

Anti Corruption Reform under the Action Plan's 2nd Implementation Cycle (2005-2006):
Reform projects and implementation assessment

Australia

Promoting Awareness of and Compliance with the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and Australia's supporting legislation

1 Project Summary

Project Title:

Promoting Awareness of and Compliance with the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and Australia's supporting legislation

Priority Area for Reform:

Pillar 2 – Strengthening Anti-Bribery Actions

Pillar 3 – Promoting Active Public Involvement

Implementing Institution:

Attorney-General's Department

Contact Person:

Ms Robin Warner, Assistant Secretary, International Crime Branch, Attorney-General's Department

Beginning and End of the Project:

Beginning: July 2004

End: July 2006

2 Project Context

Which deficiencies and/or problems that allow corruption to proliferate does the project address and aim to resolve? Please outline the related current legal or institutional framework and its weaknesses or the exact circumstances that require improvement:

The Project addresses a perceived lack of awareness in Australian companies and citizens with overseas interests, and with foreign public officials about the penalties that apply under Australian law to Australians for bribing foreign public officials. Within Australia, there has only been minimal publicity so far. Australian law is relatively strict, with severe penalties. The lack of prosecutions under Australian legislation in this area has raised concerns that breaches are not being reported, either because there is a lack of awareness that such activities are illegal, or because avenues for reporting breaches have not been publicized. Australia is also concerned that some Australians may be unknowingly breaching the law. It is expected that the Project's awareness-raising campaign of the offences and the avenue for reporting suspected breaches of the Convention will both deter possible offenders and encourage reports of suspected breaches to be made. This should lead to prosecutions under the legislation, which should then act as a deterrent to further breaches.

3 Expected Outcome of the Project

In relation to the above mentioned deficiencies and/or problems, which concrete improvements are expected to be achieved through the project? In which way does the project help to curb corruption?

Australia considers that the awareness-raising campaign would have a dual impact. First, it would discourage Convention offences from being committed, due to an awareness of the penalties that apply. Second, it may also increase reporting of breaches should they take place, which could lead to prosecutions under the legislation.

4 Components – Main Activities – Method

What are the project's components, implementation steps, main activities and/or methods to achieve the above mentioned outcome and objectives?

Australia intends to launch an awareness-raising campaign on the Convention, Australia's offences and the applicable penalties, including contact details for the relevant Australian authorities.

Step 1: Scoping phase - Australia intends to conduct a research / scoping project into the potential avenues for awareness-raising. The project would look at possible domestic avenues, including non-governmental organizations, government departments (at Commonwealth and State and Territory levels), industry groups, relevant forums such as industry conferences, publication of information in trade journals, distribution of information through the Australian Stock Exchange, and any other opportunities. The project would also look at opportunities in the region to raise awareness amongst both Australians overseas and foreign public officials through Australian Government bodies, regional non-governmental organizations, regional industry groups, relevant publications and any other opportunities. This stage is expected to take around three months.

Stage 2: Distribution phase – Australia would develop a number of relevant materials and would distribute them as appropriate through the avenues identified in the Scoping Phase. This may include attending and presenting information at various forums, information pamphlets, electronic distribution, publication of articles, and other opportunities as directed by the Scoping Phase.

5 Involvement of non-governmental actors

In which way does the project involve civil society actors or other stakeholders and have they been consulted during the project development phase?

Australia has consulted with Transparency International (TI) on the development of the general project, and intends to remain closely involved with TI throughout both stages of the Project. Australia also intends to work closely with other relevant non-governmental organizations through both the scoping and distribution phase.

6 Related Projects under the 1st Implementation Cycle

Is the project linked to reforms accomplished under the Action Plan's 1st Implementation Cycle? In which way does this project follow up previous activities?

Not applicable – this is Australia's first project (having endorsed the Action Plan on 31 October 2003).

