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AUSTRALIA'S ANTI-CORRUPTION SYSTEM

Australia has a wide-ranging anti-corruption system. Australia signed the United Nations Convention against Corruption (UNCAC) on 9 December 2003 and ratified it on 7 December 2005. Since then Australia has implemented the mandatory requirements, and some non-mandatory requirements, prescribed in the provisions of UNCAC. The Australian Government believes UNCAC is an important step in combating corruption.

Australia's approach to fighting corruption is based on four key elements:

- constitutional safeguards
- accountability and transparency
- criminalisation of corruption, and
- international cooperation and technical assistance.

Constitutional safeguards

Australia's constitutional democracy provides the checks and balances needed to guard against corruption. The separation of powers and the rule of law within that system help to safeguard Australia from corruption and provides fundamental protections for human rights.

The important feature of the Australian Constitution is the implied freedom of political communication. This freedom prevents the making of laws which would hinder the Press in investigating and reporting on bribery and corruption, among other things.

The rule of law underpins Australia's system of government. It is the principle that subjects every person, regardless of their rank, status or office, to the same legal and judicial processes. All people and bodies, including governments, can have the lawfulness of their actions scrutinised in a court of law and can be held accountable for any activity determined to be inconsistent with the law.

Accountability and transparency

The Australian Government's approach to preventing corruption is based on the idea that no single body should be responsible for corruption. Instead, the strong constitutional

foundation is enhanced by a range of bodies and government initiatives that promote accountability and transparency. This strategy addresses corruption in both the private and public sectors.

We see this distribution of responsibility as a great strength in Australia's approach to corruption because it creates a strong system of checks and balances.

Australia has a comprehensive system of administrative law that allows the public to scrutinise government decisions. There are rights to seek review of administrative decisions in various pieces of legislation, including the Australian Constitution. Federal tribunals and other bodies have been established to deal with the review of administrative decisions and actions taken by government officials and the States and Territories have also established bodies to review decisions made by their government officials. Some of these bodies are specialised and deal with a limited range of decisions, while others have a more general jurisdiction. Each jurisdiction has an independent ombudsman.

One of Australia's key strategies in the prevention of corruption is the requirement that public officials behave appropriately and are held accountable for their actions. Each State and Territory, as well as the Australian Government, has its own public service with its own code of conduct.

There is a wide range of bodies and initiatives to promote accountability and transparency. This is a key element in Australia's anti-corruption strategy.

Criminalisation of corruption

Australia has a strong legislative regime criminalising corrupt behaviour. Australia also has strategies in place to ensure that these laws are understood and enforced.

Corruption offences cover a very broad range of crimes, including bribery, embezzlement, nepotism and extortion. For this reason Australia's corruption offences are not contained in any single Act of Parliament. Instead, different types of corruption are dealt with in different pieces of State / Territory and federal legislation.

Responsibility for investigating corruption offences is divided between State and Territory police forces.

Once an investigating body completes an investigation of a corruption offence it refers the case to the relevant Director of Public

Prosecutions (DPP). The DPP then makes an independent assessment on whether to prosecute the case.

An effective criminal justice system must be responsive to changing circumstances and be receptive to strategies for improvement. Australia's experience with foreign bribery provides a good example.

Ensuring there are comprehensive and appropriate laws against corruption, and that the laws are effectively enforced, is an ongoing challenge.

International cooperation and technical assistance

Corruption is a form of transnational crime that has no respect for, or loyalty to, nations, boundaries or sovereignty and is a critical restraint on development that affects countries throughout the Asia - Pacific region. For these reasons, Australia recognises that corruption cannot be dealt with in isolation - a collaborative approach to developing domestic and international techniques to combat corruption is required.

International legal cooperation ensures that corrupt individuals will not be able to exploit international boundaries to avoid prosecution.

Australia is working to improve its mutual assistance and extradition relationships with other countries in the Asia - Pacific region. The Pacific Legal Knowledge Program is one of the ways Australia is improving its relationships. The Program involves the presentation of a series of workshops to law and justice sector officers from 14 Pacific Island Forum countries, with a focus on both building capacity and developing regional cooperative networks.

Australia recognises that corruption is not just one country's problem and, in recognition of this, is an active participant in international initiatives.

Australia is committed to sharing technical expertise and improving its legal cooperation relationships with other countries to strengthen the fight against corruption, both in Australia and throughout the Asia - Pacific region.