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AMERICAN MULTINATIONAL CORPORATIONS: WHAT ROLE COULD THEY PLAY IN FOSTERING GOOD BUSINESS ETHICS IN THE LESS DEVELOPED COUNTRIES?

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FOREWORD

The Unemployment and Underemployment Institute was created to coordinate all international economic development activities of the 211(d) grant at Southern University.

In 1972, the Agency for International Development (AID) approved a five year grant to Southern University to strengthen and increase its capacity in economic/agricultural economics to enhance Southern's capabilities to contribute to the resolution of problems of rural unemployment and underemployment in developing countries.

The general objectives of the Institute are (a) to develop and coordinate the activities of the University for greater participation in international economic development programs; (b) to make available the capacities and expertise thus developed to public and private agencies involved in industrial development programs; and (c) to conduct research, seminars, and workshops on domestic and international development problems including cooperatives, manpower utilization, small farmers, housing, population, nutrition, leadership training, and community development.

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T. T. Williams
Director

AMERICAN MULTINATIONAL CORPORATIONS: WHAT ROLE COULD THEY PLAY IN FOSTERING GOOD BUSINESS ETHICS IN THE LESS DEVELOPED COUNTRIES?

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The investigations of the Securities and Exchange Commission (SEC), which began as a result of disclosures about illicit domestic political contributions by some companies during the Watergate inquiry, have led to the disclosure of information about extravagant influence wielding payments and political payoffs abroad by some American multinational corporations. Public reaction to this disclosure, which received abundant media publicity, and to Senator Frank Church's (D-Idaho) subcommittee on multinational corporations was quite mixed.

Commissioner Irving M. Pollack of the SEC saw bribery of a foreign official as "per se a material fact,"[1] in most cases of which companies might get off simply by disclosing some of the facts and taking strong corrective remedies. The SEC's interest in the matter was mainly to find out if the bribes and kickbacks violated its laws pertaining to falsification of records, and its requirements that companies inform investors of material facts concerning their business.

In Washington President Ford considered these payments "a source of deep concern."[2] He appointed a ten-man panel, the Task Force on Questionable Corporate Payments Abroad, headed by Secretary of Commerce Elliot Richardson, to study the extent of these corporate payments and what could be done to stop them. The President also made it clear that the commission's task "is not to punish American corporations."[3] Secretary of State Henry Kissinger's concern, as one would expect, was that "the implications for the stability of other countries could be extremely serious."[4] He recommended that names of foreign nations and officials who received bribes from Lockheed Corporation be kept from the public eye.[5]

Congressional reaction was also quite varied. Despite opposition from some congressmen, Senator Church's subcommittee on multinational corporations seemed interested in asking for forced disclosure of foreign agents' fees, and for guidelines on fees relating to the sale of armaments. In the House of Representatives, Robert Nix's (D-Pennsylvania) subcommittee on

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[1]"The Corporate Rush to Confess All," Business Week (February 23, 1976), p. 23.

[2]"Payoffs: The Growing Scandal," Newsweek (February 23, 1976), p. 26.

[3]"Scandals: A Tough Bribery Probe?" Time (May 3, 1976), pp. 71-72.

[4]"The Big Payoff," Time (February 23, 1976), p. 28.

[5]John Maclean and Bill Neikirk, "Bribery Scandals' Tentacles Reach Everywhere," Chicago Tribune (February 15, 1976), Sec. 3, p. 13.

internal affairs went to work on a bill with mandatory disclosure of commissions paid on arms sales.[6]

Many management scholars and practitioners--Lodge, Busch, Stigler, and Allen, to name a few--have expressed strong opinions on the issue. The arguments frequently offered in defense of these influence wielding payments abroad can be outlined thus: (a) bribes and kickbacks are customary in many foreign countries; (b) multinational corporations from other countries also make these payments; (c) American business competition abroad is necessary for low unemployment, high standard of living and favorable balance of payments at home, and should be encouraged even if it means some unethical business practices; (d) legislating against illegal payments abroad would amount to forcing U.S. standards on others; and (e) it would be almost impossible to enforce a universal code of conduct for the multinationals.

The main purpose of this paper is to respond to the above arguments, and to suggest how tighter congressional control, moral persuasion, and a universal code of conduct policed by a world renowned independent body can be utilized to eradicate or reduce what some writers have preferred to call "the necessary evil of bribery in foreign markets."[7]

THE ARGUMENTS IN FAVOR OF ILLEGAL PAYMENTS ABROAD

Bribes and Kickbacks Way of Life in Many Foreign Countries

One of the arguments most frequently used by writers, Busch for instance, in support of bribes and kickbacks in foreign lands is that they are a basic part of culture especially in the less developed countries. Bribery, it is pointed out, is widespread in the Third World countries. Although it may be called "squeeze" by Asians, "la mordita" by Latin Americans, "baksheesh" by the Middle Easterns or "dash" by Africans, the purpose is the same. It is an unofficial and expected payment to public and private servants or officials for performing their jobs.

