

Security aspects of the bilateral relationship

- 3.1 Of all the important interests that Australia and Indonesia share, none is more significant than their shared interest in security, a reality brought home in one resounding blow by the Bali bombing in October 2002. This shared interest alone is a compelling reason for being good neighbours. Notwithstanding this, it needs to be noted that it is quite clear that there are factors such as events in East Timor which play as heavily on the minds of Indonesia when contemplating the bilateral relationship as Bali does for both of us, as reflected in an observation made to the Committee during its recent visit to Jakarta by a senior official. The official advised the Committee that in a recent written round of a recruitment process, participated in by 6,800 applicants, in every question relating to foreign policy, the US and Australia were most disliked.
- 3.2 Indonesia's geographic position in relation to Australia, its size and population make it of immense strategic importance to Australia. In terms of trade alone, according to the Australian Defence Association (ADA), 'more than half Australia's economy is directly or indirectly dependent upon secure shipping. Much of Australia's trade and much of the trade of Australia's major trading partners in north east Asia passes through the Indonesian straits of Lombok, Ombai and Wetar.¹ Secure transit through these waters is vital to Australia's economy.

1 Submission No 9, p 3

- 3.3 Indonesia's external and internal stability has the potential to impact profoundly on the region and on Australia. While Indonesia itself may focus north, it is also in its interests to have to its south a friendly neighbour to which it can look for support and cooperation.
- 3.4 Indonesia's strategic importance is reflected in the network of relationships, many of them overlapping, between defence forces, law enforcement and intelligence agencies, immigration officials and customs officers of the two countries. Our bilateral engagement in all of these dimensions is supported by co-participation in multilateral agencies.
- 3.5 The cooperation between Australia and Indonesia has been formalised by a raft of Memoranda of Understanding including:
- *Memorandum of Understanding between Australia's AUSTRAC and Indonesia's financial intelligence unit, the PPATK on the exchange of financial intelligence*, signed February 2004;
 - *Memorandum of Understanding on Combating International Terrorism*, signed in February 2002 and later extended to February 2004;
 - *Memorandum of Understanding on Legal Cooperation*, signed in October 2000; and
 - *Memorandum of Understanding on Combating Transnational Crime and Developing Police Cooperation*, signed in June 2002.
- 3.6 Australia and Indonesia have extended their bilateral cooperation to jointly promote cooperation in the region. In recent years, Indonesia and Australia have co-hosted a number of regional conferences including:
- *Regional Ministerial Meeting on Counter Terrorism, February 2004* in Bali;
 - *Regional Conference on Combating Money Laundering and Terrorist Financing, December 2002* in Bali; and
 - *Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime, February 2002* in Bali.
- 3.7 The joint hosting of these conferences is a clear indication of a strong sense of shared purpose. It also sends a strong signal to the region of the strength of the bilateral relationship.
- 3.8 Australia has a whole-of-government approach to two of the areas that have dominated the security relationship in recent years, 'counter terrorism' and 'people smuggling, people trafficking and related transnational crime'. At the operational level, much of the engagement in the security relationship takes place at the agency

level. To reflect this, the Committee has presented an agency based account of the security relationship.

Defence

- 3.9 While much of the focus of the two countries' engagement since 11 September 2001, and even more so since the Bali bombing, has been on counterterrorism, the security relationship is significantly broader than that.
- 3.10 At its centre is the defence relationship. The defence relationship is an extremely important aspect of the bilateral relationship providing as it does, a framework for engagement with the Indonesian military, described in the submission from the Department of Defence, as 'the country's predominant national institution'.² A key aim of the defence relationship from Australia's point of view is to encourage 'a stable long-term future for Indonesia'.³
- 3.11 In evidence before the Sub-Committee, the Australia Defence Association (ADA) stressed the importance of Indonesia to Australia.
- In strategic terms, Indonesia is part of Australia's shield and our highway to the world. Fundamentally, Indonesia's external security is inseparable from Australia's and this reality should determine Australia's security relationship with Indonesia. In effect, Australia has the choice of treating Indonesia as a likely adversary or potential ally. In the Association's view, this choice is no choice at all. Policy must be directed towards ensuring that Indonesia remains an ally based upon a recognition of shared security interests.⁴
- 3.12 According to the submission from the Department of Defence, the focus in the relationship is on building a relationship in such a way as to facilitate cooperation on issues as they arise. To this end, high level visits and strategic level dialogue is encouraged as is personal contact and professional interaction at all levels.⁵
- 3.13 Based on a strong sense of shared interest, the defence relationship has, according to Defence, delivered significant benefits for Australia 'particularly in the areas of operational access, maritime surveillance,

2 Submission No 92, p 10

3 Submission No 92, p 5

4 Submission No 9, p 7

5 Submission No 92, p 6

cooperation on evacuation planning, and access to decision-makers at critical times.’⁶

