



TRANSPARENCY INTERNATIONAL AUSTRALIA

Affiliate of Transparency International, the Coalition against Corruption

PO Box 41
Blackburn South Vic 3130
AUSTRALIA
Ph/Fax: +61 2 9389 5930
www.transparency.org.au

June 9 2006

Minister for Justice and Customs
Senator the Hon Chris Ellison
Parliament House
CANBERRA ACT 2600

Dear Senator Ellison,

I read with interest and pleasure the report in the Australian Financial Review ("Minister tells top-100 to wipe out bribes") of 29 May last.

May I on behalf of Transparency International Australia (TI-Oz), the local division of the world's pre-eminent anti-corruption association, congratulate you and the Government on your efforts to clean up international trading practices. The fact that the Government is planning to boost personal and corporate penalties for bribery offences is both welcome and very important in the fight against corruption.

It is now well accepted internationally that the presence of corruption has a fatally damaging effect on efforts to deal with poverty and to assist struggling economies to grow. The attack on corruption cannot be mounted by just one country: it must be a co-ordinated international attack. Australia has reason to be proud of the fact that it has been in the forefront of this movement.

The AFR report notes that only 51 per cent of Australia's top 100 companies have policies in place to prohibit kickbacks and very few of them claim adequate systems. It is of high importance that this percentage be significantly increased. Many of the companies that have taken such action have sought advice and assistance from TIA in developing these policies.

We believe, and hope, that your announcement will encourage additional companies to instigate policies and systems that promote transparent business practices and enhance Australia's standing in the on-going monitoring of national performance by Transparency International and the Organisation for Economic Cooperation and Development (OECD).

Australia has a strong reputation for fair business dealing and was ranked ninth out of 159 countries in the 2005 Corruption Perceptions Index released by Transparency International. I do not know what position it will hold in the 2006 Index but I fear that the AWB Limited problems will in the short term have damage our international standing. However announcements such as yours will help to enhance Australia's long term reputation
(See our attached Background Brief on Role of Government.)

As I am sure you are well aware, Transparency International is a global civil society organisation with 90 locally established chapters. Its headquarters are in Berlin. It brings people together in a powerful worldwide coalition to end the devastating impact of corruption on men, women and children around the world.

We at the local Chapter of TI believe the recent 60-page OECD Working Group report on Australia gives the Federal Government a blue-print for further action in its second decade as a signatory to the 1997 OECD Convention on Combating Bribery and Corruption of Foreign Public Officials. The Report, among other things,

- Obliges all federal government departments and embassy officials to refer allegations of bribery of foreign officials direct to the Australian Federal Police (AFP)
- Recommends streamlining AFP procedures to increase the priority given to enforcement of the Act and reduce delays. It notes the lack of any prosecutions under the Australian Act over the past six years.
- Suggests Australian companies guilty of bribe-paying abroad should be disqualified from government contracting or denied assistance from federal agencies.
- Calls for the 30-fold lifting of the maximum fine on corporations upon conviction to be comparable with the Government's proposed maximum fine for collusive conduct. At present levels it would not be dissuasive.
- Says that even politically sensitive cases should no longer be first referred to the Minister
- Recommends the strengthening of Whistleblower protections at the federal level.
- Recommends further action to strengthen awareness of the laws.

We hope to see a Government response, action plan and timetable as soon as possible. TI-Australia and the OECD will continue to monitor the implementation of the Convention, including the points of commentary and the recommendations in the Working Group report.

If there is any matter on which we can be of assistance, please do not hesitate to contact us.

Yours sincerely.

Frank Costigan QC
Chairman