



**Australian Government**  
**Attorney-General's Department**

**Criminal Justice Division**

08/24789

19 January 2009



Dr Jacqueline Dewar  
Committee Secretary  
Parliamentary Joint Committee  
on the Australian Crime Committee  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Dr Dewar

**Inquiry into the legislative arrangements to outlaw serious and organised crime groups:  
additional question two**

I am writing to provide the Department's response to additional question two of the Parliamentary Joint Committee on the Australian Crime Commission (the Committee) in relation to the inquiry into the legislative arrangements to outlaw serious and organised crime groups.

The Committee asked the Department:

What programs, if any, does Australia have to assist countries in our region to develop strong laws with which to fight organised crime? It would assist the Committee if you could provide some examples of these programs.

The Federal Government has a range of programs operating in the region to develop strong laws and to build capacity to fight organised crime. Detailed examples of the programs administered by the Department, the Australian Federal Police, the Commonwealth Director of Public Prosecutions, the Australian Transaction Reports and Analysis Centre, and AusAID are set out in **Attachment A**.

If the Committee has any questions about the response, or requires any further information, the Department is happy to help. The action officer for this matter is Mandy Angus.

Yours sincerely

Elizabeth Kelly  
First Assistant Secretary

## **Programs to assist countries in the region fight organised crime**

### **Attorney-General's Department**

1. The Attorney-General's Department (the Department) operates several programs, and is responsible for a range of measures, which provide technical legal and capacity-building assistance to Pacific and South East Asian countries. These are administered by the Regional Legal Assistance Unit (RLAU), the Anti-Money Laundering Assistance Team (AMLAT), the Pacific Section, and the Transnational Crime Domestic Policy Section.

### ***Regional Legal Assistance Unit***

2. RLAU works with countries in South East Asia to develop and strengthen law and practice in counter-terrorism and transnational crime such as people smuggling and trafficking. RLAU also provides assistance to improve international legal cooperation, including extradition, mutual legal assistance, and the transfer of sentenced persons.
3. The assistance RLAU provides is tailored to meet the specific needs and priorities of countries. Projects commonly include combinations of the following types of assistance:
  - workshops and training on legal concepts and international obligations
  - advice and guidance on developing and strengthening domestic legal regimes
  - assistance with developing legal frameworks and facilitating the passage of legislation through the parliamentary process, and
  - assistance in the practical implementation of legislation, including the training of prosecutors, practitioners and other relevant authorities.
4. RLAU has been providing technical legal assistance to South East Asian countries since 2005. It has effectively assisted many countries on both a bilateral and multilateral basis and played a key role in the development and implementation of comprehensive counter-terrorism, transnational crime, and international crime cooperation laws in the region.
5. For example, RLAU has worked with Cambodia since 2005 to develop its Law on Counter-Terrorism. The Law entered into force in July 2007 and, since that time, RLAU has been working with Cambodia to provide training and guidance to legal and law enforcement personnel on its practical operation. RLAU also supported Vietnam in its development of an international cooperation law covering mutual legal assistance in criminal and civil matters, extradition and the transfer of sentenced persons by providing training on legal principles and international

obligations and advising on various drafts of the law. RLAU continues to provide support to Vietnam in developing its international crime cooperation capacity.

