



Australian Government
Attorney-General's Department

Parliamentary Joint Committee on the Australian Crime Commission

Inquiry into the future impact of serious and organised crime on Australian society

Attorney-General's Department Submission

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INTRODUCTION

An increasingly globalised world presents opportunities for people and countries to exchange ideas, goods, money and services; it also presents opportunities for exploitation by criminal groups. Serious and organised crime in Australia and in our region has the potential to significantly disrupt the lives and livelihoods of many Australians, the organisations and companies for which they work, the community and the economy as a whole.

The Australian Government has defined ‘serious and organised crime’ to include a range of serious offences undertaken by a group of offenders involving sophisticated methods and techniques and a substantial degree of planning and organisation (section 4(1) *Australian Crime Commission Act 2002*). Money is often the chief motivator for those who participate in serious and organised crime and to make money, organised criminal groups usually trade in whatever commodity will provide maximum profit while posing the lowest risk of detection and prosecution. Organised criminal groups are adaptable and will change their approach according to changes in the laws and practices of certain countries and to exploit new opportunities.

The Attorney-General’s Department (AGD) works closely with key Attorney-General’s portfolio agencies including the Australian Crime Commission (ACC), CrimTrac, the Australian Customs Service, the Australian Federal Police (AFP), the Australian Institute of Criminology (AIC) and the Australian Transactions Reports and Analysis Centre (AUSTRAC) to tackle serious and organised crime. AGD and many of those agencies also participate in a range of Australian Government and nation-wide forums focused on these issues. These include the Heads of Commonwealth Operational Law Enforcement Agencies (HOCOLEA), the Ministerial Council for Police and Emergency Management—Police (MCPEMP). AGD is also involved in a range of international initiatives to counter serious and organised crime within our region.

A number of Attorney-General’s portfolio agencies have made submissions to the Committee on this Inquiry. In particular, AGD notes the ACC’s submission which gives extensive consideration to the nature of organised crime in Australia.

This submission addresses three of the Committee’s four references. In relation to Reference (a), to do with future trends in serious and organised crime and their impact on Australian society, the Department’s view is that the production and supply of Amphetamine Type Stimulants (ATS) and their precursors, trafficking in people and identity crime will have the most significant impact on Australian society in the near future. A range of other serious and organised crimes are also of concern to Australia, including a range of transnational crimes, money-laundering, electronic crime and intellectual property crime.

The Department notes in relation to strategies to counter future serious and organised crime (Reference (b)), that it is necessary to adopt different approaches to combat different types of serious and organised crime. To be effective, strategies must target each trend identified in a specific way.

The Department wishes to make particular note of the high level of cooperation and information sharing between agencies that deal with serious and organised crime. This is of particular relevance to the Committee’s Reference (d), which addresses the adequacy of cross-jurisdictional databases. It is AGD’s view that existing cross-jurisdictional databases are adequate and that there is ongoing

improvement in the way law enforcement and other Australian Government agency databases, processes and officers communicate.

The Department also wishes to note that many of the opportunities that may be exploited by organised criminal groups may also be exploited by terrorists. In 2002, the Council of Australian Governments (COAG) acknowledged this link in its *Agreement on Terrorism and Multi-Jurisdictional Crime* (5 April 2002). The Agreement recognised that presumptions about terrorism that existed prior to 11 September 2001, in particular about the nature of its links with organised and multi-jurisdictional crime, were no longer valid. COAG noted that the nature and potential scale of terrorism posed new challenges for all Australian Governments in combating terrorism and multi-jurisdictional crime. Subsequent inquiries, most notably, *An Independent Review of Aviation Security and Policing for the Government of Australia* (the Wheeler Review), also found that vulnerabilities to criminal activity also posed vulnerabilities to terrorist activity.

1 FUTURE TRENDS IN SERIOUS AND ORGANISED CRIME ACTIVITIES, PRACTICES AND METHODS, AND THEIR IMPACT ON AUSTRALIAN SOCIETY

1.1 Identifying and responding to future trends

Serious and organised crime covers a wide range of activities and methods. Criminal groups alter their targets and methods to exploit changes and vulnerabilities in society. As a result, the concept of serious and organised crime is fluid.

Within the Attorney-General's portfolio, a number of agencies play a role in identifying serious and organised crime trends. In particular, the role played by the ACC Board in setting national law enforcement priorities is critical to ensuring adequate law enforcement and policy responses to emerging trends. This is supported by a range of criminal intelligence products developed by the ACC to inform senior government and law enforcement decision-makers.

In addition to the individual and cooperative work of many agencies it is also worth highlighting HOCOLEA's role in developing strategic law enforcement policy. HOCOLEA is the Australian Government's primary consultative mechanism for law enforcement policy issues extending beyond the responsibilities of the Attorney-General's portfolio. The Committee comprises the heads of 11 Commonwealth law enforcement, taxation, and regulatory agencies and departments.

AGD is currently focusing its work to tackle serious and organised crime on countering the production and supply of Amphetamine Type Stimulants, people trafficking, people smuggling, identity crime, transnational crimes, electronic crimes, money laundering and intellectual property crime. These activities have a significant impact on Australian society, both because of the scale of serious organised criminal involvement and the harm caused to individuals, businesses and communities, and because of the potential for these activities to be exploited for terrorist purposes.

