confinement, 3 months community confinement, and a $7,000 fine. Ott was sentenced to 6 months home confinement, 6 months community confinement, and a $10,000 fine on July 21, 2008.

United States v. Jason E. Steph (S.D. Tex., July 19, 2007): Jason Edward Steph pleaded guilty on November 7, 2007, to agreeing to make $6 million in illicit payments to corrupt Nigerian officials in violation of the FCPA. At the time of the acts, Steph was General Manager of Willbros International Inc.'s (WII) on-shore operations in Nigeria. WII is a subsidiary of Texas-based oil and gas contractor Willbros Group Inc. Steph was indicted by a Houston grand jury on July 19, 2007. Steph has admitted that, as a senior WII executive, he authorized and arranged for the payment of $1.8 million in cash to the Nigerian officials in exchange for a gas pipeline contract. Steph was the second Willbros employee to admit participation in the scheme.

United States v. Si Chan Wooh (D. Or., June 29, 2007): Si Chan Wooh, a former senior officer of SSI International, Inc., a wholly-owned subsidiary of Schnitzer Steel Industries Inc. until 2006 (see Schnitzer Steel, below), pleaded guilty on June 29, 2007 to conspiracy to violate the FCPA. Wooh admitted that he had conspired with Schnitzer Steel, SSI International, SSI Korea, a former senior executive officer of Schnitzer Steel, and others, to violate the FCPA in connection with corrupt payments paid over almost a 10-year period to officers and employees of nearly all of Schnitzer Steel's government-owned customers in China.

United States v. William J. Jefferson (E.D. Va., June 4, 2007): On June 4, 2007, United States Congressman William J. Jefferson was charged in a 16-count indictment with two counts of conspiracy, two counts of solicitation of bribes, six counts of honest services wire fraud, one count of violating the FCPA, three counts of money laundering, one count of obstruction of justice, and one count of violation of the Racketeer Influenced Corrupt Organization Act (RICO). The indictment alleges that from August 2000 through August 2005, Congressman Jefferson, while serving as an elected member of the U.S. House of Representatives, used his position and his office to corruptly seek, solicit, and direct that things of value be paid to Jefferson and his family members in exchange for his performance of official acts to advance the interests of people and businesses who paid him the bribes. The indictment further alleges that Jefferson violated the FCPA by allegedly offering, promising, and making payments to foreign officials to advance the various business endeavors in which he and his family had a financial interest. Jefferson was allegedly responsible for negotiating, offering and delivering payments of bribes to one official identified in the indictment as "Nigerian Official A." Jefferson's trial is scheduled for May 2009.

United States v. Leo Winston Smith (C.D. Ca., April 25, 2007): On June 22, 2007, Leo Winston Smith of Newport Beach, Calif., a former executive of Santa Ana, Calif.-based Pacific Consolidated Industries LP (PCI), was arrested for allegedly violating the FCPA as part of a conspiracy to bribe a United Kingdom Ministry of Defence official in order to obtain lucrative contracts with the United Kingdom's Royal Air Force. Smith was initially indicted by a federal grand jury in Santa Ana on April 25, 2007. The indictment alleges that Smith conspired to make over $300,000 in bribe payments for the benefit of the Ministry of Defence official in order to obtain equipment contracts for Pacific Consolidated Industries valued at over $11 million dollars. In addition to the FCPA violations, the indictment also charges Smith with money laundering and tax offenses.

United States v. Baker Hughes, SEC v. Baker Hughes (S.D. Tex., April 11, 2007): On April 26, 2007, Baker Hughes Services International, Inc. (BHSI), a wholly-owned subsidiary of Baker Hughes Incorporated, pleaded guilty to a three-count criminal information, filed under seal on April 11, 2007, charging it with conspiracy, violations of the FCPA, and falsification of books and records. Also on April 26, the parent corporation, Baker Hughes Incorporated, entered into a two-year deferred prosecution agreement in connection with a three-count criminal information, filed under seal on April 11, 2007,

