



be a bribe, the bribe-related income will be immediately taxable, denying the company advantage of foreign tax credits, foreign tax deductions or DISC privileges on the income. Treasury is to have recourse to criminal proceedings to ensure compliance. (See Attachment B).

The bill does not specify the level at which such payments are considered material.

S. 3150, undoubtedly, will be considered in connection with the hearings underway in the Senate Finance Committee to revise the U.S. tax code.

S. 2662            Senator Humphrey            Committee on Foreign Relations  
                         Passed the Senate  
                         on February 18, 1976

This Act (International Security Assistance and Arms Export Control Act of 1976) amends the Foreign Military Sales Act to require reporting of all agreements to pay agent fees, and data concerning fees actually paid, in connection with military sales abroad (government and commercial), with penalties provided for willful violation of these requirements. Such payment may not be included in the amount paid on a procurement contract, unless it is reasonable, allocable to such a contract and did not result in improper influence. (See Attachment C).

The bill is now in conference committee to be reconciled with H.R. 11963.

The State Department has announced that foreign governments who purchase defense articles and services under the Foreign Military Sales program are to be fully informed of any agent's fees included in the price of goods sold. No contingent fee will be allowed as an item for reimbursement unless it is specifically approved in advance by the purchasing government.

H.R. 7539            Representative Solarz            Committee on the Judiciary  
                         June 3, 1975

Directs the Secretary of State to monitor overseas business activities of American companies to detect violations of Federal Law and report them to enforcement agencies. Title 18 of the U.S. Code is amended such that bribery of foreign officials is



H.R. 11532      Representative Solarz      Committee on International  
January 27, 1976      Relations

Amends the Foreign Assistance Act of 1961 to require termination of O.P.I.C. investment insurance where the insured engages in bribery of a foreign official. Prohibits O.P.I.C. from advising, encouraging or directing anyone to violate any laws. (Similar to H.R. 9860 introduced by Representative Solarz on September 25, 1975.)

Hearings had been tentatively planned for March 30, 31, 1976.

H.R. 11963      Congressman Morgan      Committee on International  
February 18, 1976      Relations

Sec. 306 is identical to H.R. 10144. Sec. 418.A. authorizes the President to determine whether officials of foreign nations receiving U.S. assistance have received illegal or improper payments in return for a contract to purchase arms or other military materials from U.S. corporations; and Sec. 419.A. authorizes determination of whether officials receiving U.S. security assistance have extorted or attempted to extort, money, or other things of value, in return for certain actions to allow U.S. citizens or corporations to conduct business in that country. The President is to report his findings to Congress and recommend whether U.S. assistance is to be continued.

H.R. 11963 was approved by the House by a vote of 240 - 169 on March 3, 1976. The bill is now in conference committee. Sec. 306 will be reconciled with Sec. 214(a) of the Senate-passed bill, S.2662. There are no provisions comparable to Sec. 418.A. and Sec. 419.A. in the Senate-passed bill.

H.R. 11987      Representative Mottl      Committee on the Judiciary  
February 19, 1976

Amends Title 18 of the U.S. Code (Crimes and Criminal Procedure) to prohibit corporate bribes of foreign officials. This includes corruptly giving, offering or promising anything of value to a foreign official or third party with the intent of influencing and official act of that official. Corporate fines of \$500,000 to \$25 million and personal penalties of 1 to 10 years imprisonment and fines of \$10,000 to \$25,000 are provided.

No hearings are scheduled at present.

S. Res. 265      Senator Ribicoff      Committee on Finance  
Agreed to on  
November 12, 1975

Supports the development of a multinational code of conduct on illegal payments through the General Agreement on Tariffs and Trade, under the authority of the Trade Act of 1974. (See Attachment D).

In this regard, Ambassador Dent, Special Trade Representative, proposed that development of a code of conduct to eliminate unethical practices be included among the topics for discussion in 1976 by the Trade Negotiations Committee. Other members of the Negotiations Committee were not receptive.

