

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

THOMAS J. DONOHUE
PRESIDENT AND
CHIEF EXECUTIVE OFFICER

1615 H STREET, N.W.
WASHINGTON, D.C. 20062-2000

May 22, 2009

The President
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. President:

On behalf of the U.S. Chamber of Commerce, I am writing to express our growing concern over the impact of the “Buy American” mandates in the American Recovery and Reinvestment Act (ARRA) of 2009. As you know, the Chamber supported passage of this legislation, which provided an urgently needed stimulus to the crumbling U.S. economy. Unfortunately, only now are we seeing significant portions of the money flowing to our economy.

At the time, we noted the risk that “Buy American” provisions would backfire on the United States and harm American workers and companies. Consequently, Mr. President, we applauded your leadership when you insisted these provisions be amended to be consistent with U.S. obligations under international agreements.

Further, you showed leadership on the global stage on April 2 when you helped secure a G20 pledge that stimulus measures would “refrain from raising new barriers to investment or to trade in goods and services” and would “rectify promptly any such measures.” This included a promise to “minimize any negative impact on trade and investment of our domestic policy actions, including fiscal policy.”

Today, it appears ARRA funds are being disbursed at the federal level in a manner consistent with U.S. obligations under international agreements such as the World Trade Organization (WTO) Government Procurement Agreement. However, the Government Accountability Office estimates that state and local governments will administer about \$280 billion in ARRA funds. Local governments are not bound by these international agreements, nor are many state governments.

As a result, the “Buy American” requirements are having a major impact on projects administered by sub-federal governments, resulting in declining trade and lost jobs for American workers. This is particularly damaging to the U.S. business relationship with Canada, America’s largest trading partner and arguably closest friend. In water and wastewater infrastructure, for example, Canadian firms are now being excluded from U.S. municipal contracts, and retaliation by Canadian municipalities could result in \$3 billion in lost business for U.S. water and wastewater equipment manufacturers.

In addition, the “Buy American” rules are being interpreted in a way that bars some U.S.-based manufacturers from bidding on projects. Many U.S. manufacturers rely on global production chains that integrate components from U.S. and foreign sources. American manufacturers are finding it difficult to comply with these new “Buy American” rules because it is often impossible to avoid sourcing at least a portion of their content from other countries. The timing and cost for this disruption — coming in the midst of the worst economic recession in decades — could hardly be worse for U.S. manufacturers.

The law of unforeseen consequences is exacting a heavy toll. *The Washington Post* recently reported that 600 United Steel Workers in Pennsylvania, whose union lobbied for the “Buy American” rules, may even lose their jobs as a result. We are sending exactly the wrong signal to our trading partners, and a retaliatory spiral may already be underway.

Mr. President, today your intervention is needed to ensure the United States adheres to the letter and the spirit of the April 2 commitment by the G20 nations. We urge your administration to employ both specific regulatory guidance and the “bully pulpit” of the presidency to instruct state and local officials to emulate the federal government’s approach to implementing the ARRA’s “Buy American” rules. This may require specific guidance allowing state and local governments to treat non-U.S. manufactured products and parts from designated countries the same as the federal government.

We also ask that you reject the inclusion of “Buy American” provisions in future legislation. Two bills that have passed the House, the Water Quality Investment Act of 2009 and the 21st Century Green High-Performing Public School Facilities Act, have included “Buy American” mandates. These bills authorize billions of dollars in spending over years and risk inciting further retaliation from our trading partners.

The President
May 22, 2009
Page Three

As more ARRA funds are contracted, the adverse impact of the legislation's "Buy American" mandates may grow. Mr. President, we urge you to act now to ensure our economy is not unnecessarily harmed by these and future "Buy American" rules.

If there is anything we can do to be of assistance on this or any other matter, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom". The signature is written in a cursive style with a large, sweeping initial "T".

Thomas J. Donohue

cc: Ambassador Ron Kirk, U.S. Trade Representative
Secretary Gary Locke, U.S. Department of Commerce
Mr. Lawrence Summers, Director, National Economic Council
Mr. Peter Orszag, Director, Office of Management and Budget