



INTER-AMERICAN CONVENTION AGAINST CORRUPTION

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Good afternoon, Mr. Chairman and Members of the Committee. I am Bill Pryce, Vice President of the Council of the Americas in charge of our Washington operations, and I appreciate the opportunity to testify before you today.

The Council is the leading business organization dedicated to promoting hemispheric economic integration, free trade and investment, open markets, and the rule of law throughout the Western Hemisphere. The Council's membership includes major U.S. multinational companies with interests in Latin America. Members represent a variety of sectors: manufacturing, energy, transportation, technology, communications, banking, financial services, and natural resources, among others.

I want to applaud your efforts, Mr. Chairman, and those of Chairman Helms for scheduling this hearing on the issue of corruption in the Americas. This once taboo subject can have such far-reaching negative consequences that addressing it is critical to continuing economic and political progress and development in Latin America. Corruption and this Convention are, of course, also of concern to our member companies who suffer the consequences of missed contract opportunities and the uncertainty of investments.

The practice of corruption in the conduct of international business operations represents an inefficient use of resources that leads to economic, political and social costs. From an economic standpoint corruption is costly, inefficient and results in a poor quality product or service. It penalizes the best and most efficient producers and rewards the least efficient. The new interrelated economy of the 21st century warrants a new way of doing business.

There are also damaging political costs to corruption. Corruption is secretive and behind the scenes; therefore, the public does not know what is going on and is left out of the process. The result is a loss of accountability and a weakening of institutions from the inside. The rule of law is weakened and democracy is undermined. Corruption, since it is hidden, is by its very nature undemocratic.

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Socially, corruption is destructive of morality and public decency. It undermines and weakens strong social values that are necessary for a true modern democratic system to function. It also reduces a sense of crime and guilt because if corrupt acts can be done with impunity, other types of theft and criminal activity will be more likely to occur.

These costs of corruption add up and must be addressed. Old habits are hard to break but there is a changing environment concerning corruption. We need to embrace this change in attitude and lead the effort to reduce corruption and its debilitating costs.

Mr. Chairman, it wasn't long ago that businessmen would brag privately about their illicit business practices. Corruption was part of the business of doing business. Now, there are conferences on corruption and there is a growing recognition that the topic must be addressed. Although corrupt practices have certainly not been eliminated, there is a much greater sense that corruption is wrong and needs to be minimized. In fact, although some industrialized countries continue to offer tax deductions for bribes, this practice is generally being phased out.

The changing climate of opinion is largely due to U.S. leadership and to recent multilateral developments. The passage of the Foreign Corrupt Practices Act (FCPA) in 1977 was a historic first step in our country's confronting corruption. This courageous move made it a crime for U.S. citizens and companies to bribe officials of another country. This initiative cost U.S. businesses billions in lost business and was criticized in some circles, but it was a bold demonstration of leadership and now most U.S. businessmen praise the legislation. Although other countries did not follow suit for many years, we confronted the fact that over 400 U.S. companies admitted making questionable or illegal payments to foreign government officials and politicians. We took the high road and gained increased respect for the U.S. throughout the world.

In 1988, the Congress called upon the Executive Branch to negotiate with our trading partners at the Organization for Economic Cooperation and Development (OECD) an international agreement that would require our trading partners to enact laws similar to our FCPA. Due to committed U.S. leadership and years of hard work, the OECD Convention to Combat Bribery of Foreign Public Officials was signed and ratified and came into force on February 15, 1999. This Convention works to eliminate corruption in transactions involving companies and public-sector bodies. Under the Convention it is illegal for any citizen of an OECD member country to bribe or attempt to bribe a foreign government official. This Convention would not have been adopted without U.S. leadership.

We now have another opportunity to continue U.S. leadership in the fight against corruption. The Inter-American Convention Against Corruption is the next logical step in the effort to combat unfair business practices. Negotiated under the auspices of the Organization of American States, the Convention criminalizes the solicitation and acceptance of bribes, providing a comprehensive legal framework to combat public corruption in the Hemisphere. The Convention identifies acts of corruption and creates binding obligations and enforcement of anti-corruption measures. The Inter-American Convention is important both because it addresses the solicitation of bribes and because it broadens the reach of anti-corruption oversight by covering the countries of Latin America.

An important instrument in efforts to combat corruption is the establishment of transparency measures. Transparency laws and regulations go hand in hand with anti-corruption efforts and can serve to stop corruption before it happens. They can shine a bright light into the dark and secret corners where the corruption is practiced and bring it to an end. That which is not stopped is then attacked by the anti-corruption laws that have teeth. The Inter-American Convention Against Corruption provides transparency measures in its provisions requiring the registration of income, assets and liabilities of persons who perform public functions in certain posts and making such registrations public. The Convention also has a mechanism to ensure that publicly held companies and other types of associations maintain books and records which accurately reflect the acquisition and disposition of assets, and have sufficient internal accounting controls to enable their officers to detect corrupt acts. Again, these measures can work to preempt corruption and are part of the Convention.

Although it was U.S. leadership that helped bring about the Inter- American Convention, we are now in a position where other countries are moving ahead on this agreement while we have not yet offered our full support.

Mr. Chairman, each year the Council assists its member companies in addressing disputes over questionable contracts and business practices with governments and business leaders throughout the Americas. Corruption remains one of the most pressing problems for conducting international business. The costs of corruption for companies are very difficult to measure. Information on missed opportunities is not quantifiable. But there is no doubt that corruption negatively impacts companies. This Convention is not a panacea, but what we are talking about is adopting an international agreement that promotes accountability and transparency and will lead to more predictable rules for U.S. companies doing business abroad. It will help level the playing field for U.S. business.

There is no question that corruption has a harmful effect on developing countries. Corruption discourages foreign investment and disrupts normal business practices. It undermines respect for governmental institutions and fosters organized crime. Examples of the tremendous costs of corruption on governments and citizens reveal how expensive this problem is. In a speech last year, Vice President Gore spoke of the case of Guatemala where third-party procurement monitoring has helped reduce corruption in the Ministry of Health. This has gained savings of 43% for the Ministry and lowered the price of its medicine by an average of 20%.

The corrosive influence of corruption hinders the full development of the countries of the Hemisphere and limits opportunities for U.S. companies. The U.S. must do all it can to address this critical issue. The U.S. has been a leader in combatting corruption, taking bold stands and enacting landmark legislation. The Inter-American Convention is in U.S. interests because it forbids what is already against U.S. law; U.S. corporations and investors are bound by the FCPA. Therefore, U.S. industry would lose a unilateral disadvantage that is otherwise applied to it. The Convention would level the playing field for U.S. business interests and remove our self-imposed, unilateral sanction of ethical business practices.

As of now, the Inter-American Convention Against Corruption has been ratified by 18 of the 26 countries that have signed the document. The U.S. has yet to ratify it. To advance the convention and to maintain our leadership role in the Hemisphere it is absolutely essential that we do so and soon. The Convention will not solve all the problems of corruption in the Hemisphere but it is an excellent beginning. If we don't ratify it, we would be sending a message that we believe the Convention lacks merit.

Mr. Chairman, in conclusion I would note that this Convention is a great start and gives the Hemisphere a solid benchmark to work from. However, to fully realize the benefits of this Convention we need to focus on implementation and the establishment of consistent rules. Multilateral follow-up is required to ensure that the damaging effects of corruption of and by public officials are eliminated. But the U.S. cannot effectively lead in efforts to implement this Convention if we ourselves have not ratified it. On behalf of the Council of the Americas I strongly urge the Committee to recommend that the Senate ratify the Convention as soon as possible.

Thank you very much.

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