### ***Anti-Money Laundering Assistance Team***

6. AMLAT assists Pacific island countries to implement anti-money laundering and counter-financing of terrorism (AML/CFT) arrangements. AMLAT's specialist advisers and consultants provide in-country assistance in the areas of legal arrangements, financial intelligence, and law enforcement.
7. AML/CFT systems involve the collection and analysis of suspicious financial activity for use in criminal investigations and prosecutions, including the confiscation of criminal assets. The systems are underpinned by legislation on proceeds of crime and financial transaction reporting. Financial intelligence is beneficial in the investigation of a range of predicate offences, including transnational and domestic crime.
8. AMLAT has provided a range of assistance to Pacific island countries, including:
  - regional workshops and training on AML/CFT and proceeds of crime for Pacific financial intelligence units (FIUs), prosecutors, police, customs officials and judges
  - assisting with the establishment and development of FIUs in the Solomon Islands, Papua New Guinea, Nauru and the Federated States of Micronesia
  - law enforcement mentoring for Fiji and the Cook Islands in the area of financial investigation, and
  - assisting with the implementation of border cash reporting in the Pacific.
9. AMLAT works closely with other donors, including the Australian Federal Police (AFP), the Pacific Islands Forum Secretariat, the Asia/Pacific Group on Money Laundering, the Australian Transaction Reports and Analysis Centre (AUSTRAC), and the United Nations Office on Drugs and Crime (UNODC) to deliver its program of technical assistance and training.

### ***Pacific Section***

10. The Federal Government's Pacific Police Development Program (PPDP) aims to provide more effective policing for the people of the Pacific region. The program is delivered in partnership by the AFP and the Department, through its newly established Pacific Section.
11. As part of the PPDP, the Pacific Section will provide legal policy and legislative assistance to Pacific island countries on police and criminal justice issues. The Pacific Section will be working closely with partner countries, the AFP and other stakeholders to deliver tailored assistance and to develop local capacity to undertake law reform projects.

12. The types of areas where the Pacific Section may assist include:

- modernising and strengthening legislation underpinning the operation of police forces, including legislation dealing with police powers and discipline, to reflect modern police practices
- updating criminal offences to cover current issues like domestic violence, drugs and transnational crime
- reviewing criminal procedure legislation to provide for streamlined and transparent prosecution processes
- modernising legislation covering other aspects of the criminal justice system, including prisons and coronial investigations, and
- strengthening mutual legal assistance, extradition and the transfer of sentenced persons legislation.

13. The Pacific Section provides legislative drafting assistance to enact reforms and can advise on all aspects of legislative and policy projects, including consultation and report-writing. It has the additional capacity to work with Pacific island countries to implement new legislation, including through the provision of workshops and training for local officials.

#### ***Transnational Crime Domestic Policy Section***

14. The Transnational Crime Domestic Policy Section has responsibility for implementing Australia's obligations under the *United Nations Convention against Transnational Organized Crime*. The Department is the lead agency for people trafficking issues and coordinates measures under the Federal Government's strategy. Listed below are some examples of the work being undertaken offshore under this strategy.

#### ***Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime***

15. The Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (the Bali Process), which involves approximately 40 countries, is a good example of regional collaboration. Australia co-founded, and co-chairs the Bali Process with Indonesia.

16. The work of the Bali Process contributes to more effective day-to-day cooperation between operational agencies in the region and it has been successful in raising regional awareness of people smuggling, trafficking and related transnational crime at both the political and operational levels. The primary work of the Bali Process is in the form of workshops on law enforcement cooperation, information sharing and technical assistance. Meetings of senior officials and Ministers are scheduled for early 2009. While the agenda has yet to be finalised, the meetings will provide the opportunity to review activities and outcomes of the Bali Process, including:

- developing and implementing relevant laws
- undertaking a strategic reassessment of human trafficking and smuggling activities in the region, and
- considering a forward agenda for the Bali Process.

17. Since it was formed in 2002, the Bali Process has played a key role in criminalising the transnational crime of people trafficking in many countries in the region through workshops on topics including developing model legislation to prosecute trafficking. Asia-Pacific countries have used the model legislation to draft their own anti-people trafficking and smuggling legislation. The Republic of Palau is an excellent example of a Pacific island state that has drafted and enacted its own Anti-People Smuggling and Trafficking Act. Since the legislation was enacted, Palau has had several successful people trafficking convictions.

18. Additionally, the Federal Government provides funds to assist developing neighbour countries to attend regional or international meetings, such as regional meetings on people trafficking. This helps to build their capacity to develop and implement effective legislation.