H. Res. 941 and H. Res. 969 sponsored by Representatives Jones and Hannaford, respectively, are identical to S. Res. 265. Both House Resolutions were referred to the Committee on Ways and Means, with no hearings scheduled at present.

H. Res. 1043      Rep. Hannaford      Committee on Banking  
February 19, 1976      Currency and Housing

Supports the elimination of improper business practices on an international, multilateral basis through the development of a code of conduct by the OECD and IMF, which is to become part of the OECD and IMF rules. (See Attachment E).

Representative Hannaford has also sponsored H. Res. 1061 and H. Res. 1099 on March 2, 1976 and March 22, 1976, respectively. Both are identical to H. Res. 1043.

Nothing is scheduled at present, but hearings are expected in late April or May.

### Senate Activities

#### 1. Committee on Banking, Housing and Urban Affairs-- Senator Proxmire, Chairman

On February 19, 1976, Senator Proxmire charged Treasury Secretary Simon, who serves as chairman of the Emergency Loan Guarantee Board which oversees Lockheed's loan guarantee program, with covering up for the recipients of bribes paid by Lockheed. Mr. Simon testified that the Emergency Loan Guarantee Board

was responsible for credit analysis, not investigations. Arthur Burns, who also serves on the Board, concluded that there would be no public benefit to disclosure of recipients. The third member of the Board, SEC Chairman Hills, had remained at arms length because of the SEC's legal proceedings with Lockheed.

- (i) Subcommittee on International Finance--  
Senator Stevenson, Chairman

The Export Administration Act may bear, indirectly, on multinational corporations.

- 2. Foreign Relations Committee, Multinational Corporations Subcommittee -- Senator Church, Chairman

In the summer of 1975, the Subcommittee held hearings into overseas payments by Gulf, Northrop, Exxon, Mobil Oil and Lockheed. Senator Church was instrumental in the introduction, through Senator Humphrey, of the amendments to the Foreign Military Assistance Act (S. 2662) on foreign payments. The Subcommittee reportedly plans to recommend legislation requiring disclosure to the Department of State of all overseas political contributions.

Senator Percy is working on his own legislative proposal on undisclosed commissions. It has been indicated that the Senator is against any prohibitive legislation which would be difficult to enforce abroad. The proposal calls for public disclosure, favoring that this be contingent upon the participation of other countries so that U.S. firms would not be at a competitive disadvantage. Senator Percy advocates an international agreement self-policed by business throughout the world and increased disclosure through the accounting profession. Legislation should be enacted only as a last resort, in his view.

- 3. Finance Committee, International Trade Subcommittee

Senator Packwood is taking an approach similar to that of Senator Percy.

#### House Activities

- 1. Banking, Currency and Housing Committee, International Trade Investment and Monetary Policy Subcommittee

The Subcommittee has tentatively scheduled two days of hearings, primarily for educational purposes, sometime during the first two weeks of April on the role of multinational corporations

in the international economic system. Specific questions regarding taxation problems, transfer of technology and proposed codes of conduct for multinational corporations will be included. The Department of Commerce is expected to be invited to testify.

## 2. Committee on International Relations

The Committee will start hearings on the Export Administration Act in May. Representative Bingham, Chairman of the Subcommittee on International Trade and Commerce, has previously held hearings on transfer of technology and Arab Boycott. These will impact upon the full committee process.

### Joint Economic Committee

The Committee held hearings on corporate bribery on March 2, 1976. The purpose of these hearings was to determine whether American business can survive abroad if it adopts a no-payoff policy, and the position that the U.S. government should adopt. Testimony was heard from representatives of an American firm involved in real estate development in Haiti, and their losses following refusal to comply with a payoff request. Additional hearings have not yet been scheduled, but there is an indication that hearings might be held on April 12.