charging it with one count of conspiracy, one count of violating the FCPA, and one count of falsification of books and records. As part of the plea agreement, BHSI agreed to pay a criminal fine of $11 million, serve a three-year term of organizational probation, and adopt a comprehensive anti-bribery compliance program. Baker Hughes Incorporated agreed to hire an independent monitor for three years to oversee the creation and maintenance of a robust compliance program and to continue to cooperate completely with the Department in ongoing investigations into corrupt payments by company employees and managers. In a related matter, Baker Hughes reached a settlement of a complaint filed by the SEC, under which it agreed to pay $10 million in civil penalties and more than $23 million in disgorgement of all profits it earned in connection with the bribes, including prejudgment interest.

United States v. Christian Sapsizian and Edgar Valverde Acosta (S.D. Fla., March 20, 2007): On June 7, 2007, Christian Sapsizian, a former Alcatel CIT executive, pleaded guilty to one count of conspiracy and one count of violating the FCPA contained in a March 20, 2007 superseding indictment, which added co-defendant Edgar Valverde Acosta. As part of the plea agreement, Sapsizian agreed to fine and forfeiture amounts and to cooperate with law enforcement officials in an ongoing investigation. Valverde Acosta, a Costa Rican national and former executive of Alcatel CIT, is charged with one count of conspiring to violate the FCPA, eight counts of making corrupt payments in violation of the FCPA, and one count of conspiracy to commit money laundering. The charges stem from the alleged payment of more than $2.5 million to a government official serving on the evaluation committee for the award of a $149 million telecommunications contract, won by Alcatel CIT, with the Costa Rican state-owned telecommunications authority, el Instituto Costarricense de Electricidad, half of which is alleged to have been given to the former President of Costa Rica. On September 23, 2008, Sapsizian was sentenced to 30 months in prison and ordered to forfeit $261,500.

SEC v. Charles Michael Martin (D.D.C., March 6, 2007): On March 6, 2007, the SEC filed a settled enforcement action charging Charles Michael Martin, a former executive of Monsanto Company (see below), with violations of the FCPA. In its complaint, the Commission alleged that in 2002, Martin authorized and directed an Indonesian consulting firm to pay a bribe of $50,000 to a senior Indonesian Ministry of Environment official to influence the official to repeal language in a decree that was unfavorable to Monsanto's business in Indonesia. The complaint further alleged that Martin directed a false invoicing scheme to conceal the unlawful activity; approved the false invoices; and took steps to ensure that Monsanto paid the false invoices. Without admitting or denying the charges, Martin consented to the entry of a final judgment permanently enjoining him from violating and/or aiding and abetting violations of the anti-bribery, books and records, and internal controls provisions of the FCPA. Martin also agreed to pay a $30,000 civil penalty.

SEC v. Dow Chemical Company (D.D.C., February 13, 2007): On February 13, 2007, the Commission filed a settled enforcement action against The Dow Chemical Company ("Dow"). Without admitting or denying the Commission's findings the company agreed to cease-and-desist from violating the books and records and internal control provision of the FCPA and to pay a civil penalty of $325,000. The Commission's order found that a foreign subsidiary of Dow headquartered in Mumbai, India made an estimated $200,000 in improper payments to Indian government officials from 1996 through 2001. According to the order, none of these payments were accurately reflected in Dow's books and records, and Dow's system of internal accounting controls failed to prevent the payments.

SEC v. El Paso Corporation (S.D.N.Y., February 7, 2007): On February 7, 2007, the Securities and Exchange Commission filed a settled enforcement action against El Paso Corporation ("El Paso"), a Texas-based energy company, alleging that it violated the books and records and internal controls provisions of the Foreign Corrupt Practices Act. El Paso consented to the entry of a final judgment permanently enjoining it from future violations, ordering it to disgorge $5,482,363 in profits, and to pay a civil penalty of $2,250,000. The parties agreed that El Paso would satisfy its disgorgement obligation by

forfeiting $5,482,363 pursuant to a non-prosecution agreement with the U.S. Attorney's Office for the Southern District of New York. The Commission's complaint alleges that from approximately June 2001 through June 2002, El Paso and its predecessor in-interest, The Coastal Corporation, indirectly made approximately $5.5 million in illegal surcharge payments to Iraq in connection with its purchases of crude oil from third parties under the United Nations Oil for Food Program. The complaint further alleges that in September 2000, The Coastal Corporation – which merged with an El Paso subsidiary in January 2001 - received its first surcharge demand from an Iraqi official. An El Paso consultant and former Coastal official arranged a $201,877 surcharge payment on the company's behalf.