- 3.14 The defence relationship is also a very sensitive relationship. Differences in the culture and role of the military in the two countries create the potential for misunderstanding and tension.
- 3.15 While the defence relationship survived the most recent serious downturn in the bilateral relationship over the crisis in East Timor, it was damaged by it. According to Defence, ‘the East Timor crisis reduced the level of mutual confidence in the defence relationship’.⁷ This issue is addressed in more detail later in this chapter. In terms of engagement, this resulted in many of the combined activities previously undertaken being scaled down or cancelled.⁸
- 3.16 The process of rebuilding the defence relationship is taking place in the highly pressured environment of post September 11 2001. While the terrorist threat provides a stimulus and opportunity for re-engagement, it also puts pressure on two aspects of re-engagement, namely its pace and its extent.
- 3.17 In evidence before the Committee, Defence advised that the Government has directed that Defence seek to further restore confidence in the relationship through senior level dialogue and by increasing the level of training and advisory assistance provided to the TNI. According to Defence, in recognition that confidence in the defence relationship will not be restored immediately, ‘the Australian and Indonesian Governments have agreed that close consultation will continue to ensure that the defence relationship develops at a mutually agreed pace and direction.’⁹
- 3.18 In considering the extent of re-engagement, it is relevant to note that while joint exercises and special forces activities were discontinued after East Timor,¹⁰ at no time were defence links severed. According to Defence, ‘we have continued to welcome Indonesian participation in staff college courses and have continued the program of providing Indonesian military and civilian security officials with scholarships to study in Australia. Defence Attaché staff remained in place in both Canberra and Jakarta. Similarly, ADF members have continued to

6 Submission No 92, p 6

7 Submission No 92, p 7

8 Submission No 92, p 7

9 Submission No 92, p 8

10 Submission No 92, p 7

attend staff colleges in Indonesia, and the ADF Nomad maintenance advisory team has remained at the Naval air station at Surabaya'.¹¹

- 3.19 Australia's defence involvement with Indonesia was extended with the signing of the Memorandum of Understanding between Australia and Indonesia on Combating International Terrorism, in February 2002. The MOU was extended to February 2004. As described by Defence, the MOU 'states the intentions of both governments to enhance counter-terrorism cooperation between the officials of defence, security and law-enforcement agencies of the two governments.'¹²
- 3.20 Under the MOU, Australia Defence's officials have provided information analysis training. This will continue along with regular exchanges of views between the two intelligence agencies.¹³

Limited cooperation with Kopassus

- 3.21 In its submission to the inquiry, Defence advised the Committee that discussions have commenced with Indonesia about 'how best to resume limited defence cooperation to combat terrorism specifically in the areas of hostage recovery and counter-hijack.'¹⁴
- 3.22 In evidence before the Committee in June 2003, Defence explained that in its judgement:
- Kopassus is currently the most capable counterterrorist force in Indonesia. If something happened tomorrow or next week, it would be inappropriate for our special forces and the Indonesian special forces to meet for the first time in a hangar five minutes before the assault. So our view is to try and find ways to build a very narrow relationship in that area and see whether or not there are opportunities to exchange views and work to our mutual interest. Our particular concern is things like aircraft hijacks and those sorts of issues.¹⁵
- 3.23 In further evidence on the issue, DFAT advised that 'the Government is committed to limiting our cooperation to exclude those people we know have been involved in serious human rights abuses.'¹⁶

11 Submission No 92, p 7

12 Submission No 92, p 8

13 Submission No 92, p 8

14 Submission No 92, p 8

15 Transcript of evidence, Monday 23 June 2003 (morning), p 323

16 Submission No 114, p 2

- 3.24 The nature of the re-engagement in the defence relationship was one of the most controversial issues raised during this inquiry, particular regarding engagement that involved Kopassus. Many submitters were extremely concerned about any prospect of a resumption of engagement with Kopassus.
- 3.25 In describing its concerns that ‘the Australian Government had considered enhancing its cooperation with the Indonesian military, and particularly with Kopassus’, ACFOA (now known as ACFID) suggested that ‘this potentially encourages an inappropriate military response to a law enforcement problem, and is additionally troubling given the past and recent record of the Indonesian military in human rights.’¹⁷
- 3.26 In its submission to the inquiry, the Australian Strategic Studies Institute asserted that ‘we need to build a relationship with TNI that is acceptable to all sides.’ It suggested that this will probably entail keeping contact with Kopassus to a minimum and that we should encourage the development of others in the counter-terrorism area.¹⁸
- 3.27 The Committee explored with DFAT the option of maintaining a policy of no exercise with Kopassus and concentrating all anti-terrorist efforts with Indonesia through the Indonesian National Police. In response, DFAT reiterated the Government’s view that ‘in the immediate term the Indonesian Special Forces have by far the most effective capability to recover hostages and resolve a hijacking situation.’ It added that the Government ‘continues to co-operate closely with other Indonesian law enforcement agencies in counter-terrorism, including the Indonesian Police.’¹⁹
- 3.28 Of particular relevance to the Committee’s consideration in regard to cooperation with Kopassus is the nature of the limitations around the cooperation. As noted above, the evidence taken in the inquiry indicates that the cooperation is to be specifically limited to hostage recovery and counter hijack operations and will exclude people known to have been involved in serious human rights abuses.
- 3.29 In responding to questions regarding the practicality of distinguishing between Kopassus officers on the basis of their human rights record, DFAT acknowledged the complexity of the task and pointed out that; ‘at this point it is very largely untested because we