The increasing ease with which people, money and goods can cross international borders has led to a substantial increase in the prevalence of transnational crimes. The global developments that encourage economic growth and diversification also provide opportunities for organised criminal groups to commit crimes that might originate, eventuate or have a direct or indirect effect in more than one country. Many of the specific trends identified below have a transnational aspect. The significance of the increase in transnational crime for Australian authorities working to combat serious and organised crime should not be underestimated.

1.2 Amphetamine Type Stimulants (ATS)

ATS, including the potent form of methamphetamine known as Ice, have become the second largest drug type to be used in Australia and around the world, second only to cannabis. The production and supply of ATS is likely to continue to have a significant impact on Australian society in the future.

The 2004 National Drug Strategy Household Survey reported that 1 in 9 Australians over the age of 14 report having tried meth/amphetamines. There are an estimated 102,600 regular methamphetamine users nationally, 72,200 of whom are dependent users.

Annual net national seizures of ATS rose markedly in the late 1990s. In 1997-98, federal, state and territory police seized a combined total of less than 0.2 tonnes of ATS. Between 2000 and 2006, annual national ATS seizures averaged around 1.6 tonnes.

The rise of ATS is a global trend. The United Nations Office of Drugs and Crime 2006 World Drug Report notes that the last 15 years has seen a marked increase in the numbers of ATS laboratories worldwide, from around 547 in 1990 to 18,253 in 2004. About half of global ATS production and three quarters of ATS seizures take place in East and South East Asia.

Most ATS consumed in Australia is domestically manufactured in clandestine laboratories. There has been a 570% increase in the number of clandestine laboratories detected in Australia over the last decade—from 58 in 1996–97 to 390 in 2005–06. The diversion of cold and flu medications (containing pseudoephedrine) has been the major source of precursors for domestic methamphetamine manufacture.

The most recent data shows that clandestine laboratory detections have stabilised nationally. In Queensland there has been a 23% reduction in detections. ATS is expected to constitute Australia's primary illicit drug challenge into the foreseeable future.

The relative simplicity of illicit ATS production means ATS presents a dynamic threat to law enforcement. Criminal groups are opportunistic and resilient—they are capable of responding quickly and flexibly to changed market constraints, such as the introduction of measures to counter precursor diversion. As domestic controls on precursor diversion become increasingly effective there will be an increased risk that crime groups will make increased attempts to source precursors and ATS from the region. An effective response to ATS must therefore include innovative regulatory controls, industry engagement, flexible law enforcement strategies, effective national intelligence and engagement with regional partners.

1.3 Electronic crime

The Australian economy is becoming increasingly dependent on information systems as more people and businesses connect to the Internet. Over recent years we have seen an increase in the frequency and sophistication of attacks on our electronic infrastructure. Criminals and politically motivated groups are using the Internet to commit crimes, spread their ideologies and to hijack and remotely control vulnerable computers. These are then used to form malicious virtual networks ('Botnets'), which can be leveraged to orchestrate concerted attacks against other computing resources. Australian information systems, including government and critical infrastructure systems are increasingly exposed to the threat of electronic attack. These attacks threaten the privacy and security of Australians online and the reliable delivery of services by both business and government.

1.4 *Identity crime*

Identity crime, which encompasses both ‘identity fraud’ and ‘identity theft’, is one of the world’s fastest growing crimes. Identity fraud entails an individual falsely representing him or herself as either another person or a fictitious person to an organisation for some benefit and is supported by fraudulently obtaining or falsely reproducing identity documents. Identity theft is often facilitated by electronic crime.

There are indications that identity crime is being used by organised crime and potential terrorists to facilitate illegal activities. After the attacks on the United States on 11 September 2001, the US *National Commission on Terrorist Attacks upon the United States* found that fraudulent or falsely obtained identity and travel documents are as important to terrorists as weapons. They enable terrorists to meet, train, plan, case and gain access to targets clandestinely. Identity crime also supports criminal and terrorist activity by undermining the investigation of offences. The misuse of false or stolen identities undermines border and citizenship controls and efforts to combat terrorist financing and financial crime.

The latest figures from the US indicate that 8.9 million US adults were the victims of identity fraud in 2005–06, with a total cost of US\$56.6 billion. A study released by the Australian Government, in 2003 estimated the minimum cost to business of identity fraud in Australia for 2001–02 to be in the order of \$1.1 billion.¹ This did not include an estimate of the cost to individual victims. Also in 2003 the Australian Institute of Criminology estimated that fraud, including identity fraud, costs Australia \$5.88 billion every year.

It is essential to Australia’s security and economic wellbeing that the identities of citizens, legitimate residents and visitors seeking access to government or commercial services, benefits, official documents and positions of trust, can be accurately verified in order to prevent the use of false identities and the assistance they provide to terrorists, people-smugglers and in the commission of economic or other crime.

1.5 *Money laundering*

Electronic transactions, such as those conducted through ATMs, EFTPOS and telephone and online banking are rapidly replacing traditional banking and finance methods. In Australia today, fewer than ten percent of transactions are carried out in bank branches. In addition, wealth and portfolio management involving the development of more complex financial products now constitutes a much larger proportion of the work of the financial services sector. Australia is not alone in experiencing these trends as worldwide financial services compete to achieve greater efficiencies in the provision of services. These developments have created new opportunities for criminals to launder money to hide its illegal origins. Money laundering risks will continue to increase with commercial and technological developments.