United States v. Vetco Gray Controls, Inc., Vetco Gray Controls, Ltd., Vetco Gray UK Ltd., and Aibel Group Limited (S.D. Tex., February 6, 2007): On February 6, 2007 three wholly-owned subsidiaries of Vetco International, Ltd., a global supplier of products and services for oil drilling production, pleaded guilty and were sentenced for conspiring to violate the FCPA and for violating the anti-bribery provisions of the FCPA in connection with the payment of approximately $2.1 million in corrupt payments to Nigerian government officials to avoid paying customs duties. From September 2002 to April 2005 these corrupt payments were paid through a major international freight forwarding and customs clearance company to employees of the Nigerian Customs Service. Aibel Group, Ltd., another wholly owned subsidiary of Vetco International, simultaneously entered into a deferred prosecution agreement regarding the same underlying conduct. As part of the plea and deferred prosecution agreements, it was agreed that Vetco Gray Controls Inc., Vetco Gray Controls Ltd., and Vetco Gray UK Ltd. would pay criminal fines of $6 million, $8 million, and $12 million, respectively, for a total of $26 million. In addition to the criminal fines, the plea agreements and the deferred prosecution agreement require the defendants to hire an independent monitor to oversee the creation and maintenance of a robust compliance program.

United States v. SSI International Far East Ltd. and SEC v. Schnitzer Steel Industries (D. Or., October 16, 2006): On October 16, 2006, SSI International Far East Ltd. (SSI Korea), a wholly-owned subsidiary of Schnitzer Steel Industries Inc., pleaded guilty to violating the FCPA, conspiracy, and wire fraud in connection with more than $1.8 million in corrupt payments to officers and employees of government owned customers in China and South Korea to induce them to purchase scrap metal from Schnitzer Steel. SSI Korea was sentenced to pay a $7.5 million criminal fine. Schnitzer Steel Industries Inc. entered into a three-year deferred prosecution agreement regarding the same underlying activity and agreed to the appointment of a compliance consultant. In a related matter, Schnitzer Steel agreed to pay disgorgement of $7,725,201 to the SEC.

United States v. Statoil ASA and SEC v. Statoil ASA (S.D.N.Y., October 13, 2006): Statoil ASA, a Norwegian corporation listed on the New York Stock Exchange, entered into a three-year deferred prosecution agreement on October 13, 2006; admitted to paying $5.2 million in bribes to an Iranian official in order to secure oil and gas rights in Iran; agreed to pay a $10.5 million penalty, with a credit for the approximately $3 million fine imposed by Norwegian authorities in connection with a proceeding in Norway; and agreed to the appointment of a compliance consultant. Statoil agreed to cooperate fully with the Department of Justice and the SEC in connection with further inquiries. In a related matter, Statoil agreed to pay disgorgement of $10.5 million to the SEC.

United States v. Jim Bob Brown and SEC v. Jim Bob Brown (S.D. Tex., September 14, 2006): Jim Bob Brown, a former executive of a subsidiary of Houston-based Willbros Group Inc., pleaded guilty to violating the FCPA on September 14, 2006. Brown acknowledged that he and another Nigeria-based Willbros executive paid approximately $1.5 million in cash as part of a conspiracy to make corrupt payments to officials of the Nigerian state-owned oil company to obtain and retain gas pipeline construction business in Nigeria. Brown also admitted that he conspired with Willbros employees to pay at least $300,000 to officials of the Ecuadorian state-owned oil company to obtain a gas pipeline

rehabilitation contract. The SEC filed a settled civil action against Brown in a related matter. Pursuant to the judgment, the Court will determine, at a later date upon motion by the Commission, whether to order Brown to pay a civil penalty and the amount of such penalty.

