

Agreement on the operations and status of personnel deployed to Solomon Islands

Introduction

- 4.1 The purpose of the *Agreement, done at Townsville on 24 July 2003, between Solomon Islands, Australia, New Zealand, Fiji, Papua New Guinea, Samoa and Tonga concerning the operations and status of the Police and Armed Forces and Other Personnel deployed to Solomon Islands to assist in the restoration of law and order and security* is to provide part of the necessary framework at international law for Australia and other Assisting Countries to deliver assistance to Solomon Islands and restore law and order, security and good governance and provide nation-building assistance.

Background

- 4.2 The Agreement is one of three key documents that provide the legal authority for the operation of the Visiting Contingent, known as the Regional Assistance Mission in Solomon Islands (RAMSI). The first document is the letter dated 4 July 2003 to Prime Minister John Howard from the Solomon Islands Governor-General, His Excellency Father Sir John Ini Lapli, requesting assistance, on the advice of the Solomon Islands Cabinet. The other is the *Facilitation of International Assistance Act 2003* (SI) passed by the Solomon Islands Parliament,

which provides the necessary authority in Solomon Islands domestic law for the activities of RAMSI. Mr William Campbell from the Attorney-General's Department advised the Treaties Committee that the Solomon Islands legislation entered into force on 22 July 2003 and that its terms predominately mirror the provisions of the Agreement.¹

- 4.3 Mr Campbell further advised that the Agreement, and the other two documents:

have provided a satisfactory basis to this date for the operations of the regional assistance mission since it commenced its operations on 24 July 2003.²

Features of the Agreement

- 4.4 The multilateral Agreement enables Assisting Countries to contribute to the Visiting Contingent of police forces, armed forces and other personnel to Solomon Islands. The Agreement also governs the relationship between the Solomon Islands Government and the Visiting Contingent, the relationship between Assisting Countries and their members of the Visiting Contingent, and establishes the structure and powers afforded to the members of the Visiting Contingent.³
- 4.5 Mr Campbell informed the Committee that some of the provisions of the Agreement are similar to other treaties such as those concerning the visiting contingents in Bougainville, while others relate to the particular circumstances and assistance provided in Solomon Islands.⁴ For example, some provisions relate to the structure, command and powers of the Visiting Contingent, with its military, police and civilian components, while others concern certain differences in the claims provisions.⁵
- 4.6 The NIA states that the Agreement imposes certain obligations on Assisting Countries, such as:

1 Mr William Campbell, *Transcript of Evidence*, 15 September 2003, p. 6.

2 Mr William Campbell, *Transcript of Evidence*, 15 September 2003, p. 7.

3 Mr William Campbell, *Transcript of Evidence*, 15 September 2003, pp. 6-7.

4 Mr William Campbell, *Transcript of Evidence*, 15 September 2003, p. 7 and p. 8.

5 Mr William Campbell, *Transcript of Evidence*, 15 September 2003, p. 8.

- consultation with the Government of Solomon Islands over the period of time the Visiting Contingent will be deployed within Solomon Islands
 - consultation with Solomon Islands and other Assisting Countries if a significant number of members of the Visiting Contingent are going to be withdrawn from Solomon Islands
 - compliance within three months with any written request from the Government of Solomon Islands to withdraw personnel from Solomon Islands.⁶
- 4.7 Article 24.4 of the Agreement provides that it will expire on the complete withdrawal of the Visiting Contingent from Solomon Islands.

The Visiting Contingent

- 4.8 The Committee was interested in the expected duration of Australia's involvement in RAMSI. Mr Graham Fletcher, from the Solomon Islands Task Force, DFAT, advised that the Australian Defence Force will be the first part of the Australian contingent to leave Solomon Islands in the coming months and that:

we are not setting specific deadlines because it is results based – we will not leave until the job is done ... The policing component will be there longer. We want to leave police support there until we are confident that the Royal Solomon Islands Police Force is a credible, effective, sustainable force ... The civilian AusAID type development assistance will be much longer term. We have not put a time line on that but we expect about 10 years of substantial assistance will be required to leave the country in good shape.⁷