17 Submission No 84, p 9

18 Submission No 77, p 4

19 Submission No 114, p 1

have not yet embarked on any programs of renewed cooperation with Kopassus'.²⁰

- 3.30 The Committee acknowledges the difficulties for any government faced with balancing the responsibility of taking whatever steps are possible to protect the safety of Australians in hostage or hijack situations against the reluctance to provide any form of support to Kopassus until there are convincing signs of sustained radical improvement in its approach to human rights.
- 3.31 While the Committee acknowledges that the government has tried to accommodate the latter concern by excluding people known to have been involved in human rights abuses, such case by case decision making raises the possibility of seriously damaging the relationship by the controversy that can be created each time a decision is made to exclude some officers. The potential for this was illustrated by the media attention given the cancellation of a planned visit by Kopassus officers to the Australian SAS Regiment in Swanbourne, WA, in October last year.²¹
- 3.32 Although the Committee has reservations about co-operation with Kopassus, the Committee strongly endorses Australia's efforts to rebuild the defence relationship with Indonesia.
- 3.33 Senator Stott Despoja's view is that resumption of ties between the Australian Defence Force and Kopassus is fraught with danger and contrary to the interests of both Australia and Indonesia. Cooperation should only resume when there is objective evidence that Kopassus is committed to protecting human rights and has brought all perpetrators of human rights violations to justice.
- 3.34 The defence relationship will derive its strength and resilience from the quality of the personal relationships between officers of the ADF and TNI. The value that these personal relationships add to the relationship has been amply demonstrated by the cooperation that was evident even during the East Timor crisis and after the Bali bombing as described below:

...the TNI provided access for visits to East Timor by Australian Defence staff in Jakarta to help prepare for the successful deployment of INTERFET, and assisted with the

20 Transcript of evidence, Monday 13 October 2003, p 488

21 In response to a request for information about the cancellation of a visit of Kopassus officers to the Australian SAS regiment in Swanbourne, WA, in October 2003, DFAT advised that 'the decision to cancel a planned visit to Australia by Kopassus officers, including the Commander Major General Sriynato, was taken by both Australia and Indonesia in a cooperative spirit. (Submission No 114, p 2)

evacuation of UNAMET personnel and internally displaced persons from Dili to Darwin. More generally, the TNI helped in establishing the generally cooperative and business-like relationship with INTERFET during the East Timor deployment.

In recent months, our defence relationship with Indonesia has helped lay the groundwork for successful cooperation to confront the shared threat of international terrorism. The defence relationship helped secure the ready and valuable cooperation of the TNI in the immediate aftermath of the Bali bombing, including support for the successful medical evacuation operation.²²

- 3.35 Strong personal relationships are established through visits, exchanges, training activities and other capacity building exercises. These activities also provide opportunities for formal and informal dialogue on important and sometimes contentious issues including approaches to human rights.
- 3.36 At this stage in Indonesia's history, it is extremely important that there is open communication in our defence relationship. Indonesia's military is at an extremely interesting and important stage in its history with its role in Indonesia changing in ways consistent with the country's transition to a strong and stable democracy. The Committee welcomes the reforms that it has embraced to date. The Committee also acknowledges the intense pressures confronting the military from within Indonesia as it responds to the serious challenges facing Indonesia including those emanating from separatist sentiment and the threat to Indonesia's stability from terrorism. It also acknowledges the external pressures on the military from external sources particularly in relation to human rights abuses.
- 3.37 The depth of the wounds created by misunderstandings about Australia's recent role in East Timor, felt particularly keenly by the Indonesian military, illustrate the importance of having good channels of communication and communicating more effectively. It is indeed regrettable, and ironic, that 'the lingering misunderstandings around East Timor' have, as described by Defence in its submission, 'so far made it hard to build on the opportunities offered by Indonesia's democratising achievements to establish the foundations of a new defence relationship.'²³

22 Submission No 92, p 6

23 Submission No 92, p 5

- 3.38 The Committee notes that the pace for rebuilding will be determined by both countries. On the Australian side, it strongly endorses measures that can accelerate the process of re-establishing mutual confidence, in the Committee's view, the key challenge facing the defence relationship.

Recommendation 7

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The need for mature and open dialogue

- 3.39 During its visit to Indonesia in February 2004, defence related issues were raised in a number of meetings. The discussions were characterised by a relatively straightforward, respectful and robust exchange of viewpoints. There was general agreement in these sessions that improving communication through open dialogue was a critical element of improving the bilateral relationship.
- 3.40 The meetings enabled the Committee to provide some clarification about some recent matters of concern to Indonesia, for instance, Australia's commitment to participate in the US Missile Defence program and the proposed Christmas Island Spaceport.
- 3.41 In relation to the Missile Defence program, the members of the delegation were able to give some assurance that while Australia had agreed in principle to greater participation in the US Missile Defence (MD) program it had not yet committed to any specific activity or level of participation.²⁴ Moreover, with the delegation made up of members of the Government, Opposition and Democrat parties, the members were also able to give some indication of some of the objections to the program from within Australia. These objections related to the utility and cost effectiveness of Australian participation in the US MD program as well as to concerns that it would encourage others to improve their intercontinental ballistic missile capability.
- 3.42 It should be noted that the concern of the Indonesians in relation to the ballistic missile defence program ostensibly being considered by the Australian Government indicated an intention on Australia's part not simply to defend Australia but to use the screen to develop

24 Department of Defence, Submission to the current inquiry by the JSCFADT into Australia's Defence Relations with the United States, p 10

Australia's own missile attack capability with Indonesia in mind. This, of course, is a long way from any Government intention but is an indication of how carefully these issues need to be explained in detail with our Indonesian counterparts.