United States v. Yaw Osei Amoako and SEC v. Yaw Osei Amoako, Steven J. Ott, and Michael Young (D.N.J., September 6, 2006): On September 6, 2006, Yaw Osei Amoako pleaded guilty to conspiring to violate the FCPA and the Travel Act during his employment as a regional manager for Africa by the ITXC Corporation. Amoako acknowledged that he paid approximately $266,000 in bribes in the form of illegal "commissions" to employees of foreign state-owned telecommunications carriers in various African countries. Amoako was sentenced to 18 months in prison and a $7,500 fine in August 2007. On September 1 and 6, 2005, the SEC filed a civil enforcement action for the same conduct against Amoako, Steven J. Ott, the former Vice President for Global Sales for ITXC, and Roger Michael Young, the former Managing Director for the Middle East and Africa for ITXC, seeking to have the Court enjoin them from any future violations of the FCPA, require disgorgement of all ill-gotten gains derived from his misconduct, and order civil money penalties.

United States v. Faheem Mousa Salam (D.D.C., August 4, 2006): Faheem Mousa Salam, a former employee of a U.S. government contractor working in Iraq, pleaded guilty to violations of the FCPA on August 4, 2006. Salam admitted that he offered a senior Iraqi police official approximately $60,000 in exchange for the official's assistance with facilitating the sale of armored vests and a sophisticated map printer for approximately $1 million. Salam also acknowledged that he later offered an undercover agent of the Office of the Special Inspector General for Iraq Reconstruction a separate bribe to process the contracts.

SEC v. John Samson, John G. A. Munro, Ian N. Campbell, and John H. Whelan (D.D.C., July 5, 2006): On July 5, 2006, the Commission filed a settled complaint charging four former employees of subsidiaries of ABB Ltd. with violating the anti-bribery provisions of the FCPA. The Commission's complaint alleges that the four former employees -- John Samson, a former regional sales manager for West Africa, John G. A. Munro, a former senior vice president of operations, Ian N. Campbell, a former vice president of finance, and John H. Whelan, a former vice president of sales -- participated in a scheme by offering, approving, and/or paying bribes to Nigerian government officials in furtherance of ABB's bid to obtain a $180 million contract to provide equipment for an oil drilling project in Nigeria's offshore Bonga Oil Field. Without admitting or denying the allegations in the complaint, Samson, Munro, Campbell, and Whelan consented to the entry of final judgments that (1) permanently enjoin each of them from future violations of these provisions, (2) order each to pay a civil monetary penalty ($50,000 as to Samson, and $40,000 each as to Munro, Campbell and Whelan), and (3) orders Samson to pay $64,675 in disgorgement and prejudgment interest.

In the Matter of Oil States International, Inc. (D.D.C., April 27, 2006): On April 27, 2006, the Commission instituted settled administrative proceedings against Oil States International, Inc. for violations of the record keeping and internal controls provisions of the FCPA. The Commission Order arises from certain payments made through its Hydraulic Well Control, LLC (HWC) subsidiary. Oil States, through certain employees of HWC, provided approximately $348,350 in improper payments to employees of Petróleos de Venezuela, S.A. (PdVSA), an energy company owned by the government of Venezuela. The employees were asked to participate in the scheme by a consultant for HWC, after he was requested to do so by the PdVSA employees. HWC improperly recorded the payments in its accounting books and records as ordinary business expenses, which were consolidated into those of its parent, Oil States.

SEC v. Tyco International Ltd. (S.D.N.Y., April 17, 2006): On April 17, 2006, the Commission filed a settled complaint against Tyco International Ltd and imposed a $50 million penalty for a range of violations of the federal securities laws, including violations of the FCPA by Tyco's operations in Brazil and South Korea. The complaint alleges that Tyco violated the anti-bribery provisions of the FCPA when employees or agents of its Earth Tech Brasil Ltda. subsidiary made payments to Brazilian officials for the purpose of obtaining or retaining business for Tyco.

