

Government Response

Parliamentary Joint Committee on the Australian Crime Commission Report

Inquiry into the legislative arrangements to outlaw serious and organised crime groups

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Recommendation 1: The committee recommends that the ACC work with its law enforcement partners to enhance data collection on criminal groups and criminal group membership, in order to quantify and develop an accurate national picture of organised crime groups within Australia.

Accepted

On 25 November 2009, the Government released the Commonwealth Organised Crime Strategic Framework (the Framework), which includes measures to improve intelligence, information sharing and interoperability among agencies to best identify and combat organised crime networks and their activities.

A key element of the Framework is the biennial development, by the Australian Crime Commission (ACC), of an Organised Crime Threat Assessment to provide a shared picture among relevant stakeholders of the most significant threats and harms arising from organised criminal activity.

Under the Framework, the ACC will continue to play a key role in collecting and disseminating intelligence on criminal organisations. The continuation of current arrangements, including the ACC Board and existing task forces are supported under the Framework.

Recommendation 2: The committee recommends that the ACC monitor the Serious Crime Prevention Orders, of the United Kingdom's Serious and Organised Crime Agency, and report to both the Minister for Home Affairs and the Parliamentary Joint Committee on the Australian Crime Commission on the operation of the orders and on any benefits to Australian law enforcement agencies.

Recommendation 5: The committee recommends that the ACC continue to monitor the effectiveness of the United Kingdom's Financial Reporting Orders, and report to both the Minister for Home Affairs and the Parliamentary Joint Committee on the Australian Crime Commission whether similar reporting orders may be of benefit in the Australian law enforcement context.

Accepted

The Government agrees that the ACC continue to monitor the effectiveness of Serious Crime Prevention Orders and Financial Reporting Orders in the context of other investigative and offender management options, and report back as appropriate.

Recommendation 3: The committee recommends that the unexplained wealth provisions of the Crimes Legislation Amendment (Serious and Organised Crime) Bill 2009 be passed.

Noted

The *Crimes Legislation Amendment (Serious and Organised Crime) Act 2010* was passed by Parliament on 4 February 2010 and received Royal Assent on 19 February 2010.

Recommendation 4: The committee recommends that the Commonwealth Government give urgent consideration to strengthening the enforcement of registration obligations under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

Accepted

Under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act), providers of remittance services are required to register with the Australian Transaction Reports and Analysis Centre (AUSTRAC). On 23 April 2010, the Government released a discussion paper detailing proposals to enhance regulation of Australia's remittance sector in order to combat serious crimes. The paper includes proposals to tighten the registration obligations of the sector, and to empower the AUSTRAC CEO to refuse, suspend or cancel the registration of remitters in appropriate circumstances, including if the person poses a significant money laundering, terrorism financing or people smuggling risk or has a history of non-compliance with their regulatory obligations. Subject to the outcome of consultations, the Government proposes to introduce legislation amending the AML/CTF Act as soon as possible.

The *Crimes Legislation Amendment (Serious and Organised Crime) Act No. 2 2010* strengthened AUSTRAC's ability to take enforcement action against reporting entities that do not comply with their obligations under the AML/CTF Act. Specifically, it removed the requirement that AUSTRAC prove that an entity located in a foreign country is not an authorised deposit-taking institution when taking action against providers of remittance services under the AML/CTF Act.

The Government is currently considering options for improving the operation of the AML/CTF Act more broadly. The Government is committed to developing a workable legislative framework that strikes a balance between efficient conduct of business and effective regulation to combat money laundering and terrorism financing.

Recommendation 6: The committee recommends that the Commonwealth Government examine a more integrated model of asset recovery in which investigation and prosecution are undertaken within one agency, such as the ACC.

Accepted

The Government will examine possible options for a more integrated model of criminal asset confiscation.

An important factor for consideration will be the desirability of closely coordinating action to confiscate criminal assets with any related investigation or prosecution of criminal offences. Consideration would also need to be given to the resources and expertise required to integrate in a single agency the functions of investigating criminal assets and applying for court orders to restrain and confiscate those assets.

Integrating asset recovery into the ACC may not be an appropriate option as it may detract from the agency's key functions of information and intelligence gathering and dissemination.

Recommendation 7: The committee recommends that the Australian Government, in consultation with regional partners, give consideration to establishing an intelligence fusion centre in the Oceania region.

Accepted in principle

The Framework clearly articulates the benefit of a fusion capability such as the successful concept of the ACC's Financial Intelligence Assessment Team, which pools analytical skills and provides shared access to multiple Commonwealth data and intelligence holdings located within the ACC. The Government has committed to the development of a domestic criminal intelligence fusion capability linking a range of agencies and is currently focused on establishing that capability. Any consideration of a fusion centre in the Oceania region should occur once the Commonwealth fusion capability has been established and fully evaluated.