Vulnerabilities to money laundering can also indicate vulnerabilities to terrorist financing. Although the primary objective of terrorism is intimidation and coercion (whereas the motive for other forms of serious and organised crime is primarily financial gain), terrorist organisations require financial support in order to achieve these aims. A successful terrorist group, like any criminal organisation, is therefore necessarily one that is able to build and maintain an effective

¹ Securities Industry Research Centre of Asia-Pacific Ltd, September 2003.

financial infrastructure. For this it must develop sources of funding, a means of laundering those funds and then finally a way to ensure that the funds can be used to obtain material and other logistical items needed to commit terrorist acts.

1.6 *Trafficking in persons*

Trafficking in persons is a repugnant and pervasive form of transnational crime. Few countries are not affected by it in some way. Australia is a destination country for a small number of victims of trafficking. Current evidence suggests that most are women trafficked for the purpose of sexual exploitation, however trafficking also occurs for a variety of other purposes—for example, for the acquisition of domestic, factory and agricultural workers and for the harvesting of body organs.

It is difficult to estimate reliably the true extent of the problem at the global level. In the past, the use of inconsistent definitions of ‘trafficking’ contributed to this. The *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime* has provided a clear, internationally agreed definition which may address the problem. Various efforts to obtain more accurate data are being made across the world. The Australian Government recently committed \$2.4 million as part of new funding in the 2007-08 Budget for the Australian Institute of Criminology to undertake comprehensive research in Australia and the Asia-Pacific region on trends in people trafficking. The United Nations Educational, Scientific and Cultural Organization is working on a Trafficking Statistics Project with the aim of developing a more comprehensive picture of the international scope and nature of people trafficking.

Current available data, based on pro-active efforts to identify victims and prosecute alleged offenders, suggests that the number of trafficking victims in Australia is low. AGD works closely with other key Departments and agencies to ensure that emerging trends in the trafficking of persons into and within Australia are identified and addressed. The Attorney-General’s Department is the lead agency for the whole of Government Strategy to Combat People Trafficking.

1.7 *Intellectual property crime*

Recent studies by international industry and non-industry bodies indicate that increasing links between organised crime networks and piracy and counterfeiting. The Organisation for Economic Cooperation and Development’s preliminary report on the issue, *Counting the Cost: The Economic Impacts of Counterfeiting and Piracy* (January 2007), found that over a third of government respondents to an OECD survey indicated a link between intellectual property crime and organised crime. It noted that profitability can be high, while the risk of prosecution and imprisonment is low in most economies, most of which impose only small fines. It also warned that the risks are sometimes further diminished by bribery and that some proceeds are being reinvested in more sophisticated counterfeiting/piracy activities.

These findings are consistent with studies conducted on behalf of Australian industry organisations (film, software and entertainment) which have been raised with the Australian Government by representatives of these organisations.

2 STRATEGIES FOR COUNTERING FUTURE SERIOUS AND ORGANISED CRIME

AGD is involved in a range of strategies to counter serious and organised crime. At the broad level, two complementary approaches are used:

- Australian Government agencies, including law enforcement and intelligence agencies, develop tailored strategies using the full range of means necessary to counter specific crimes, and
- the Australian Government facilitates and actively participates in international crime cooperation systems and assists neighbouring countries to strengthen their own law enforcement, intelligence and border control capacity and legal frameworks to ensure that national borders do not impede efforts to combat serious and organised crime.

AGD plays an important role in many of those activities.

2.1 *Amphetamine Type Stimulants*

The range of issues and complexities around ATS demand a multifaceted law enforcement response. The key strategic priority areas include:

- preventing the diversion of precursor chemicals and related equipment
- engaging internationally on precursor diversion and ATS issues
- improving intelligence and information sharing, including forensic capacity, and
- improving legislation and regulation, including national harmonisation.

2.1.1 *Preventing precursor diversion*

Effectively controlling the interface between legitimate and illegitimate trade in certain chemicals and equipment can substantially impede organised crime in producing ATS. Preventing precursor diversion remains a key strategic priority for law enforcement.

AGD continues to develop and implement measures under the **National Precursor Strategy**. The Precursor Strategy comprises 16 discrete projects aimed at:

- enhancing intelligence and information sharing capacity;
- law enforcement, forensic and judicial training;
- national regulatory approaches; and
- awareness raising and industry engagement.

The implementation of the National Precursor Strategy is assisted by the **National Precursor Working Group**, which is comprised of 42 representatives of State and Territory police, health agencies, forensic services and the chemicals and pharmaceutical sectors.

To date, the National Strategy has largely focused on addressing the key diversion of pseudoephedrine from community pharmacies, for instance through the rescheduling of pseudoephedrine in 2006, which was complemented by a significant awareness raising effort in the pharmacy sector. This has made it more difficult for criminals to obtain pseudoephedrine-containing medications.

