



NEW ZEALAND EMBASSY

TE AKA AORERE
BANGKOK

สถานเอกอัครราชทูตนิวซีแลนด์ประจำประเทศไทย

18 September 2007

Mr Cris Dunning
The New Zealand-Thailand Chamber of Commerce
9th Floor ITF Tower
140/11 Silom Road
Bangkok 10500

Dear Cris

New Zealand is a party to the OECD anti-bribery convention and a signatory to the United Nations Convention against Corruption. Under those treaties New Zealand is obliged to tackle corruption and the bribery of foreign officials by New Zealanders or New Zealand companies.

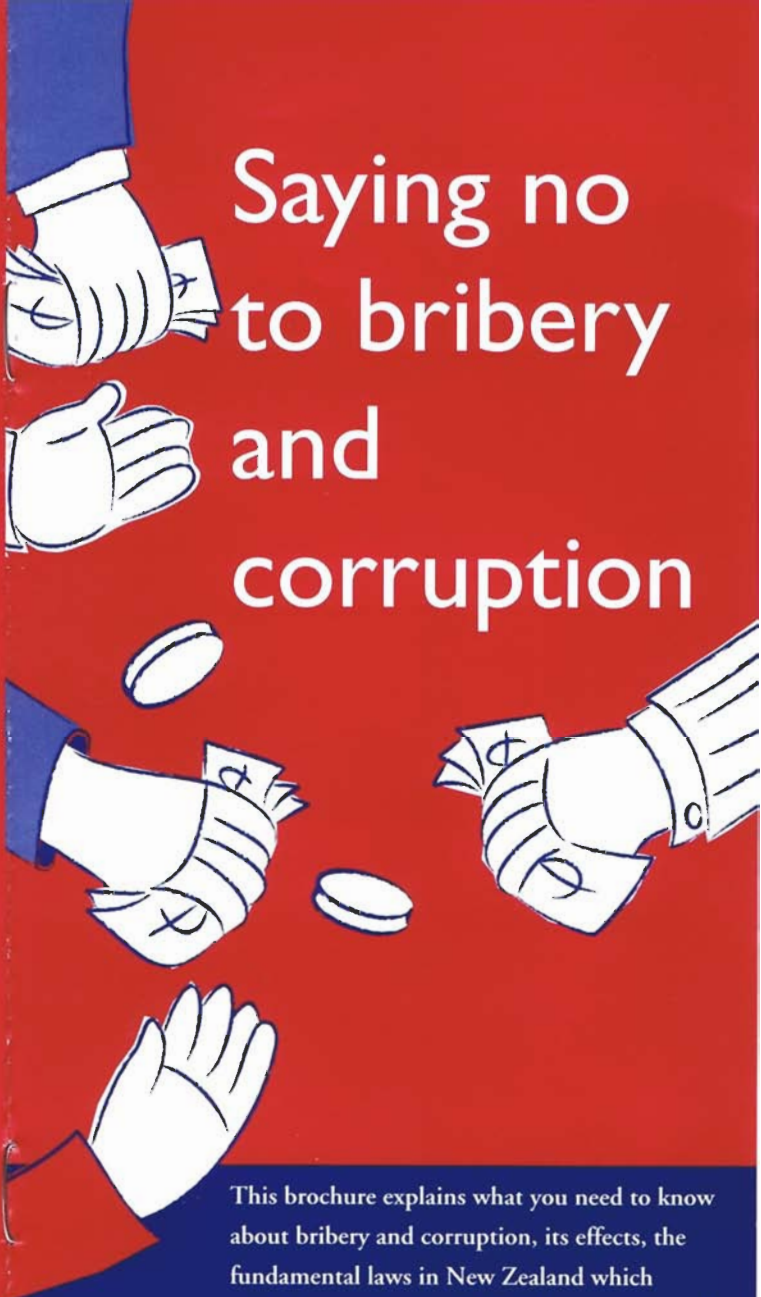
As part of New Zealand's efforts to tackle bribery, the Ministry of Justice has launched a campaign called "Saying No to Bribery and Corruption". The campaign comprises a "Bribery and Corruption" website at: www.justice.govt.nz/bribery-corruption/index.html and a pamphlet that has been distributed to New Zealand business and government departments.

