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INCOMING
TELEGRAM
0047

Legal
FCPA

PAGE 01 SANTO 04254 231956Z
ACTION EB-08

INFO OCT-01 ADS-00 INR-10 CIAE-00 H-01 NSC-05 ARA-16
 NSAE-00 COME-00 L-03 TRSE-00 STR-11 JUSE-00 SP-02
 /057 W

-----244544 240552Z /14

R 231903Z JUN 81
FM AMEMBASSY SANTO DOMINGO
TO SECSTATE WASHDC 33

UNCLAS SANTO DOMINGO 4254

E. O. 12065: N/A

TAGS: ETRD, BEXP

SUBJECT: FOREIGN CORRUPT PRACTICES ACT (FCPA) -- S.708

REFS: (A) STATE 154933, (B) STATE 134964

FOLLOWING RECEIPT OF REF (B) EMBASSY WAS UNABLE TO IDENTIFY ANY CONCRETE INFORMATION EITHER FROM ITS OWN OR THE LOCAL AMERICAN CHAMBER OF COMMERCE CHAPTER'S EXPERIENCE WHICH COULD BE OF USE IN ADMINISTRATION TESTIMONY. EXECUTIVE SECRETARY OF THE AMCHAM COMMENTED THAT WHILE THE AMCHAM OF COURSE SUPPORTED THE CHAFEE BILL, SPECIFIC EXAMPLES OF FCPA'S DETERENT EFFECT WOULD BE HARD TO COME BY.

YOST

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COTONO 01116 171301Z

INFO OCT-01 ADS-00 INR-10 AF-10 CIAE-00 H-01 NSC-05
NSAE-00 COME-00 L-03 TRSE-00 STR-10 JUSE-00 SP-02
/050 W

-----073552 180224Z /64

R 171146Z JUN 81
FM AMEMBASSY COTONOU
TO SECSTATE WASHDC 3553

UNCLAS COTONOU 1116

E.O. 12065: N/A

TAGS: ETRD, BEXP, DM

SUBJECT: FOREIGN CORRUPT PRACTICES ACT

REF: A. STATE 134964 B. STATE 154933

1. U.S. EXPORTS TO BENIN ARE SMALL (14.9 MILLION DOLLARS IN 1980) AND CONSIST MOSTLY OF MANUFACTURED AND CAPITAL GOODS. ONLY ONE U.S. FIRM HAS HAD A CONTRACT FOR OPERATIONS WITHIN BEN C IN RECENT YEARS, AND THAT ACTIVITY WAS IN CONNECTION WITH A USAID-FINANCED PROJECT.

2. WITHIN THIS LIMITED CONTEXT, WE KNOW OF NO CONCRETE INSTANCES IN WHICH THE FCPA HAS HAD A DETERRENT EFFECT ON U.S. FIRMS OR HAS CREATED IRRITATIONS IN BILATERAL RELATIONS. BULLINGTON

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INFO OCT-01 ADS-00 INR-10 EUR-12 CIAE-00 H-01 NSC-05
ARA-16 NSAE-00 COME-00 L-03 TRSE-00 STR-10 JUSE-00
SP-02 /068 W

-----075074 180408Z /15

R 171045Z JUN 81
FM AMCONSUL MARTINIQUE
TO SECSTATE WASHDC 4672
INFO AMEMBASSY PARIS

UNCLAS MARTINIQUE 526

E. O. 12065: NA
TAGS: ETRD, BEXP, FW
SUBJ: FOREIGN CORRUPT PRACTICES ACT (FCPA)

REF: STATE 134964

1. IN RESPONCE TO THE REFERENCED MESSAGE (RECEIVED IN MARTINIQUE ON JUNE 15), WE KNOW OF NO INSTANCES WHEREIN AMERICAN FIRMS LOST OUT ON BIDDING FOR LOCAL CONTRACTS BECAUSE OF AMBIGUITIES OF THE PRESENT ACT, NOR ARE WE AWARE OF ANY INSTANCE IN WHICH THE EXTRATERRITORIAL PROVISIONS OF THE ACT WERE AN EMBARRASSMENT TO LOCAL OFFICIALS.

2. IT SHOULD BE NOTED THAT THE LOCAL MARKET IS QUITE SMALL AND ONLY RARELY ARE THERE SIGNIFICANT OPPORTUNITIES FOR AMERICAN FIRMS TO BID ON SIGNIFICANT CONTRACTS. DWYER

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PRAGUE 02461 171151Z

7277 .