The weaknesses of this argument are, of course, very visible. First, there is plenty of historical evidence to show that in the less developed countries, most of which were once colonial, people were introduced to bribery for the first time by the early European colonialists and slave dealers. Before these colonial people came into contact with their masters, they rendered free services to one another on a brotherly or friendly basis, a practice still carried on today in some of their villages.

Second, even if we accept the notion that bribery is being widely practiced everywhere, can we also say that it is widely approved? Citizens of the less developed countries have come to recognize bribery, especially by public officials, as an undesirable evil and an enemy of progress. Many Third World governments, notably Nigeria, Honduras, and Saudi Arabia,[8] are making serious efforts to eliminate payoffs of all kinds in keeping with their desire for a more modern image. Severe punishments including confiscation and death by firing squads are being used to crack down on offenders.

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[6]Edgar T. Busch, "The Necessary Evil of Bribery in Foreign Markets," Proceedings of the Southwest Division, Academy of Management (March, 1976), p. 117.

[7]Ibid. [8]Maclean and Neikirk, loc. cit.

As some of the officials of these governments point out, corruption involving the misuse of domestic public funds or payments among the citizens is easier to trace by sophisticated accounting techniques than are illegal payments from multinational corporations. As long as the multinationals continue this practice, the war these foreign governments have waged on bribery and corruption will be missing their targets.

Non-American Multinational Corporations Make Illegal Payments Also

Another argument similar to that just discussed is the attempt by some scholars to justify these payments on the basis that they are being made by other business competitors. The main point in this argument is that in order for American multinationals to compete abroad, they must resort to certain business practices whether or not they are ethical.

It is quite interesting that some reliable government officials in one less developed country (who have asked not to be cited here) have also been approached by some officials of a multinational corporation for favors that the government officials refused to give. These government officials pointed out during an interview that they were once urged by the corporate officials to receive some illegal payments because in all the countries where the corporation does business, all other government officials accept bribes or kickbacks for such favors. In such a situation, it is difficult to say whether the multinational corporations strive hard to corrupt govern-officials everywhere or whether officials everywhere are striving to receive bribes from multinational corporations.

That aside, there are other reasons why it may not be very wise for American multinational corporations to follow the unethical business practices of other foreign multinationals. The U.S. is looked upon as the leader of the free world. This means that America's official and unofficial ambassadors abroad should set good examples just as Caesar's wife should be above suspicion. Whereas scandals abroad by other multinational corporations can be easily connived at, a scandal by an American multinational company is blown up out of proportion and capitalized upon as a major item for propaganda by the communists. Secrets are much more difficult to keep in the U.S. than in many other countries and, therefore, the American multinationals should refrain from copying other companies whose foreign operations are top secrets in their own countries.

Illegal Payments Necessary for Competition and Domestic Economic Well Being

The role of American foreign business competition in fostering employment, income and balance of payments at home is another argument advanced in support of illegal payments abroad. It is argued that currently U.S. exports provide 3,900,000 jobs domestically and that without export the unemployment level here would have risen 50 percent higher than is now the case.[9] Furthermore it is pointed out that good competitive position abroad aids foreign demand for American goods and services, thus increasing the GNP and placing the country in a favorable balance of payments position.

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[9] Busch, op. cit., p. 118.

This argument is weak, first, because it assumes the inevitability of the illegal payments for competition, an assumption which is not totally true. Besides, it seems to attach too much importance to American foreign trade, which accounts for only about 5 percent of the GNP. Even if the argument could hold for U.S. trade with other developed countries, it would not for her trade with the Third World countries which is considered not very significant.

In other words, it can be shown that because of the amount of disruption, frustration and instability these bribery scandals cause abroad, together with the subsequent ridicule, hatred and degradation to which the U.S. is exposed, the trouble they create for this country in the international scene is far greater than the advantages they bring to the domestic economic scene.

Legislation Against Illegal Payments Abroad Amounts to Forcing U.S. Standards on Others

This argument presupposes that other countries of the world are not concerned with the unethical nature of bribes and kickbacks. But the fact is, as already pointed out, that in some of the under-developed countries bribery in high government offices brings a death sentence, and convictions are often based on mere allegations and circumstantial evidence. A good example is the torture of the late Nkrumah of Ghana and confiscation of the properties of some of his cabinet ministers suspected of corrupt practices.

Even in the developed countries, some nations already have very strict laws aimed at controlling illegal payments abroad. The British government has a variety of controls to prevent wholesale bribery, including requiring Bank of England permission for the transfer out of the country of more than $500,000 for negotiating fee. In Italy, all payments by Italian citizens to persons or organizations in another country must be authorized by the Ministry of Foreign Trade.[10] To further illustrate how seriously bribery and corruption are viewed outside of the U.S. one need only consider the serious investigations carried out by government officials in Japan, Holland, Nigeria, Honduras, the Netherlands, and Colombia as a result of the Lockheed revelations in the U.S.