United States v. Steven Lynnwood Head (S.D. Cal. June 23, 2006): Steven Lynnwood Head, former CEO of Titan Africa, Inc., a subsidiary of the Titan Corporation, pleaded guilty to a one-count Information charging falsification of the books, records and accounts of Titan Corporation. Further discussion regarding the Titan case appears below under United States v. Titan Corporation. Head was sentenced to six months in prison in September 2008.

United States v. Richard John Novak (E.D. Wash. March 20, 2006): On March 20, 2006, Richard John Novak pleaded guilty to one count of violating the FCPA and an additional count of wire fraud and mail fraud in connection with corrupt payments to embassy officials of Liberia, the Director of National Commission of Higher Education of Liberia, and the Director General of Higher Education of Liberia, for their assistance in obtaining false accreditation for online universities as part of an online "diploma-mill" scheme. Novak was sentenced to three years probation and 300 hours community service in October 2008.

United States v. Viktor Kozeny, Frederic Bourke, Jr, and David Pinkerton (S.D.N.Y., October 6, 2006): On October 6, 2005, a grand jury in New York indicted Viktor Kozeny, Frederic Bourke Jr., and David Pinkerton for allegedly participating in a massive scheme to bribe senior government officials in Azerbaijan to ensure that those officials would privatize the State Oil Company of Azerbaijan (SOCAR) and allow Kozeny, Bourke, Pinkerton and others to share in the anticipated profits arising from that privatization. The indictment charges that Kozeny, acting on his own and as an agent of Bourke, Pinkerton, and others, made a series of corrupt payments and promises to pay to a senior official of the Government of Azerbaijan, a senior official of SOCAR, and to senior officials of the State Property Committee, the agency responsible for administrating the privatization program. The defendants are also charged with related crimes, including money laundering. Subsequently, the Government dismissed the case against Mr. Pinkerton. Kozeny was arrested in The Bahamas and on September 28, 2006 and a Bahamian magistrate approved his extradition to the United States, but the order is under appeal.

United States v. DPC (Tianjin) Co. Ltd. and SEC v. Diagnostic Products Corporation (C.D. Cal., May 20, 2005): On May 20, 2005, DPC (Tianjin) Co. Ltd., the Chinese subsidiary of Los Angeles-based Diagnostic Products Corporation (DPC), pleaded guilty to violating the FCPA in connection with the payment of approximately $1.6 million in bribes in the form of illegal "commissions" to physicians and laboratory personnel employed by government-owned hospitals in China. In addition to pleading guilty, the company, a producer and seller of diagnostic medical equipment, agreed to adopt internal compliance measures, cooperate with ongoing criminal and SEC civil investigations, and appoint an independent compliance expert to audit the company's compliance program and monitor its implementation of new internal policies and procedures. DPC Tianjin paid a criminal penalty of $2 million. In a related matter, DPC agreed to disgorge $2,788,622 in profits and prejudgment interest to the SEC.

United States v. Titan Corp. and SEC v. Titan Corp. (S.D.Ca., March 1, 2005): On March 1, 2005, Titan Corporation, a San Diego-based military intelligence and communications company, pleaded guilty to a three-count information charging it with violating the anti-bribery and books and records provisions of the FCPA and assisting in the filing of a false tax return. The charges stem from Titan's corrupt payment of more than $2 million towards the election of Benin's then-incumbent President. That same day, Titan was sentenced to pay a criminal fine of $13 million and serve three years' probation. Titan also agreed to pay $15.4 million in a parallel civil case filed by the SEC.

United States v. Micrus Corporation (D.D.C., February 28, 2005): On February 28, 2005, Micrus Corporation, a privately held company based in Sunnyvale, California, and its Swiss subsidiary Micrus S.A. entered into a two-year deferred prosecution agreement with the Department of Justice in which Micrus and its subsidiary admitted paying more than $105,000 to doctors employed at publicly owned and operated hospitals in France, Turkey, Spain, and the Federal Republic of Germany in return for the hospitals purchase of Micrus' medical devices; agreed to pay $450,000 in penalties; agreed to implement a rigorous compliance program with a monitor for a period of three years; and agreed to cooperate fully in the investigation by the Department of Justice.