- 4.9 Mr Mark Walters from the Australian Federal Police (AFP) advised the Committee that at the time of the public hearing there were 134 AFP and 54 Australian Protective Service officers in Solomon Islands.⁸

6 National Interest Analysis (NIA), para. 13.

7 Mr Graham Fletcher, *Transcript of Evidence*, 15 September 2003, p. 9.

8 Mr William Campbell, *Transcript of Evidence*, 15 September 2003, p. 11.

- 4.10 Mr Walters reported that a gun amnesty and operation to seize weapons and ammunition had been successful. As at 15 September 2003, 3 627 weapons had been seized by or surrendered to the participating police force, and of which, 878 had been destroyed.⁹ Mr Walters advised that the type of weapons seized had been quite diverse, ranging from homemade weapons to high-calibre weapons.

Consultation

- 4.11 Mr Campbell advised the Committee that the Agreement had been prepared by the Attorney-General's Department, in consultation with the DFAT, the AFP and the Australian Defence Force. Furthermore, the Attorney-General's Department had:

had a number of discussions, both over the telephone and in person, with the Attorney-General for the Solomon Islands and we also had a good deal of discussion, both over the phone and through email, with New Zealand over the content of the agreement. The agreement was circulated, I believe, through posts to other countries prior to its signature, so they had the opportunity to make comment on it.¹⁰

- 4.12 Annexure 1 of the NIA states that it was not possible to consult extensively within Australia prior to the Agreement's entry into force. The Committee was advised however that the departments of the State and Territory Premiers and Chief Ministers had been notified by DFAT according to the Commonwealth-State-Territory Committee on Treaties process.¹¹

Costs

- 4.13 The NIA states that Article 16.4 of the Agreement establishes that Assisting Countries are responsible for the salary, allowances, removal expenses, costs of transport to Solomon Islands, and medical and dental expenses of members of the Visiting Contingent.¹²

9 Mr Mark Walters, *Transcript of Evidence*, 15 September 2003, p. 16.

10 Mr William Campbell, *Transcript of Evidence*, 15 September 2003, p. 8.

11 NIA Annexure 1 - Consultations.

12 NIA, para. 25.

Entry into force

- 4.14 At the time of the public hearing, 16 Pacific states had signed the Agreement, which had entered into force for six states, namely Australia, Fiji, Kiribati, New Zealand, Solomon Islands and Tonga.¹³ The other 14 states had not issued the required notification for entry into force.
- 4.15 The NIA states that no legislation was required to implement Australia's obligations under the Agreement.¹⁴ The NIA also notes that amendments being introduced to the *Crimes (Overseas) Act 1964* will, among other matters, ensure that Australia is able to exercise criminal jurisdiction over its members of the Visiting Contingent.¹⁵

National Interest Exception provision

- 4.16 Generally, after treaties have been signed for Australia they are tabled in both Houses of Parliament for at least 15 sitting days prior to binding treaty action being taken. During this period the Committee normally reviews the proposed treaty action and presents its conclusions and recommendations to the Parliament.
- 4.17 Where it is in Australia's national interest to proceed with an urgent treaty action, however, the 15 or 20 sitting day tabling requirement may be varied or waived. The National Interest Exception provision was invoked in relation to the Agreement concerning the Regional Assistance Mission in Solomon Islands.
- 4.18 The Minister for Foreign Affairs and Trade, the Hon Alexander Downer, MP, advised the Committee of the urgent need for the Agreement to be in force to enable Australia to deploy its members of RAMSI on 24 July 2003. The Agreement was subsequently tabled on 9 September 2003.¹⁶

13 Mr Damien White, *Transcript of Evidence*, 15 September 2003, p. 7 and p. 8.

14 NIA, para. 23.

15 NIA, para. 23.

16 *Senate Journal*, 9 September 2003, p. 2309 and *House of Representatives Votes and Proceedings*, 9 September 2003, p. 1142.

Conclusions

- 4.19 The Committee supports the Agreement, which provides part of the framework at international law for Australia and other Assisting Countries to deliver assistance to Solomon Islands.
- 4.20 The Committee acknowledges the urgent need for the Agreement to enter into force on or before 24 July 2003, when the RAMSI was deployed, and prior to the treaty action being tabled in Parliament and parliamentary consideration of the Agreement.