



TRANSPARENCY INTERNATIONAL AUSTRALIA

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AUSTRALIA

Submission to the Senate Standing Committee on Foreign Affairs, Defence and Trade Inquiry into Procurement Procedures for Defence capital projects

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With respect to the terms of reference for the review this submission focuses on:

- a. assess the procurement procedures utilised for defence capital projects currently underway or foreshadowed, including the operations of the Capability Development Group and its relevant subcommittees;
- c. assess proposals arising from the Defence accountability reviews, including, the Mortimer Review, the Pappas Review and the McKinsey Report (2010), in regards to enhancing accountability and disclosure for defence procurement; and
- d. make recommendations for enhancing the availability of public information and parliamentary oversight and scrutiny of defence procurement in the context of guaranteed 3 per cent real growth in the Defence budget until 2017-18.

Executive Summary

Transparency International Australia (TI A) recognises that Australia is at the beginning of a level of defence investment unparalleled in its peacetime history. The Defence capital program envisaged in the Defence White Paper, *Defending Australia in the Asia Pacific Century: Force 2030*, will be an enormously challenging task for all those involved. TI A recognises that in order to ensure the realisation of the outcomes envisaged all prudent measures to combat the destructive influence of corruption must be taken. TI A affirms that the best way to do so is by addressing corruption risks in a clear and open manner in a climate firmly committed to addressing corruption risk. It is important to create fora for discussion of the merits and weaknesses of procurement plans and practices. Procurement and reform programmes must be as transparent as possible to ensure taxpayers get value for money and that capabilities are reasonably conceived and actually created.

While Australia may have the benefit of strong institutions and ethical organisational cultures, TI A recognises there is no room for complacency about the risk of corruption. TI A therefore

recommends that the Committee should commend the practical measures in TI UK's *Building Integrity and Countering Corruption in Defence and Security* which we believe offer the measures that will help promote transparency in Australia's Defence Sector and Industry and so ensure the greater integrity of the procurement procedures for Defence capital projects.

Introducing TI Australia

TI Australia is the Australian national chapter of Transparency International (TI), the global coalition with a presence in almost 100 countries. TI believes that corruption is one of the greatest challenges of the contemporary world. TI is dedicated to increasing government accountability and curbing both international and national corruption.

As a member of a Global Coalition, TI Australia works closely with our colleagues across the world towards a world free of corruption, by working with others towards systems and institutions committed to transparency, accountability and integrity. Significantly with respect to this Inquiry, TI A is in the process of developing collaboration with Transparency International's Defence and Security Programme (TI-DSP) (<http://defenceagainstcorruption.org/>) which 'works with governments, defence companies, multilateral organisations and civil society on initiatives to prevent corruption in the defence and security sectors, and to build anti-corruption capacity and integrity in defence establishments across the world'.

Challenges for Defence

TI A recognises that defence ranks amongst the top priorities of any national government. At the same time, we recognise that it is a complicated and expensive undertaking. Assessing the national interest, how best to defend it, and bringing together the resources and capabilities to achieve this aim is beset by numerous difficulties. Amongst others, these include balancing the challenges of conceptualising future defence requirements, the unending task of supervising and managing existing capabilities and defence infrastructure, whilst always maintaining a level of operational readiness.

In a recent speech to top defence officials the Minister for Defence Steven Smith described the complexity and scale of the task: current defence expenditure, excluding extra operational funding, makes up 7.6% of the Federal Budget, approximately 1.9% of GNP. In addition, Defence is responsible for an extensive portfolio of properties, infrastructure, and equipment as well as a workforce of some eighty thousand full time staff and twenty-five thousand reserves.

Further complicating the Defence management task, the 2009 Defence White Paper envisages a major procurement programme across the next fifteen years. This is planned to include a significant cost-saving force reorganisation, as well as the purchase and employment of major platforms including surface ships, submarines, and air fleets as well as accompanying support systems.¹

This snapshot highlights the complexity of the task at hand and the pressing demands of the future. Successfully managing Australia's defence assets and building future capabilities will require the highest standards of integrity and managerial acumen. Developing processes and doctrine to ensure transparency and accountability at all levels and stages of defence management

¹ Smith S, see *Address to the Department of Defence Leadership Group*, 26 Nov 2010, available at <http://www.minister.defence.gov.au/SmithSpeechtpl.cfm?CurrentId=11132>.

is vital to the successful implementation of defence projects, ensuring service personnel will be appropriately trained, equipped, and supported, as well as assuring the Australian Public that public monies are being spent wisely.

TI A therefore welcomes this Inquiry which provides an immediate opportunity to make a contribution to the matters being considered by the Committee.