#### *AFP liaison officers*

19. Out-posted AFP officers work intensively, and highly successfully, with regional counterparts on prevention, investigation and victim support measures. They also work closely with overseas law enforcement agencies to broker collaboration to drive multilateral and bilateral investigations in relation to transnational crime, including a number of important people trafficking cases.

20. Their work also promotes information and intelligence exchange, and builds capacity within local law enforcement. For example, the AFP has developed a specialised investigations training package for police officers working in the region, dealing with legislation, investigative methodologies, trafficking trends, intelligence targeting, and victim liaison.

21. Out-posted AFP officers also assist in the return and reintegration of victims of crime. For example, the AFP works closely with Thailand (where the majority of identified trafficking victims in Australia originate) to facilitate the return of victims and their reintegration.

#### *Senior Migration Officer Compliance (Trafficking)*

22. As part of Australia's whole-of-government preventative measures, the Department of Immigration and Citizenship created the first Senior Migration Officer Compliance (Trafficking) (SMOCT) position in Bangkok in late 2003. In 2007–08, the Federal Government announced funding for two additional SMOCT positions. These additional SMOCTs are located in Beijing and Manila and became operational in late January 2008.

23. The SMOCTs focus exclusively on people trafficking issues and aim to stop people trafficking at its source. They also provide an enhanced focus on

trafficking for labour exploitation. The SMOCTs vet visa caseloads for fraud that may lead to trafficking and analyse trends in visa processing, including:

- applicants' travel patterns
- use of migration agents, and
- the nature of the claims lodged in applications.

24. The SMOCT position in Bangkok has worked closely with the AFP and assisted in identifying trafficking links with Australia, resulting in people being charged with trafficking-related offences. Along with other government agencies at Post, the SMOCTs liaise with local government and non-government agencies in identifying ways to stop trafficking.

### **Australian Federal Police**

25. The AFP is committed to working with law enforcement agencies in the region and worldwide against transnational crime, including terrorism. The AFP undertakes various activities to develop close working relations with international law enforcement agencies and assists in enhancing the capacity and capability of regional partners to enforce existing legislative frameworks and provide environments that facilitate the appropriate development and delivery of broader justice and government systems. Examples of AFP activities include:

- An international network consisting of 86 AFP officers (34 posts) in 28 countries worldwide, including dedicated Counter-Terrorism Liaison positions and Counter-Terrorism Analysts.
- The International Deployment Group, which was established in February 2004 to support regional stability missions and deliver offshore police capacity development programs.
- International training teams, who provide a range of programs for international partners, both in Australia and offshore.
- The Law Enforcement Cooperation Program (LECP), which plays a vital role in assisting foreign law enforcement agencies to deal with transnational crime. The LECP's achievements include:
  - The establishment of Transnational Crime Teams (eg in Thailand, Columbia and Cambodia). Transnational Crime Teams are key investigative bodies for all transnational crime activities within their jurisdictions. They are staffed by local law enforcement personnel who are mentored and supported by AFP advisers.
  - A joint LECP/AusAID funded project that enhances the capacity of the Indonesian National Police to manage transnational crimes and counter-terrorism. This project focuses on the development of a Transnational Crime Centre in Jakarta and the constant improvement of Indonesia's law enforcement intelligence capacity.

