

Business and international bribery

[Business](#)



Insert Introduction It is a well known fact that through the Foreign Corrupt Practices Act of 1977 15 USC 78 dd et seq. (FCPA) and the Department of Justice, the US legally prohibits businesses from bribing in foreign business environments. This development has brought a bone of contention among legal experts and foreign entrepreneurs with some arguing that the prohibition is fair. Those who gainsay the fairness of the FCPA Act argue that it is imbalanced for the US businesses to be prohibited from bribing in foreign business environments when this is a way of doing business internationally.

An example of a business that was subjected to a legal prosecution is Weatherford International Ltd. From 2004 to 2011, as a multinational organization, Weatherford International Ltd indulged with internal controls violations. Though Weatherford International Ltd operated in Angola and Iraq, court documents did not make specifications on the country wherein the vice took place. Weatherford International Ltd. Among many things did not: institute effective internal accounting controls; have a committed compliance officer; conduct anti-corruption training; and create a system for investigating ethics violations reports. Weatherford International Ltd. Employees also bribed a foreign official to see a renewal of a contract go through. In the case, U. S. v. Weatherford International Ltd., Weatherford International Ltd. was made to pay a penalty of USD 87, 178, 256. The case gave rise to the case law U. S. v. Weatherford International Ltd., No. 13-cr-733 (S. D. Tex. 2013) (Baughn, 19 & Pacini, 545).

Whether or Not This US Bribing Restriction Puts the US at an Unfair Disadvantage to Doing Business Abroad

According to Lane and Simpson, There are indicators that attest to the <https://assignbuster.com/business-and-international-bribery/>

adding power of the FCPA Act and the legal proscription of bribery by US multinationals. One of the values that the FCPA Act brings is its ability to rein in corruption and to protect meritocratic capitalism. The crux of the matter herein is that corruption [which bribery is a form of] undermines meritocratic capitalism by un-evening the playing field; subverting proper and legitimate functions of institutions; and encouraging or furthering the misallocation of economic resources. Again, according to the World Bank, corruption slows down the rate of an affected country by 0.5% to 1% annually and increases a marginal tax rate and clumps positive effects on inward investment (Lane and Simpson, 40).

An example of an organization that has found corporate bribery in foreign land expediency is Siemens. In 2008, Siemens had to pay 1.6 billion USD as legal settlement to European and American authorities. Another organization that has taken the same path of bribing is Lockheed, since it had paid 22 million USD to foreign officials as bribe, so as to grease the process of negotiating the sale of an aircraft, including F-104 Starfighter.

On the contrary, there are those such as Nathan Vardi who hold a contrary opinion, to the effect that bribing restriction puts the US at an unfair disadvantage to doing business abroad since the issuance of bribes helps facilitate the exchange and flow of goods and services in foreign government systems and markets that are dysfunctional and clogged. This is to the effect that bribery facilitates an organizing principle in chaotic or nascent environments. This facilitation of the flow of goods and services will lead to an increase in profit and catalyze the employment of qualified and skilled personnel (Vardi, 1 & Sanyal and Samanta, 140).

However, the immediately foregoing is not a defense for bribery since

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corruption and bribery denude institutions and the credibility of these institutions. A managing director who receives bribes to have cargo pass through the port will not see the need to implement structural changes at the port to ease congestion, for instance. The problem is more compounded by the fact that many of these foreign markets which are weakened by corruption and bribery are America's allies (Sanyal and Samanta, 135-8).

How the Global Environment Can Work Together Regarding the Issue

Seeing that bribery should not be condoned, there is need for the international community to adopt harmonization of laws that govern corporate behavior. The onus is upon international organizations such as the World Trade Organization, and the World Bank and the International Monetary Fund to marshal efforts towards the realization of bribery-free transactions. These institutions and organs can rightly pressurize for the adoption and domestication of the FCPA Act.

Conclusion and Resolution

The discussion clearly shows that the need to uphold FCPA guidelines is paramount. This is because FCPA helps curtail corruption which in turn erodes the strength and credibility of institutions. Bribery is also a principal form of corruption. Bribery benefits the very people who deliberately undermine competent and transparent running of institutions to accrue filthy lucre. To give bribes is to lock out chances for the restoration of the clogged systems and markets that are a cause of concern for US multinationals.

In light of the foregoing, penalties should be modified to take care of bribery, since to set a higher penalty is vital for preventing international bribery. The amount or extent of penalty should exceed 20% profit that has been gained from the contract. The foreign government must implement different

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taxation systems to be observed by US multinationals and local companies. The US multinationals should pay double tax to local government, to curtail bribery further. This is because company employees first bribe local officials to get a contract. If the local government accrues benefit from double taxation, the US multinationals will have been treated fairly.

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