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VIA E-MAIL

Marc-Olivier Girard
Standing Committee on Justice and Human Rights
Committee Clerk
Committees Directorate House of Commons
131 Queen Street, Room 6-38
Ottawa, Ontario K1A 0A6

Dear Sir:

Re: Remediation Agreements, The Shawcross Doctrine and the Discussions between the Office of the Attorney General and Government Colleagues

I had the pleasure of meeting you when I testified before the Committee on February 25th. Would you kindly forward this letter to the Chair of the Committee.

In his testimony on March 6th, the Clerk of the Privy Council (At about 15:54 of ParlVu) referred to the phrase “national economic interest” in the legislation as a cut and paste from the OECD Code on Anti-Bribery. The Clerk stated that it was his understanding “and you can seek advice on this from experts to distinguish national economic interest from the interest of other countries.” The Clerk gave the example that “If you are part of this group in the OECD you cannot favour or let a company off because it helps France versus Germany or Germany versus Italy or Canada versus the United States. My view is that the economic impacts of jobs and it is explicitly in the Criminal Code the impact on suppliers pensioners customers communities is a relevant public interest consideration.”

I am writing to you in response to the Clerk of the Privy Council’s invitation to seek advice on this from experts. Given that I gave previous testimony about the section referred to by the Clerk of the Privy Council in my remarks (see around page 1715 of the evidence where I quote and discuss section 715.32(3) re “Factors not to consider”) I would be happy to return to the Committee and offer my academic views about this section and its links to the OECD Convention, recently reviewed in the OECD Phase 4 Report on the United Kingdom. I will not provide any details without an invitation to do so, aside from observing that I have a different perspective on the interpretation of both section 715.32(3) and Article 5 of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and how this relates to the purpose section in the Canadian legislation relating to reducing negative impacts on those who did not engage in wrongdoing.

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I am available to attend in Ottawa anytime in March with the exception of March 26 to March 29th when I will be in Washington.

Yours very truly,
GARDINER ROBERTS LLP

A handwritten signature in blue ink, appearing to read 'K. Jull'.

Kenneth E. Jull
KJ/ke