



## Extradition lessons learned

Mark L. Krotoski examines recent cases highlighting the growing extradition risk that confronts foreign executives in US antitrust cases



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# EXTRADITION LESSONS LEARNED

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The Antitrust Division has devoted substantial resources to extradite and prosecute executives residing outside the United States.<sup>1</sup> This focus is part of an ongoing policy of holding individuals accountable through “more vigorous prosecution of foreign nationals who violate US antitrust laws.”<sup>2</sup>

Last month, the Antitrust Division announced its fifth successful extradition of a foreign executive since 2010. In the past two and a half years, three foreign executives have been extradited.

An increasing “extradition risk” is having a discernible influence on antitrust cases involving foreign executives. This article explores the primary choices confronting foreign executives involved in an Antitrust Division case, the factors contributing to extradition risk and emerging lessons from recent cases.

### **I. Recent Canada extradition, prosecution, conviction and sentence**

Earlier this year, a trial conviction and lengthy sentence was imposed in the fourth extradition case by the Antitrust Division. In that case, Canadian national John Bennett, a former chief executive officer of Bennett Environmental Inc., and two others were first charged in August 2009 with fraud, kickbacks, and bid-rigging offenses involving contracts at Environmental Protection Agency Superfund sites. For more than five years, Bennett fought extradition. In November 2014, he was ultimately extradited to the United States.<sup>3</sup>

In March 2016, a jury convicted Bennett for participating in a kickback-and-fraud conspiracy and committing major fraud against the United States. On August 9, 2016, Bennett was sentenced to serve 63 months in prison and ordered to pay a \$12,500 fine and \$3.8 million in restitution. In the investigation, 10 individuals and three companies were convicted and sentenced to serve lengthy prison terms or to pay substantial criminal fines.<sup>4</sup>

The Bennett case demonstrates the resolve of the Antitrust Division to pursue extradition. DOJ devoted more than five years to extradite Bennett. The prosecution of the case took seven years from the time the charges were filed to sentencing.

### **II. Summary of the five extraditions by the Antitrust Division**

Any measure of an extradition program will depend in part on how the cases are handled. Since 2010, the Antitrust Division has successfully extradited five foreign executives. Four cases have resulted in convictions, with a fifth recent case currently pending prosecution. A summary of each extradition follows.

#### **A. First extradition from the United Kingdom (2010)**

The first Antitrust Division extradition involved British citizen Ian P. Norris, Chief Executive Officer of The Morgan Crucible Company PLC. In September 2003, as part of the carbon graphite investigation, Norris was charged with a conspiracy to fix prices for carbon brushes and other carbon products and obstruction of justice counts. For six and a half years he contested his extradition to the United States, arguing that his offenses were not covered under extradition law.

After several rounds of litigation and hearings, the United Kingdom ultimately concluded that Norris could be extradited on three obstruction-of-justice counts, but not on the antitrust count. In March 2010, Norris was extradited to the United States. At a jury trial, Norris was convicted on one count of conspiring to obstruct justice, but acquitted on the other counts. He was sentenced to serve 18 months in prison and a three-year term of supervised release, and fined \$25,000. His conviction was affirmed on appeal.<sup>5</sup>

#### **B. Second extradition from Israel (2012)**

The second extradition involved David Porath, an owner of a re-insulation service company who was a citizen of the US

and Israel. In February 2010, he was charged with three counts for conspiring to rig bids; conspiring to defraud the Internal Revenue Service; and filing a false tax return. After Porath was arrested in Israel, a judge determined that he could be extradited on all three charges. Porath then consented to his extradition. In February 2012, he was extradited to the United States and ordered to remain in custody. In February 2013, Porath pleaded guilty to the three counts. He was sentenced to time served (which was just under one year), a term of one year of supervised release, and ordered to pay a \$7,500 fine and \$652,770 in restitution.<sup>6</sup>

