



## Compliance with Antibribery Laws

Policy No. 60.07

April 1, 2013

### PURPOSE

To ensure strict observance of all laws prohibiting bribery of government representatives in any capacity.

### SCOPE

All locations

### POLICY

The company strictly prohibits bribery – the offer, directly or through a relative or another person, of money or other things of value to representatives of a governing authority to improperly influence official action.

Many countries, including the United States, the United Kingdom and Australia have passed legislation criminalizing bribery of government officials. The sanctions for violating these laws can be severe, including significant individual and corporate fines, and even imprisonment.

The U.S. Foreign Corrupt Practices Act of 1977 (FCPA) consists of two provisions. The anti-bribery provision makes it a criminal offense to bribe non-U.S. governmental or political officials to obtain or retain business. Payments to non-U.S. officials for routine governmental actions may be made where permitted under the law. The FCPA also requires that publicly held companies like Tronox maintain and keep records and accounts that fairly and accurately present their activities and transactions. Other countries have similar laws.

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The key offences of the U.K. Anti-bribery law consist of:

- active bribery
- passive bribery
- bribing a foreign public official
- a commercial organization failing to prevent active bribery by its employees, agents or subsidiaries.

Apart from the "commercial organization" offence noted above, all the offences apply equally to the public, private & third (i.e. charity) sector.

The law applies to bribes in the UK. The law also applies to bribes abroad if the person is resident or incorporated in the UK. It applies to the conduct of overseas agents and employees if the corporation is registered in or trades in the UK. The maximum penalty is 10 years imprisonment, and/or an unlimited fine.

It is company policy to present financial statements in accordance with generally accepted accounting principles. No secret or unrecorded fund may be established or maintained, and no false entries may be made on company books or records.

The Australian Commonwealth Criminal Code makes it an offence to bribe a foreign public official<sup>1</sup>. A person is guilty of this offence if:

- the person provides a benefit (or causes a benefit to be provided, offers or promises a benefit, or causes an offer of, or promises the provision of, a benefit to be made) to a person
- the benefit is not legitimately due to that other person, and
- this was done with the intention of influencing a foreign public official in the exercise of the official's duties as a foreign public official in order to obtain or retain business, or obtain or retain a business advantage that is not legitimately due to the recipient (or intended recipient) of the benefit.

Importantly, the benefit does not need to be made directly to the foreign public official.

The maximum penalty for an individual is 10 years' imprisonment, or a fine of AUD1.7 million.<sup>2</sup> The maximum penalty for a company is the greatest of:

<sup>1</sup> This is given force under the *Criminal Code Act 1995* (Cth).

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- AUD17 million
- if a court can determine the value of the benefit obtained – 3 times the value of that benefit, or
- if a court cannot determine the value of the benefit obtained – 10% of the annual turnover of the corporate group.

## RESPONSIBILITIES

1. Employees are expected to comply with the FCPA and other applicable antibribery laws, and should seek guidance from the law department when questions or concerns arise.
2. In coordination with the law department, the corporate compliance officer is responsible for monitoring, training and advising company personnel on compliance with FCPA and related antibribery laws and regulations.

## CONSEQUENCES

A breach of this policy may result in disciplinary action up to and including termination of employment, in according to local policies.

<sup>2</sup> The penalty is specified as 10,000 penalty units. As at 7 March 2013, a penalty unit is \$170 (section 4AA of the *Crimes Act 1914* (Cth)).

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