The pamphlet and the website set out New Zealand's international commitments to tackle corruption and bribery. New Zealand law in this regard applies to New Zealand citizens living and working abroad.

You might wish to draw this matter to the attention of your members. Copies of the Ministry of Justice's pamphlet are enclosed.

Yours sincerely

Carol Douglass
Deputy Head of Mission

An illustration on a red background shows several hands in white and blue sleeves. Some hands are holding stacks of banknotes, while others are dropping coins. The scene depicts the exchange of money, symbolizing bribery and corruption.

Saying no to bribery and corruption

This brochure explains what you need to know about bribery and corruption, its effects, the fundamental laws in New Zealand which prohibit or otherwise deal with corruption and what businesses can do to combat corruption.

Corp 180
May 2007



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What is bribery and corruption?

Bribery is a specific offence in New Zealand, while corruption is a more generic problem which may encompass a number of offences such as fraud, abuse of one's position of power and money laundering. They are problems not just at home in New Zealand but internationally and affect business, government and society in general.

New Zealand is strongly committed to fighting bribery and corruption both at home and abroad by establishing and maintaining a transparent and corrupt-free environment both for businesses to conduct their business in and outside New Zealand and for New Zealanders in general.

What are the effects of bribery and corruption?

With the increasing globalisation of trade, businesses are faced with complex trading environments which are further complicated by the potential exposure to corrupt practices.

Activities involving bribery and corruption have wide social costs, not just costs to the state. In general, bribery and corruption undermine business and strain democratic systems and values. In particular:

- it inhibits the free flow of goods and services across borders and in doing so distorts international trade processes;
- it adversely affects economic growth (particularly in vulnerable developing countries) and adds additional costs for business without necessarily increasing revenue; and
- it denies tax revenue to the benefit of the wider society.

International commitments

New Zealand, along with many other countries, has signed the OECD Convention Against Bribery of Foreign Public Officials in International Business Transactions as well as the UN Convention Against Corruption. Both Conventions require member countries to implement strong measures to combat bribery and corruption. New Zealand became a party to the OECD Convention in 2001 and signed the UN Convention in 2003.

New Zealand laws to combat bribery and corruption

The Crimes Act 1961 makes it an offence to corruptly accept or obtain a bribe for something done or not done in an official capacity. Bribes may involve

money, valuable consideration, employment, or any other benefit. It is an offence to bribe Judges, Government Ministers, Members of Parliament, police officers and other public officials including foreign public officials. It is also an offence to corruptly use official information. Penalties for bribery may include imprisonment for up to 14 years.

In a case where someone from New Zealand bribes an official in another country, that person may be prosecuted in New Zealand. This is because these offences are subject to extraterritorial jurisdiction. Bribery of foreign public officials in such cases carries a penalty of imprisonment for up to 7 years.

The Secret Commissions Act 1910 creates bribery offences in the private sector. The Act criminalises the bribing of an agent (such as a real estate agent, securities broker, lawyers etc) to act in a certain way in respect of their client's affairs or business. It also creates other offences relating to a client's business or affairs.

New Zealand law contains many other offences which the public would consider corruption-style crimes. These include money laundering (under the Crimes Act), fraud (under the Serious Fraud Office Act 1990) as well as civil offences under the Securities Market Act 1978 relating to insider trading and market manipulation.

What are some of the warning signs of corruption?

Some of the warning signs that your business has been exposed to corrupt activity include:

- abnormally high profit margins;
- business arrangements which serve no apparent commercial purpose;
- unjustified requests for reimbursement for undefined costs relating to goods or services;
- unusually high and unjustified commission payments, and apparent 'special' treatment.