### INFORMATION COLLECTION

S. 2839      Senator Inouye      Committee on Commerce  
December 19, 1975

Authorizes the collection of information on the activities of foreign multinational corporations within the U.S. and U.S. multinational corporations abroad. This bill renews the authority for the Bureau of Economic Analysis to conduct mandatory benchmark surveys at least once every ten years. Only data in an aggregate form may be released to Congress or the public. Company-specific information is protected by confidentiality requirements. (See Attachment F).

Hearings have been held on this proposal, with testimony from Under Secretary Baker and representatives from Treasury, State and the private sector. There has been no movement on this issue since the last hearing on February 27, 1976.





ATTACHMENT A

S. 3133 Senator Proxmire introduced and referred to the  
Committee on Banking, Housing and Urban Affairs

Amends the Securities Exchange Act to require issuers of registered securities to maintain records and furnish reports relating to certain foreign payments.

- I. Amends Section 17 on records and information
- II. Amends Section 13 such that payments of value in excess of \$1000 to
  - (1) a representative of a foreign government,
  - (2) a political party or candidate for office,
  - (3) foreign agent, advisor or lobbyist must be reported to the SEC.

Such reports shall describe the

- (1) value and date,
  - (2) name of the person or entity (where an official, his title),
  - (3) purpose of payment.
- III. PAYMENTS TO OFFICIALS

A. Amends by adding to Sec. 30A of the Securities Exchange Act of 1934 to make it unlawful to make use of the mails or of any other means or instrumentality of interstate commerce to pay or offer

1. payments to a representative of a foreign government to obtain or maintain business, influence legislation or regulation;

2. payments to agents with knowledge that a portion will be used to obtain or maintain business, influence legislators or regulation;
3. payments (or offers) to political parties, party officials, or candidates for purposes above;
4. payments or offers illegal under the laws of the foreign government.

#### IV. Criminal Proceedings

- A. Amends section 21(d) so that the Commission can initiate, prosecute, and appeal criminal action arising under this title.
- B. Amends section 20(b) of Securities Act of 1933 to read as A.

ATTACHMENT B

S. 3150 Introduced by Senator Byrd (Va.) on March 16, 1976  
and referred to the Committee on Finance

A bill to amend the Internal Revenue Code of 1954 to deny certain benefits to taxpayers who make bribes or other illegal payments to foreign government agents or officials.

1. Any U.S. company which has a foreign subsidiary must report to the Secretary of the Treasury all payments made by it or its subsidiary, directly or indirectly, to employees, officials, or agents in fact of any foreign government.

Failure to report each payment will subject the U.S. company to a fine of not more than \$25,000 or imprisonment not more than 1 year, or both.

The Secretary of the Treasury will determine whether such payment constitutes an illegal bribe. Such determination will be based on U.S. laws.

2. If the Secretary of the Treasury determines it is a bribe, foreign bribe-produced income will be immediately taxable to the U.S. company.
3. The foreign bribe-produced income would not be entitled to any foreign tax credit or foreign tax deduction.
4. If a domestic international sales corporation--DISC--is determined to have received foreign bribe-produced income, such income will be immediately taxable.

The bill does not specify the level at which such payments become material.

ATTACHMENT C

S. 2662 Introduced by Senator Humphrey (for himself and Senators Case, Church, Culver, Kennedy, Leahy, Bumpers and Nelson) and referred to the Committee on Foreign Relations. Passed the Senate on February 18, 1976

An act to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act.

Sec. 214 of the Act deals with CONTRIBUTIONS, PAYMENTS AND GIFTS

1. The Secretary of State shall require reporting on political contributions, gifts and fees associated with Foreign Military Sales. The amounts, payments to be reported and the frequency of reporting will be determined by him.
2. The President may, by regulation, prohibit, limit or prescribe conditions with respect to such contributions, gifts and fees.
3. No such contribution, payment, or gift may be included in the amount paid under any procurement contract entered into under section 22 of this Act, unless the amount is reasonable, allocable to such contract, and made to a person who has not exercised improper influence.
4. The Secretary of State shall require reporting on political contributions, gifts or fees paid, by any person required to register or who is granted a license or other approval under section 38 of this Act for on order to secure commercial defense sales.
5. Congress and U.S. agencies authorized by law are to have access to such records.

