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NATIONAL MANAGER ORGANISED CRIME AND CYBER

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2 March 2017

Ms Sophie Dunstone
Committee Secretary
Parliamentary Joint Committee on the
Australian Commission for Law Enforcement Integrity
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Ms Dunstone,

Inquiry into the integrity of Australia's border arrangements

I write in response to your letter of 13 February 2017 to Australian Federal Police (AFP) Commissioner Colvin in relation to the Inquiry into the integrity of Australia's border arrangements (the Inquiry) being conducted by the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity. I am responding on behalf of Commissioner Colvin as the matters referred to in your letter come under the Organised Crime & Cyber portfolio.

The AFP appreciates the opportunity to respond to the claims made by the Maritime Union of Australia (MUA) in submissions to the Inquiry. The submission by the MUA referenced a media article, published in the Sydney Morning Herald dated 8 December 2015, that reflected adversely on the AFP – specifically that the AFP 'refused to investigate' a referral of alleged foreign bribery committed by an international shipping company.

In response to the claims of the MUA, the AFP provides the following:

On 7 December 2015 the National Coordinator of the International Transport Workers Federation (ITWF) lodged a referral through the AFP 'Report a Crime' website alleging a shipping company working for Alcoa of Australia (AoA) was engaged in foreign bribery. The ITWF provided ship documentation including the crew list and the Captain's Statement of Account to support the referral.

An AFP evaluation of the ITWF referral revealed that in October 2015 AoA sought and obtained a temporary licence under Australian coastal trading legislation for 17 voyages using a foreign flagged vessel to transport alumina between Western Australia and Victoria. AoA entered into a contract with a German based third party shipping agent, Oldendorff Carriers GmbH & Co. KG (Oldendorff) to provide these shipping services. Oldendorff in turn entered into contracts with various foreign shipping companies to provide the vessels and crew.

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Oldendorff engaged MTM Ship Management Pty Ltd to transport cargo on behalf of AoA using the Motor Vessel (MV) Strategic Alliance. The MV Strategic Alliance is a Singaporean flagged, US owned bulk carrier and as at November 2015 was operated by a Filipino master and crew.

The AFP further identified AoA did not have a contractual relationship with the owner of vessels supplied by Oldendorff, nor was AoA responsible for the selection of vessels for any particular voyage. This was the first and only occasion the MV Strategic Alliance had been used in sub-contracting arrangements on behalf of AoA.

The MV Strategic Alliance docked at the Port of Portland in Victoria on 4 December 2015 before departing Australian waters on 9 December 2015. Whilst docked in Portland members of the ITWF boarded the vessel to check the wages and conditions of the crew. During this inspection they located the Captain's Statement of Account which contained references to 'under the table payments' relating to immigration and customs activities in Nigeria, Argentina and Russia between December 2014 and April 2015 (no further detail provided). These payments totalled USD6,300.

The evaluation determined that between December 2014 and April 2015, the time the alleged payments were made, the MV Strategic Alliance was manned by a Captain and crew from Myanmar, being a different crew to that operating the vessel when it docked in Portland in December 2015. There was no information identified to indicate the alleged payments were connected to the transportation of cargo in Australian waters or destined for Australian ports.

The AFP were not able to locate any evidence to indicate the suspect payments occurred within Australia, nor was any information available that identified Australian individuals or companies being involved in the allegations. It was established therefore the AFP had no jurisdiction to investigate the allegations as there was no nexus to Australia to invoke extraterritorial jurisdiction. As such the AFP finalised the evaluation of the ITWF referral on 26 February 2016. The AFP did however provide information relating to these allegations to Federal Bureau of Investigation (FBI).

On 15 February 2016 the AFP provided written advice to the National Coordinator ITWF stating:

'The AFP has assessed the available information against provisions of Section 70.2 of the *Criminal Code Act 1995* (Cth) and determined that the allegations fall outside of Australia's jurisdiction to investigate and prosecute. The information will however be provided to relevant authorities for their attention and any action deemed appropriate'.

The AFP is aware material relating to these allegations was subject of media reporting.

Should you require any further information or clarity on the material provided on behalf of the AFP, please do not hesitate to contact me

Yours sincerely,

Commander Peter Crozier
Performing the duties of National Manager Organised Crime and Cyber

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