United States v. Monsanto Co. and SEC v. Monsanto Co. (D.D.C., January 6, 2005): On January 6, 2005, Monsanto Company entered into a deferred prosecution agreement with the Department of Justice in which it agreed to pay a $1 million penalty and admit to violations of the FCPA involving a payment to an Indonesian official to induce him (unsuccessfully) to repeal an environmental regulation, and a related false books and records entry. Pursuant to the agreement, the Government will seek the dismissal of the charges in three years provided the company implements a strict compliance program and continues to cooperate with the Government's investigation. Monsanto also agreed to hire an independent compliance monitor to meet its obligations. Monsanto consented to pay a $500,000 civil penalty and to the Commission's issuance of its administrative order.

United States v. InVision Technologies Inc. and SEC v. GE Invision Technologies (N.D. Cal., December 6, 2004): On December 6, 2004, InVision Technologies, Inc., a U.S. company, entered into a two-year deferred prosecution agreement with the Department of Justice in which it admitted to violations of the FCPA in Thailand, China, and the Philippines, agreed to pay $800,000 in penalties, agreed to implement a rigorous compliance program with a monitor, and agreed to cooperate fully in the ongoing parallel investigations by the Department of Justice and the SEC. General Electric Company, which acquired InVision after the criminal conduct, agreed to ensure InVision's compliance with its obligations under its agreement and to effect FCPA compliance programs within GE's new InVision business. GE and InVision conducted an internal investigation of potential FCPA violations discovered in the course of acquisition due diligence and voluntarily disclosed their findings to the Department of Justice and the SEC.

United States v. ABB Vetco Gray, Inc. and ABB Vetco Gray (UK) Ltd.; SEC v. ABB Ltd. (July 2004): In July 2004, two subsidiaries of ABB Ltd., a Swiss company, pleaded guilty to violations of the FCPA in connection with obtaining oil construction projects in Nigeria and agreed to pay a combined fine of $11 million. On the same date, the SEC charged the Swiss parent company with violations of the books and records provisions of the FCPA related to the Nigerian conduct and issues involving payments in other countries and the parent company agreed to disgorge illicit profits of $5.9 million.

SEC v. Schering-Plough Corporation (D.D.C., June 16, 2004): On June 16, 2004, Schering-Plough, a pharmaceutical company, entered into a settlement with the SEC in which it neither admitted nor denied the allegations. The Commission's complaint alleges that, between February 1999 and March 2002, one of Schering-Plough's foreign subsidiaries, Schering-Plough Poland, made improper payments to a charitable organization called the Chudow Castle Foundation. The Foundation at that time was headed by an individual who was the Director of the Silesian Health Fund, a Polish governmental body that, among other things, provided money for the purchase of pharmaceutical products and influenced the purchase of those products by other entities, such as hospitals, through the allocation of health fund resources. According to the complaint, Schering-Plough Poland paid approximately $76,000 to the Chudow Castle Foundation to induce the Director to influence the health fund's purchase of Schering-Plough's pharmaceutical products.

United States v. Hans Bodmer (S.D.N.Y., September 14, 2003): In 2003, a grand jury in New York returned an indictment charging Hans Bodmer, a Swiss lawyer, with conspiring to violate the FCPA in

connection with alleged bribery of senior officials of the Government of Azerbaijan. At the United States' request, Korea extradited Mr. Bodmer to the United States in 2004. In June 2004, the trial court dismissed the FCPA charges based on technical issues relating to extradition. In October 2004, Mr. Bodmer pleaded guilty to money laundering.

United States v. James H. Giffen (S.D.N.Y., March 8, 2003): In March 2003, a grand jury in New York returned an indictment charging James Giffen, a U.S. citizen who acts as a counselor to the Government of Kazakhstan on oil transactions, with inter alia, violations of the FCPA, money laundering, and fraud associated with the diversion of fees paid by oil companies and the deposit of funds into Swiss bank accounts held for the benefit of Kazak officials.