7 Project Financing and Budget

Approved or estimated overall project budget:

An estimate is not possible at this stage. Australia intends to dedicate a significant component of the work of at least three public servants (one Senior Executive Service) to the information campaign. Further financial implications will become evident when the Scoping Phase is completed. These must be met through existing resource allocations.

Is external funding required?

No

If external funding is required, have donor organizations been approached yet, and have any commitments been made?

N/A

If external funding is required, what percentage of the total project costs requires external funding?

N/A

8 Technical Assistance

Is external technical assistance required? Have relevant agencies been approached and have they made any commitments?

No

Implementation Assessment

9 Output Evaluation

Has the impact of the project on the identified deficiency (cf. item 2 above) been measured or evaluated? Please describe the evaluation method and the outcome.

An evaluation of the project will be undertaken when the project ends in July 2006.

10 Overall Project Assessment

Did the project meet the defined goal (cf. item 3 above)? Did the project remedy the deficiency identified (cf. item 2 above)? Has the project been fully implemented in the foreseen timeframe (cf. item 1 above)?

The OECD's recent Report on Australia's application of the *OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* (the OECD Report) commends Australia for undertaking important awareness raising activities on the foreign bribery offence, with the aim of ensuring any allegations of foreign bribery are reported to the Australian Federal Police. The OECD Report also notes that as a result of Australia's awareness raising activities, officials of Australian Government agencies and state law enforcement authorities have a good general awareness of the foreign bribery offence.

The Australian Federal Police has received three referrals of allegations involving bribery of foreign public officials. Two of these investigations are ongoing and one has been finalized with no offence disclosed. However, there is no direct evidence that these referrals are related to the campaign.

Australia has implemented Step 1 (Scoping phase) and Step 2 (Distribution phase) of the project. The awareness raising campaign has been targeted at Australian Government officials and agencies, as well as private businesses and business people with overseas interests. This has included targeted communication strategies at government agencies involved in law enforcement activities, as well as government and non-government organizations with links to international trade. These groups are most likely to encounter or become aware of bribery of a foreign public official.

Key messages of the campaign are:

- bribing a foreign public official is a Commonwealth offence,
- the offence has serious consequences attached,
- bribery can damage the economies of poorer countries, and
- persons should report suspected breaches of the law to the Australian Federal Police.

The campaign has included:

- establishment of a foreign bribery webpage containing detailed information on the foreign bribery offence on the website of the Australian Government's Attorney-General's Department,
- publication of a "Bribery of Foreign Public Officials is a Crime" pamphlet, which has been distributed to Australian Government agencies, law enforcement agencies, Australia's top 100 companies, industry bodies, law firms and accounting firms,
- information about the offence has been published in various publications, for example in the 'Hints and Tips for Travelers' – a document distributed to every Australian when they receive a passport, the Australian Federation of Travel Agents Newsletter, and
- training and information sessions for Commonwealth law enforcement and regulatory authorities.

The project has been implemented within the required timeframes and is ongoing.

11 Project Design Changes (if any)

Have any modifications to the project been made in the course of its implementation compared to the initial design of the project (cf. item 4 above)? What circumstances made these changes advisable or necessary?

The Australian Government is continuing with the awareness raising campaign.

12 Major Lessons Learned

Given the assessment of the project above, what experience can be drawn from the implementation of this project for future reform projects under the Anti-Corruption Action Plan?

In regards to awareness raising campaigns, experience has shown that (1) a targeted and focused campaign is more effective than 'one-shot' advertisements and (2) it is important to make use of existing communication networks.

13 Follow-Up

Is it planned to continue or extend this project or to continue a linked reform project? Which measures have been taken to ensure the sustainability of the outcome and the future assessment of the project's impact

The Australian Government is continuing to develop the foreign bribery awareness campaign in 2006. Information on the foreign bribery offence has recently been sent to key Australian embassies overseas for distribution to Australians working overseas. The Australian Government is looking at the possibility of extending the awareness campaign overseas.

The awareness-raising campaign will undergo an evaluation in the second half of this year.