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“Keeping Foreign Corruption Out of the United States: Four Case Studies”

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Mr. Chairman, Senator Coburn, and other distinguished Members of the Committee, thank you for the opportunity to discuss the impact of foreign corruption on the United States, and why combating it is a key U.S. objective. We at the Department of State are grateful for your leadership and the awareness that today's hearing brings to this important national security issue. I'd like to thank the Committee for inviting a truly interagency panel, as our nation's efforts to address foreign corruption requires a whole of government effort here at home.

CORRUPTION TRANSCENDS BORDERS

In 1968, Martin Luther King said that "We are tied together in the single garment of destiny... And whatever affects one directly affects all indirectly." Those words could not be truer of the impact of global corruption, which threatens several vital U.S. national interests, while at the same time it threatens the integrity and prosperity of developing states.

Corruption hampers U.S. international trade, affecting the ability of U.S. companies to do business abroad -- which in turn erodes U.S. jobs. In some countries, large government contracts are awarded on the basis of bribes rather than merit. U.S. companies are believed to have lost out on business opportunities worth about \$27 billion in the past year alone, because they refused to violate honest business practices. Some have abandoned markets altogether, while some unscrupulous competitors take advantage of the corrupt environment to gain control of strategic markets and materials.

Corruption undermines humanitarian and development goals, as it diverts resources away from productive activities that foster sustainable development. The World Bank has identified corruption as the single greatest obstacle to economic and social development. Diversion of resources through corruption robs communities of investments in schools, hospitals, and other areas critical to their hopes and futures. The African Union and the African Development Bank estimate that corruption costs Africa more than \$148 billion a year. Corruption has a similarly catastrophic impact on development in communities in other parts of the world.

Corruption undermines the trust and confidence of citizens in the fairness and impartiality of public administration, and weak governments are made weaker by widespread corruption. In a world where stable partnerships are necessary to advance U.S. interests, corruption can destabilize geopolitically important partners.

Notable examples include Kenya and Thailand, where corruption has fueled incidents of political instability over the last decade.

Corruption can also undercut stabilization efforts in emergent states and post-conflict situations by robbing needed capital, deterring investment, eroding support for the government, and siphoning off development assistance. An October 2007 Government Accountability Office report on stabilizing and rebuilding Iraq concluded that pervasive corruption in Iraqi ministries has impeded the effectiveness of U.S. efforts there.

EFFECTS ON THE HOMELAND

Poor governance and corrupt officials wittingly or unknowingly enable criminals, insurgents, and terrorists to operate with impunity in many parts of the world. Criminal entrepreneurs use corruption to launder embezzled public funds and smuggle billions of dollars of illegal goods – drugs, arms, humans, natural resources, counterfeit medicines, and pirated software. This can overwhelm and corrupt law enforcement institutions and can fuel insecurity and endanger the welfare and safety of our families. The convergence of crime, corruption, and weak governments often can devolve into the failed states and ungoverned spaces that provide a foothold for terrorists.

U.S. EFFORTS: PUTTING KLEPTOCRATS ON NOTICE

The State Department stands strong against kleptocracy and those who profit from it, reflecting the strong U.S. commitment to combat corruption. In his July 2009 speech in Accra, President Obama said, “No country is going to create wealth if its leaders exploit the economy to enrich themselves or if police can be bought off by drug traffickers People everywhere should have the right to start a business or get an education without paying a bribe. We have a responsibility to support those who act responsibly and to isolate those who don't, and that is exactly what America will do.”

The United States has long been a leader in the fight against corruption. We led the way in 1977 with our Foreign Corrupt Practices Act criminalizing international business bribery. In 1997, the U.S. pressed this agenda forward and secured the agreement of our Organization for Economic Co-operation and Development (OECD) partners – representing the vast majority of global exports -- to also criminalize bribery of foreign public officials, in the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (the OECD Anti-Bribery Convention). This followed President

Clinton's directive in 1995 declaring organized crime and corruption a threat to U.S. national security.