- 3.43 The Committee sensed in some of the discussions an underlying concern about Australia's intentions and about how it perceived Indonesia. The Committee is aware that the Australian Government has been quite active in trying to provide reassurance on some of the issues causing concern, for instance in response to Indonesia's concerns about the proposed Christmas Island Spaceport. The Government's extensive efforts to respond to these concerns are described in detail in the submission from the Department of Industry, Tourism and Resources.²⁵ However, it is often more difficult to correct misunderstandings and allay concerns once they have arisen.
- 3.44 The Committee considers that the Australian Government should consult with Indonesia prior to making public announcements about any steps Australia may be taking that could be perceived as having security implications for Indonesia.
- 3.45 These meetings also enabled the Committee to begin to address some long standing misunderstandings and, in particular, those relating to Australia's involvement in the independence of East Timor. In the Committee's view, until the misconceptions around Australia's involvement are addressed, it is unlikely that Indonesia will accept Australian assurances about its unequivocal support for Indonesia's territorial integrity. The Committee considers that there is a need to take the opportunities that are available to deal with this misunderstanding in the forthright manner that is appropriate for a mature relationship. In this context, the Committee raised the issue of East Timor in a number of discussions held with parliamentarians and senior officials during its visit to Indonesia.
- 3.46 Although East Timor had always been a vexed issue in domestic Australian political debate, successive Australian Governments' strong preference had been for East Timor to remain as part of Indonesia. The Australian Government had supported the approach of offering an autonomy plus package to East Timor as a way of reaching reconciliation between the various parties but did so against a background of continued support for Indonesia's sovereignty. In December 1998, Prime Minister Howard suggested in a letter to President Habibie that the 'long term prospects for a peaceful
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resolution of the East Timor issue would be best served by an act of self-determination by the East Timorese at some future time, following a substantial period of autonomy.’²⁶ The Prime Minister also made clear that the Australian Government’s own strong preference was that East Timor remain as part of Indonesia and that a long transition time should take place before a decision was made on East Timor’s final status. The Australian Government also made clear that it would respect whatever decision the East Timorese themselves made and that it would assist them with whatever course of action they chose to take – ‘whether it be independence or autonomy, a quick or a prolonged transition’.²⁷

- 3.47 Australia was not party to the agreement reached in early May 1999 between Indonesia and Portugal, under the auspices of the United Nations, for a ‘popular consultation’ to be held in East Timor under UN sponsorship. In the tumultuous aftermath of the ‘popular consultation’, Indonesia agreed to accept the offer of assistance from the international community and to allow INTERFET to enter East Timor and secure the territory. Without Indonesia’s agreement, Australian forces would not have entered East Timor.
- 3.48 Prior to the deployment of Australian troops to East Timor, the Australian Democrats had long advocated for a United Nations peace keeping force to be sent to protect the people of East Timor, with or without Indonesia’s permission.
- 3.49 Australia has no territorial ambitions. We respect the sovereignty of our neighbours.

Recommendation 8

The Committee recommends that as Australia participates more broadly in the activities associated with the war against terror, and as it pursues more generally its security interests, the Australian Government should sustain a regular and rigorous dialogue to ensure that in a country where Islamic sensitivities are high, there is a complete understanding of Australia’s intentions and that those intentions in no way incorporate a hostile view of the Islamic world or Indonesia’s part in it.

26 DFAT’s submission to the Inquiry into East Timor, by the Senate Foreign Affairs, Defence and Trade References Committee, March 1999, pp 3-4

27 DFAT’s submission to the Inquiry into East Timor, by the Senate Foreign Affairs, Defence and Trade References Committee, March 1999, pp 3-4

Law enforcement

- 3.50 Australia and Indonesia have a strong shared interest in cooperation around law enforcement. In recent years, the engagement in this area has focussed on responding to the heightened terrorist threat post 11 September 2001 and developments around people smuggling, trafficking in persons and related transnational crime. However, the facility to respond to these developments in the effective and cooperative way that has occurred is a product of the long standing efforts that have been made to nurture the relationships between the law enforcement agencies in the past.
- 3.51 The framework for the law enforcement relationship is provided for by a number of bilateral agreements, the two most significant of which are the Memorandum of Understanding on Combating International Terrorism signed in February 2002 and the Memorandum of Understanding on Combating Transnational Crime and Developing Police Cooperation signed in June 2002.²⁸
- 3.52 The law enforcement relationship is further supported by participation in multilateral fora including APEC, Interpol and the United Nations Office for Drug Control and Crime Prevention.
- 3.53 The importance of the law enforcement relationship was stressed in evidence given to the Committee by the AFP.