INFO OCT-01 ADS-00 INR-10 EUR-12 CIAE-00 H-01 NSC-05
NSAE-00 COME-00 L-03 TRSE-00 STR-10 JUSE-00 SP-02
/052 W

-----072423 180114Z /14

R 170626Z JUN 81
FM AMEMBASSY PRAGUE
TO SECSTATE WASHDC 4205

UNCLAS PRAGUE 2461

E. O. 12065: N/A

TAGS: ETRD, BEXP

SUBJECT: FOREIGN CORRUPT PRACTICES ACT (FCPA): S. 788; CHAFEE
AMENDMENT

REF: STATE 134964

1. U. S. FIRMS SEEKING TO DO BUSINESS IN CZECHOSLOVAKIA HAVE
ENOUGH OTHER PROBLEMS, PRIMARILY POLITICAL, THAT FCPA IS AT
BEST A MINOR HINDRANCE. WE HAVE NOTED NO SPECIFIC COMPLAINTS
ABOUT IT.

2. WE KNOW OF NO EMBARRASSMENT TO CZECHOSLOVAK OFFICIALS
ARISING FROM FCPA.
MORTON

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PAGE 01 MEXICO 07794 162336Z
ACTION EB-08

INFO OCT-01 ADS-00 INR-10 CIAE-00 H-01 NSC-05 ARA-16
NSAE-00 COME-00 L-03 TRSE-00 STR-10 JUSE-00 SP-02
/056 W

-----056502 171412Z /52

R 162329Z JUN 81
FM AMEMBASSY MEXICO
TO SECSTATE WASHDC 2896

UNCLAS MEXICO 07794

E. O. 12065 N/A
TAGS: ETRD, BEXP, MX
SUBJECT: FOREIGN CORRUPT PRACTICES ACT

REF: STATE 134964

WE ARE UNABLE TO CITE CONCRETE CASES IN WHICH WE HAVE KNOWLEDGE THAT U. S. FIRMS LOST CONTRACTS BECAUSE OF THE AMBIGUITIES OF THE PRESENT ACT OR IN WHICH THE EXTRATERRITORIAL REACH OF THE ACT HAS CAUSED EMBARRASSMENT TO MEXICAN OFFICIALS. WE DO BELIEVE STRONGLY, HOWEVER, THAT IT IS NECESSARY TO CLARIFY THE RELATIONSHIP BETWEEN U. S. PRINCIPALS AND MEXICAN AGENTS. MOST MEXICAN AGENTS REPRESENT A NUMBER OF FOREIGN FIRMS AND DO NOT FEEL THEMSELVES SUBJECT TO THE CONTROL OF ANY ONE OF THEM. IT WOULD THEREFORE BE HIGHLY UNREASONABLE TO HOLD THE U. S. PRINCIPALS RESPONSIBLE FOR THEIR ACTIVITIES.

GAVIN

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HONG K 09733 232005Z

INFO OCT-01 ADS-00 INR-10 CIAE-00 EA-12 H-01 NSC-05
NSAE-00 L-03 TRSE-00 STR-11 JUSE-00 SP-02 /053 W

-----245274 240924Z /14

R 230455Z JUN 81
FM AMCONSUL HONG KONG
TO SECSTATE WASHDC 5676
USDQC WASHDC
INFO AMEMBASSY MANILA
AMEMBASSY TOKYO

UNCLAS HONG KONG 9733

TOKYO FOR EDO

E.O. 12065: N/A

TAGS: ETRD, BEXP, HK

SUBJECT: FOREIGN CORRUPT PRACTICES ACT (FCPA) - S. 708, CHAFEE
AMENDMENT

REF: STATE 134964

1. POST UNABLE TO CONFIRM THAT FOREIGN CORRUPT PRACTICES
ACT (FCPA) HAS HAD A DETERRENT EFFECT ON BUSINESS OR HAS
CAUSED EMBARRASSMENT TO ANY FOREIGN OFFICIALS IN HONG
KONG. CONSENSUS IS THAT FCPA IS NOT A MAJOR ISSUE IN
HONG KONG, BUT THAT IT IS A DETERRENT TO TRADE IN
SOME OTHER COUNTRIES IN THE REGION.

2. HONG KONG HAS VERY ACTIVE AND VIGOROUS INDEPENDENT
COMMISSION AGAINST CORRUPTION (ICAC). POST BELIEVES
ICAC HAS DONE MUCH TO ELIMINATE AND EVEN PREVENT
CORRUPT PRACTICES IN THE BUSINESS COMMUNITY.