This will be further supported by the national roll-out of *Project STOP* – an online database that helps pharmacists identify and refuse suspicious sales of pseudoephedrine-containing products, and provides police with intelligence on the movements of ‘pseudo runners’. Several initiatives to raise awareness among key industry groups have also been pursued.

With a range of initiatives underway in the pharmacy sector the Precursor Working Group is focusing increasing attention on emerging threats along the pseudoephedrine supply chain. The Working Group has commenced a project to explore the development of a national precursor control framework.

2.1.2 Engaging internationally on precursor diversion and ATS issues

As domestic controls are strengthened it is likely that organised crime will respond by looking for opportunities offshore to source precursors and ATS.

AGD is working our regional partners and Australian law enforcement agencies to promote best practice measures to counter precursor diversion and ATS production in the region. The measures are intended to complement the operational responses of Australia’s law enforcement agencies.

- The **Asian Collaborative Group on Local Precursor Control (ACoG)** was established by AGD in 2006 to develop best practice solutions to the problems of precursor diversion and ATS manufacture in the region. ACoG, which comprises 16 countries and the UNODC, is working to make practical policy improvements in the areas of regulation and control of the legitimate precursor trade; engagement with industry and awareness of the legitimate precursor market; intelligence production and information sharing; and forensic technical capacity. ACoG has endorsed a workplan as a direction of future activities. The AFP, Customs and ACC are closely involved with AGD in this initiative.

The March 2007 **UN Commission on Narcotic Drugs** recognised the establishment of ACoG, its value to the region, and urged other regions to consider adoption of similar mechanisms to deal with local precursor controls.

- The **South Pacific Precursor Control Forum (SPPCF)** was established by AGD, with funding from the AusAid Pacific Governance Support Program, to provide a mechanism for pacific region countries to address issues associated with precursor diversion and clandestine illicit drug manufacture. Recent reports by regional and Australian organisations suggest that the South Pacific region poses an increased threat as a location for precursor diversion, illicit drugs trafficking, transshipment and manufacture. Unless addressed, this trend is likely to continue in the future.

The SPPCF aims to:

- create a shared understanding of the risks, harms and challenges of ATS and precursor chemicals in the region,
- identify and establish regional strategies and priorities for addressing ATS and precursors diversion, and
- identify capacity building opportunities for ATS and precursor chemical control in the region.

The AFP, Customs, the ACC and the Office of Chemical Safety are closely engaged in the SPPCF. The Forum also has the support of the Oceania Customs Organisation, the UNODC, the Pacific Islands Forum and the Pacific Islands Chiefs of Police. There are 10 member countries.

2.1.3 Improving intelligence and information sharing

The importance of nationally coordinated intelligence is well-recognised. A range of activities have been undertaken by the Justice and Customs portfolio to better understand the ATS problem, and to assist in better targeting the law enforcement response. The continued use and expansion of these programs will be an important part of effectively meeting future intelligence needs.

- The ACC's **Amphetamines and Other Synthetic Drugs (AOSD) Determination** is delivering substantial operational support to law enforcement agencies through a range of intelligence outcomes. The use of the ACC's coercive powers in gathering information about illicit activity has proven particularly beneficial to jurisdictional police. The use of coercive powers has led to the location of a number of clandestine laboratories and seizure of ATS, precursors, equipment and proceeds of crime action.
- The ACC's **Australian Criminal Intelligence Database (ACID)** provides a central criminal intelligence system accessible by police in all jurisdictions that provides law enforcement with the ability to interrogate intelligence gathered nationally. ACID can significantly contribute to targeting law enforcement operations and strategy, assessing the impact of existing responses, and identifying emerging trends. The future utility of ACID to national law enforcement decision making will be directly related to the extent to which federal, state and territory law enforcement services contribute to ACID into the future.
- AGD is also funding the ACC to augment ACID with a **National Clandestine Laboratory Database**, which will help police develop more effective law enforcement strategies by collecting a wide range of information from seized clandestine laboratories. Roll-out is expected to commence in January 2008.
- AGD is also funding the national roll-out of **Project STOP**, a centralised retail pharmacy database that stores information about purchases of pseudoephedrine from community pharmacies. Project STOP provides pharmacists with the ability to identify suspicious requests for pseudoephedrine-containing medications. It also has the added benefit of providing law enforcement with data on pseudoephedrine purchasing patterns. This information significantly assists police in identifying 'pseudo runners' and monitoring trends in the diversion of pseudoephedrine into ATS manufacture.

- The AFP's **Australian Illicit Drug Intelligence Program** aims to establish a series of ATS fingerprints or 'signatures', which will allow chemists to conduct tactical comparisons between batches of drugs. This information is important in identifying the source of finished ATS, precursors used in ATS manufacture, and production methods.

2.1.4 Improving legislation and regulation

The issue of ATS manufacture in Australia has called for specific legislative and regulatory approaches – for instance the rescheduling of pseudoephedrine and the introduction of serious drug offences legislation at the Commonwealth level. The Precursor Working Group is also working towards the development of a national precursor control framework which will provide a comprehensive system of nationally consistent controls on key precursors and equipment.

One of the consequences of effective controls on the diversion of pseudoephedrine is likely to be the emergence of other precursor chemicals. The legislative environment must be capable of responding effectively to the emergence of new chemicals or synthetic drugs. It is also important for laws to be harmonised across jurisdictions to avoid displacing the problems of ATS production and precursor diversion between jurisdictions.

