

NLWJC - Kagan

DPC - Box 006 - Folder 009

**Campaign Finance Reform -
Foreign Influence Peddling**

Campaign Finance: Foreign influence peddling

April 14, 1997

Paul W. - (+ return)
Looks good. Have
you gotten anyone else's
Elena

MEMORANDUM FOR BRUCE REED

FROM: Paul Weinstein
SUBJECT: **Overview of Lobbying Executive Order**
CC: Elena Kagan, Tom Freedman

Views on this
proposal?

Background

In the Summer of 1995, you and Michael Waldman recommended that the President issue an Executive Order that would ban all executive branch officials from contact with registered agents of foreign governments when the contact is for the purpose of influencing the U.S. government on behalf of foreign governments. The order would include corporations that are either wholly-owned or majority-owned by foreign governments. The definition of registered agents of foreign governments would largely track the definition of agency in the Foreign Agents Registration Act (FARA), although it would be limited to foreign governments, while FARA covers agents of all foreign "principals." The proposal included exceptions for lawyers engaged in litigation or administrative proceedings.

Opposition

The proposal was opposed by almost all of the agencies and departments responsible for overseeing the nation's defense and foreign policy as well as the Justice Department. Some of the arguments made against the proposal included:

- Banning contacts with representatives of foreign governments on policy matters would eliminate a regular source of valuable information for foreign policy makers;
- The proposal would be extremely difficult to enforce. The burden of whether an individual is a registered lobbyist or not would be placed on Executive Branch employees. This is no simple task since the distinction between agents of private foreign corporations and foreign governments will be nearly impossible to enforce. In many countries, close ties between industry and government make the distinction nearly meaningless;
- In reaction, other countries may decide to ban their own employees from meeting with U.S. attorneys and consultants representing the Federal government or U.S. companies. State, Commerce, USTR, and other agencies hire attorneys and consultant abroad to discuss foreign law issues, procurement, and real estate concerns.

- The proposed Executive Order would create a bias against smaller countries which cannot afford maintenance of large U.S. embassy operations, yet ~~who~~^{which} need to monitor U.S. Executive Branch and legislative activity.

In response to some of the concerns raised at the time, you and Michael recommended a modified proposal that would have only prohibited lobbyists for foreign governments from meeting with Executive Branch officials on trade matters. [However, this proposal did not resolve concerns that the press might attack the Administration over former Administration officials turned lobbyists.] In addition, so much of the government is involved in trade that this exemption would in effect include most of the government.

? I'm not sure I get this.

Other options that have been suggested include: 1) maintaining a public record of lobbyists who contact any government agency on behalf of foreign entities; 2) fully enforce FARA.

Alternative Recommendation

I recommend a different approach, which I believe is easier to enforce, and addresses ^{the} real issue -- reducing the influence of foreign governments ~~by cutting the flow of money to~~ ^{gained by contributing} American politicians. Although U.S. law prohibits foreign entities from contributing to U.S. campaigns, lawyers and lobbyists for foreign entities are not restricted from raising and distributing funds to, ^{U.S.} candidates. I recommend that the President endorse a ban on contributions to any candidate for Federal election who is a registered foreign lobbyist as defined under FARA. The President could propose that a ban be included in the final, bipartisan campaign finance reform ^{bill}. In addition, the President could challenge all Democrats to stop accepting such contributions immediately (thus providing the Vice President with a huge opportunity).

office
this
should
from any person
funds for,
bill

File: § CFR - Foreign
influence peddling



Record Type: Record

To: Bruce N. Reed/OPD/EOP
cc: Elena Kagan/OPD/EOP
Subject: Re: Update on Ideas 

Govt and Political Reform

1. **Foreign lobbyist ban/sanctions on foreign govts for influence.** Carrie and I have just completed a review of the impact of the Helms Burton Act (H.R. 927) in order to gain insight into the idea sanctioning foreign countries who try to influence the U.S. government. Helms-Burton provides that any person who traffics property confiscated by the Cuban Government will be liable to the United States National who owns the claim to such property, the amount equal to the value of the property plus interests, costs, and fees. The bill also provides for a civil penalty, not to exceed \$50,000, to be imposed by the Secretary of the Treasury on any person who violates any license, order, or regulation issued in compliance with the provision of this act.

This bill has been criticized by foreign governments as a direct assault on their sovereignty and as a violation of international agreements on free trade and investment. Other governments have imposed retaliatory sanctions on U.S. citizens in response to Helms-Burton. It is my understanding that in response to complaints by foreign governments, the Administration has postponed implementation of certain aspects of Helms-Burton.

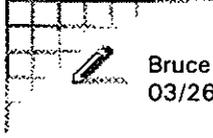
Obviously this is not a perfect model on which to base a bill to sanction foreign governments trying to influence the U.S. government. Preliminary options seem to be the following:

1. Sanction governments by freezing assets of violating country;
2. Recall our ambassador from the violating country;
3. Revoke Visa of Ambassador of violating country;
4. Seek adjudication at the World Court (not much here);
5. Impose Trade Sanctions;
6. Revoke Visa of embassy staffer identified with attempting to influence Federal Government or Elections.
7. Fine individual who violates law. If foreigner is involved, freeze their assets in U.S. (if they have any) until they pay fine. Or, freeze foreign government assets until individual violater pays fine.

Please advise if you think any of these have merit.

2. Auto-choice insurance reform

DPC staff are reviewing Moynihan and McConnell bills.



Bruce N. Reed
03/26/97 09:36:08 AM

Record Type: Record

To: Paul J. Weinstein Jr./OPD/EOP

cc: Elena Kagan/OPD/EOP

Subject: Re: Update on Ideas 

I like the freeze assets approach. Let's talk to Rahm about it.