

Steps taken to implement and enforce the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions

AUSTRALIA

(Information as of 10 September 2008)

Date of deposit of instrument of ratification/acceptance or date of accession

Australia ratified the Convention on 18 October 1999.

Implementing legislation

Criminal Code Amendment (Bribery of Foreign Public Officials) Act 1999 (Cth) (Division 70 Criminal Code (Cth))

Date of entry into force: 17 December 1999.

Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or the Recommendations

- *Auditor-General Act 1997* (Cth)
- *Criminal Code Act 1995* (Cth) Chapter 4 and Division 400
- *Commonwealth Authorities and Companies Act 1997* (Cth)
- *Corporations Act 2001* (Cth)
- *Extradition Act 1988* (Cth)
- *Financial Management and Accountability Act 1997* (Cth)
- *Income Tax Assessment Act 1997* (Cth)
- *Mutual Assistance in Business Regulation Act 1996* (Cth)
- *Mutual Assistance in Criminal Matters Act 1987* (Cth)
- *Proceeds of Crime Act 2002* (Cth)
- *Financial Transaction Reports Act 1988* (Cth)
- *Anti-Money Laundering and Counter-Terrorism Financing Act 2007*
- *International Trade Integrity Act 2007* (Cth)

Recent developments to Australia's anti-bribery framework

The Australian Transaction Reports and Analysis Centre (AUSTRAC) has updated *Information Circular No. 42: Bribery of Foreign Public Officials* to refer to links between the foreign bribery offence and money laundering offences. The Information Circular now states that bribery may also trigger charges of money laundering under Division 400 of the *Criminal Code Act 1995*. The Information Circular is publicly available and used in training by AUSTRAC. It can be accessed at http://www.austrac.gov.au/files/aic42_bribery_foreign_public_officials.pdf.

The Australian Trade Commission (Austrade) has updated its website to ensure information about the offence of foreign bribery is included in the Legal Issues section, in addition to the Risk Management section, of the website. The Austrade website also provides advice on specific export markets and has

confirmed that information about the foreign bribery offence is included in country-specific guide to doing business.

The Australian Taxation Office has amended its website to ensure advice regarding facilitation payments refers to payments of minor value.

On 24 September 2007, Australia passed the *International Trade Integrity Act 2007*. The Act principally was to implement recommendations from the Cole *Inquiry into certain Australian companies in relation to the Iraq Oil-for-Food Programme* but also implemented three recommendations from the Working Group. The Act amended the offence of foreign bribery so that a defence is available only if a benefit offered or paid is permitted or required by the written law governing a foreign public official. The Act also clarified that any other perception that a benefit was required or permitted must be disregarded and that a charge of foreign bribery can be satisfied regardless of the results of an alleged bribe.

Countries' international commitments arising from other international instruments.

Australia signed the UN Convention against Corruption on 9 December 2003. Australia considers that it complies with all of the Convention's mandatory requirements. In accordance with Australia's domestic process for treaty ratification, the Convention was tabled before Parliament on 7 December 2004. The Joint Standing Committee on Treaties conducted a hearing into the ratification of the Convention on 7 March 2005 and issued a report in August 2005. Australia ratified the Convention on 7 December 2005.

Australia is a founding member of the Financial Action Task Force on Anti-Money Laundering and Counter Terrorist Financing (FATF). In December 2003 the Australian Government endorsed the FATF Forty Recommendations on Anti-Money Laundering and the Eight Special Recommendations on Counter-Terrorism Financing.

Australia ratified the UN Convention against Transnational Organized Crime on 27 May 2004.

Australia is an active participant in the Asia Development Bank OECD Anti-Corruption Initiative for Asia and the Pacific and endorsed the Initiative's Action plan in October 2003.

In November 2004 Australia endorsed APEC's Santiago Commitment to Fight Corruption and Ensure Transparency and Course of Action on Fighting Corruption and Ensuring Transparency.

Other information

Relevant authorities

Enforcement: Information about foreign bribery offences should be reported to the Australian Federal Police:
Postal address: GPO Box 401
CANBERRA ACT 2601
AUSTRALIA
Website: www.afp.gov.au

Policy: Attorney-General's Department
Postal address: Robert Garran Offices
National Circuit
BARTON ACT 2600
AUSTRALIA
Website: www.ag.gov.au/foreignbribery

Relevant Internet links to national implementing legislation

www.comlaw.gov.au

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation

<http://www.oecd.org/dataoecd/0/29/2378916.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions

<http://www.oecd.org/dataoecd/5/7/42/35937659.pdf>