### C. Third extradition from Germany (2014)

The third extradition case by the Antitrust Division involved Romano Pisciotti, an Italian executive of marine-hose manufacturer Parker ITR. He was charged in August 2010 in a sealed indictment for rigging bids, fixing prices, and allocating market shares involving sales of marine hose. During international travel while changing planes in Frankfurt in June 2013, he was arrested on a pending arrest warrant (under an Interpol Red Notice) based on sealed charges. The indictment was unsealed following his arrest. He was extradited under the extradition treaty between the United States and Germany. From the time of his arrest during travel in Germany, until his extradition and appearance in federal court in the Southern District of Florida and sentencing, he was never released from custody. He was sentenced to 24 months in prison and fined \$50,000.<sup>7</sup>

### D. Fourth extradition from Canada (2014)

As already noted, the fourth extradition involved Canadian executive John Bennett, who contested his extradition to the United States for more than five years. Earlier this year he was convicted at a jury trial and was sentenced to serve more than five years in prison.<sup>8</sup>

### E. Fifth extradition from Bulgaria (2016)

The fifth extradition is presently pending. On October 14, 2016, Yuval Marshak, an Israeli executive, was extradited to face charges that he defrauded the Foreign Military Financing (FMF) program, funded by the Department of State and administered by the Department of Defense, and engaged in money laundering related to “falsified bid documents to make it appear that certain FMF contracts had been competitively bid when they had not.”<sup>9</sup> Like Pisciotti, he also was extradited from a foreign country based on a Red Notice that resulted in his arrest by Bulgarian authorities.<sup>10</sup> After making his initial appearance in the District of Connecticut, Marshak was ordered detained pending trial.

### F. Summary

When compared to the number of total cases prosecuted by the Antitrust Division, there have not been a large number of extraditions. However, the ability of the Antitrust Division to extradite individuals contributes to extradition risk. In particular, this track record removes doubt about the DOJ’s resolve or ability to extradite foreign nationals. Extradition risk becomes more credible.

**Extradition risk is having a discernible influence on antitrust cases involving foreign executives**

### III. Four primary choices confronting foreign executives

A foreign executive subject to an antitrust investigation faces four primary choices: (1) contest extradition under the applicable treaty; (2) remain in a non-extradition country and avoid international travel that could subject the executive to an arrest; (3) resolve the case by plea agreement; or (4) contest the charges at trial. Each option is reviewed.

#### A. Contest extradition

As one option, the executive may contest extradition based on the terms of the applicable extradition treaty. Because each extradition treaty is unique, the terms must be considered independently against the facts of the particular case to determine the coverage.

For example, the executive may argue that the charged offense is not an “extraditable offense” under the extradition treaty. Only a limited number of countries have criminal antitrust laws.<sup>11</sup> However, many treaties contain a “dual criminality” provision that allows an individual to be extradited based on an offense that is subject to criminal penalties in both countries. Under these provisions, the nature of the conduct, not the label for the crime, controls.

Even where an “extraditable offense” may apply, other restrictions may bar extradition. For example, under German law, no German may be extradited to another country.<sup>12</sup> Other countries (such as Australia and South Korea) allow the government to exercise discretion on whether to extradite a national.<sup>13</sup>

#### B. Remain in a non-extraditable country and avoid international travel

As a second choice, where no extradition treaty applies, or where the country has discretion to decline a request for extradition, the executive may elect to remain in the country. Under this scenario, the executive can essentially reside in a “safe haven” beyond the reach of the Antitrust Division, as

long as international travel is avoided. No legal process can compel arraignment and prosecution in the US.

However, the price of avoiding extradition may result in a life in isolation. International travel can present the risk of arrest, particularly since the charges may be filed under seal.

An arrest warrant can be lodged through the International Criminal Police Organization, known as Interpol, consisting of 190 member countries.<sup>14</sup> Through Interpol, any member country may issue a Red Notice,<sup>15</sup> which establishes a lookout-and-notification process to arrest a designated individual at the request of the country issuing the arrest warrant.

The Red Notice process is often used to extradite individuals traveling in other countries. As already noted, Romano Piscioti, an Italian executive, was arrested on a Red Notice based on sealed charges during his international travel while catching a connecting flight in Germany. From the time of his arrest during travel in Germany, until his extradition and appearance in federal court in the Southern District of Florida and sentencing, he was never released from custody.<sup>16</sup> Similarly, Yuval Marshak, an Israeli executive, was recently arrested on a Red Notice during his travel to Bulgaria. He remains in custody pending his trial.

