



June 17, 2009

The Honorable Ron Kirk
United States Trade Representative
600 17th Street NW
Washington, DC 20230

Dear Ambassador Kirk:

We are writing to seek your support for an OECD Ministerial Council commitment to a more serious program to promote vigorous and consistent enforcement of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (“Convention”).

The United States led the effort to establish this Convention 10 years ago, as both a moral imperative and an economic necessity to help establish a level playing field for our companies and our workers. U.S. firms were subject to the Foreign Corrupt Practices Act (FCPA), while foreign competitors were not operating under similar foreign bribery laws. The Convention established standards similar to those of the FCPA. Unless all major exporters aggressively attack foreign bribery in international business and development, U.S. business, fair competition for contracts, retention of jobs and implementation of global development policy will be undermined.

After 10 years, enforcement of the Convention – a bipartisan landmark of U.S. diplomacy – has not fully achieved its purpose of eliminating bribery as a factor in international business and development. Assessments by Transparency International and the OECD Working Group on Bribery indicate that, while progress is being made, half of the Convention parties are not adequately enforcing their foreign bribery laws.

This means that in the current global economic downturn, with increased international competition for contracts, U.S. companies are competing with those not subject to similarly rigorous anti-bribery enforcement, resulting in lost contracts and jobs. Lack of action by some raises the risk that countries that are enforcing their foreign bribery laws may become less active in the face of asymmetric enforcement. Failure to enforce foreign bribery prohibitions will also hinder efforts to ensure that emerging export giants, such as China and India, impose similar foreign bribery constraints, either by accession to the Convention or pursuant to their commitments under the UN Convention Against Corruption. In addition, the credibility of OECD countries in promoting good governance will be undermined if they cannot make this Convention work.

The cost of Convention failure to developing countries will also be high. When government officials make public expenditure decisions based on bribes, competition is distorted, resources are wasted, ordinary citizens are denied adequate public services, and trust in public institutions and respect for the rule of law are weakened. Moreover, at this time, when the need for foreign assistance is most urgent, the American public must be assured that it will not be diverted through bribery or extortion. They must be assured that bribery will not be used to gain access to energy supplies or to retain power in failed or failing states.

Your leadership now is critical and essential in ensuring that the words of the Convention are matched by credible implementation. In the lead-up to the OECD Ministerial, the Administration can elevate attention to the need for concrete and measurable action. Accordingly, we strongly urge you to:

1. Demonstrate your leadership and that of your cabinet colleagues at the June 24-25th OECD Ministerial meeting in support of a serious program to promote vigorous Convention enforcement;
2. Encourage the United Kingdom to enact promptly its proposed draft bribery legislation;
3. Call for an OECD report benchmarking country enforcement, including prosecutions, convictions and other dispositions, the resources devoted to enforcement, and action to correct deficiencies identified in country reviews;
4. Ensure that the section of the 2009 Group of Eight *Accountability Report: Implementation Review of G8 on Anti-Corruption Commitments* regarding OECD Convention enforcement provides specific and consistent reporting criteria across countries;
5. Support a State Department report to Congress on country-specific enforcement efforts, as was required until 2004 by Congress in its Convention ratification;
6. Insist on appropriate high-level technical participation in the OECD Working Group and adequate funding for continued rigorous on-site visits; and
7. Support accession and effective implementation to the Convention by China, India and Russia, and their participation in the peer review process to promote consistent enforcement.

We appreciate the U.S. Government's long-standing support for the global anticorruption agenda and Secretary Clinton's comments in her recent speech at the International Conference on Afghanistan where she so aptly noted that "[c]orruption is a cancer as dangerous to long-term success as the Taliban or al-Qaida." Convention enforcement will help ensure the "supply side" of corruption is addressed.

We would welcome an opportunity to meet with you to discuss this matter and how we might cooperate to advance our shared objectives. We have sent this letter to the Secretary of State and the Attorney General.

Sincerely,

AFL-CIO
American Society of Civil Engineers
Emergency Committee for American
Trade (ECAT)
National Association of Manufacturers

National Foreign Trade Council
Transparency International-USA
U.S. Chamber of Commerce

United States Council for International
Business