The Australian Government continues to work with State and Territory governments through the Ministerial Council on Drug Strategy and Standing Committee of Attorneys-General to encourage national consistency of drug offences and precursor offences through the adoption of the Model Criminal Code serious drug offences.

2.2 Electronic crime

Electronic security threats must be addressed holistically. The Australian Government has adopted a coordinated approach covering the spectrum of government, critical infrastructure, small to medium enterprise and home user e-security. In particular, this work focuses on combating the threat of the computers of home users and small and medium sized businesses being used to attack government and critical infrastructure systems or for other criminal purposes.

AGD plays a key role in progressing Australia's E-Security National Agenda and in providing strategic advice and support across government and industry on a range of critical infrastructure protection issues, especially through the Trusted Information Sharing Network for Critical Infrastructure Protection (TISN).

Through the TISN, critical infrastructure owners and operators in nine industry sectors have access to a secure forum to share information to help protect their businesses against criminal and terrorist attacks. The participating sectors include banking and finance, the food chain, emergency services, communications, water services, transport, health, energy and places of mass gathering. An Information Technology Security Expert Advisory Group has been established within the TISN to provide advice to critical infrastructure owners and operators about vulnerability and security issues associated with specific information technologies. The Group's members are drawn from industry, academia and government.

The Australian Government Computer Emergency Readiness Team (GovCERT.au) was established within AGD in 2005 to work with the business community in managing e-security threats. The

team helps to coordinate the response to serious e-security incidents that occur across critical infrastructure and develops e-security risk profiles for sectors to inform government and business e-security policies and practices.

2.3 *Identity security*

Identity security is of critical concern to Commonwealth, State and Territory governments and the private sector for a range of reasons, including national security, revenue protection and law enforcement. There are increasing synergies between the identity management requirements of government and industry, particularly in the areas of banking and finance, border control, transport, trade and critical infrastructure protection.

In recognition of the growing threat identity crime poses to the Australian community, strategies are in place to strengthen identity security now and in the future.

2.3.1 *The National Identity Security Strategy*

The National Identity Security Strategy (NISS) aims to strengthen identity security through rigorous enrolment and authentication processes while ensuring personal privacy. AGD is the lead agency on the NISS.

The NISS is underpinned by an Intergovernmental Agreement (IGA) and provides a framework for intergovernmental cooperation to strengthen Australia's personal identification processes. The Prime Minister, Premiers and Chief Ministers signed the IGA at the Council of Australian Governments (COAG) on 13 April 2007. COAG also noted reports on the progress made to date in giving effect to the six elements of the NISS and acknowledged the value of this work in providing guidance to government. The IGA and reports can be found on COAG's website (www.coag.gov.au).

The key objectives of the NISS, as set out in the IGA and detailed in the reports to COAG, include:

- improving standards and procedures for enrolment and registration for the issue of proof of identity documents (POI)
- enhancing the security features on POI documents to reduce the risk of incidence of forgery
- establishing mechanisms to enable organisations to verify the data on key POI documents provided by clients when registering for services
- improving the accuracy of personal identity information held on organisations' databases
- enabling greater confidence in the authentication of individuals using online services, and
- enhancing the national inter-operability of biometric identity security measures

2.3.2 *The Document Verification Service*

The national DVS is one of the key components of the NISS and will build on the prototype DVS. In the 2006-07 Budget, the Australian Government agreed to provide \$28.3 million over four years to establish a national DVS, which will verify the accuracy of details contained in documents presented by people as proof of identity when applying for a government clearance or enrolling for services or benefits at an authorised agency.

The DVS will operate in concert with the ACC's Lost and Stolen Documents register to detect the use of fraudulent and stolen documents presented as proof of identity by individuals when accessing or enrolling for government benefits or services.

2.4 *Money laundering*

2.4.1 *Australia's anti-money laundering systems*

To counter the risk of money laundering in Australia, the Australian Government has introduced legislation to ensure Australia's financial sector remains hostile to criminal activity by providing law enforcement agencies with valuable sources of information to investigate and prosecute serious organised crime and terrorist activity.

The *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) extends the current regulatory regime imposed by the *Financial Transaction Reports Act 1988* to combat the substantial changes in the way financial services are now provided as well as to reflect international standards and obligations.

Business has supported the reforms which ensure that Australia's financial sector remains robust and internationally competitive. The international financial services sector must take into account adequacy of AML/CTF compliance when dealing with foreign counterparts and jurisdictions. Australian businesses face risks to reputation and financial loss if Australia fails to observe international standards and so AML/CTF compliance is essential to the Australian economy.

The AML/CTF Act sets out the first tranche of broad ranging reforms to strengthen Australia's AML/CTF system. These first tranche reforms focus on industry sectors that already have some familiarity with AML/CTF regulation and will extend obligations to a broad range of financial services and products, as well as gambling services and bullion dealers. The Government will now consider the second tranche of AML/CTF reforms which extend obligations to real estate agents, specified transactions provided by dealers in precious metals and dealers in precious stones and specified legal and accounting services.