The President will submit a quarterly report to Congress for findings in the previous quarter.

The report will contain

1. the name of the person who made such a contribution, payment, or gift;
2. the recipient;
3. the date and amount;
4. a description of the sale;
5. the identification of any business information considered confidential by the person who submitted it which is included in such a report.

ATTACHMENT D

S. Res. 265 Senator Ribicoff (for himself, Senator Long, Church and Gravel) submitted the following resolutions on September 25 (Legislative day, September 11), 1975; which was referred to the Committee on Finance.

The resolution was reported by Senator Long on November 5, 1975, with an amendment and amendment to the preamble. On November 12, 1975, it was considered, amended, and agreed to.

In order to protect the ability of the U.S. to trade abroad, under the authority given to the President, the Committee on Finance and the Chairman of the Committee on Finance by the Trade Act of 1974, the Special Representative for Trade Negotiations, the U.S. Representative to the U. N., and appropriate officials at the Departments of State, Commerce, the Treasury, Defense, Agriculture and Justice; in consultation with the Chairman of the Committee on Finance and the Congressional delegates for trade agreements are to negotiate for multilateral agreements against improper business payments. This is to be done within the framework of the current multilateral trade negotiations in Geneva, in other negotiations pursuant to the Trade Act of 1974 and other appropriate international forums with the intent of developing an appropriate code of conduct and specific trade obligations among governments. These would require procedures for settling disputes resulting from multilateral elimination of such practices and sanctions to cope with problems imposed by non-participating nations. Such codes and written obligations would become part of the international system of rules and obligations within the framework of GATT, and other international trade agreements pursuant to the Trade Act of 1974.

The President should include, in the annual reports to Congress required under Section 163 of the Trade Act of 1974, reports on progress made in negotiations with respect to the development and implementation of the international code of conduct.

ATTACHMENT E

. Res. 1043 Representative Hannaford submitted the following resolution on February 19, 1976; which was referred to the Committee on Banking, Currency and Housing

The Secretary of the Treasury and appropriate officials of the Departments of State, Commerce, Defense, Agriculture, Justice are to negotiate within the OECD and the IMF on a code of conduct and specific trading obligations among governments. This would include suitable procedures for the settlement of disputes, which would result in elimination of improper business practices on an international, multilateral basis, including sanctions to cope with problems posed by nonparticipating nations.

ATTACHMENT F

S. 2839 "International Investment Survey Act of 1975"  
Introduced by Senator Inouye on Dec. 19, 1975 and  
referred to the Committee on Commerce

A Bill to supplement authority of the Secretary of Commerce to collect regular and periodic information on foreign direct and portfolio investments in the U.S. and on American investments abroad.

The Secretary of Commerce is to conduct timely (at least once every ten years) studies of foreign direct and portfolio investments in the U.S. and of direct and portfolio investments overseas by U.S. investors. Information obtained should be timely and useful in the development of policy with respect to multinational business activity.

The Secretary shall

1. identify and collect information as required in section 4(a) of this Act;
2. consult with and obtain information from the non-government domestic sector;
3. consult and cooperate with other government organizations and where appropriate other governments and international organizations.

The Secretary shall, investigate and analyze in his studies of multinational business enterprise,

1. investment activities in the U.S. and abroad;
2. reasons for investment;
3. transfer of technology;



4. processes and mechanisms of investment;
5. acquisitions in the U.S. and their effect upon competition;
6. geographic and economics characteristics of U.S. direct investment abroad;
7. the effect of investment upon national security, resources, environment, monetary policies, and U.S. economic position;
8. employment policies for both labor and management;
9. domestic and foreign policies on investment;
10. foreign direct investment in the U.S., in comparison with U.S. direct investment abroad;
11. variations between accounting, financial reporting, and other business practices here and abroad;
12. the adequacy of information, disclosure and reporting;
13. means for improving information on multinational business enterprises. (recommendation)

The Secretary shall study and report periodically to the Senate Committee on Commerce and the House Committee on Interstate and Foreign Commerce on national and international developments with respect to regulation of multinational enterprises.