U.S. leadership in the fight against corruption has been on fast forward during the past decade. The United States successfully negotiated the first comprehensive, near global treaty against corruption, the United Nations Convention against Corruption (UNCAC). This Convention not only obligates 143 States Parties, to criminalize the bribery of foreign public officials as required by the OECD Antibribery Convention, but complements and goes beyond the OECD instrument by covering a much broader range of offenses. It requires criminalization of other corrupt conduct, including money laundering, and contains groundbreaking road maps for measures to prevent corruption and to recover assets illicitly acquired by corrupt leaders. Almost as important as setting near global rules to bring the rest of the world up to U.S. standards, UNCAC establishes an international framework for countries to cooperate through mutual legal assistance and mechanisms to expand extradition to fight corruption. The U.S. Government supports and promotes implementation of the UNCAC in programs and initiatives throughout the world.

In UNCAC context, we are at the implementation stage, whereas our OECD Convention efforts are now focused on enforcement. The OECD Convention, adopted in 1997 and now with 38 "like minded" parties, has a review mechanism that is both further developed and more detailed. The United States has been a leader in the OECD monitoring process: U.S. participation in the mechanism has centered on promoting enforcement by the other parties, all of which now have laws criminalizing the bribery of foreign public officials. While the OECD's mechanism is more established, as that Convention entered into force in 1999, the States Parties to the UNCAC, which entered into force only in 2005, are catching up. Last November in Doha, the Third Conference of States Parties agreed to establish a review mechanism for the UNCAC, a rare accomplishment for a United Nations instrument. The United States continues to lead in this area: INL is now working closely with the United Nations Office of Drugs and Crime to ensure that the UNCAC review mechanism gets off to an early and ambitious start this summer. U.S. negotiators at Doha also brought together a wide coalition of countries to agree to a framework to support implementation of the Asset Recovery chapter of UNCAC. We are on the Bureau of countries that guide the Conference of States Parties process.

In many cases, however, countries lack capacity to implement anticorruption reform, including their convention commitments. There is a consequent need to

share good practices, including establishing preventive measures within their government structures, criminalizing corrupt conduct as required by the conventions, and engaging in cooperation to prosecute offenders and return stolen assets. As a result, the INL Bureau, in partnership with other agencies such as the Departments of Justice, Treasury, and Commerce, supports a wide range of technical assistance on anticorruption and rule of law, and on closely related areas such as investigative and prosecutorial capacity, anti-money laundering, justice sector reform, oversight bodies, and integrity, accountability and appropriate transparency in the justice sector. These bilateral efforts include for example, programs in Afghanistan, Iraq, and Mexico. The Department also supports several regional efforts in the Middle East-North Africa, Asia-Pacific, Europe and Eurasia regions. Although funding is scarce for regional programs, they are an important complement to bilateral programs. These efforts are complemented by USAID programs to promote good governance; transparency and accountability mechanisms in public administration; rule of law; public financial management systems; and civic participation and civil society oversight.

Through the efforts of the Department of State and other agencies, the United States has also helped build and sustain political will to tackle the issue of corruption. The United States inaugurated the Global Forum series of anticorruption ministerial meetings, which helped launch the UNCAC. We have worked with Group of Eight (G-8) partners since the 2003 Evian Summit, and now Group of 20 partners, to adopt a wide variety of commitments and individual actions to address corruption. The Department of State leads the interagency engagement in the Extractive Industries Transparency Initiative, which the U.S. helps sponsor, to promote transparency in financial management in natural resource-rich countries.

The reality is that corrupt individuals continue to prosper and many seek to enjoy their illicit gains in other countries. For this reason, the United States and its international partners have committed to denying safe haven to corrupt officials, those who corrupt them, and their assets.

To effectuate No Safe Haven, the Department regularly revokes and denies visas to corrupt individuals. Under the Immigration and Nationality Act (INA), the Department has the authority to deny or revoke an individual's visa for dozens of reasons, such as conviction of a crime of moral turpitude or abetting trafficking in illegal substances. While the Department does not specifically track the number of corrupt officials denied under such ineligibilities, we estimate that thousands of corrupt officials have been the subject of derogatory visa actions since 2004.

