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Authority NND 38111

By KJ NARA Date 12/15/11

STATEMENT OF POSITION ON ILLICIT PAYMENTS

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1. The United States Government cannot tolerate illicit payments by U.S. enterprises to foreign officials. Bribery and extortion corrupt friendly governments, distort international trade and investment, and undermine public confidence in established institutions and values.

Effective action is necessary at the national and international levels to control illicit payments and restore public confidence in the international economic system.

2. Corruption is an international problem and cannot be controlled by the actions of one country alone.

Effective international cooperation is essential to deal with it. The United States believes such cooperation should be based on a binding international agreement to be implemented by national legislation. In our view, effective international action should include (a) vigorous enforcement of the bribery laws that exist in nearly every country, (b) internationally agreed disclosure, enforced by national criminal sanctions, of payments made directly or indirectly to influence procurement decisions or other actions of foreign government officials, and (c) international cooperation, including exchange of information and judicial assistance, to enforce national bribery and disclosure laws. The United States will make a major effort to reach agreement with our trading partners on these measures.

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3. Pending conclusion of an international agreement, United States Government agencies such as the SEC, IRS, and the Justice Department should vigorously enforce the disclosure, tax, and criminal laws which inhibit illicit payments. The State Department and other agencies which administer programs overseas should carefully monitor those programs to ensure that they do not become a vehicle for illicit payments. United States representatives abroad should discourage illicit payments in discussions with U.S. businessmen and they should be ready to assist American citizens who are confronted with extortionist demands.

4. As far as new domestic legislation is concerned, the Administration favors public disclosure enforced by penal sanctions rather than extraterritorial application of U.S. bribery laws. Public disclosure has proven to be effective in dealing with foreign payments. Disclosure legislation will be a more effective deterrent than new bribery laws that will be difficult to enforce. The Administration supports the new disclosure requirements and corporate procedures proposed by the SEC and it sees advantages in a uniform system of disclosure applicable to all U.S. enterprises doing substantial business overseas, not just those regulated by the SEC.