In another case, Homy Hong-Ming Hsu, the vice-chairman and second-highest ranking official at Eagle Eyes Traffic Industrial Co., Ltd, a manufacturer of aftermarket auto lights, resided in Taiwan, which does not have an extradition treaty with the United States. In exploring a resolution to his case, he originally declined an offer to plead guilty to a six-month sentence and elected to remain in Taiwan. A few years later, in July 2011 during international travel to Mexico, he was arrested on a complaint while changing planes at Los Angeles International Airport. In September 2012, on the eve of a scheduled trial, he pleaded guilty to conspiring to fix prices during November 2001 to about September 2008. The court imposed a 14-month prison term, declining the DOJ's request for a 27-month term.<sup>17</sup>

These cases demonstrate the risk of international travel for executives who leave a country where there is little or no risk of extradition. In today's global economy, many executives must be able to travel internationally for work.

### C. Negotiate a resolution

As a third alternative, the executive may seek to resolve the case and avoid a trial. A negotiated plea conviction normally results in a lower sentence than may result following a trial conviction.

Over the past several years, many foreign executives who could have remained beyond the reach of the Antitrust Division have elected to enter into a plea agreement, including for substantial prison terms.

Many foreign nationals have also decided to negotiate a plea agreement despite being able to avoid extradition. For example, Chun-Cheng (Alex) Yeh, a resident of Taiwan who had served as director of sales, was indicted in March 2010 for conspiring to fix prices, reduce output and allocate market shares of cathode ray tubes.<sup>18</sup> He could have remained in Taiwan, since there is no extradition treaty with the United States. Instead, he voluntarily negotiated a plea agreement for a term of eight months.<sup>19</sup> Instead, the court instead imposed a sentence of six months in prison.<sup>20</sup>

Similarly, in the auto-parts investigation, so far, 65 executives have been indicted, many of whom are Japanese nationals. To date, no Japanese national has been extradited to the United

States on a criminal antitrust violation. Antitrust Division officials have expressed an interest in identifying an appropriate extradition case.<sup>21</sup> Under Japanese law, the government of Japan has discretion in deciding whether to extradite a Japanese national.<sup>22</sup> Notwithstanding that no Japanese national has been extradited from Japan for prosecution in the United States for violating criminal antitrust laws, numerous Japanese executives

have elected to negotiate a plea agreement and serve at least one year and one day in a US prison. Several executives have elected to serve longer prison terms.

A variety of factors may weigh in the balance for foreign executives to negotiate a plea agreement, rather than remain abroad. For example, even in the face of a prison term, the negotiated plea agreement provides certainty and closure in the case.

### D. Contest charges at trial

The fourth option is to defend against the charges at trial. Under this avenue, the executive may be acquitted or convicted by a jury. Consider some recent examples:

#### 1. Jury trial convictions

In the Libor prosecutions, which charged a scheme to manipulate benchmark interest rates, two executives from the United Kingdom decided to waive extradition and defend themselves at trial. In October 2014, Anthony Allen, Rabobank's former global head of liquidity and finance, and Anthony Conti, a senior trader on Rabobank's money markets

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trading desk in London, were charged on fraud charges in a case jointly prosecuted by the Criminal and Antitrust Divisions. In March 2015, Allen waived extradition from the United Kingdom, and Conti did so the next month.<sup>23</sup>

On November 6, 2015, Allen and Conti were convicted by a jury on counts of conspiracy to commit wire fraud and bank fraud. On March 10, 2016, Allen was sentenced to 24 months in prison, and Conti was sentenced to 12 months and one day in prison.<sup>24</sup> Then, in the same case, in July 2016 Paul Thompson from Australia, a derivatives trader who served as Rabobank's head of derivatives trading for Northeast Asia, consented to extradition and pleaded guilty to conspiracy to commit wire fraud and bank fraud.<sup>25</sup>

## 2. Jury trial acquittal

In contrast, some executives have elected to face the charges in the absence of any extradition treaty. For example, Borlong “Richard” Bai, head of the sales division of AU Optronics, was charged with conspiring to fix prices in 2010. He ultimately decided to defend himself against the charges in the US, even though Taiwan does not have an extradition treaty with the US. In October 2013, a federal jury acquitted him.<sup>26</sup>

## IV. Factors contributing to extradition risk

As already noted, recent cases prosecuted by the Antitrust Division suggest that credible extradition risk is influencing the decisions of foreign executives on how to respond to charges. Given the five extraditions by the Antitrust Division since 2010, several emerging factors can be identified that contribute to the increasing extradition risk. As summarized below, the risks and costs have increased over the past few years based on the ongoing efforts to extradite foreign executives to the United States.