- The establishment and continuing development of the Pacific Transnational Crime Network. Transnational Crime Units (TCUs) are now operational in Fiji, Tonga, Samoa, Vanuatu, Micronesia and Papua New Guinea. Further TCUs are being considered for other Pacific island nations, including the Solomon Islands.
  - The establishment of the Pacific Transnational Crime Coordination Centre (PTCCC). The PTCCC is based in Samoa, with an AFP adviser, and coordinates the flow of information between TCUs and foreign law enforcement agencies.
  - The provision of Disaster Victim Identification (DVI) training and air/ground portable DVI laboratories and equipment to countries, including Indonesia and Singapore.
- Implementation and development of the Jakarta Centre for Law Enforcement Cooperation (JCLEC). The Centre's key objective is to enhance the ability of regional law enforcement to deal with transnational crime, with a primary focus on counter-terrorism skills. Programs offered by JCLEC, include Investigations Management, Criminal Intelligence, Forensics, Financial Investigations and Communications.
  - Initiatives such as the Regional Cooperation Teams in Jakarta and Manila, and the Multi National Operations Support Team in Jakarta, through which the AFP has been instrumental in supporting the hub of regional law enforcement officers working collaboratively in response to terrorist threats in the region. The AFP, in partnership with the Royal Thai Police, is also in the process of establishing a Regional Cooperation Team in Bangkok. This team is expected to commence operation in early 2009.
  - Significant assistance, together with the Australian Bomb Data Centre, to establish Bomb Data Centres in the Philippines, Indonesia, Malaysia and Thailand. The aim of these projects is to enhance the knowledge and skills of regional law enforcement bomb experts and share bomb data between regional partner agencies. Cooperative relationships with other Bomb Data Centres are also being developed.
  - Implementation of an Offshore Exercise Regime, which tests, exercises and improves regional preparedness to respond to major terrorist incidents. Exercises are delivered under the Department of Foreign Affairs and Trade—Law Enforcement Counter-Terrorism and Capability Building project and include two offshore exercises a year over four years. The AFP has delivered three offshore exercises under this program to date.
  - Establishment of a Case Management Intelligence System in a number of countries to assist Australia's regional law enforcement partners in the collection and analysis of law enforcement information and intelligence.
  - Provision of community policing services in external Australian territories.

26. The activities listed above also provide an opportunity for the AFP to collaborate with partner agencies, including the Department, in enhancing regional legislative regimes. Examples of this include:

- The AFP (Indonesian and Pacific Posts), together with Indonesian and Pacific countries, work closely with the Department to identify weaknesses and gaps in existing criminal legislation in relation to serious, organised and transnational crime. Much of this effort is in collaboration with Transnational Crime Teams and the Pacific Transnational Crime Network. Specific deficiencies in national legislation and law enforcement powers have been identified based on operational experience. The AFP drives recommendations for change through these national teams/agencies, and leverages from the close collaboration with the Department to focus drafting expertise and support to amend criminal legislation and bring it in line with international best practice and powers to suit and support sophisticated policing operations.
- The AFP regularly contributes to the RLAU program in Cambodia to develop, enact and publish the Law on Counter-Terrorism. The AFP has participated as a presenter at all three workshops conducted for the Cambodian Ministry of Justice and Cambodian National Counter-Terrorism Committee Secretariat. The purpose of these workshops is to raise awareness of the law and ensure that it is appropriately implemented. Whilst many of the presentations deal with the legal operation of the law, the focus of AFP presentations has been on how a counter-terrorism investigation proceeds in practice.
- The AFP has provided assistance to Vietnam to establish a High Tech Crime Centre in Hanoi and a High Tech Crime Team in Ho Chi Minh City. This assistance has included equipment, training and software as well as providing advice on legislative requirements in order to meet the current international standards. In addition, the AFP facilitated a visit by the Vietnamese so that they could review the AFP model with respect to establishing a High Tech Crime Division across the country.
- As outlined above, the AFP and the Department deliver the PPDP. Delivery of the AFP's component of the PPDP will commence in January 2009.
- The AFP contributes to the Asia/Pacific Group on Money Laundering (APG), which was formed in 1997 to help countries in the Asia-Pacific region enact laws which criminalise the laundering of the proceeds of crime, and deal with mutual legal assistance, confiscation, forfeiture and extradition. The APG also provides guidance for setting up systems to report and investigate suspicious transactions, and for the establishment of financial intelligence.