The INP has done its country proud by working openly with law enforcement partners and by sending a message that terrorism will find no sanctuary in Indonesia. The AFP-INP relationship continues to strengthen at the three levels I have talked about, much of it reinforced by personal trust and respect between officers. It would be wrong to claim that there are not challenges, as I have touched upon. What helps to overcome these challenges is the strength of the relationship and the lessons learned through its successes. Both the AFP and the INP remain acutely aware of the devastating effects of terrorism in particular but also other transnational crime on the economy and society of our respective countries. Law enforcement plays a central role in preventing crime and terrorism in the region, and law enforcement cooperation has therefore never been more important.²⁹

28 Submission No 62, p 5

29 Transcript of evidence, Monday 23 June 2003 (morning), p 305

- 3.54 The key agencies that gave evidence to the inquiry relating to law enforcement were the Australian Federal Police, the Attorney-General's Department, the Department of Immigration and Multicultural and Indigenous Affairs, and the Australian Customs Service.

Australian Federal Police

- 3.55 The AFP, as Australia's international law enforcement and policing representative, has a long standing and robust relationship with the Indonesian National Police (INP). As with the military, the transition to democracy has brought changes to the operations of the Indonesian police including, significantly, its separation from the military in 1999.
- 3.56 The AFP and INP are the implementing agencies for the Memorandum of Understanding between the Government of the Republic of Indonesia and the Government of Australia on Combating Transnational Crime and Developing Police Cooperation. The MOU which provides the formal framework for cooperation between the two countries in law enforcement was signed in June 2002 and ratified by both governments on 21 September 2002.
- 3.57 As described in the AFP submission, the MOU builds on the 1997 police-to-police MOU and 'provides the framework for collaboration in the areas of intelligence sharing, joint operations and capacity building through cooperation'. It identifies the following eight crime types on which Australia and Indonesia will cooperate: terrorism, firearms trafficking, money laundering, cyber crime, trade in narcotic and other illicit drugs, sea piracy, people smuggling and trafficking in persons, and transnational economic crime. The MOU also establishes a bilateral working group.³⁰

Operational cooperation

- 3.58 According to the AFP, the operational cooperation is underpinned by its international network. In Indonesia this comprises five AFP officers, four based in Jakarta and one in Bali.
- 3.59 That the relationship with the INP, a long standing one built on close personal links, was a key factor in establishing the successful cooperation between both police forces in response to the Bali bombings in October 2002. Within days of the event, an agreement under the MOU on Combating International Terrorism was signed

30 Submission No 62, p 6-7

that established a Joint Australia-Indonesia Police Investigative Team to investigate the bombings.

3.60 In referring to the joint investigation in giving evidence to the Committee, the Deputy Commissioner of the AFP remarked:

I cannot stress enough how the positive foundations of the Australian Federal Police and Indonesian National Police relationship through both thick and thin not only enabled the successful investigation and current prosecutions in Bali but has given a tangible basis to the efforts of Australia and Indonesia in combating terrorism in the region.³¹

3.61 The speed and effectiveness of the joint investigation has generated greater confidence in Indonesia's intent and capacity to respond to the threat of terrorism. It has also, no doubt, deepened the mutual confidence of both forces in each other and demonstrated the immense value of operational cooperation and a collaborative approach.

3.62 The AFP has no criminal jurisdiction (police powers) outside Australia's borders³² and the willingness of the INP to cooperate in a form that involved having AFP officers operating on Indonesian soil is a matter of some significance, as noted by His Excellency Mr Imron Cotan, Indonesia's Ambassador to Australia:³³

We commend the excellent cooperation extended by the Australian Federal Police to our police force that has led to the arrest of the suspects. The fact that Indonesian people lodged no complaints at seeing the Australian security force operating openly on our soil, to help investigate the Bali tragedy, has always been overlooked by the people of Australia, taking into account that some Indonesians still harbour ill feelings against Australia due to its involvement in East Timor.³⁴

3.63 The success of the joint investigation has strengthened the bilateral relationship, and in so clearly demonstrating its value, provides a fertile ground for future cooperation.

3.64 In this context, the Committee welcomes the recent decision made by Australia and Indonesia, announced during the Bali Regional

31 Transcript of evidence, Monday 23 June 2003 (morning), p 302

32 Submission No 62, p4

33 At the time of appearing before the Committee, Mr Imron Cotan was Charge d' Affaires, Embassy of the Republic of Indonesia

34 Transcript of evidence, Monday 16 June 2003, p 275 (Embassy of the Republic of Indonesia)

Ministerial meeting on Counter-Terrorism in February 2004, to establish a Centre for Law Enforcement Cooperation (ICLEC). Expected to be opened by the end of 2004, the ICLEC will be headed by a senior Indonesian Police officer and have a staff of about 20.

3.65 The announcement sets out the following details about the ICLEC and Australia's contribution to it:

Australia will contribute to a range of costs including technical equipment, training and operational experts from the Australian Federal Police and other relevant bodies.

The ICLEC will have both a regional capacity-building and operational mandate. It will be available as a resource to provide operational support and professional guidance in response to specific terrorist threats or actual attacks.

Training activities will cover the full range of key counter-terrorism skills, including tracking and interception of terrorists, forensics, crime scene investigation, financial investigations, threat assessments, security support for major events and consequence management, criminal prosecution and counter-terrorism legislative drafting skills.³⁵

3.66 Australia's contribution is expected to amount to \$38.3 million over five years. A number of Australian agencies will contribute to the Centre. The lead role will be taken by the AFP.