United States v. Ramendra Basu (D.D.C., December 17, 2002): On April 22, 2008, former World Bank employee Ramendra Basu, a national of India and a permanent legal resident of the United States, was sentenced to 15 months in prison for conspiring to steer World Bank contracts to consultants in exchange for kickbacks, in violation of the FCPA. Basu conspired with a Swedish consultant and others to steer World Bank contracts in Ethiopia and Kenya to certain Swedish companies in exchange for $127,000. Basu also assisted the Swedish consultants in paying a $50,000 bribe to a Kenyan government official.

SEC v. Douglas Murphy, David Kay, and Lawrence Theriot (S.D. Tex., July 30, 2002): On July 30, 2002, the Securities and Exchange Commission filed a civil enforcement action against two former officers of American Rice, Inc., Douglas A. Murphy and David G. Kay, alleging that they authorized bribery payments to Haitian customs officials during 1998 and 1999, in violation of the FCPA. The complaint also alleges that a third individual, Lawrence H. Theriot, a former American Rice consultant, assisted Kay and Murphy. Theriot consented to payment of an $11,000 civil penalty and entry of an order permanently enjoining him from violating the FCPA on December 30, 2004. The Commission's action against Murphy and Kay remains stayed pending completion of the parallel criminal action against them.

United States v. David Kay and Douglas Murphy (S.D. Tex., December 12, 2001): In December 2001, a grand jury sitting in Houston, Texas, returned an indictment charging David Kay, an officer of American Rice Inc., with violating the FCPA by allegedly authorizing bribes of Haitian customs officials. In March 2002, the grand jury returned a superseding indictment adding a second defendant, Douglas Murphy, a former officer of American Rice Inc. In April 2002, the district court dismissed the indictment, finding that the conduct alleged did not fall within the FCPA's requirement that the bribes be paid to "assist in obtaining or retaining business." The United States appealed this decision, and, in February 2004, the Court of Appeals for the Fifth Circuit reinstated the indictment. In July 2004, the United States obtained a second superseding indictment, which added a conspiracy count against both defendants and an obstruction of justice count against Murphy based on his allegedly false testimony to the SEC. On October 6, 2004, Kay and Murphy were convicted on all counts following a two-week jury trial. On June 29, 2005, Murphy was sentenced to 63 months in prison followed by three years of supervised release. Kay was sentenced to 37 months in prison followed by two years of supervised release. Both appealed, but the convictions and sentences were upheld.

United States v. Frerik Pluimers (D.N.J., April 17, 1998): In April 1998, a grand jury sitting in Trenton, New Jersey, returned an indictment charging Frerik Pluimers, a Dutch national, and David Mead, a British national, both of whom were officers of an American company, Saybolt Inc., with conspiracy and violations of the FCPA and the Travel Act in connection with a bribe paid to Panamanian officials. Mr. Mead was convicted at trial in October 1998. The United States requested that the Netherlands extradite Mr. Pluimers in March 2000. Despite extended litigation, including a decision of the Dutch Supreme Court authorizing the extradition, the Dutch authorities have refused and rejected the U.S. request for Mr. Pluimers' extradition.

Other Enforcement Actions

FCPA Opinion Procedure Releases:

Opinion Procedure Release No. 08-01: In January 2008, the Department of Justice issued an Opinion Procedure Release in response to an inquiry from a U.S. public company regarding its intent to acquire a foreign company that managed public services for a foreign municipality. The foreign company was majority owned by an individual determined to be a "foreign official" within the meaning of the FCPA. The U.S. company was concerned that payments to the owner of the foreign company in connection with the purchase might run afoul of the FCPA. The Department determined that, in light of the U.S. company's extensive due diligence, the transparency of the transaction, the undertakings of both the foreign owner and the U.S. company, and the terms of the transaction, it would not take enforcement action.

