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fighting corruption, promoting democracy

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Congress Passes Landmark Law to Criminally Prosecute Corrupt Foreign Leaders

The Most Important Foreign Bribery Law in Half a Century Empowers the U.S. Government to Prosecute Foreign Officials Who Demand or Receive Bribes from Americans

A statement from Transparency International U.S.
December 14, 2023

Today the U.S. Congress approved the Foreign Extortion Prevention Act (or FEPA) as part of the annual defense spending bill, known as the National Defense Authorization Act, or NDAA. FEPA would make it a crime for a foreign official—including any employee of a foreign government or any current or former senior official of a foreign government's executive, legislative, judicial, or military branches or any immediate family member or close associate thereof—to demand or accept a bribe from an American or American company, or from any person while in the territory of the United States, in connection with obtaining or retaining business.

Transparency International U.S. (TI US) helped craft the law and led the bipartisan civil society campaign in support of it. Along with TI US, FEPA is supported by the U.S. Chamber of Commerce, Foundation for Defense of Democracies (FDD) Action, Citizens for Responsibility and Ethics in Washington (CREW), and a broad coalition of civil society organizations that work to promote transparency and accountability in government. FEPA also reflects a commitment made by the Biden Administration to work with Congress to criminalize the "demand side" of foreign bribery.

Scott Greytak, Director of Advocacy for TI US, said the following on the passage of FEPA:

> Today the United States Government comes one critical step closer to helping provide real justice for victims of corruption around the world. FEPA is a landmark, bipartisan law that holds the potential to help root out foreign corruption at its source. It is arguably the most sweeping and consequential foreign bribery law in nearly half a century.
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> People living in more than 120 countries face serious corruption problems, according to Transparency International's annual *Corruption Perceptions*

Index. Many are governed by kleptocracies where corrupt officials routinely steal resources from their citizens with impunity.

FEPA has the potential to disrupt these dynamics by empowering the U.S. Government to criminally prosecute any foreign official who demands or accepts a bribe from any American or American company, anywhere in the world.

Current U.S. law makes it a crime for an American or American company to *offer* a bribe to a foreign official, yet does nothing to punish a foreign official who demands or accepts such a bribe. And research shows that the vast majority of bribe-demanding foreign officials are never criminally prosecuted by their home governments. When these corrupt officials face little threat of prosecution by either their home governments or the U.S. Government—while U.S. companies face serious criminal liability for their involvement in such schemes—we're left with incomplete justice. It's time for the United States to impose a cost on those who would threaten Americans' safety and livelihood with bribe demands.

FEPA would create a powerful new tool for fighting foreign corruption at its source and for protecting Americans and American businesses working abroad. We strongly encourage President Biden to sign FEPA into law as soon as possible, and we commend Sen. Sheldon Whitehouse, Rep. Sheila Jackson Lee, Rep. Joe Wilson, Sen. Thom Tillis, the Helsinki Commission, and their respective staff, for their leadership and dedication to this transformative law.

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TI US is part of the world's largest coalition against corruption. In collaboration with national chapters in more than 100 countries, through research, policy development, and advocacy, we are leading the fight to turn our vision of a world free from corruption into reality.

Related Resources

- Read the text of FEPA in the NDAA (begins on page 1843);
- Read TI US's factsheet on FEPA—"Protect Americans from Bribery and Fight Corruption at its Source";
- Read a letter of support for FEPA signed by leading U.S. civil society organizations;
- Read endorsements of FEPA from TI chapters around the world;

- Read TI US's analysis of how FEPA can be enforced abroad as a matter of law and practice;
- Read Transparency International's *Exporting Corruption* report on enforcement of foreign anti-bribery laws in leading exporting nations; and
- Read the U.S. National Security Council's commitment to working with Congress to criminalize the demand side of bribery in the "United States Strategy on Countering Corruption" (page 12).

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