### A. Obtaining longer prison terms for foreign executives

The likelihood of facing a substantial prison term elevates the extradition risk. The Antitrust Division has developed a track record for obtaining longer prison terms for foreign executives over the past few decades.<sup>27</sup> Foreign executives represent about one third of the individuals prosecuted by the Antitrust Division.<sup>28</sup>

As Deputy Assistant Attorney General Brent Snyder, who heads up criminal enforcement for the Division, has summarized:

*The Antitrust Division is committed to ensuring that culpable foreign nationals, just like US co-conspirators, serve significant prison sentences for violating the antitrust laws of the United States. From May 1999 through fiscal*

*year 2015, 88 foreign defendants served, or are serving, prison sentences in the United States for participating in – or for obstructing investigations of – international cartels.<sup>29</sup>*

The prison terms of foreign executives in antitrust cases have increased over time. Since the 1990s, the prison terms have increased to “an average sentence of 15.5 months for the 49 foreign defendants sentenced during fiscal years 2010 through 2015.”<sup>30</sup> Some prison terms of foreign nationals exceed these averages, such as the recent 63-month sentence for Canadian John Bennett, noted earlier.

### B. DOJ policies and commitment to extradite

As a second factor, the Antitrust Division has made the extradition of foreign executives a priority for many years as part of its focus on individual accountability.<sup>31</sup> Since 2001, the Antitrust Division has used the Red Notice process to arrest and extradite foreign executives.

A number of the extraditions have taken several years to pursue. For example, the first extradition involving Norris from the United Kingdom was contested for six and a half years. In the fourth extradition, Bennett contested extradition for more than five years. Both were convicted at jury trials. The Antitrust Division remains committed to pursuing extradition whenever possible.

The Antitrust Division has a variety of international tools that it uses including in extradition cases.<sup>32</sup> The tools include (1) Interpol Red Notices to aid in the arrest of executives during international travel; (2) border-watch alerts to interview, subpoena or detain visitors at the border; (3) requests to obtain foreign-located evidence provided by cooperating companies and individuals to strengthen the evidence in the case; (4) Mutual Legal Assistance Treaty (MLAT) requests to obtain evidence abroad from foreign law-enforcement officials; (5) bilateral antitrust mutual-assistance agreements with foreign governments to obtain evidence in antitrust cases; and (6) joint enforcement actions, such as simultaneously executing dawn raids to obtain evidence in multiple jurisdictions. These tools, used together, allow the Antitrust Division to obtain evidence and build cases that can be used to charge and extradite executives.

### C. Growing criminalization

As another factor, more countries have criminalized hardcore cartel conduct, including price fixing, bid rigging and market allocation. For example, in May this year the Republic of South Africa enacted new laws criminalizing cartel conduct. In October, Chile also criminalized cartel conduct.

The growing criminalization is significant for at least three

reasons. First, there will be fewer safe havens for the conduct. Criminal antitrust conduct may be used to establish an extraditable offense under an extradition treaty. Second, enforcers in different jurisdictions may investigate and prosecute the conduct. Third, countries with criminal antitrust offenses are more likely to cooperate on investigations involving cartels.

### D. Scope of charges

The Antitrust Division has shown that it will pursue extradition even where the other country has not criminalized antitrust violations. For example, for most extradition treaties, criminal fraud is an extraditable offense.

Only the third extradition case (Pisciotti) was based solely on a criminal antitrust violation. Four out of five of the extradition cases by the Antitrust Division have involved other non-antitrust charges. The first extradition case (Norris) was based on obstruction of justice counts. The second extradition case (Porath) was based on antitrust and tax charges. The fourth extradition case (Bennett) involved charges of participating in a kickback-and-fraud conspiracy and committing major fraud against the United States. The fifth extradition case (Marshak) is based on fraud and money-laundering charges. The scope of the charges therefore may enhance the likelihood of extradition by the Antitrust Division.

