

*Statement for submission*

**Hearing of the  
Sub-committee on Crime, Terrorism and Homeland Security  
Judiciary Committee  
United States House of Representatives**

**On proposals to Amend the Foreign Corrupt Practices Act  
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***Karin Lissakers  
Director  
Revenue Watch Institute  
New York, New York***

The US Chamber of Commerce has chosen a peculiar time to launch an assault on the Foreign Corrupt Practices Act, which outlaws the bribery of foreign government officials for commercial gain. Congress adopted the ground-breaking legislation with broad bi-partisan support in 1977.

Twenty-four years later, the rest of the world is getting serious about bribery, too:

After public outcry over an attempted government whitewash of British aeronautics giant BAE's alleged payoffs to promote sales in Saudi Arabia, the British parliament last year adopted an anti-bribery statute that is even tougher than the FCPA.

One of Germany's largest multinationals, Siemens Group, has turned out its entire top management, retrained staff and adopted stringent anti-bribery rules, after a scandal and large fines for its lavish foreign bribery slush fund.

The G20 group of major industrial and emerging market economies has an anti-corruption working group focused on anti-corruption laws. One measure of its impact is that China recently outlawed bribery of foreign officials by Chinese companies operating abroad.

Under an OECD convention, all member states are obligated to adopt and enforce anti-bribery statutes, and the OECD peer review process has become more blunt and public. The reputation risk to companies and the political risk to governments of continuing to do "business as usual" is simply too great.

Now the Chamber of Commerce wants to water down the FCPA allowing the reintroduction of old practices, for example, letting agents and foreign subsidiaries do the dirty work with no legal implications for the parent company.

In the Senate hearings 36 years ago that led to the FCPA, executives from the Northrop Corporation, a major manufacturer of military aircraft at the time, testified that it paid automatically a per cent of its non-Western Hemisphere global earnings to a law firm in Lichtenstein. The executives claimed not to know what the money was used for or who the beneficial owners of the firm were, but the arrangement was good for sales.

Congress also considered the practices of the Lockheed Corporation. Subpoenaed documents showed that Lockheed used a Japanese agent to funnel at least \$14 million to a fanatic nationalist group that wanted to re-militarize Japan and restore the absolute power of the Emperor. This, too, was apparently good for sales.

Three competing companies discovered through the Senate testimony that they had hired the same agent to "facilitate" a deal in Persian Gulf states. The agent was going to get—and share with foreign officials—his 10 percent, no matter who won the contract. In Italy, the national petroleum trade association dunned oil company subsidiaries monthly for their contribution to the tens of millions of dollars in payments the industry made to Italian law makers to preserve special tax breaks. An Exxon executives testified that its Italian subsidiary's share of the bribes to members of parliament was not "material" so that there was no obligation for the parent to be aware. The subcommittee chairman assured the executive that such sums were certainly "material" for the legislators.

The changes to the FCPA the US Chamber proposes would re-open the door to such pernicious practices, and worse, and greatly weaken the Justice Department 's ability to enforce remaining provisions. Among the changes sought would be to limit the liability of parent companies for the actions of their subsidiaries. In 1977, after a year of hearings and examining tens of thousands of corporate documents, Congress knew what it was doing when it required parent companies and their executives to be accountable for the actions of subsidiaries and agents in the conduct of overseas business. Congress should not tamper with a provision, and a law, that has stood the test of time.

Bribery distorts markets, damages corporate reputations, subjects companies to endless shake-downs and damages public life in countries where the US should be seen as a trusted business and political partner.

In the Middle East and North Africa, citizens have risen in revolt against corrupt regimes that treat the national economies as a family business for personal gain. Like-minded regimes in other parts of the world are feeling the heat. Dropping US safeguards against bribery now could not be more short-sighted or damaging to our foreign policy.

Congress should reject any effort to weaken the US anti-bribery statute and instead continue to advance policies that promote honest business and transparent and accountable governance around the world.

*The Revenue Watch Institute is an independent non-profit organization devoted to promoting the transparent, accountable and effective management of oil, gas and mining resources for the public good.*