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1 INTRODUCTION

This submission is made by the Commonwealth Attorney-General's Department.

The submission addresses the following Term of Reference of the Committee's Inquiry:

(3) development cooperation relationships with the various states of the region, including the future direction of overall development cooperation program;

1.1 The Changing Nature of Crime

Globally, the criminal environment is volatile. Crime syndicates 'cash in' on the opportunities presented by globalisation of communication and transport and removal of trade barriers and border restrictions. These factors have affected the lawful operations of corporations and multinational organisations and have enabled criminal syndicates to become involved in international drug trafficking, people smuggling, money laundering and other serious crimes.

Globalisation and structural change have fostered the formation of trade blocs and the deregulation of economic activity. Free trade agreements in different parts of the world, designed to reduce border regulation, have inadvertently provided opportunities for criminal activities such as illicit drug trafficking. There is a need to reconcile two seemingly contradictory aims: trade liberalisation and the effective control of transnational criminal activities.

Increasingly, law enforcement is required to investigate criminal activities where the main players are overseas, or where the direct and indirect effects of these activities involve more than one country. All law enforcement agencies are confronting highly sophisticated crime networks with a range of tools, for example encryption capabilities, mobile telephones and electronic mail.

Improved inter-agency and international co-operation are essential in the fight against transnational crime. Commonwealth law enforcement agencies such as the Australian Federal Police (AFP) and the National Crime Authority (NCA) have made significant contributions to the enhancement of international efforts to counteract and prevent criminal activity and to establish and maintain strong strategic and operational inter-agency relationships including within the Pacific Island region. Emergency Management Australia (EMA), part of the Attorney-General's Department, co-ordinates Commonwealth disaster management assistance to the Pacific Island region.

1.2 Emphasis on Co-operation and Co-ordination

Commonwealth law enforcement agencies are part of a comprehensive law enforcement operating framework which includes numerous Commonwealth, State, Territory and international agencies with law enforcement interests and responsibilities. Some of these agencies, such as the Australian Customs Service

ACS), perform highly specific law enforcement or regulatory activities as part of their wider policy and program delivery responsibilities, while others perform purely law enforcement functions.

Establishing and maintaining strategic and operational agency inter-relationships is fundamental to an effective response to a complex and sophisticated criminal environment. Co-operation by the Commonwealth law enforcement agencies has extended into both the operational and administrative realms.

1.3 The Honiara Declaration on Law Enforcement Co-operation

The Honiara Declaration calls upon nations of the South Pacific to have in place legislation to combat crime, particularly international crime. The Declaration emphasises the importance of having legislation to enable the extradition of persons; provide and receive mutual assistance in criminal matters; trace, seize, freeze and forfeit the proceeds of crime; and counter money laundering activities.

A copy of the Honiara Declaration is at **Attachment A**.

Australia has in place the full range of legislation to implement the Honiara Declaration. This includes:

- the *Mutual Assistance in Criminal Matters Act 1987*
- the *Extradition Act 1988*
- the *Foreign Evidence Act 1994*
- the *Proceeds of Crime Act 1987*
- the *Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Act 1989*
- the *Customs Act 1901*.

These are complemented by State and Territory legislation.

2 CO-ORDINATION ARRANGEMENTS

The Attorney-General's Department is closely involved in working with the following agencies and organisations in the South Pacific region.

2.1 Pacific Islands Forum

Since the establishment of the Pacific Islands Forum in August 1971, the Heads of Governments/States of the member countries have collectively shown their resolve to pursue regional integration, stability and prosperity. The Forum consists of 16 independent and self-governing nations of the Pacific: Australia, the Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu. The Department of the Prime Minister and Cabinet co-ordinates the briefings for the Australian delegation which attends the Forum meetings.

The Attorney-General's Department has contributed to the delegation briefings on the wide range of issues considered by the Forum, including regional security, regional law and order matters, the illegal movement of people, money laundering, transnational crime, regional weapons control, South Pacific Whale Sanctuary, fisheries and regional environment issues.

2.2 Forum Regional Security Committee (FRSC)

The FRSC is a meeting of operational law enforcement agencies within the Pacific Islands Forum. The Committee includes representatives of regional police, customs, immigration organisations who meet to discuss issues of common concern. The Department of Foreign Affairs and Trade co-ordinates the briefings for the Australian delegation which attends the FRSC meetings.

The Attorney-General's Department has contributed to the delegation briefs on the issues considered by the FRSC, including implementation of the Honiara Declaration, drugs, terrorism, people smuggling, weapons control, law and order issues, Financial Intelligence Units and the regional security environment.

2.3 Pacific Islands Law Officers' Meeting (PILOM)

PILOM is an annual meeting of senior law officers which discusses high level legal and policy matters of common concern. Representation is from the civil service and is usually at level of Attorney-General, Solicitor-General and Head of Department. The Attorney-General's Department is represented by the Secretary and an adviser.