3.67 While the success of the joint investigation has received a great deal of public attention, the Committee acknowledges also that the AFP described its overall cooperation with its Indonesian counterparts as robust and as having led to a number of operational successes including activities around people smuggling.

Training and capacity building

3.68 A key element of the relationship between the AFP and the INP revolves around training and capacity building. Training and capacity building exercises have provided a means for both strengthening Indonesia's law enforcement capacities and, importantly, for building links between officers from the two forces.

3.69 In its submission to the inquiry, the AFP described a range of training programs that it provides to the INP which are 'aimed at increasing

35 Minister for Foreign Affairs media release FA 17 - 5 February 2004. *Indonesia Centre for Law Enforcement Cooperation*
(http://www.foreignminister.gov.au/releases/2004/fa017_04.html)

its capacities in serious crime and law enforcement intelligence'.³⁶ The training it provides specifically for Indonesia is augmented by training provided in multilateral agencies.

- 3.70 Not surprisingly, training efforts since 11 September 2001 have been increasingly focussed on enhancing counter-terrorism capacity. Training was a significant component of the Australian Government's commitment in October 2002 of \$10 million dollars over 4 years to help build Indonesia's counter-terrorism capacity.
- 3.71 In June 2003, the AFP began implementing a four year \$4.75 million program of counter-terrorism building assistance to the INP. The project includes:
- training for up to 200 participants on crisis management and 200 intelligence officers on intelligence collection and analysis;
 - establishment of a Transnational Crime Centre (TNCC) including staffing and systems and infrastructure and provision of one long-term adviser; and
 - establishment of a Criminal Information Management System (CIMS) including provision of training and hardware.³⁷
- 3.72 AusAID advised the Committee that the aid program will contribute \$3.5 million to this project. The remaining \$1.25 million will be contributed from AFP sources.³⁸
- 3.73 Training is also provided to Indonesia under both the AFP's Law Enforcement Cooperation Program (LECP) and the Government Sector Linkages Program (GSLP). The AFP's submission indicates that it has used the funds provided by the GSLP (up to \$250,000 a year) to 'assist the INP in its reformation process to a conventional law enforcement agency following its separation from the military'.³⁹ Activities include curriculum development, forensic exchanges, English language training, and instructor and training development officer exchanges.
- 3.74 Such programs have immense value not only as capacity building exercises but also for the opportunity they provide for the development of people-to-people links. Elsewhere in this report the Committee has recommended that substantial increases be made to the GSLP program to enable the expansion of training and other activities provided under it.
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36 Submission No 62, p 9

37 Submission No 110, p 3

38 Submission No 110, p 3

39 Submission No 62, p 9

- 3.75 Australia has also contributed to strengthening Indonesia's capacity to respond to transnational crime through the provision of five boats for use by small units within the INP.

Attorney General's Department and AUSTRAC

- 3.76 The submission from the Attorney-General's Department describes interaction with Indonesia as having increased in recent years 'much of which has been around the implementation of international instruments on transnational crime and terrorism'.⁴⁰
- 3.77 The submission focuses on aspects of law enforcement, security and border protection not covered by its portfolio agencies: the AFP and Customs. These areas include: the drafting of legislation for dealing with aspects of terrorism; AUSTRAC's assistance with Indonesia's establishment of its financial intelligence unit; and issues around extradition and mutual assistance.
- 3.78 The Attorney-General's Department has provided some assistance to Indonesia in drafting its terrorist legislation. It has also assisted Indonesia's efforts in relation to counter terrorism financing and anti-money laundering. Activities since 1999 include:
- support with developing GoI response to the Financial Action Task Force (FATF) listing of Indonesia as a non-cooperative country (NCCT);
 - assistance in strengthening Know Your Customer (KYC) and Suspicious Transactions Reporting (STR) Systems;
 - assisting Bank Indonesia develop administrative guidelines and additions to work manuals as appropriate which set out for Bank staff the procedures for and issues involved in receiving, assessing and making decisions on further action to be taken, if any, on STRs received by Bank Indonesia;
 - provision of legal drafting expertise to Indonesia's financial intelligence unit (PPATK), including preparation of draft Presidential Decree on the Organisation and Structure of the PPATK, draft regulations and redrafting of Law 15 of 2002; and
 - a long-term program of advice, training and mentoring within the PPATK by AUSTRAC to enable the PPATK to effectively administer anti money laundering legislation.⁴¹

40 Submission No 80, p 2

41 Submission No 110, p 3

- 3.79 Furthering bilateral operational cooperation, Australia and Indonesia signed a Memorandum of Understanding on the exchange of financial intelligence in February 2004.
- 3.80 Australia has an extradition treaty with Indonesia. It has been the subject of continued negotiation since it came into force in 1995. An issue of ongoing concern is the requirement that an alleged conduct constitutes an offence against both the law of the requested and requesting state. Offences must also be listed on the treaty as extraditable. The potential impact of such requirements is made more apparent by some examples. People smuggling, for instance is not an offence, and neither money laundering nor terrorism are listed on the treaty as extraditable offences.
- 3.81 According to the Attorney-General's Department, Indonesia has 'indicated a willingness to extend the range of offences in the list and to consider the possibility of removing the list and relying on dual criminality and a penalty in excess of 12 months imprisonment as a criteria for an extraditable offence'.⁴²
- 3.82 While the Committee acknowledges that there is only a small amount of casework related to extradition and mutual assistance, they are important aspects of the law enforcement relationship. The Committee encourages continued work towards improving cooperation in this area.
- 3.83 A further issue raised in the evidence by the Attorney-General's Department was progress towards negotiations with Indonesia about having air security officers on Australian aircraft between Australia and Indonesia. The Attorney-General's Department advised the Committee in June last year that Indonesian authorities had indicated that Indonesia was not in a position to undertake negotiations on this matter at this time.⁴³

