THE PRESIDENT'S EXPORT COUNCIL
WASHINGTON, D.C. 20230

December 4, 2007

The President of the United States
The White House
Washington, DC 20500

Dear Mr. President:

The President's Export Council (PEC) commends the Administration for its Open Economies Policy Statement earlier this year. Free flow of capital is the fuel that drives economic success, and the PEC encourages further efforts to ensure an open, transparent, and balanced investment climate.

We are, however, concerned about new and persistent restrictions on investment in foreign markets, and what appears to be growing antagonism to foreign investment abroad motivated by protectionist or other reasons. With a sharp increase in cross-border transactions, we encourage the Administration to continue to promote thoughtful and balanced investment policies and the consistent application of rules.

The PEC further commends the Administration for establishing forums to engage the private sector with their counterparts in India and Brazil and we applaud the progress made through bilateral engagement such as the Strategic Economic Dialogue and the Joint Commission on Commerce and Trade with China. The PEC fully supports continuing these initiatives. However, in parallel with these efforts and notwithstanding the challenges of negotiating with countries historically less open than the U.S., **we believe that substantial and measurable progress can be achieved through the negotiation of comprehensive and binding bilateral investment treaties (BITs) with each of the "BRIC" nations (Brazil, Russia, India, and China).**

Foreign direct investment is a tremendous source of growth for the U.S. economy, helping to spur U.S. exports and create new economic opportunities in foreign markets for all major sectors of the U.S. economy. Foreign direct investment is particularly vital to the U.S. service sector. According to the Bureau of Economic Analysis, in 2005, sales of services to foreign persons through non-bank majority-owned foreign affiliates of U.S. companies totaled $528.5 billion, more than doubled from $190.1 billion ten years earlier.

Brazil, Russia, India and China are critical to our long-term strategy of expanding access to international markets. Not only does each country have substantial, largely untapped domestic markets, but they are also markets where U.S. service suppliers have a significant comparative advantage. U.S. companies cannot, however, make the most of these opportunities unless, first, they are given the right to invest in these countries on an equal footing with their domestic and foreign competitors, and, second, they can operate in a stable, fair and transparent regulatory environment. Those conditions do not yet exist. U.S. companies continue to face barriers such as discriminatory equity caps, unreasonable capitalization requirements, and non-transparent regulatory proceedings, to name just a few. A high standard BIT that follows the U.S. model would help address many of these problems by, for example, providing for market entry, national treatment and "most favored nation" status, ensuring fair administrative and judicial processes, permitting the free transfer of capital, protecting against uncompensated expropriations, and putting in place a rigorous and objective arbitration mechanism for enforcing those obligations.

Failure to act would not only be a missed opportunity but could put U.S. investors at a significant disadvantage. Many of our European competitors operate in China, Russia and India with BIT protection albeit less comprehensive than is typical of U.S. BITs. Japan has entered into a BIT with Russia. The United States is behind the curve and falling further behind all the time. Left unprotected, there may come a time when U.S. companies are shut out or squeezed out of these markets with no recourse, while companies from other nations occupy the field.

At the same time, it is critical that the United States remain true to its long-standing policy of openness to foreign investment. A reinvigorated BIT program would signal that the United States can and will protect foreign investment in the U.S. with our treaty partners while opening markets for - and protecting - U.S. investors abroad.

The Administration should also ensure that our national security review process for foreign mergers and acquisitions administered by the Committee on Foreign Investment in the United States (CFIUS) is implemented in a timely manner and applied fairly and judiciously. Other countries will be watching closely how the United States approaches these matters and our example will surely influence how those countries implement their own investment policies.

An open foreign investment policy will redound to the economic benefit of the United States and strengthen the U.S. hand in seeking to open foreign markets for U.S. companies. To illustrate that point, look no farther than the tremendous economic success the U.S. has achieved in recent decades due in large part to its steadfast adherence to open markets.

The PEC appreciates the leadership that you and the members of your Administration have shown in seeking to create an open and fair global economy. An ambitious initiative to explore the possibilities to negotiate BITs with the major emerging markets in the world would be the next logical step in making that vision a reality.

Sincerely,

Bill Marriott