The AML/CTF reforms bring Australia into line with international best practice in detecting and deterring money laundering and terrorism financing and Australia is working to foster the development and implementation of AML/CTF systems across the region. The establishment of strong anti-money laundering systems in the region will also help to protect Australia from the threat of transnational organised crime, including terrorism. Anti-money laundering arrangements are also effective in fighting corruption.

2.4.2 *Regional efforts to counter money laundering*

AGD is working with countries across the region to combat money laundering through the Asia/Pacific Group on Money Laundering (APG). The APG's objective is to facilitate the adoption, effective implementation and enforcement of internationally accepted standards against money laundering and the financing of terrorism, in particular the Financial Action Task Force on Money Laundering's *Forty Recommendations* and *Nine Special Recommendations on Terrorist Financing*.

AGD's Anti-Money Laundering Assistance Team is currently assisting countries in the Pacific to meet international anti-money laundering standards by providing legislative, judicial, law enforcement and financial intelligence unit support. By increasing Pacific countries' capacity to identify, investigate and prosecute illegal financial transactions, the team is helping to prevent organised crime from laundering its profits in the region. This assistance will also improve the capacity of law enforcement agencies in the Pacific to cooperate with Australian law enforcement.

2.5 *Trafficking in persons*

The Australian Government continues to develop and fund measures to combat people trafficking and provide support to victims through concerted national, bilateral, regional and international efforts.

2.5.1 *Australia's Strategy to Combat People Trafficking*

The Government's whole of government Strategy to Combat People Trafficking, coordinated by AGD, rests on four central elements: prevention, detection and investigation, criminal prosecution and victim support and rehabilitation. A number of measures have been implemented through the strategy since 2003, including:

- an *Action Plan to Eradicate Trafficking in Persons*
- dedicated AFP Transnational Sexual Exploitation and Trafficking Teams to investigate people trafficking operations and sexual exploitation offences
- a *National Policing Strategy to Combat Trafficking in Women for Sexual Servitude*
- visa arrangements to support trafficking investigations and prosecutions
- the posting of a Department of Immigration and Citizenship (DIAC) Senior Migration Compliance (Trafficking) officer in Thailand focusing exclusively on people trafficking issues in the Asian region
- victim support measures
- implementation of a Communication Awareness Strategy targeted at trafficked victims and members of the community who may come into contact with them to inform and educate them about the nature of people trafficking and provide information on how they can report it, or seek assistance if they have been trafficked, and
- improved legislation to comprehensively criminalise trafficking in persons and trafficking-related activities, which commenced on 3 August 2005. The *Criminal Code Amendment*

(Trafficking in Persons Offences) Act 2005 inserted new trafficking in persons offences into the *Criminal Code* that comprehensively criminalise trafficking in persons activity, fulfilling Australia's obligations under the *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* supplementing the *United Nations Convention against Transnational Organized Crime*.

These measures, together with concerted efforts by the AFP and DIAC compliance officers in Australia and overseas, have assisted in identifying trafficking links between various Asian countries and Australia and has resulted in a number of people being charged with trafficking-related offences.

As part of the 2007–08 Budget, the Government announced the commitment of a further \$26.3 million to anti-trafficking measures. This funding, along with \$12 million in ongoing funding, brings the Government's total commitment to the Strategy to \$38.3 million over the next four years.

The key measures in the Government's Strategy over the next four years are:

- comprehensive research in Australia and the Asia-Pacific region on trends in people trafficking by the Australian Institute of Criminology
- the establishment of two additional Senior Migration Compliance (Trafficking) positions in the Asia region to supplement the existing Migration Compliance (Trafficking) position in Thailand
- the expansion of the AFP's Transnational Sexual Exploitation Team to continue pro-actively investigating allegations of trafficking and sexual exploitation offences
- funding for the Commonwealth Director of Public Prosecutions to prosecute trafficking-related matters and develop strategies for the education and training of staff, and management of victims of trafficking
- the expansion of the Victims of Trafficking Support Programme to include a third-phase of support to provide assistance to suspected victims returning to Australia to give evidence in trafficking-related investigations and prosecutions, and
- continuation of the Communications Awareness Strategy to inform target audiences about people trafficking issues.

2.5.2 Statistics

Between 1 January 2004 and 31 May 2007, 62 persons have been granted Bridging F visas, 42 persons have been granted Criminal Justice Stay Visas and 4 have been granted Witness Protection (Trafficking) (Temporary) visas. A number of others are being progressed. No permanent Witness Protection (Trafficking) visas have yet been issued because clients must hold the temporary Witness Protection (Trafficking) visa for a period of two years before a permanent visa can be offered.

A further 7 persons have been granted Criminal Justice Entry visas for trafficking-related purposes.

As at 18 June 2007, the AFP Transnational Sexual Exploitation and Trafficking Teams have undertaken 125 investigations and assessments of trafficking-related allegations. These

investigations have led to 28 persons being charged with trafficking-related offences and four convictions.

2.5.3 Return and reintegration of victims

Australia supports a number of aid projects in the Asia region through AusAID that focus on regional cooperation to reduce the number of trafficking victims and improving the protection, recovery and reintegration of those who have been trafficked. Supporting the repatriation and successful reintegration of trafficking victims is complex and involves significant effort to encourage victims to access available services and to ensure governments, NGOs and other relevant bodies have sufficient capacity to provide appropriate services.