Corruption – A Missing Piece

TI Australia is concerned at the omission of corruption from current planning and discussion of Defence accountability and reform. From our experience, reinforced by that of our colleagues around the world, TI Australia recognises that the development and implementation of anti-corruption strategies and policies should commence at the earliest possible point of the procurement and reform process. TI-DSP's Handbook, *Building Integrity and Countering Corruption in Defence and Security*, constitutes an important resource for this task. TI Australia recommends that the Committee urge the Department of Defence and the Defence Force to use this resource to structure and implement anti-corruption measures as an important basis for ensuring the efficient and effective management of procurement and reform programmes. The Handbook is attached to the Submission as Appendix 1.

TI A believes that corruption cannot be excluded as a consideration and a potential risk in these planning processes. In the context of Defence's complex role, and the impending procurement cycle, corruption has the potential to undermine the aims of these programmes. The Transparency International Defence Programme Handbook outlines some of the major impacts of corruption in defence sectors:

- Corruption wastes scarce resources
- Corruption reduces operational effectiveness
- Corruption reduces public trust in the armed forces and security services
- Defence budgets, due to their secrecy, are easy targets for politicians seeking funds
- International companies shun corrupt economies

Reviewing the contemporary concerns in Australia's Defence sector, these are pertinent considerations. Despite Australia's fortunate prosperity in a time of global economic difficulty there is considerable public attention on fiscal accountability. Defence spending has not aroused the same degree of attention and so TI A welcomes this Inquiry. TI Australia feels it is important that practices and institutions be developed that can improve transparency and help prevent mismanagement and corruption in the defence sector.

Corruption distorts planning processes, leading to improper or ill-suited capability design, wasting scarce resources. Inability to conceive and deliver projects can impact on operational readiness and create capability gaps that are expensive and distract resources and efforts from other projects.

TI Australia considers there is a requirement that Defence - in cooperation with the wider Defence industry - do more to guard against corruption and improve transparency. The failure of major defence documents outlining the future defence direction, including major public expenditures, to engage openly with issues of transparency and accountability is of particular concern. Whilst many of these documents engage directly with a desire to improve accountability in management,

the failure to discuss corruption in an open and frank manner reflect a lack of awareness, and potentially more dangerously, an apparent lack of interest at senior levels.

Planned Reforms

TI A welcomes the fact that the Mortimer Review, the Defence Reform Plan, the 2009 Defence White Paper, and the Defence Industry Capability Plan all address issues of transparency and accountability in defence procurement. Whilst it is commendable that Defence embraces its obligations to spend public monies in an accountable manner, these documents fall short of recognising the potential for corruption associated with defence spending. Transparency International Australia feels this is a serious short-coming. Experience demonstrates that corruption tends to flourish in situations where transparency and accountability is low. In such situations corruption or improper conduct is difficult to discuss in an open manner.²

Although Australia has consistently ranked among the least corrupt nations in Transparency International's Perception of Corruption Index, this is no cause for complacency. Recent years have witnessed major incidences of corrupt and inappropriate practice in Australia's commercial sector, indicating that Australia is by no means immune to corruption. As the Defence Department's own industry capability document points out, changes in the global defence industry sector have resulted in a consolidation world-wide.³ In this global climate where corporations are increasingly interconnected it is imperative to work with the defence industry to implement effective measures to defend against corruption. Some of the parent companies of defence industry providers have engaged in improper conduct internationally. For instance, BAE Systems has pleaded guilty to corruption in both the UK and US. In the US it was punished with one of the largest criminal fines in US history, some 400 million US dollars.⁴ BAE Systems' local subsidiary describes itself as Australia's largest defence company. Other leading defence companies operating in Australia, including Thales and Boeing, have also faced legal action due to engaging in or operating in corruption or improper conduct.

These incidences have damaged corporate reputations and necessitated expensive reforms. TI's experience underlines the reality that senior management's approach to corruption and improper conduct can make the difference between an industry sector which is insistent on open and transparent dealings or a market which is focused only on closing deals without reference to ethics or responsibility. In light of the real potential for corruption and the impending procurement cycle, now is the time for Australia's Defence establishment and Australia's Defence Industries to engage in an open discussion of the potential for corruption in the sector and develop procedures and strategies for mitigating corruption risks.

It is in this context that procurements and reforms need to be subjected to heightened scrutiny. Commendably, many of the proposed reforms are well intentioned in their desire to increase efficiency and reduce waste, miscommunication, role duplication, and poor management practices. However, without serious consideration of the potential for corruption, reforms may fail to achieve the desired effect. Certain proposed measures are particularly notable for their

² Pyman M, *Building Integrity and Countering Corruption in Defence and Security: Twenty Practical Reforms*, Transparency International UK, 2011, p24.

