FIGHT FOREIGN CORRUPTION, PROTECT U.S. BUSINESS  
PASS THE FOREIGN EXTORTION PREVENTION ACT

SUMMARY

American companies operating abroad are increasingly faced with demands from foreign officials for bribes, and with competition from unethical companies that are willing to pay them.

When foreign officials demand bribes, they steal from their citizens, reward and encourage unscrupulous business practices, punish law-abiding U.S. businesses, distort markets, sow the seeds of economic and social unrest, and often fortify and finance authoritarian regimes.

Current U.S. law does not punish foreign officials who demand bribes from U.S. companies. Instead, it only punishes U.S. companies if they pay them. This imbalanced legal framework is at odds with dozens of other countries, including Germany, the United Kingdom, and France, who criminalize both the demanding and the giving of foreign bribes.

A short, simple, and bipartisan measure known as the Foreign Extortion Prevention Act (FEPA) would fix this imbalance, extend much-needed protections to U.S. businesses operating abroad, and equip the Department of Justice (DOJ) with a powerful new tool for combating corruption.

A recent survey by the OECD found that foreign officials who demand or receive bribes are criminally sanctioned only 20% of the time. The report also concluded that “the information flow between demand-side and supply-side enforcement authorities is often slow.”

In Transparency International’s most recent study on the enforcement of anti-bribery laws, Exporting Corruption, researchers concluded that to improve enforcement the UN, OECD, and G20 must “include issues on both the supply and demand side” of foreign bribery.
FEPA would expand the current federal bribery statute to cover any foreign official or agent thereof who “corruptly demands, seeks, receives, or accepts” a bribe in or affecting U.S. interstate commerce.

The criminalization of foreign demand-side bribery is the law in the United Kingdom, Germany, France, and dozens of other countries, and is expressly encouraged by the United Nations Convention Against Corruption, to which the U.S. is a signatory.

Corrupt officials could face a criminal fine of up to $250,000 or three times the value of the bribe (whichever is greater), and a prison sentence of up to 15 years.

Reflecting the relationship between corruption, the rule of law, and economic stability, FEPA commits the proceeds of these sanctions to existing DOJ programs that will streamline its enforcement and counteract the emergence of corrupt foreign officials.

As many FEPA enforcement actions will rely on assistance from foreign governments, FEPA requires the DOJ to provide data on how promptly the DOJ is responding to requests for assistance from foreign governments, and to study how the U.S. mutual legal assistance treaty (MLAT) process could be improved.

Finally, FEPA would require the DOJ to publish an annual report that summarizes the scale and nature of foreign bribery, that addresses the effectiveness of U.S. diplomatic efforts to protect U.S. companies from foreign bribes, and that discusses efforts of foreign governments to prosecute demand-side bribery cases.

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