EXAMPLES

BRIBERY:

- offering a customs officer a payment for approving the import of a product produced by your company.
- a company in New Zealand paying a public official in another country a sum of money to fast-track an application to launch a product in another country.

CORRUPTION:

- a construction company (X Ltd) wants to bid on a contract for a building. A competing foreign company (Y Ltd) contacts X Ltd suggesting that the companies 'collaborate'. An agreement is made that X Ltd makes a bogus bid so that company Y Ltd is awarded the contract. Subsequently, Y Ltd pays X Ltd a percentage of the contract price awarded to Y Ltd.

What can your business do to minimise the risk of corruption?

New Zealand businesses, both at home and abroad, should implement anti-corruption policies and practices, including anti-corruption guidelines, training, internal audit procedures and reporting requirements. The challenge for businesses is to maintain, review and develop these measures to respond to changing circumstances. A number of the major New Zealand businesses operating internationally have developed measures for fighting corruption.

Some specific measures your business could implement may include:

- establishing an anti-corruption policy;
- ensuring all employees are familiar with relevant bribery and corruption laws, their roles in the business, their responsibilities, and the appropriate response to any suspicion of corrupt activity;
- ensuring agents and partners who are representing or purporting to represent your business have adequate and valid credentials for the activities being undertaken;
- establishing monitoring and reporting requirements for agents and partners representing your business;
- establishing a clear and accessible system for the reporting of any suspicious behaviour.

What protections are there for people who suspect corruption and want to report it?

The law recognises the difficult position of a person who suspects that certain activities are corrupt but are concerned that as an employee they will suffer repercussions for disclosing information. The Protected Disclosures Act 2000 protects employees who make protected disclosures from dismissal and/or harassment as well as civil and criminal proceedings.

How to make a complaint

Any suspicion of a person or business being involved in bribery should be reported to either the New Zealand Police or the Serious Fraud Office.

All international complaints should be made to the New Zealand Police or Serious Fraud Office, or the local New Zealand Embassy or High Commission.

Contact details

NEW ZEALAND POLICE

Office of the Commissioner,
PO Box 3017,
Wellington, New Zealand
Tel: 00 64 4 474 9499
Fax: 00 64 4 498 7400

SERIOUS FRAUD OFFICE

The Director,
Duthie Whyte Building,
Cnr Mayoral & Wakefield Sts,
Auckland, New Zealand
Tel: 00 64 27 272 1395 or
0800 109 800 Ext. 863
Email: complaints_officer@sfo.govt.nz

Independent investigative bodies

THE OFFICE OF THE OMBUDSMEN IN NEW ZEALAND

Complaints: complaint@ombudsmen.govt.nz
General information/inquiries: office@ombudsmen.govt.nz

WELLINGTON

Level 14, 70 The Terrace, PO Box 10152 Tel: +64 4 473-9533

AUCKLAND

Level 10, 55-65 Shortland St, PO Box 1960 Tel: +64 9 379-6102

CHRISTCHURCH

Level 6, 764 Colombo Street, Cnr Colombo & Armagh Streets,
PO Box 13-482 Tel: +64 3 366-8556

Would you like to know more?

Please visit the Ministry of Justice website at www.justice.govt.nz and click on 'bribery and corruption' for further information about New Zealand's laws. This website also includes links to other government agencies involved in combating bribery and corruption.

OTHER NATIONAL AGENCIES

Ministry of Foreign Affairs & Trade	www.mfat.govt.nz
New Zealand Police	www.police.govt.nz
Serious Fraud Office	www.sfo.govt.nz
The Office of the Ombudsmen	www.ombudsmen.govt.nz
State Services Commission	www.ssc.govt.nz
Audit New Zealand	www.auditnz.govt.nz
The Office of the Controller & Auditor-General	www.oag.govt.nz

INTERNATIONAL AGENCIES

The Organisation for Economic Co-operation and Development	www.oecd.org
The United Nations	www.unodc.org
Transparency International	www.transparency.org