Australia funds two return and reintegration activities in the Asia region: the Return and Reintegration of Trafficked Women and Children (Phase II) and the Regional Pilot Project for Returning Victims of Trafficking from Australia to Thailand. Both activities are delivered through the International Organization for Migration.

2.5.4 Regional cooperation to combat people trafficking

Strategies are also in place to combat trafficking in people through regional cooperation. The Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime is co-chaired by Australia and Indonesia. The Bali Process aims to raise awareness of, encourage bilateral action on, and develop practical regional measures to prevent, intercept and disrupt people smuggling, people trafficking and related transnational crime.

The Ambassador for People Smuggling Issues is responsible for high-level advocacy of Australia's interests in promoting effective and practical international cooperation to combat people smuggling and trafficking in persons, particularly in the Asia-Pacific region, and notably within the Bali Process. The Australian Government created the position of Ambassador for People Smuggling Issues in April 2002, the current Ambassador, Mr Michael Potts, was appointed in January 2007.

2.6 Intellectual property crime

The Australian Government has introduced strategies to provide more enforcement options to use against high level copyright criminal offenders.

The Government has made significant reforms to the criminal offence regime in the *Copyright Act 1968*. New indictable offences allow the AFP to apply for remedies under the *Proceeds of Crime Act 2002* to track and confiscate proceeds of copyright crimes.

The Intellectual Property Enforcement Consultative Group (chaired by AFP) facilitates the exchange of information between industry organisations and Australian Government agencies, including the ACC. Industry organisations have provided intelligence to the ACC about possible links between organised crime and intellectual property crime within Australia.

AGD also chairs an interdepartmental committee on Intellectual Property Enforcement to coordinate whole of government responses to these issues.

2.6 *International crime cooperation*

The emergence of new technologies and the growth and ease of international travel have made it increasingly common for evidence and proceeds of a crime committed in one country to be located in another. In this context, international crime cooperation provides an increasingly significant means of preventing, investigating and prosecuting criminal activity.

‘International crime cooperation’ refers to the range of measures Australian law and justice agencies use to:

- prevent criminal acts taking place in Australia and in other countries
- enable effective investigation and prosecution of criminal activity in Australia and other countries
- ensure fugitive suspected criminals can be apprehended, prosecuted, punished and rehabilitated, and
- locate, restrain, forfeit and repatriate the proceeds of crime.

Extraditions and mutual legal assistance are two key tools in the fight against serious and organised crime. Extradition ensures that criminals cannot evade justice by crossing borders.

Mutual assistance ensures that criminals cannot escape prosecution and confiscation action just because the evidence or proceeds of their crime are in different countries.

The Attorney-General and the Minister for Justice and Customs are responsible for making and accepting requests for extradition and mutual assistance in accordance with the *Extradition Act 1988* and *Mutual Assistance in Criminal Matters Act 1987*. AGD advises the Attorney-General and Minister for Justice and Customs on those requests.

International crime cooperation work continues to grow. Over the last six years the number of mutual assistance requests made by Australia to foreign countries has doubled, and the number of incoming mutual assistance requests from foreign countries to Australia has increased by around 30%.

AGD is currently developing reforms to Australia’s arrangements for both extradition and mutual assistance. In February 2007 the Government announced the key reform proposals, which will involve substantial changes to the two Acts. Drafts of the amended legislation will be released for public comment in the second half of 2007.

Australia’s legislative arrangements for extradition and mutual legal assistance are underpinned and supplemented by treaties. In the past year, Australia has signed a number of bilateral treaties with countries in our region that increase the availability of mutual assistance and extradition. Priorities for the negotiation of criminal justice cooperation treaties are reviewed periodically to ensure they remain consistent with Australia’s objectives and the needs of law enforcement.

Australia's *Proceeds of Crime Act 2002* provides a scheme to trace, restrain and confiscate the proceeds of crime committed against Commonwealth law. In some circumstances it can also be used to confiscate the proceeds of crime against foreign law or the proceeds of crime against State law (if those proceeds have been used in a way that contravenes Commonwealth law).

Asset sharing with foreign jurisdictions

Section 297(1) of the *Proceeds of Crime Act 2002* allows for an equitable sharing arrangement with a foreign country. The Commonwealth can share with a foreign country a proportion of any proceeds of unlawful activity recovered under a Commonwealth law if, in the Minister's opinion, the foreign country has made a significant contribution to the recovery of those proceeds or to the investigation or prosecution of the unlawful activity. The Minister is likely to take into account a number of considerations about whether to make a payment under the equitable sharing program to the foreign country. The Minister might consider the significant of the foreign country's contribution to the recovery of the relevant proceeds, the investigation of the unlawful activity, or the prosecution of the unlawful activity. The amount shared is determined by the Minister on a case by case basis. Australia has shared proceeds with Indonesia and China in the past.

2.7 *Regional frameworks*

Effective legal frameworks are essential to combating serious and organised crime of all types, including terrorism. Countries need legal frameworks in place that criminalise certain conduct, provide law enforcement and justice agencies with the necessary powers to prevent, investigate and prosecute crimes, to restrain the proceeds of such activities and to cooperate with other countries where there is a transnational aspect. The Australian Government is committed to working cooperatively with countries in the region to strengthen these frameworks.