Immigration

- 3.84 DIMIA has described its relationship with its counterpart in Indonesia as a long standing one 'built on mutual support in maintaining border integrity, the orderly flow of people between the two countries and the advancement of regional security'.⁴⁴ The engagement in recent years has focussed on efforts to combat people smuggling and to advance regional security. The Committee acknowledges that these

42 Submission No 80, p 12

43 Submission No 103, p 1

44 Submission No 76, p 5

efforts are being made after a period of difficulty experienced with illegal immigration to Australia in the late nineties.

- 3.85 The principal formal mechanism for engagement between the two agencies on matters relating to immigration is the Working Group on Immigration Cooperation that was established in September 2001. It comprises senior officials from the Indonesian Directorate-General of Immigration and DIMIA. Informal meetings on matters relating to the detection and prevention of irregular movement in all its forms are also held regularly at the senior office level between DIMIA officers in the Jakarta Embassy and the Indonesian Government.

People smuggling and irregular immigration

- 3.86 DIMIA described Indonesia as being an important focus of DIMIA's efforts in relation to people smuggling and irregular immigration. DIMIA's submission to the inquiry outlined its approach to building cooperation with Indonesia in these areas. The approach includes building operational cooperation and developing and implementing cooperative capacity building initiatives. The approach involves working closely and openly with Indonesian officials at a number of levels.⁴⁵

Cooperative operational arrangements

- 3.87 Building a cooperative and productive relationship with Indonesia has been a key part of Australia's whole of government efforts to combat people smuggling and irregular immigration.
- 3.88 In 2000, following negotiations commenced in 1997, Australia and Indonesia put in place informal cooperative arrangements to provide a legal mechanism for those intercepted who intended to apply for asylum, to do so in a way that was consistent with international conventions and norms.
- 3.89 Under the arrangements, referred to by DIMIA as the 'regional cooperation model', potential illegal immigrants in Indonesia are intercepted and handed over to the International Organisation for Migration for their care and accommodation while the UNHCR determines whether they have any protection claims. This approach, according to DIMIA, has been one of the factors contributing to stemming the flow of potential illegal immigrants into Australia.⁴⁶
- 3.90 As mentioned earlier in this chapter, people smuggling in Indonesia is not a crime. DIMIA explained in evidence before the Committee that

45 Submission No 76, pp 24-25

46 Transcript of evidence, Monday 23 June 2003 (morning), p 325

the Indonesian Parliament had legislation before it which would criminalise people smuggling. In evidence before the Committee, DIMIA suggested that the lack of legislation did not prevent the Indonesian authorities from pursuing those involved in people smuggling who in many instances were also involved other criminal activities. Notwithstanding this, DIMIA explained, Australia is interested in seeing the legislation passed.⁴⁷

- 3.91 Cooperation between the two countries around people smuggling and irregular immigration also involves the exchange of information on organised immigration fraud, including the identities and activities of people smugglers in Indonesia.
- 3.92 Despite the success of the disruption in people smuggling in the last two and a half years, there is evidence, 'that some people smuggling activities are still occurring and there remains a group of prospective illegal immigrants in Indonesia. The current lull', DIMIA suggested 'cannot be assumed to be a definitive end to the problem'.⁴⁸

Capacity building initiatives

- 3.93 DIMIA is involved in assisting Indonesia develop its approaches to immigration issues and to improve its border management capacity in a range of ways. These include document fraud training; assistance with the development of a document fraud unit; and human resources development training (including immigration intelligence training and English language training).⁴⁹
- 3.94 The Committee was particularly interested in DIMIA's offer to host key officials from the Directorate-General of Immigration to spend several months in Australia 'learning English and familiarising themselves with the Australian way of conducting migration business.'⁵⁰ The Committee thoroughly supports this approach. Such experience would be invaluable not only in terms of its stated goals but also because of the opportunity such extended contact provides for both Indonesians and Australians involved to deepen their understanding of each other and to form strong people-to-people links.
- 3.95 The Committee is particularly interested in the extended nature of the visit. Elsewhere in this report, the Committee suggests that a work

47 Transcript of evidence, Monday 23 June 2003 (morning), p 328

48 Submission No 76, p 22

49 Submission No 76, p 29

50 Submission No 76, p 30

component be added to scholarships provided to Indonesian students. DIMIA's proposed program is a closely related idea.

- 3.96 In the Committee's view it is vitally important that Australia and Indonesia take the opportunities that are available for working together and engaging with shared purpose on matters of mutual interest. The quality of the people-to-people relationships that develop from this form of engagement will determine the ultimate character of the relationship between the two countries. The importance of people-to-people links is discussed in more detail in Chapter 6.