### E. International cooperation

Many of the international cases prosecuted by the Antitrust Division are based on international cooperation. The international cooperation takes many forms at all stages of the case, including conferring with enforcers during the early stages of an investigation, as well as “on procedural steps, strategy, and logistics, including the timing of going overt in our investigations, drop-in interviews and dawn raids,” and “in apprehending fugitives through Interpol Red Notices and extradition requests.”<sup>33</sup> Ultimately, extradition requires international support, including enforcement of the terms of the treaty and the use of law-enforcement and judicial processes in other countries. The recent cases demonstrate the role of international cooperation in the extradition process.

### V. Conclusion

For many years, the Antitrust Division publicly noted its interest in extraditing foreign nationals charged with violating US antitrust law.<sup>34</sup> Since 2010, the Antitrust Division has used the extradition process to extradite foreign executives from the United Kingdom, Israel, Germany, Canada and Bulgaria.

The total of five extraditions by the Antitrust Division is small when compared to the total number of cases and foreign executives prosecuted. Yet the risk of extradition is elevated by the proven ability to extradite foreign executives, longer prison terms, DOJ policies and commitment to extradite, international cooperation, and the growing criminalization of antitrust, among other factors.

Of the four primary choices facing foreign executives in an Antitrust Division prosecution, a number of executives could elect to remain in a non-extradition country and avoid international travel. However, a surprising number of foreign executives, who could have avoided or contested extradition, have instead elected to resolve their cases with the Antitrust Division.

**The growing shadow of extradition risk is a phenomenon that deserves monitoring and greater focus**

Certainly, each case must be considered on its merits including the terms of any applicable extradition treaty. However, the growing shadow of extradition risk appears to be having an influence on the prosecution of foreign nationals in other cases. This is a phenomenon that deserves monitoring and greater focus. ■