Universal Code of Conduct for Multinational Corporations Is Impossible

One final argument deals with the problem of adminstering a universal code of conduct for all multinationals. The question of who would do the policing, including authority to audit company books, has been raised. Another point being made is that it would be difficult to agree on a code of conduct which would not conflict with some major business practices of many of the companies.

This argument, though not as weak as some of the others, ignores some of the realities of international business competition, especially in the developing countries. It would appear that the majority of the multinational corporations see their reputations as an important aspect of their

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[10] James Yuenger, "Businessmen Pass the Buck on Way to Big Deals Abroad," Chicago Tribune (Feb. 15, 1976), Sec. 3, pp. 13-14.

survival, and to protect it would go much further than ordinarily necessary. On numerous occasions many multinationals in the less developed countries have cooperated in order to protect their interests. They have worked through exclusive clubs and such organizations as Employers Consultative Assemblies to reach some important agreements. As an illustration, it is alleged in many developing countries, notably Nigeria, that whenever the multinational corporations have considered some industrial projects in the Third World detrimental to their interests, they have all conspired to block it by discouraging technical help from their various countries. In some instances gentlemen's agreements have been reached dividing markets or placing limitations on imports or exports when necessary. The exposure by Senator Church's subcommittee on multinational corporations of instances of unethical joint conduct by the CIA and the multinationals, ranging from assassination of foreign leaders to the overthrowing of governments, is proof that these companies can and do accomplish abroad much more than can be imagined. The eradication of international business bribery and corruption should be no exception.

DISCUSSION AND POLICY RECOMMENDATION

Bribery and corruption in both domestic and international business cannot be condoned for any of the reasons cited here. Granting that they may be a part of culture in many lands and therefore necessary for competition, no multinational corporation can be justified in helping to promote these illegal practices.

More importantly, the SEC's disclosures already mentioned are quite revealing. Although one can say that the making of illegal payments for business abroad is widely practice, the current scandals swirling around big American multinational corporations and arms suppliers is quite different mainly because of the bigness. The Library of Congress estimates that American firms spent, or misspent, $300 million in recent years on bribes, agent fees and other forms of kickbacks.[11] The payment of $3.6 million[12] in bribes and kickbacks to Nigerian officials, for instance, is difficult to imagine in a country where the per capita income is just $130.

The role of the multinational corporations in the less developed countries is quite complex. They exercise much influence on the social, political and economic decisions of these countries by introducing and educating the people to various industrial and consumer goods and services. On numerous occasions the cultural values and attitudes of the people have been changed through marketing devices to appreciate some modern luxury and pharmaceutical goods and services. This means that even if bribery and corruption are part of the culture in developing countries, the multinational corporations, through their usual marketing devices, can help to change popular attitudes toward them. The American multinational companies, with the assistance and cooperation of their government, can declare war on these unethical payments abroad which are threatening their world reputation. The following suggestions are offered as guidelines: tighter Congressional action, moral persuasion, and an international code of business ethics.[13]

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[11] Maclean and Neikirk, loc. cit.

[12] Newsweek (February 23, 1976), p. 30

[13] This portion is an abridgment. The detailed suggestions are available upon request.

Suggestions for Fighting Unethical Business Payments Abroad

Tighter Congressional Action. In the absence of strict foreign exchange control by the U.S. Treasury, an avenue left open to the government to assist in fighting or regulating these illegal payments abroad is through legislative action. The legislation proposed by Senator Church's and Representative Nix's subcommittees dealing with the disclosure of foreign agents' fees are steps in the right direction which both government and business could try to sell to other European governments through diplomatic channels. Despite criticisms as to the effectiveness of such legislation, the fact that such payments have to be disclosed may compel corporations to seek other acceptable methods of competition.

Moral Persuasion. Another approach that American multinational corporations could use to foster good business ethics abroad is to attempt to persuade one another as well as other competing European multinational corporations to resist bribery and corruption as competitive devices abroad. This suggestion may not sound feasible at first, but as already pointed out similar tactics are being used to resist certain governmental demands abroad. Because many corporations consider constant disclosure of unethical conduct detrimental to business, cooperation may not be difficult to achieve.

An International Code of Business Ethics. Despite all the criticisms against a universal code of ethics for multinationals, this writer considers it an important aspect of any strategy aimed at the eradication of international business bribery and corruption. The one now being drawn up by the Organization for Economic Cooperation and Development deserves the support and encouragement of America's multinational corporations. In order to be enforcable, it is suggested that the code not be so broad as to invade unrelated intracompany privacies. Also important is the need for policing of this code to be done by an independent world professional organization such as the World Congress of Accountants. Among other things, this will ensure that the interests of the corporations will be protected by a professional client-auditor relationship.