

The Honorable Donald Johnston  
Secretary-General  
Organization for Economic Cooperation and Development  
2, rue André Pascal  
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FRANCE

10 May 2006

Dear Mr. Secretary-General,

We commend the important work of the OECD Working Group on Bribery in monitoring enforcement of the OECD Convention on Combating Bribery of Foreign Public Officials and make the following recommendations about the continuation and strengthening of that work.

### **1. Need for Continued Monitoring of Enforcement**

We urge the forthcoming OECD Ministerial meeting to take action to ensure the continuation of a vigorous follow-up monitoring programme for the OECD Convention. The monitoring programme plays a crucial role in promoting enforcement of the Convention by signatory states. However, this work remains incomplete and its continuation beyond 2007 is essential because there has been little or no enforcement by many signatory governments. This includes several G-7 members that are among the largest exporters. Because enforcement is only limited, much of the international business community is not yet convinced that foreign bribery laws must be obeyed.

The success of the Convention depends on the collective commitment by all parties to stop foreign bribery. Without continued monitoring to ensure that all governments meet this commitment, the Convention is likely to unravel. There will be no pressure for increased enforcement on governments that have taken little or no action. Governments that have been active on enforcement will be pressed to stop by their own companies, who will argue that they should not be prosecuted if their competitors in foreign markets are not prosecuted.

By the end of 2007, the Working Group on Bribery will have concluded the current phase of country reviews. Thus, it is timely now to begin to plan and budget for continuation of the monitoring program. Because much more needs to be done to ensure that the objectives of the Convention are achieved, cutting back on the budget for monitoring would be a serious mistake. However, changes should be made to reflect the evolving anti-corruption agenda and in the interests of cost effectiveness. We have the following recommendations.

### **2. Recommendations for Monitoring Programme**

Country Visits. Country visits, while demanding and costly, are the most reliable method for obtaining information on the adequacy of enforcement. During the next phase, country visits should be utilized selectively, giving priority to countries with significant international business where there is little or no enforcement. Longer term, all countries should receive repeat visits

because governments and their priorities change. The timing and scope of such visits should vary depending on the adequacy of national enforcement.

Overcoming Obstacles to Enforcement. The Working Group on Bribery should conduct a comprehensive review of obstacles to enforcement, utilizing the extensive information contained in its country reports. This review would be assisted by holding a meeting with prosecutors from signatory states. TI would be pleased to present the results of its survey of obstacles to national enforcement. Based on such a review recommendations should be developed for actions to overcome obstacles to enforcement. Future monitoring reviews should check on progress made in implementing these recommendations.

Correcting Deficiencies. The Working Group on Bribery must continue to make sure that governments correct the deficiencies in their enforcement programmes identified in prior country reviews.

### **3. Other Issues**

While enforcement of the prohibition against foreign bribery must continue to receive top priority, several other issues also deserve attention. We recommend the following:

OECD Recommendations. In May 1997 the OECD Council adopted recommendations covering important issues in addition to criminalization of foreign bribery, including among others accounting requirements, external audit and internal company controls; public procurement; and international cooperation. Because there have been major changes in government policies and business practices since 1997, it would be useful to review and update the Recommendations.

Outreach to Major Trading Countries. Accession to the Convention should be encouraged by countries that play a major role in international trade, such as Russia, India and China.


Cooperation with Other Monitoring Organizations. In recent years concern has developed over duplicative monitoring reviews under different anti-corruption conventions. Such concerns are now heightened by the entry into force of the UN Convention against Corruption. OECD should play an active part in the development of proposals for cooperation among monitoring organizations. Such cooperation is necessary not only to avoid duplication, but because all monitoring organizations have serious resource constraints and coordinating their work could make all of them more effective.

Unresolved Issues. When the Convention was adopted in 1997 a number of issues were listed for further consideration. It is time to begin addressing these issues. As an initial step, consideration should be given to proposals for strengthening coverage of foreign subsidiaries and of bribery of foreign political parties and party officials, where progress can be made without amending the Convention.

Yours sincerely,



Huguette Labelle  
Chair



David Nussbaum  
Chief Executive

Cc: Angel Gurría, Secretary General designate; Mark Pieth, Chair, Working Group on Bribery