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## Footnotes

- 1 See generally M. Krotoski, *Extradition in International Antitrust Enforcement Cases*, ANTITRUST SOURCE (April 2015) (summarizing prior extraditions by the Antitrust Division) [Hereinafter], [http://www.americanbar.org/content/dam/aba/publishing/antitrust\\_source/apr15\\_krotoski\\_4\\_22f.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publishing/antitrust_source/apr15_krotoski_4_22f.authcheckdam.pdf).
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- 3 Press Release, U.S. Dep't of Justice, *Canadian Executive Extradited on Major Fraud Charges Involving a New Jersey Environmental Protection Agency Superfund Site* (Nov. 17, 2014), available at [http://www.justice.gov/atr/public/press\\_releases/2014/309928.pdf](http://www.justice.gov/atr/public/press_releases/2014/309928.pdf).
- 4 Press Release, U.S. Dep't of Justice, *Former CEO of Canadian Hazardous Waste Treatment Company Sentenced to Serve 63 Months in Prison for Role in Kickback and Fraud Schemes Against the United States* (Aug. 9, 2016), <https://www.justice.gov/opa/pr/former-ceo-canadian-hazardous-waste-treatment-company-sentenced-serve-63-months-prison-role>; see also Press Release, U.S. Dep't of Justice, *Former CEO of Canadian Hazardous Waste Treatment Company Convicted of Conspiracy to Pay Kickbacks and Committing Major Fraud against the United States* (March 16, 2009), available at <https://www.justice.gov/opa/pr/former-ceo-canadian-hazardous-waste-treatment-company-convicted-conspiracy-pay-kickbacks-and>.
- 5 *Extradition in International Antitrust Enforcement Cases*, at 6-7 (summarizing the details of the Norris extradition).
- 6 *Id.* at 5-6 (summarizing the details of the Porath extradition).
- 7 *Id.* at 3-4 (summarizing the details of the Piscioti extradition).
- 8 *Id.* at 4-5 (summarizing the details of the Bennett extradition).
- 9 Press Release, U.S. Dep't of Justice, *Israeli Executive Extradited and Arraigned on Fraud Charges Involving the Foreign Military Financing Program* (Oct. 14, 2016), <https://www.justice.gov/opa/pr/israeli-executive-extradited-and-arraigned-fraud-charges-involving-foreign-military-financing>.
- 10 See Renata Hesse, Acting Ass't Att'y Gen., Antitrust Div., U.S. Dep't of Justice, *The Measure of Success: Criminal Antitrust Enforcement During the Obama Administration* (Nov. 3, 2016) ("An Interpol red notice allowed Bulgarian authorities to apprehend and deliver him [Yuval Marshak] here to face the charges against him."), available at <https://www.justice.gov/opa/speech/acting-assistant-attorney-general-renata-hesse-antitrust-division-delivers-remarks-26th>.
- 11 In addition to the United States, other countries with criminal antitrust laws include: Australia, Brazil, Canada, Chile, Cyprus, Czech Republic, Denmark, Egypt, Estonia, France, Germany, Greece, Hungary, Ireland, Israel, Japan, Kazakhstan, Latvia, Malta, Mexico, Norway, Peru, Romania, Russia, Slovak Republic, Slovenia, South Africa, South Korea, Taiwan, and United Kingdom.
- 12 Grundgesetz Für Die Bundesrepublik Deutschland [Grundgesetz] [GG] [Basic Law], May 23, 1949, Art. 16(2) (Ger.) (as amended Aug. 31, 1990 & Sept. 23, 1990), <http://www.constitution.org/cons/germany.txt>; see also Extradition Treaty, U.S.-Ger. June 20, 1978, 32 U.S.T. 1485, <http://www.mcnabbassociates.com/Germany%20International%20Extradition%20Treaty%20with%20the%20United%20States.pdf>.
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- 14 For a list of Interpol membership countries, see <https://www.interpol.int/Member-countries/World>.
- 15 U.S. Dep't Of Justice, *Criminal Resource Manual 611* (Interpol Red Notices), <https://www.justice.gov/usam/criminal-resource-manual-611-interpol-red-notice>; see also Interpol Notices (explaining Red Notice), <https://www.interpol.int/INTERPOL-expertise/Notices/Red-Notices>.
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- 17 Press Release, U.S. Dep't of Justice, *Executive of Taiwan Aftermarket Auto Lights Manufacturer Arrested and Indicted for Participation in Price-Fixing Conspiracy* (July 19, 2011) (noting airport arrest), <https://www.justice.gov/opa/pr/executive-taiwan-aftermarket-auto-lights-manufacturer-arrested-and-indicted-participation>; Press Release, U.S. Dep't of Justice, *Taiwan Auto Lights Manufacturer Executive Pleads Guilty in Price-Fixing Conspiracy* (Sept. 25, 2012), <https://www.justice.gov/opa/pr/taiwan-auto-lights-manufacturer-executive-pleads-guilty-price-fixing-conspiracy>; Senior Taiwanese auto lights executive sentenced to 14 months in prison, MLex (Jan. 23, 2013) (summarizing case and noting airport arrest during international travel), <http://www.mlex.com/GlobalAntitrust/DetailView.aspx?cid=310575&siteid=191&rdir=1>.
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- 20 Press Release, U.S. Dep't of Justice, *Former Sales Executive Pleads Guilty to Participation in Color Display Tube Conspiracy* (Nov. 18, 2015), <https://www.justice.gov/opa/pr/former-sales-executive-pleads-guilty-participation-color-display-tube-conspiracy>.