These actions occur in the field, applied by thousands of consular officers, and they have had an important impact in denying the corrupt access to the U.S.

However, prior to January 2004, that arrangement left a serious loophole, in that the U.S. had no legal authority to deny entry of known corrupt officials in the absence of a conviction or proof of other grounds for exclusion. Presidential Proclamation 7750 (PP 7750) was issued in January 2004, to provide specific legal authority for U.S. officials to deny entry to corrupt officials, those who bribe them, and certain family members of either group who have demonstrably benefited from the corruption in question, when that corruption has had serious adverse effects on specified U.S. interests. We have found it an extremely useful policy tool to deny safe haven to those corrupt actors who do not fall within previous visa denial authorities. PP 7750 -- and its companion piece Section 7084 in the annual State and Foreign Operations Appropriations Act, which targets natural resource-related corruption -- is a highly focused instrument that is directed at those most culpable without disadvantaging the citizens they have already victimized when no other INA provision is available. In applying PP 7750, we give due deference to U.S. law enforcement interests so as to avoid interference with ongoing investigations. Although Section 222(f) of the INA precludes public announcement of visa decisions, the affected individuals in PP 7750 cases often make this information known, resulting in highly favorable public affairs reaction abroad.

INTERNATIONAL CORRUPTION AND THE FINANCIAL SYSTEM

Those with a prominent public function, or who are closely related to such people, present a risk for potential involvement in bribery and corruption and, for financial institutions, pose a potential compliance risk. The financial industry refers to these clients as Politically Exposed Persons (PEP) and subject accounts belonging to such individuals to additional oversight and monitoring.

The Department of State supports the G-20 ongoing Financial Action Task Force (FATF) project on corruption, which examines the use of FATF standards to detect and deter the proceeds of corruption -- including examining whether the FATF Recommendations on customer due diligence, beneficial ownership, and transparency should be strengthened. The Department works closely with its interagency partners, as well as the World Bank (which is working with FATF on the project) on these and related issues, and in general supports the five Principal Recommendations the World Bank has made in this area. These recommendations include enhanced due diligence for both domestic and foreign PEPs; declarations of beneficial ownership; provision of financial disclosure forms; periodic review of

PEP accounts; and not limiting status as a PEP to a fixed period. All are designed to ensure financial institutions are better able to prevent and detect illicit activities that may be occurring through their accounts, including corruption.

Beyond identifying corrupt actors and prohibiting their travel to the United States, the Department of State works tirelessly to ensure that corrupt officials do not benefit from their theft and corruption. As an example, our government worked closely with international partners to draft the innovative provisions of the UNCAC regarding recovery of the proceeds of corruption. We continue to develop the policy agenda on that issue, including through the UNCAC Conference of States Parties, the World Bank's Stolen Assets Recovery Initiative, and FATF. To complement INL's related technical assistance, we launched an Asset Recovery Advisor Program last year with the U.S. Department of Justice, which we hope to expand.

Through our collaboration with U.S. law enforcement and foreign authorities, we have worked to confront the significant evidentiary and legal challenges that confront the investigation of kleptocracy. Elaborate money laundering structures involving multiple trusts and shell corporations in several different jurisdictions can complicate our efforts to identify beneficial ownership, trace criminal proceeds, and uncover the sometimes underlying criminal conduct. Where foreign officials or their cronies remain in positions of influence in the country victimized by corruption, we frequently face even greater impediments to investigative success.

The issues raised by the Committee remain top priorities for the INL Bureau, the State Department and our interagency partners. The Administration is committed to engaging internationally to combat corruption – including international business bribery, kleptocracy, and abuse of the international financial system. Given the success of visa denial and revocation and its potential for even greater impact, I have the pleasure to convey to the Committee that, complementing the other efforts I have described above, I am increasing staff resources within the INL Bureau devoted to the application of the PP 7750 and related authorities for the second time in the past 12 months.

Thank you for your time and I would be happy to address any questions.