

## ***Australian High Commission in Nairobi Marks International Anti-Corruption Day, 9 December 2011***

On 9 December 2011, the Australian High Commission in Nairobi recognised international anti-corruption day.

International Anti-Corruption Day, observed each year on 9 December, provides an opportunity to highlight the serious global problem of corruption, a problem that has devastating impacts for individuals, businesses and communities. Corruption discourages investment and distorts markets, leading to depletion of resources for important community services such as schools, hospitals and roads.

The Australian Government supports ethical business practices, and the prosecution of those who engage in illegal practices. This helps to improve the investment opportunities of Australian's overseas and is an important aspect of Australia's global reputation. The bribery of foreign public officials, whether committed in Australia or by Australians overseas, undermines the reputation of all Australian businesses and impacts negatively on business and government relations.

It is important for Australian businesses to be aware that there are consequences for Australians and Australian companies that engage in corrupt activities while overseas. Australian companies and individuals that bribe officials in foreign countries can be prosecuted both under Australian law and under the laws of foreign countries.

### **Australian Foreign Bribery Offences**

Bribing, or attempting to bribe, a foreign public official is a serious crime, subject to severe penalties. Australian companies or individuals that bribe an official in a foreign country can be prosecuted under Australian law and the laws of foreign countries.

Under Australian law, it is an offence to bribe a foreign public official even if a bribe may be seen to be customary, necessary or required in the situation, and even if there is official tolerance of the bribe.

The maximum penalty for an individual is 10 years imprisonment and/or a fine of 10,000 penalty units (that is, \$1.1 million). For a body corporate, the maximum penalty is the greater of the following three amounts: 100,000 penalty units (\$11 million); 3 times the value of the benefits obtained (if calculable); or 10% of the previous 12 month's turnover of the company concerned.

Companies should be aware that they may be liable for the actions of their employees and agents under anti-foreign bribery laws. This may include circumstances in which the bribery of foreign public officials was encouraged or tolerated or where there was a failure to create and maintain a corporate culture that required compliance with anti-foreign bribery laws.

These penalties reflect the serious nature of bribery and the detrimental effect it has on Australia's trade and reputation, as well as international governance.

## **More information**

The Attorney-General's Department provides further information on the offence of foreign bribery, including a [Foreign Bribery Information and Awareness Pack](#).

## **Recent Developments: Assessing the 'facilitation payments' defence under Australian Foreign Bribery law**

On 15 November 2011, the Australian Minister for Home Affairs, the Hon Brendan O'Connor MP, launched a public consultation paper to seek stakeholder views on possible changes to Australia's anti-foreign bribery laws. The Australian Government is committed to stamping out corruption and has a comprehensive anti-corruption system for the public and private sectors.

Even though Australia has an admirable anti-corruption record, it is important to consider possible additional measures, including assessing Australia's anti-bribery laws.

## **Consultation paper**

The Government is examining Australia's anti-bribery legislation, in accordance with Australia's commitment to combating corruption at home and abroad and our international obligations.

In particular, the Government is reviewing:

- the treatment of 'facilitation payments' under Australian law
- the factors that influence whether a benefit is 'legitimately due' to the recipient
- the current requirement to identify a particular foreign public official in order to establish an offence, and
- the role of dishonesty in domestic corruption offences.

The [public consultation paper](#) is provided by the Attorney-General's Department. Submissions are being accepted by the Attorney-General's Department until 15 December 2011 on the issues raised in the consultation paper.