

31 May 2013

Hon Murray McCully

Minister of Foreign Affairs
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Private Bag 18 888
Parliament Buildings
Wellington 6160

Hon Judith Collins

Minister of Justice
Freepost Parliament
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Hon Tim Groser

Minister of Trade
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Dear Ministers

New Zealand ratification of UN Convention Against Corruption – an open letter

We are writing on behalf of Transparency International New Zealand Inc (TINZ) to urge you to take steps to expedite New Zealand's ratification of the UN Convention Against Corruption (UNCAC).

It is TINZ's firm belief that New Zealand's ratification of this important Convention is fundamental to the preservation and promotion of New Zealand's "clean" international reputation and to assist New Zealand's investment and business opportunities.

TINZ understands that relatively little is necessary for New Zealand to be in a position to ratify UNCAC. New Zealand signed the Convention in 2003 when it was initially opened for signature, and it was referred to Select Committee in August 2009. The National Interest Analysis undertaken indicated that New Zealand complied already with most of UNCAC's obligations, and that only minor legislative adjustments were necessary.

Last year, following media queries raised about why New Zealand had still not yet ratified, the Select Committee reported that the Government was "still considering" the Convention. The Ministry of Justice's letter dated 30 April 2012 appended to that report outlined potential obstacles to ratification by the end of 2012. These were:

1. Increasing the penalties for private sector corruption in the Secret Commissions Act. These are currently clearly inadequate to discourage private sector bribery - a fine of only \$2,000 for a corporation, \$1,000 for an individual or imprisonment of up to 2 years.
2. Amendments to the Income Tax Act 2007 to ensure consistency with criminal legislation in relation to tax deductibility.

3. The broadening of the definition of foreign bribery in the Crimes Act to include international aid, the solicitation and acceptance of bribes by foreign public officials, and trading in influence.
4. Amendment to the Mutual Assistance in Criminal Matters Act 1992 to enable New Zealand to provide legal assistance to other countries in relation to offences relating to UNCAC.
5. Amendments so as to allow for enhanced due diligence relating to domestic politically exposed persons. The Ministry of Justice's letter of April 2012 indicated they were then analysing how this might be done so as to meet UNCAC's Article 52 requirement.

TINZ does not consider that any of the above matters poses a true obstacle to New Zealand ratifying UNCAC. Instead, what is needed is for this to be made a priority for the Government, and for New Zealand.

We believe that there are good reasons to make this a priority.

First, one of New Zealand's real assets is its "clean" and ethical international image. Ratification of UNCAC will only bolster that, and show that New Zealand takes seriously being a good, ethical player on the international stage.

On the other hand, New Zealand's continuing failure to ratify so can only raise question marks, when most of New Zealand's key trading partners (including Australia, the USA and China) have ratified the Convention. We expect that the lack of ratification may be commented on in the forthcoming Phase Three evaluation report on New Zealand of the OECD Working Group on Bribery due out later this year.

Second, we believe that the amendments listed above are all required in any event in order to improve New Zealand's legislative framework to prevent bribery and corruption, both domestically and overseas. Given developments overseas such as the UK Bribery Act 2010, New Zealand needs to ensure that its laws send the right signals and have the necessary elements in place to show New Zealanders and New Zealand companies that bribery is not acceptable either at home or overseas.

Third, there are strong economic reasons why it is in New Zealand's best interests to ratify UNCAC and have strong anti-bribery legislation. With Asia now this country's number one trading region for exports, imports, and tourism and its growing importance to New Zealand's exchange rate and financial transactions, there are challenges to face when trading with countries in this and other regions where corrupt practices are rife. On the other hand, there are opportunities for us to increase business returns and open market access because of our strong reputation for integrity – for example, China's new President has made the reduction of corruption a priority. TINZ believes that enhancing and promoting New Zealand's reputation for business integrity, including through ratification of UNCAC, will result in more growth through better market access, lower cost of doing business, higher returns on investment, and lower debt costs amongst other things. Our neighbours across the water, Australia, have already recognised this, with their Foreign Affairs and Trade department website noting that the Australian government's support of ethical business practice and the prosecution of those involved in corruption helps to improve Australia's investment opportunities overseas and is an important aspect of Australia's global reputation - <http://www.dfat.gov.au/issues/measures-against-corruption.html>.

New Zealand is no different. It would be advantageous for New Zealand to be able to display prominently on its NZTE, MFAT and other websites promoting New Zealand to the world a statement that New Zealand has ratified UNCAC, as well as information about its number one ranking on the TI Corruption Perceptions Index. As Business New Zealand's Phil O'Reilly continues to state, "New Zealand's high trust public sector is its [and its trading businesses'] greatest competitive advantage".

Lastly, there is the question of New Zealand being rated and compared with other contenders when countries are finalising votes for positions on the UN Security Council next year. New Zealand having ratified UNCAC would stand to New Zealand's benefit in that context.

TINZ therefore calls on you to support the speedy ratification of the UN Convention Against Corruption, and looks forward to seeing New Zealand take this important and positive step in the very near future.

We would be happy to meet with you to discuss any aspect of this letter or related issues.

Yours sincerely

Suzanne Snively
Executive Chairperson TINZ

Fiona Tregonning
TINZ Director

Cc: John Hayes, Chair Foreign Affairs Select Committee