The Secretary shall include in his study of foreign investment abroad by U.S. persons, company specific information concerning

1. financial transactions;
2. significant product line;
3. employment;
4. R&D;

5. fees and royalties for transfer of technology;
6. description of company unit, location and product;

The Secretary may require the necessary record keeping germane to this function.

The information is gathered subject to confidentiality. It may be used for analytical or statistical purposes within the U.S. government.

Compliance regarding information required pursuant to this Act is mandatory for the person asked to submit information.

ATTACHMENT G

S.3151 "Multinational Business Enterprise Information Act of 1976." Senator Church introduced the Bill on March 16, 1976 and referred it simultaneously to the Committees on Foreign Relations and Commerce

The Secretary shall establish and maintain a program to gather, on a mandatory basis, information with respect to multinational business enterprises. Such information shall include company-specific information, such as

1. investment, financial transactions, income, taxes;
2. gross sales by commodity grouping, imports, exports and inter affiliate trading;
3. employment data by nationality and compensation;
4. R&D expenditures;
5. name, location, assets, description of business of foreign affiliates;
6. expenditures through any agents or pursuant to contractual arrangement.

This is to be done country by country and affiliate by affiliate. Information shall be gathered every two years and shall cover the immediately preceding two calendar years. MNC's with assets less than \$50 million are excluded.

The Secretary shall publish on a regular basis statistical aggregates derived from information furnished under this Act.

Upon request, the Secretary shall furnish to the Adjustment Assistance Coordinating Committee, the International Trade Commission, and any committee of the House of Representatives or the Senate (or any joint committee of the Congress) information gathered under this act.

The provisions of subsection (b) of section 552 of title 5, U.S. Code, shall not apply to information gathered under this Act.

Compliance with information gathering is mandatory.

## ATTACHMENT H

H.R. 3145 "Tax Neutrality Act of 1975" Representative Vanik introduced this bill on February 13, 1975 and referred it to the Committee on Ways and Means.

The Bill provides for changes in the treatment of foreign income with the purpose of "promoting the development of an open, nondiscriminatory, and fair world economic system, and stimulating economic growth of the U.S."

### I. SEC. 101. Changes in the Foreign Tax Credit Provisions

- A. Termination of preferential treatment of dividends of less developed country corporations, by removing the tax credit advantages currently permitted subsidiaries in lesser developed countries, in comparison to subsidiaries in other countries.
- B. Elimination of the "overall limitation" so that tax tax credits can be computed only by the "country limitation" basis.
- C. Elimination of carryback and carryover of excess foreign tax credits.
- D. Institution of a loss recapture provision, which requires recapture of taxes on future profits from operations upon which tax loss adjustments were taken.

### II. SEC. 102 Repeal of Deferral

At present, foreign income is taxed within the U.S. only when repatriated. U.S. taxes are deferred when profits from foreign subsidiaries are reinvested in those subsidiaries. Repeal

of the deferral provisions makes that income subject to U.S. tax when earned.

III. SEC. 103 Elimination of Western Hemisphere Trade Corporation Provisions.

Such corporations, which must maintain at least 90 percent of their export transactions within the western hemisphere, currently enjoy a tax rate that is, roughly, 14 percentage points less than the standard rate.

IV. SEC. 104 Termination of Special Tax Treatment for Domestic International Sales Corporations (DISCs)

DISCs presently may defer up to 50 percent of their taxes.

V. SEC. 105 Treatments for Purposes of the Investment Credit of Certain Property Used in International or Territorial Waters.

This changes limits the usage of the investment credit and the tax advantages of lease-back arrangements for ships.