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MARCH 31, 1976

Office of the White House Press Secretary

THE WHITE HOUSE
FACT SHEET

TASK FORCE
ON QUESTIONABLE CORPORATE PAYMENTS ABROAD

The President today announced the creation of a Cabinet-level Task Force, to be chaired by Elliot L. Richardson, Secretary of Commerce. It will examine the matter of questionable payments by U.S. corporations to foreign officials, political organizations and business agents. The Task Force will report to the President through the Economic Policy Board and National Security Council. A final report is due from the group prior to the close of the current calendar year.

- I. Scope of the Problem. While the full dimensions of the situation are not known, recent disclosures and allegations indicate that a substantial number of U. S. corporations have been involved in questionable payments to foreign officials, political organizations, or business agents. The Securities and Exchange Commission recently indicated that the number of U. S. corporations previously examined or currently under examination by the Commission is "more than eighty-five".
- II. International Initiatives. Proposals for an international code of conduct for multinational corporations have been under consideration for some time. Recently, efforts have been made to deal with the specific question of illegal or unethical payments. In international discussions, the U. S. has expressed strong objections to any unlawful activity but only in the past year or so have events led to the development of a series of multilateral initiatives on the payments problem.
- A. Senate Resolution 265, passed on November 12, 1975, calls for the U. S. government to seek an international code of conduct covering ". . . bribery, indirect payments, kickbacks, unethical political contributions and other such similar disreputable activities," as part of the current GATT multilateral trade negotiations under the Trade Act of 1974.
- B. OECD Guidelines, now under negotiation in the Organization for Economic Cooperation and Development, include a provision, suggested by the U. S., which condemns the giving or receiving of bribes.
- C. UN Resolution, adopted December 15, 1975, condemns corrupt corporate practices and calls on member governments to cooperate in eliminating them. Additionally, on March 5, 1976, the U. S. proposed negotiation of an effective international agreement on corrupt practices. This proposal is now under consideration.

(more)

- D. OAS Resolution, adopted July 1975, by the Permanent Council of the Organization of American States, condemns bribery and urges member states, insofar as necessary, to clarify their national laws with regard to such activities.

III. Domestic Initiatives. Three aspects of U. S. domestic efforts should be noted:

- A. Policy Review. A number of Executive Branch departments as well as the SEC have been reviewing existing authorities to stem illegal payments by U. S. companies to foreign agents or officials.
- B. Enforcement. As noted above, investigations by federal agencies already involve many corporations. Several law enforcement agencies, e. g., IRS and SEC, have recently announced that they will further intensify their investigative efforts.
- C. Legislation. Various legislative proposals have been made to address the issue, such as requiring public disclosure of fees paid to agents or officials abroad. To date, no new legislation has been requested by the Administration.

IV. Current U. S. Interests. Beyond moral concerns, there are at least five areas in which the subject of payments by U. S. companies to foreign agents or officials is of interest under current law.

- A. International Implications. Foreign payments by U. S. companies have international implications which raise foreign policy issues of concern to the State Department, e. g., they encumber relations with foreign governments and contribute to the deterioration of the international investment climate.
- B. Antitrust. Overseas payments by U. S. companies could become an antitrust issue if questions of anti-competitive behavior arise. The Department of Justice is the lead agency in this area.
- C. Corporate Disclosure. The Securities and Exchange Commission monitors and regulates the disclosure practices of U. S. companies. A major concern of the SEC is to assure that corporate information which is important to the potential investor, including costs of doing business abroad, be disclosed in a corporation's financial reports.
- D. Military Sales and Assistance. The Department of Defense has principal operating responsibility for implementing the Military Assistance Program and the Foreign Military Sales Program, both of which involve justification for the inclusion of substantial agent's fees.

- E. Tax Reporting. The Internal Revenue Service is responsible for investigating the propriety of all business deductions. Our Federal tax law provides that illegal expenditures are not deductible as business expenses.
- V. Current Federal Law. Present Federal law does not directly prohibit payments by U. S. companies or individuals to foreign individuals or companies, although such payments may violate foreign laws. However --
- A. Criminal liability in the U. S. can result from the filing of false statements with the U. S. government, i. e., false certifications filed with the Export-Import Bank, the Department of Defense, or the Agency for International Development may constitute criminal fraud under 18 U. S. C. §1001.
- B. Payments made abroad which would be illegal if made in this country may not be deducted from business taxes, and claiming such deductions may constitute a criminal tax violation.
- C. False statements made to the Securities and Exchange Commission concerning or concealing such bribes, provided the amounts involved are "material", may constitute criminal fraud.
- VI. Complexities of the Issue. Competing considerations in this area must be carefully weighed before remedial steps are taken. For example:
- A. Proposals which would make it a criminal act for U. S. companies to engage abroad in what are regarded as improper activities at home pose serious difficulties since the enforcement of such laws could involve the U. S. in the investigation of the conduct of foreign government officials.
- B. Unilateral disclosure legislation could raise foreign affairs difficulties to the extent that such legislation presumably would require making the names of the payee as well as the payor public.
- C. The prohibition of certain payments by U. S. firms without commensurate restraints on similar payments by foreign competitors could place U. S. firms in a disadvantageous position.
- D. An important dimension of any analysis in this area must be the consideration of the possible effect of any actions on trade, on the location of private corporations and on the international flow of capital.
- VIII. The President's Task Force. The Task Force on Questionable Corporate Payments Abroad was established by Presidential directive (copy attached).

A. Membership.

The Secretary of State	Henry A. Kissinger
The Secretary of the Treasury	William E. Simon
The Secretary of Defense	Donald H. Rumsfeld
The Attorney General	Edward H. Levi
The Secretary of Commerce	Elliot Richardson
The Special Representative for Trade Negotiations	Frederick B. Dent
The Director, Office of Management and Budget	James T. Lynn
Assistant to the President for Economic Affairs	L. William Seidman
Assistant to the President for National Security Affairs	Brent Scowcroft
Executive Director, Council on International Economic Policy	J. M. Dunn

B. Chairman. The Task Force will be chaired by Commerce Secretary Elliot Richardson.

C. Scope of Review. The President has encouraged the Task Force to consider all policy dimensions of questionable foreign payments by U. S. corporations and to obtain the views of the broadest base of interested groups and individuals. The President has specifically directed that the SEC be invited to participate in the efforts of the Task Force.

D. Organization. The Task Force will report to the President through the Economic Policy Board and National Security Council.

E. Duration. Status reports from the Task Force will be submitted to the President from time to time. The final report is due prior to the close of the current calendar year.

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