## **Commonwealth Director of Public Prosecutions**

27. The Commonwealth Director of Public Prosecutions (CDPP) has assisted countries in the Pacific to develop strong laws with which to fight organised crime through a range of different activities.
28. In April 2008, the CDPP hosted an International Crime Cooperation Workshop in Brisbane. In partnership with the AFP and AMLAT, the CDPP provided training to Pacific prosecutors, with a focus on developing the practical skills required to prepare and conduct proceeds of crime action.
29. In June 2008, the CDPP and the NSW Office of the Director of Public Prosecutions co-hosted the second meeting of Australian and Pacific Chief Prosecutors in Sydney. The meeting brought together the heads of prosecution services and senior prosecutors from ten Pacific Island Forum countries, as well as the heads of four of Australia's State and Territory prosecution services. The meeting focussed on a range of issues, including emerging areas such as money laundering and proceeds of crime action.
30. In November 2008, the CDPP and the AFP assisted AMLAT in delivering a Proceeds of Crime Workshop for the Solomon Islands in Honiara. The workshop focussed on increasing awareness of money laundering and enhancing the capacity of the Solomon Islands to initiate and respond to proceeds of crime matters. A CDPP criminal assets lawyer and two AFP officers presented sessions on technical aspects and trained participants in the practical skills required to investigate, prepare and conduct proceeds of crime action using the Solomon Islands Money Laundering and Proceeds of Crime Act 2002 and the Solomon Islands Court (Civil Procedure) Rules 2007.
31. The CDPP and AMLAT have developed the Prosecutors' Pairing Program, which is a joint initiative that places a prosecutor from a Pacific Island Forum country in one of the CDPP's proceeds of crime teams. The purpose of the program is to strengthen the capacity of prosecution services in Pacific countries to conduct effective proceeds of crime action, through practical experience, training and mentoring. In 2007–2008, the program has provided for the placement of prosecutors from Vanuatu, Papua New Guinea and the Solomon Islands in the Criminal Assets Branches of the CDPP's Melbourne and Brisbane offices.

## **Australian Transaction Reports and Analysis Centre**

32. AUSTRAC's current capacity building projects focus on providing assistance to South East Asian and Pacific Islands FIUs through short-term FIU mentoring, training and regional workshops.
33. Under the South East Asian Counter-Terrorism (SEACT) Program, AUSTRAC is providing capacity building assistance to the ten ASEAN members. AUSTRAC assistance is mainly in the form of:
  - in-country workshops and advice to support the development of counterpart FIUs

- IT advice, through attachments to AUSTRAC and in-country support for IT systems planning and implementation, and
  - regional workshops, drawing together the FIU community in the development of networks for the exchange of information and best practices.
34. Terrorist financing typologies grounded in Australian and regional experiences are being developed to assist authorities in all SEACT jurisdictions to better target terrorist financing activity. In-depth training and exposure to the use and analysis of typologies is offered to AUSTRAC's counterpart agencies through in-country workshops and attachments of counterpart staff to AUSTRAC's office.
35. AUSTRAC provides an IT Adviser to work with the Indonesian FIU to assist with enhancing its IT infrastructure and the capacity building of IT staff. AUSTRAC also provides an officer as part of the JCLEC initiative led by the AFP and the Indonesian National Police. The officer provides training in financial investigations to law enforcement officials from a number of South East Asian countries. Such financial expertise will assist South East Asian jurisdictions to counter money laundering and terrorist financing.
36. In addition to regional work, AUSTRAC has recently begun a technical assistance and training program with the Pakistan FIU. This twelve month program will focus on building the intelligence capabilities and an understanding of regulatory and supervisory responsibilities to assist Pakistan develop a robust anti-money laundering regime.
37. AUSTRAC frequently collaborates with other donors and providers to present workshops. This has included a Pacific Analysis Workshop for participants from nine Pacific jurisdictions which was jointly delivered with AMLAT and a Typologies workshop developed and delivered in conjunction with the AFP in November 2008.

#### **AusAID**

38. To effectively combat serious and organised crime, countries require strong domestic action, including legal frameworks, and a coordinated international approach. Countries also need to recognise the value of regional partnerships and cross-border cooperation.
39. The Federal Government places a high priority on working collaboratively with regional partners to ensure that legal frameworks to combat serious and organised crime, to counter-terrorism and to facilitate international legal cooperation are as comprehensive and effective as possible.