Cooperation in multilateral fora

- 3.97 In addition to bilateral efforts to advance regional security, Australia and Indonesia also cooperate at the multilateral level on matters relating to migration, asylum seekers and combating people smuggling and trafficking within the Asia-Pacific Region. The fora include the Inter-governmental Asia-Pacific Consultation (APC) on Refugees, Displaced Persons and Migrants as well as the Regional Ministerial Conferences on People Smuggling, Trafficking in Persons and Related Transnational Crime co-hosted by Australia and Indonesia and held in Bali in 2002 and 2003.
- 3.98 The Committee was pleased to note that some of the key activities within the Bali process were the result of the success of similar projects developed between DIMIA and Indonesia prior to the Bali conferences. This illustrates clearly that strong bilateral links have broader value and can contribute substantially to regional cooperation.

The Australian Customs Service

- 3.99 The Australian Customs Service (Customs) has an important role in the security relationship in terms of border protection. Customs works with other agencies to prevent the unlawful movement of people and goods across Australia's border. It also has a key role in facilitating trade and migration. In looking at some of the activities that Customs referred to in its submission, the Committee has found it difficult to categorise them as principally either border protection related or trade facilitation related. Processes around risk management, for instance, clearly are relevant to both. For convenience, and because ultimately trade facilitation relates to protecting economic security, they are included in this chapter.

- 3.100 Customs has developed a strong working relationship with its Indonesian counterparts. The relationship has been formalised by a Memorandum of Understanding on Customs Cooperation and Mutual Administrative Assistance, the most recent signed in March 2003.
- 3.101 The two customs administrations have developed information sharing arrangements and operational cooperation around issues such as terrorism, illegal immigration and narcotics, customs integrity issues and organisation and administrative reforms. Customs is also involved in providing specialist technical assistance in a range of areas including post entry audit techniques, strategic planning for compliance audit management and integrity awareness.⁵¹
- 3.102 As in other areas of the relationship, the bilateral cooperation is extended by working cooperatively at the multilateral level. For instance, Australia is involved through APEC and ASEAN in providing assistance to Indonesia in developing capacity in a range of areas including port security, risk management and audit techniques.
- 3.103 As in other areas of the bilateral relationship at the government agency level, training exercises provide an opportunity for exchanges and visits. According to Customs, a senior Indonesian Customs official has participated in the annual Australian Customs-sponsored Customs International Executive Management Program (CIEMP), a 'six-week program designed to further develop management and leadership skills in senior executives from Customs organisations of the Asia Pacific region'.⁵²

The importance of people-to-people to people links in the security relationship

- 3.104 The submissions and evidence received from agencies that have key roles in the various dimensions of the security relationship have painted a picture of a relationship in which there is strong and growing operational cooperation. The Committee also acknowledges and commends the capacity building initiatives being undertaken by all of the agencies mentioned above.
- 3.105 While the security relationship is clearly strengthening, a number of submissions made a point of alerting the Committee to the need not to take the strength of the relationship for granted.

51 Submission No 27, p 3

52 Submission No 27, p 4

I would say to the committee that our relationship with the Indonesian National Police is a very strong one but it needs and requires constant attention and constant work. ... There is a constant need to make sure that we remain relevant and that our relationships of trust and confidence with the police particularly remain robust.⁵³

- 3.106 DIMIA also described the relationship as needing constant attention adding that while currently in robust shape, it is a relationship that is continually subject to pressures of broader political and economic issues.⁵⁴
- 3.107 The Committee notes these comments and encourages the Government to ensure that Australian security agencies are able to duly attend to the relationship with their counterparts in Indonesia. While the personal relationships that develop are often a by-product rather than the primary goal of engagement, these relationships are in themselves of immense value. In the Committee's view, it is the quality of these relationships that will determine the stability of the broader relationship through any vicissitudes in the relationship that may occur in the future. The Committee considers that every opportunity should be taken by the agencies involved in the various dimensions of the security relationship to strengthen the people-to-people links at every level through visits and exchange programs based on important issues of mutual interest.

Broadening the scope of the AIMF to reflect the security aspects of the relationship

- 3.108 The terrorist threat has provided the imperative for the security aspects of the bilateral relationship to move forward and grow. These aspects of the relationship have commanded a very high profile in the last two years.
- 3.109 Some aspects of the cooperation have been formalised in MOUs such as the MOU on Combating International Terrorism. Other cooperative efforts such as those relating to people smuggling and irregular immigration, are still largely undertaken under informal arrangements. It is of interest to the Committee that there is no AIMF Working group on security related issues. This may be of no consequence. Clearly there has been cooperation in these areas over the years although it has varied in extent from agency to agency.

53 Transcript of evidence, Monday 23 June 2003 (morning), p 305-6

54 Submission No 76, p 5

3.110 The Committee understands that the AIMF was originally set up to promote economic and development assistance aspects of the relationship which may reflect that these were the dominant interests at the time. Given the importance of security aspects of the relationship and given the importance role of the AIMF in the formal architecture of the relationship, the Committee suggests that consideration should be given to broadening the AIMF to reflect more faithfully the full breadth of the relationship. It may well be useful to have another layer of the relationship in place that AIMF working groups provide.