Opinion Procedure Release No. 08-02: In June 2008, the Department of Justice issued an Opinion Procedure Release in response to an inquiry from a Halliburton Company (Halliburton). Halliburton intended to acquire a business in a foreign jurisdiction where they would not be able to conduct full due diligence in advance of acquisition. The company provided a detailed procedure for conducting staged due diligence quickly after acquisition. The Department determined that, assuming Halliburton completed each of the steps detailed in the submission, including full disclosure to the Department, the Department would not take any enforcement action against Halliburton for the acquisition, any pre-acquisition unlawful conduct by the business being acquired if timely disclosed to the Department, or any post-acquisition conduct by the business being acquired if it is halted and disclosed to the Department in a timely fashion.

Opinion Procedure Release No. 08-03: In July 2008, the Department of Justice issued an Opinion Procedure Release in response to an inquiry from TRACE International (TRACE), a U.S. non-profit membership organization, declining to take enforcement action if TRACE paid a limited stipend to cover certain travel expenses for Chinese journalists to attend a press conference to be held by TRACE. TRACE represented that the journalists are not typically reimbursed by their employers for such costs; that stipends will be equally available to all journalists regardless of whether they later provided coverage of the conference and regardless of the nature of such coverage; that TRACE has no business pending with any government agency in China; and that it had obtained written assurances from an established international law firm that the payment of the stipends is not contrary to Chinese law.

Opinion Procedure Release No. 07-01: In July 2007, the Department of Justice issued an Opinion Procedure Release in response to a private company in the United States declining to take enforcement action if the company proceeded with sponsoring domestic expenses for a trip by a six-person delegation from an Asian government. The company represented that the purpose of the visit would be to familiarize the delegates with the nature and extent of the company's business operations; that it would not select the delegates; it would pay all costs directly to providers; and it does not currently conduct operations in the foreign country at issue.

Opinion Procedure Release No. 07-02: In September 2007, the Department of Justice issued an Opinion Procedure Release in response to a private insurance company in the United States declining to take enforcement action if the company proceeded with sponsoring domestic expenses for a trip by six officials from an Asian government for an educational program at the company's U.S. headquarters. The company represented that the purpose of the visit would be to familiarize the officials with the operation of a U.S. insurance company; that it would not select the officials who would participate; that it would pay

costs directly to providers; and that it has no non-routine business pending before the agency that employs the officials.

Opinion Procedure Release No. 07-03: In December 2007, the Department of Justice issued an Opinion Procedure Release in response to a lawful permanent resident of the United States declining to take enforcement action if the requestor paid up-front expenses to a foreign court-appointed estate administrator. The Department noted that there were two primary reasons for declining enforcement: first, the requestor had represented that the payment would be made to a government entity (the court clerk's office) rather than a foreign official; and second, that the payment in any event is lawful under the written laws and regulations according to an experienced attorney retained by the requestor in the country in question, which would be consistent with the affirmative defense enumerated in the FCPA.

Opinion Procedure Release No. 06-01: In October 2006, the Department of Justice issued an Opinion Procedure Release in response to a request from a Delaware Corporation with headquarters in Switzerland declining to take enforcement action if the corporation proceeded with a proposed contribution to the government of an unspecified African country. The company proposed to contribute $25,000 to the African country's regional Customs department and/or Ministry of Finance as part of a pilot project to improve local enforcement of anti-counterfeiting laws. The company represented that it would execute a formal memorandum of understanding with the country, and would establish several procedural safeguards to ensure that the funds would be used as intended.

Opinion Procedure Release No. 06-02: In December 2006, the Department of Justice issued an Opinion Procedure Release in response to a request in response to a request from a subsidiary of a U.S. issuer declining to take enforcement action if the corporation retain a law firm in the foreign country and paid it substantial fees to aid the company in obtaining foreign exchange from a government agency of that country by preparing its foreign exchange applications to that agency and representing the company during the review process. The Department's release under the circumstances was based on the company's representations regarding steps taken in conducting due diligence regarding the law firm; the inclusion in the agreement between the company and the law firm several provisions designed to prevent corruption from occurring; and a number of additional representations.