To strengthen the regional fight against terrorism and transnational crime, AGD provides a range of technical assistance to countries in our region. Through AGD's Regional Legal Assistance Unit, the Australian Government provides training, legislative assistance and advice to countries in the region to assist with:

- implementing obligations under international counter terrorism instruments and related United Nations Security Council Resolutions, and
- strengthening international crime cooperation frameworks, as required by those instruments.

3 THE ADEQUACY OF LEGISLATIVE AND ADMINISTRATIVE ARRANGEMENTS, INCLUDING THE ADEQUACY OF CROSS-JURISDICTIONAL DATABASES, TO MEET FUTURE NEEDS

3.1 Legislative and administrative arrangements

While legislative programs are constantly being reviewed and updated to reflect changes and to maximise effectiveness, AGD is not aware of any significant legislative impediments to its work in countering serious and organised crime that are not already being addressed.

As outlined, the Australian Government is proposing reforms involving substantial changes to the Extradition Act and the Mutual Assistance in Criminal Matters Act. These reforms are designed to overcome the lengthy delays and limitations on the assistance Australia can provide to foreign countries under the current arrangements. Proposed reforms include ensuring that people who have consented can be extradited sooner while making certain their rights are protected and expanding the range of law enforcement tools available through mutual assistance to assist in the investigation and prosecution of crimes.

3.2 Cross-jurisdictional databases and information sharing

Cross-jurisdictional databases can be a useful tool in facilitating the sharing of information between those with a need-to-know, between agencies and across jurisdictions.

AGD is working with other agencies in two specific areas where the establishment of cross-jurisdictional databases, in collaboration with other administrative arrangements, will assist in the prevention, detection, investigation and prosecution of serious and organised crime.

→ DNA matching

In recent years all Australian jurisdictions have legislated to allow DNA testing. The Australian Government established CrimTrac on 1 July 2000 to facilitate the handling of DNA evidence and matching of DNA samples between jurisdictions. Almost \$3.7 million in funding has been specifically allocated to developing computer systems to support a national DNA database. To date, legal and practical obstacles have delayed the commencement of inter-jurisdictional matching of DNA. However, there has been strong progress recently in overcoming these obstacles.

A national DNA database will allow DNA information relating to criminal activity, the search for missing persons and the identification of unknown deceased persons, to be exchanged among all Australian jurisdictions to assist law enforcement agencies. The database will be an invaluable tool in the fight against crime.

→ Australian Criminal Intelligence Database and the National Clandestine Laboratory Database

The ACID provides a central intelligence database for all jurisdictions. AGD has led the development of the NCLD to be implemented as a component of the ACID.

The primary objective of the NCLD will be to assist police to better target drug investigations by storing and integrating national data on seized clandestine laboratories and precursor chemicals used in illicit drug production from all jurisdictional police and forensic agencies. The Database will assist in identifying trends in illicit drug manufacture, movements of ‘cooks’ (producers, chemists etc) and persons of interest across state borders, signature chemicals, equipment, recipes and manufacturing methods.

AGD has consulted extensively on the development of the database with State and Territory police, the ACC, AFP, CrimTrac, the National Institute of Forensic Science and overseas law enforcement agencies (including the United States Drug Enforcement Administration and Europol) to determine the range of user requirements, technical specifications, options, costs and risks. The NCLD Business Case was recently approved by the Ministerial Council for Police and Emergency Management—Police (formerly the Australasian Police Ministers’ Council) and construction of the database has commenced. It is anticipated that construction will take 12 months to complete with implementation beginning in 2008.

AGD and other Australian Government agencies have given extensive consideration to the issue of information sharing between law enforcement agencies across Australia and the adequacy of existing cross-jurisdictional databases for facilitating effective information sharing.

In 2005, a proposal was put to the Attorney-General raising the concept of a centralised national security database. AGD considered this proposal in consultation with senior Australian Government and State and Territory forums. An assessment of the proposal revealed that it would have significant privacy, policy and legislative implications and would require substantial resources and time to develop. It was concluded that there are other ways to more quickly and effectively improve the sharing of information and intelligence between jurisdictions and agencies. Although they do not support a centralised national security database, these forums do support further work to improve interconnectivity between existing databases and information sharing processes.

The Commonwealth, States and Territories have agreed to explore ways to improve information sharing and to explore ways to increase and improve the use of existing databases. Through the National Counter Terrorism Committee (NCTC), and based on the findings of two reviews conducted for the Department by Mr Peter Ford, jurisdictions have agreed that the ACC’s Australian Criminal Intelligence Database (ACID) should be utilised as the major system for sharing criminal intelligence between Commonwealth, State and Territory law enforcement agencies. ACID is provided by the ACC to Australian law enforcement as a secure, centralised, national repository for criminal intelligence.

As ACID cannot support information classified above Highly Protected, jurisdictions have agreed to consider other methods for improving the sharing of classified and national security information where there is a need to know and need to share such information. An NCTC Working Group, chaired by Tasmania Police, is currently progressing this and other related work. AGD is also undertaking work in consultation with other lead law enforcement agencies to facilitate consideration of these issues at the Commonwealth level.