#### ***Assistance to the Asia-Pacific region***

40. Specific transnational challenges to stability that have emerged in the Asia-Pacific region, such as illicit drugs, human trafficking, corruption, terrorism and money laundering, often have links to organised crime.

41. Australia supports a range of technical activities both bilaterally and regionally to counter these challenges. In doing so, Australia works in partnership with regional countries, regional organisations such as ASEAN and APEC as well as key United Nations' bodies.
42. For example, Australia is helping improve the criminal justice response to human trafficking in South East Asia. The Asia Regional Trafficking in Persons (ARTIP) project (AUD21m, 2006–2011) provides capacity building through training and resources to:
  - strengthen specialist and general law enforcement responses to trafficking
  - strengthen judicial and prosecutorial responses to trafficking, and
  - enhance policy, legal, research and outreach capability in the region.
43. AusAID also provides core funding to the UNODC (AUD1.4m in 2008), which has a mandate in relation to United Nations' Conventions and other universal legal instruments on transnational organised crime such as narcotic drugs, human trafficking, terrorism and corruption.

#### *Assistance to Papua New Guinea*

44. Since 2003, AusAID has been working with Papua New Guinea to help improve law and order, including Papua New Guinea's capacity to combat serious and organised crime, providing approximately AUD150m over 5 years, through the Law and Justice Sector Program. This has included direct funding and technical assistance across law and justice agencies, community groups and selected provinces. This assistance has helped strengthen the capacity of core law and justice agencies to deliver services in crime prevention, prosecutions, policing, legal aid, prisons, Ombudsman and Courts. A new phase of assistance through the PNG-Australia Law and Justice Partnership (AUD150m over 5 years), has been designed and is due to commence in mid-2009.
45. In late 2003, Australia and Papua New Guinea agreed to implement the Enhanced Cooperation Program (renamed Strongim Gavaman Program (SGP) in April 2008) to help Papua New Guinea address key challenges in the areas of policing, law and justice, border management and transport security, and economic and public sector management. SGP officials are currently deployed in Papua New Guinea's law and justice sector, working to improve governance and help curb corruption, including five in-line prosecutors, two advisers in the Department of Justice and Attorney-General, and two in Correctional Services.

#### *Assistance to Solomon Islands*

46. The Regional Assistance Mission to Solomon Islands (RAMSI) Law and Justice Program aims to strengthen the capacity of the justice sector of the Solomon Islands to uphold the rule of law by providing equitable access to justice through efficient, affordable, accountable and sustainable institutions. The Program is comprised of three components—police, prisons and justice. AusAID manages the

Justice and Corrections programs (AUD29m in 2007–08), while the AFP manages the police program separately (AUD120.3m in 2007–08).

*Other relevant programs*

47. Vanuatu—Vanuatu Police Force Capacity Building Project and Vanuatu Legal Sector Strengthening Project (Phase III) (AUD28m and AUD10m respectively for 2006–11)
48. Samoa—Samoa Police Project (AUD15.6m, 2004–08) and support for the development of the Government of Samoa’s Law and Justice Sector Plan (AUD1.1m, 2007–09)
49. Tonga—Police Development Program (interim phase: AUD1.5m AusAID; AUD1.1m AFP) and Law, Justice and Anti-Corruption Assistance (approx AUD3m in 2008–09)
50. East Timor—Justice Sector Support Facility (AUD28m, 2008–13)
51. Indonesia—Indonesia Australia Legal Development Facility (AUD18m, 2004-09)
52. Cambodia—Cambodia Criminal Justice Assistance Project (Phase III) (AUD31m, 2007–12), and
53. Public Sector Linkages Program and Pacific Governance Support Program—to help develop the capacity of countries in Asia and the Pacific to investigate and prosecute crime and engage in effective international legal cooperation.