

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

OFFICE OF THE CHAIRMAN

February 10, 1976

The President
The White House
Washington, D.C. 20500

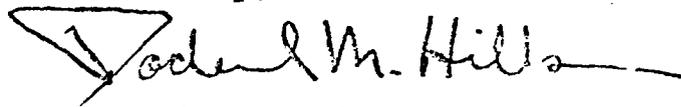
Dear Mr. President:

My fellow Commissioners and I have received today's press accounts of your determination to become involved in the problems presented by the practice of some United States corporations of making unlawful payments to officials of foreign countries to secure favorable business concessions.

As you know, this Commission has, over the past several months, taken action in a substantial number of cases where the making of such payments appeared to have involved violations of the federal securities laws. We at the Commission share your concerns that those participating in such unlawful conduct not receive protection from legitimate enforcement actions by responsible officials in foreign countries or at home. We have presented testimony on this subject before the Subcommittee on Priorities and Economy in Government of the Joint Economic Committee of the Congress, and would be pleased to address the difficult issues raised through a Cabinet-level committee.

Our involvement in these matters makes it apparent to us that a direct government initiative is appropriate. We strongly support your decision to take such action.

Sincerely,



Roderick M. Hills
Chairman

LOCKHEED COVER-UP

QUESTION - Are the requirements of confidentiality in our foreign information exchange agreements in any way intended to cover-up wrongdoings by Lockheed or foreign government officials?

ANSWER - Not at all. We have repeatedly made clear our condemnation of any and all corrupt practices involving U. S. corporations abroad, and our desire to assist foreign governments in their investigations of such activities. But the information which the U. S. Government itself has is currently being used in its own investigations. Its premature disclosure could interfere with those ongoing investigations and could also prejudice the rights of individuals involved, particularly those who in fact may have been innocent of any wrongdoing. So we have interests of our own to protect in the exchange of this information, and the agreed procedures are designed to protect these interests.

INTERNATIONAL COOPERATION

QUESTION - What kind of arrangements has the U. S. made with foreign governments which have requested information concerning Lockheed's alleged illegal activities in their countries?

ANSWER - The Department of Justice, the Department of State, and the SEC have developed procedures to facilitate the exchange of information on this subject with interested foreign governments. Under these procedures, the Department of Justice will enter into cooperative arrangements with the responsible law enforcement agencies of other interested governments, as it has done in past cases of interest to more than one government.

The procedures established by these arrangements are designed to permit the maximum possible exchange of information. At the same time, however, they provide that the information will remain confidential until it is to be used in criminal, civil, or administrative proceedings.

U. S. INTERESTS

QUESTION - Why is it necessary for the government to become involved in this problem? What are our interests?

ANSWER - Aside from domestic law enforcement responsibilities of the Securities and Exchange Commission, the Internal Revenue Service and other government agencies, I would point to three interests. First, we have a general responsibility to insure an ethical marketplace. Secondly, we have certain economic interests at stake and must move to promote investor confidence and stability in American enterprise. Lastly, the disclosure of alleged bribes has damaged U. S. foreign relations.

PRIVATE SECTOR RESPONSIBILITY

QUESTION - Isn't the private sector taking some responsibility to try and deal with the bribery question?

ANSWER - Many American corporations with dealings at home and abroad have their own guidelines regarding gifts and political contributions. These individual company guidelines have been in existence for many years. Most companies have very clear directives forbidding the use of corporate funds for bribery.

The private sector also sees the need to deal with this problem on the international front. For example, early this month, the International Chamber of Commerce met in Paris and formed a Commission on Unethical Practices -- a blue-ribbon panel of business leaders from many nations -- to develop guidelines for promoting correct conduct in international business matters.

The vast majority of American corporations -- like American individuals -- are honest and law-abiding. It is only the few who err and deviate from acceptable moral and legal principles.

COMPLEXITY OF THE PROBLEM

QUESTION - Why do you say this problem is so complex?

ANSWER - The problem is complex because it involves the laws, customs and business practices of most of the countries of the world. Corruption is rooted in the failings of man. It takes many different forms and it is not limited to any one part of the world or any one economic system. We have to be sure that measures we take will be effective measures and that they will receive the cooperation of others.

UNILATERAL ACTION

QUESTION - Senator Proxmire and Chairman Burns have recommended unilateral action in this area, i. e., that foreign bribery be declared a domestic crime. Why not support this position?

ANSWER - One of the responsibilities of this new task force will be to recommend whether new legislation is required and what kind. It will certainly consider the proposals you have mentioned and others in this area.

However, serious doubts exist that the problem can be handled adequately by the U. S. attempting to legislate alone on this subject. The problem of corrupt practices is international in scope embracing both international trade and investment issues. The primary goal of the U. S. should be to induce all countries to work together on this problem so as not to restrict unfairly the competitive position of American firms abroad.

There are also problems raised by the idea of extraterritorial penal legislation where enforcement of such a law could well involve the United States Government in the investigation of the conduct of foreign government officials. This could lead to political disruptions in host countries and create strains in our relations with them.

Treating the problem of overseas bribery on a multilateral scale does not, however, preclude the strengthening of existing U. S. laws.

TIMING OF TASK FORCE

QUESTION - Why has it taken you so long to put together a task force to study corrupt practices overseas?

ANSWER - I am sure you are aware that we have been studying and working with the problem of corrupt practices overseas for some time now.

In terms of law enforcement, the Securities and Exchange Commission, the Internal Revenue Service and other agencies have broadened and intensified their investigations of U.S. companies involved in such activities.

Internationally, the Special Trade Representative has notified the participants in the Multilateral Trade Negotiations that this is an appropriate subject for their consideration. Additionally, the Departments of State and Treasury, and other members of the Council on International Economic Policy have been working with this problem in the international forums, such as the United Nations and the Organization of American States.

However, over the last months, we have all come to appreciate that the dimension of the problem may be greater than imagined, and I want to be sure that we have a coordinated and effective program to deal with it.

CURRENT FEDERAL CRIMINAL LAW

QUESTION - Why can't this activity be punished under current Federal criminal laws?

ANSWER - Although criminal violations can flow from a failure to disclose certain payments abroad or attempts to claim a tax deduction for illegal payments, current Federal criminal law generally does not reach extraterritorial activities. This principle of criminal law is based on a legitimate concern over involvement in the internal affairs of another sovereign nation.

"QUESTIONABLE" PAYMENTS

QUESTION - What do you mean by "questionable" corporate payments abroad?

ANSWER - Generally, I am referring to payments to foreign officials which if they are not bribery under the laws of the countries concerned at least give rise to serious questions of impropriety. However, I should also point out that this question is precisely one of the issues the Committee will be looking into. As you know, the question of when a commission or a finders fee becomes a bribe is not easily answered as perceptions differ from nation to nation.