## AB EXTRA – EXTRADITION IN US ANTITRUST CASES

- 21 See, e.g., Dan Gearino, Massive Price-Fixing Among Auto-Parts Manufacturers Hurt U.S. Car Buyers, Columbus Dispatch (Mar. 22, 2015) (Director of Criminal Enforcement Marvin N. Price, Jr. noting, in the auto parts investigation, that the Antitrust Division “will consider . . . extraditing” foreign nationals “from the country where they are located”), <http://www.dispatch.com/content/stories/business/2015/03/22/a-culture-of-collusion.html>.
- 22 Japan Law of Extradition, Art. 2(9), <http://www.moj.go.jp/ENGLISH/information/loe-01.html>.
- 23 Press Release, U.S. Dep’t of Justice, Two Former Rabobank Traders Indicted for Alleged Manipulation of U.S. Dollar, Yen Libor Interest Rates (Oct. 16, 2014), <https://www.justice.gov/opa/pr/two-former-rabobank-traders-indicted-alleged-manipulation-us-dollar-yen-libor-interest-rates>; Press Release, U.S. Dep’t of Justice, Former U.K. Rabobank Trader Appears in U.S. Court to Face LIBOR Interest Rate Manipulation Charges (March 20, 2015), <https://www.justice.gov/opa/pr/former-uk-rabobank-trader-appears-us-court-face-libor-interest-rate-manipulation-charges-0>; Former UK Rabobank trader pleads not guilty to Libor manipulation, MLex (April 13, 2015) (noting Conti waived extradition), <http://www.mlex.com/GlobalAntitrust/DetailView.aspx?cid=665211&siteid=191&rdir=1>.
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- 26 AU Optronics executive acquitted of antitrust charges (Oct. 11, 2013); <http://www.mlex.com/GlobalAntitrust/DetailView.aspx?cid=456867&siteid=191&rdir=1>; Judgment of acquittal, *United States v. Bai*, No. 09-CR-110 (Oct. 10, 2013) (Doc. 1256).
- 27 “Oversight Of The Enforcement Of The Antitrust Laws,” Statement of Bill Baer, Assistant Attorney General, Antitrust Division, before the Senate Judiciary Subcommittee on Antitrust, Competition Policy, and Consumer Rights, at 4 (March 9, 2016) (“In the last 10 years we have increased by more than three times the number of foreign defendants convicted and jailed over the previous 10-year period. Over that same time period, the length of sentence increased by more than four times.”), <https://www.judiciary.senate.gov/imo/media/doc/03-09-16%20Baer%20Testimony.pdf>; <https://www.justice.gov/opa/speech/assistant-attorney-general-bill-baer-antitrust-division-testifies-senate-judiciary>
- 28 Oversight of the Antitrust Enforcement Agencies, Hearing before the House Judiciary Subcommittee on Regulatory Reform, Commercial and Antitrust Law, 114th Cong., 1st Sess. 16 (May 15, 2015) (testimony of Assistant Attorney General William J. Baer) (“A third of the individuals we have charged are foreign nationals. Many of them have agreed to come back to the United States and serve time.”), [https://judiciary.house.gov/wp-content/uploads/2016/02/114-33\\_94604.pdf](https://judiciary.house.gov/wp-content/uploads/2016/02/114-33_94604.pdf)
- 29 Brent Snyder, Dep. Ass’t Att’y Gen., Antitrust Div., U.S. Dep’t of Justice, Individual Accountability for Antitrust Crimes, at 8 (Feb. 19, 2016), <https://www.justice.gov/opa/file/826721/download>.
- 30 *Id.* at 9.
- 31 See, e.g., Gary R. Spratling, Dep. Ass’t Att’y Gen., Antitrust Div., U.S. Dep’t of Justice, Negotiating the Waters of International Cartel Prosecutions (Mar. 4, 1999) [hereinafter *Negotiating the Waters*], available at <http://www.usdoj.gov/atr/public/speeches/2275.htm>.
- 32 See generally M. Krotoski, *Key International Tools Used to Investigate Cartels and Enforce The Sherman Act Abroad*, INTERNATIONAL ANTITRUST BULLETIN, 18-20 (March 2015) (summarizing common tools used by the Antitrust Division), [http://www.americanbar.org/content/dam/aba/publications/antitrust\\_law/at311000\\_newsletter\\_201503.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/antitrust_law/at311000_newsletter_201503.authcheckdam.pdf).
- 33 See Renata Hesse, Acting Ass’t Att’y Gen., Antitrust Div., U.S. Dep’t of Justice, Towards a Closer World: A Look Back at International Cooperation in the Obama Administration (Sept. 23, 2016), <https://www.justice.gov/opa/speech/acting-attorney-general-renata-hesse-antitrust-division-delivers-remarks>.
- 34 See, e.g., *Negotiating the Waters*, *supra* note 31; *Charting New Waters*, *supra* note 2.