³ *Building Defence Capability: a Policy for a Smarter and more Agile Defence Industry Base*, p7, available at www.defence.gov.au/dmo/id/dips/dips_2010.pdf.

⁴ Campaign Against the Arms Trade: BAE - Details of the corruption investigations and plea bargains, available at: http://www.caat.org.uk/issues/bae/country_overviews.php

susceptibility to improper practices or outright abuse if implemented without strong oversight and accountability measures.

*Handbook Building Integrity and Countering Corruption in Defence and Security*⁵

TI affirms that many recommendations and policies in the recently published TI-DSP Handbook could be adopted in the Australian context in order to help ensure that Australian citizens receive the best possible outcomes from defence expenditures. The Handbook offers a comprehensive survey of how corruption can impact upon defence and security organisations and presents a coherent plan detailing how to initiate integrity building and anti-corruption programs.

In the Australian situation some of the issues and measures it recommends are more pertinent than others. Australia has developed a number of institutions and practices which have helped limit the scope of corruption, particularly within Defence. For example, Australia is not greatly troubled by issues regarding civilian control of the military. However, there is scope to consider the limited range of viewpoints that contribute to conceptualising Australia's strategic interests and the capability needs which are deemed necessary to protect Australia's national interest. Although public trust in the military is generally high, wider public engagement in Australia's strategic and defence policy is limited.

Consulting a broad range of perspectives on approaches to security is important to ensuring that any particular defence interests do not exercise inordinate influence over Australian defence and security policy. This is particularly relevant in the context of a major program of military procurement. A wider awareness and interest in Defence procurement will foster accountability and make it harder for individuals or parties who would seek to benefit from improper or corrupt behaviour. In line with the suggestions of the TI-DSP Handbook the key reforms in the Australian context are those aimed at creating or enhancing fora for discussion and consultation, as well as procedures which enhance transparency.

Developing an Anti-Corruption Plan

Although Defence has developed numerous major documents outlining its procurement plans, these have not dealt with issues of corruption in any sophisticated manner. This is a serious oversight. TI A argues that creating a dialogue about corruption is an important step in generating organisational accountability and transparency. Organisational leaders need to set the tone that corruption is unacceptable and ensure concerns can be raised in a frank and open manner. Developing and implementing a clear anti-corruption plan at the beginning of a phase of major procurement and local industry development is a pragmatic step which would help establish the organisational culture the Strategic Reform Process desires to create. Within the TI-DSP handbook the section *Leading Change* provides instruction and relevant case examples as to how an anti-corruption plan may be developed.

Establish a serious training course dedicated to integrity and corruption risk

The Mortimer Review highlighted the shortfall in adequate training and experience amongst Officers in the Capability Development Group, which is responsible for providing advice and

⁵ **Handbook Building Integrity: 20 Practical Reforms** TI UK March 2011

overseeing the planning of procurement.⁶ It recommended that this be remedied by longer posting cycles and appropriate training for such officers, or the employment of additional personnel with the requisite skills, training and experience. It is also advisable that all personnel working in such areas undertake a training course to help build integrity in procurement planning and practices and to learn about corruption risk and techniques for dealing with corruption.

Clarify the Defence Code of Ethical Conduct

The Defence Department has a suite of policies and procedures which set out the defence code of conduct. This Inquiry provides an opportunity to urge a review of policies relating to off-duty employment, outside work employment, and post-separation employment, amongst others.

Engage Defence Contractors

Involving Defence Industry and other important suppliers in discussion of corruption issues is an important step towards creating a culture of integrity and transparency. Both Defence and Industry stand to benefit from clarity about processes and requirements in competitive procurement. Contractors that feel confident of a fair process are willing to make the effort to bid, governments also benefit from value gains.

The Handbook also calls for greater engagement with Civil Society and Round table discussion of procurement programs and practices. Such steps can also be complemented with initiatives such as Independent Monitors to review and arbitrate in major procurements, as well as multiparty agreements on standards and practices. These are also practical measures aimed at enhancing transparency and accountability, which may serve the Australian situation well. While some aspects of planning have already advanced beyond initial phases it is not too late to gainfully employ these steps.

These are all valuable steps worthy of consideration with the Defence establishment, Defence Industry, and public. This Inquiry should give careful consideration of the importance of initiating practices and institutions which can help ensure that the major proposed defence reforms and procurements are conducted in an efficient manner with the best value for money outcomes for the national interest, Defence Force personnel, and Australian taxpayers.

⁶ See *Going to the Next Level: the report of the Defence Procurement and Sustainment Review*, Chapter 3, available at <http://www.minister.defence.gov.au/Fitzgibbontpl.cfm?CurrentId=8253>.