3. LOCAL AMCHAM LEADERSHIP REPORTS THAT FCPA HAS BEEN AN
ISSUE AT SEVERAL REGIONAL AMCHAM MEETINGS. AMCHAM FEELS THAT
FCPA IS POORLY WRITTEN, AND THAT CLARIFICATION OF THE ACT
WOULD HELP A LOT. AMCHAM SUPPORTS THE CHAFEE AMENDMENT AS A
DISTINCT IMPROVEMENT TO THE FCPA.

4. POST UNABLE TO OBTAIN SPECIFIC EXAMPLES OF DETERRENT
EFFECT OF FCPA IN OTHER COUNTRIES OF REGION.

SHOESMITH

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BRUSSE 07591 051822Z

4766

INFO OCT-01 ADS-00 INR-10 EUR-12 CIAE-00 H-01 NSC-05
NSAE-00 COME-00 TRSE-00 STR-10 JUS-01 SP-02 /050 W
-----161710 052326Z /71

R 051821Z JUN 81
FM AMEMBASSY BRUSSELS
TO SECSTATE WASHDC 9112

UNCLAS BRUSSELS 07591

E. O. 12065: N/A
TAGS: ETRD, BEXP, BE
SUBJECT: FOREIGN CORRUPT PRACTICES ACT: CHAFEE AME
NDMENT

REF: STATE 134964

1. UNFORTUNATELY, IT IS PHYSICALLY IMPOSSIBLE FOR US TO CANVASS THE ENTIRE US BUSINESS COMMUNITY IN BRUSSELS TO TURN UP ANY CONCRETE EXAMPLES OF INSTANCES WHERE THE FCPA HAS DISADVANTAGED US FIRMS. WE HAVE SPOKEN WITH A FEW BUSINESS REPRESENTATIVES HERE, INCLUDING LAW FIRMS, BUT HAVE NOT BEEN ABLE TO DEVELOP ANY DOCUMENTED EXAMPLES.

2. THE FCPA DOES NOT APPEAR TO BE A PROBLEM WITH RESPECT TO DOING BUSINESS IN BELGIUM, WHERE BRIBERY IS CLEARLY ILLEGAL. BRIBERY OBVIOUSLY OCCURS HERE, AS IT DOES IN ALL COUNTRIES, BUT ANY FIRMS ENGAGING IN SUCH PRACTICES KNOW THAT THEY ARE VIOLATING BELGIAN LAW. AT THE SAME TIME, HOWEVER, ANECDOTAL EVIDENCE HERE IN BRUSSELS SUGGESTS THAT THE FCPA DOES, INDEED, ACT AS A HINDRANCE TO US EXPORTS AND CONSTRUCTION CONTRACTS IN THE THIRD WORLD.

3. SINCE BRUSSELS IS THE LOCUS OF MANY FIRMS' HEAD-QUARTERS THAT COVER AFRICA AND THE MIDDLE EAST, THERE IS A GREAT INTEREST HERE IN THE PROVISIONS OF THE FCPA AND LOCAL BRANCHES OF US LAW FIRMS GET MANY ENQUIRIES AS TO WHAT IS AND WHAT IS NOT PERMITTED. FIRMS SEE IT AS A DEFINITE HINDRANCE TO THEIR OPERATIONS IN THAT THEY ARE OBLIGED TO MODIFY THEIR METHOD OF OPERATION TO AVOID PLACING THEMSELVES IN SITUATIONS THAT WOULD BE LIKELY TO CONFRONT THEM WITH DEMANDS FOR PAYMENTS THAT WOULD FALL AFOUL OF THE FCPA. AN EXAMPLE OF THIS, WHICH THE PRINCIPALS ARE NOT WILLING TO DOCUMENT, IS AS FOLLOWS: A CERTAIN CONSTRUCTION FIRM WAS INTERESTED IN BIDDING ON A PROJECT IN A MIDDLE EASTERN COUNTRY. THE FIRM WAS CONVINCED THAT NOTHING GOT DONE IN THAT COUNTRY WITHOUT THE PAYMENT OF COMMISSIONS AND "GREASE" PAYMENTS. IT THEREFORE DECIDED THAT IT DID NOT WANT TO BE THE PRIME CONTRACTOR, AND MODIFIED ITS STRATEGY SO THAT IT WOULD BE A SUBCONTRACTOR FOR A EUROPEAN PRIME CONTRACTOR, THEREBY ACCEPTING A SMALLER PORTION OF THE PROJECT. KILLHAM

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