Issues considered by PILOM include country reports on legislative developments in each jurisdiction, legislation to implement the Honiara Declaration, protection of cultural heritage, good governance, independence of the judiciary, the role of ombudsmen, leadership codes, access to legal information, human rights frameworks, trade law, commercial arbitration and dispute settlement.

The Department is actively involved in the Law and Order Committee of PILOM. The Committee comprises of representatives from Australia, New Zealand, Tonga, Nauru and Samoa. Recently the Committee advised the FRSC on amendments to the regional model weapons control legislation. Its future work is likely to involve assisting in the development of model counter-terrorism legislation for the region.

The Department worked closely with the PILOM Continuing Legal Education Committee (CLEC) to develop and distribute a number of legal education videos on such matters as investigations, prosecutions, money laundering and drug trafficking. The CLEC has now been disbanded, although aspects of the work undertaken are continuing through courses held at the University of the South Pacific.

2.4 Financial Action Taskforce on Money Laundering (FATF)

The FATF was formed in 1989 by the G7 Group of countries to formulate and encourage the adoption of international standards and measures to combat money laundering. Australia was a founding member of FATF and played an important role in drafting its 40 recommendations. There are widely accepted as world's best practice policy guidelines for dealing with money laundering.

Australia continues to take an active part in FATF deliberations and contributes to key FATF initiatives such as the Non-Co-operative Countries and Territories (NCCT)

exercise. The NCCT exercise has sought to identify critical weaknesses in anti-money laundering systems which serve as obstacles to international co-operation. The goal of the process is to reduce the vulnerability of the global financial system to money laundering by ensuring that all financial centres adopt and implement measures for the prevention, detection and punishment of money laundering according to internationally recognised standards.

The NCCT process has focussed attention on the deficiencies in anti-money laundering regimes of many countries. A number of countries in the Pacific region are currently regarded as non-compliant with these standards, including the Cook Islands, the Marshall Islands, Nauru and Niue.

2.5 Asia-Pacific Group on Money Laundering

The Asia-Pacific Group on Money Laundering (APG) was established as an autonomous regional anti-money laundering body in February 1997. The purpose of the APG is to facilitate the adoption, implementation and enforcement of internationally accepted anti-money laundering standards in the Asia-Pacific region.

The APG also provides guidance in setting up systems for reporting and investigating suspicious transactions and the establishment of Financial Intelligence Units (FIUs). The APG takes regional factors into account in the implementation of anti-money laundering measures and provides for peer review through a mutual evaluation process. As a member of the APG, Australia provided a law enforcement expert to the Cook Islands in October 2001.

Australia has been instrumental in the expansion and increasing effectiveness of the APG, which has grown to 25 members. Australia is a major financial contributor and provides additional resources to the APG, including accommodation and funding for the group's secretariat functions. As joint chair of the APG, Australia hosts the general meeting of the group in alternative years. The most recent meeting was held in June 2002.

2.6 Australia-Papua New Guinea Ministerial Forum

The Australia-Papua New Guinea Ministerial Forum provides an opportunity for senior Ministers in both governments to meet and discuss matters of common interest, in addition to their regular dialogue. The Forum meets annually, alternating between an Australian venue and a PNG venue. The respective Ministers for Foreign Affairs head each delegation. The Department of Foreign Affairs and Trade co-ordinates the briefings for the Australian delegation attending the meetings.

The Attorney-General's Department has contributed to the delegation briefings on the issues considered at the Forum, including trade and investment matters, illegal movement of people, border co-operation, environmental co-operation and security issues.

2.7 Fiji Law Reform Commission (Bribery and Corruption)

The Fiji Law Reform Commission reviews the laws and practices that govern bribery and corruption within the private and public sector in Fiji. The Department has

assisted the Commission by providing information on Commonwealth legislation on bribery and corruption.

2.8 Co-ordination with the Australian Federal Police in the South Pacific

The Department maintains a close relationship with the Australian Federal Police (AFP) in its work in the South Pacific. In particular, the Department works with the AFP in the areas of the South Pacific Liaison Officers Network, the South Pacific Chiefs of Police Conference (SPCPC) and the Australasian and South West Pacific Region Police Commissioners Conference (ASWPRCC).

Issues on which the Department has contributed include advice on the legislation to implement the Honiara Declaration, regional weapons control legislation, regional security matters, and assistance in arranging for the prosecuting of cases.

3 CO-OPERATION ARRANGEMENTS

3.1 Terrorism and Multinational Crime

International terrorism is inextricably linked with transnational organised crime, trafficking in illicit drugs, money laundering, illegal people movement and illegal arms trafficking. The South Pacific has recognised that it can be affected by terrorism and multinational crime.

Under the heading “**Other Issues**”, the Pacific Islands Forum’s **Honiara Declaration on Law Enforcement Co-operation** states:

The Forum recognised terrorism as a threat to the political and economic security of the region, and noted the various international conventions in the field. It identified areas of possible co-operation amongst Forum governments, particularly in intelligence gathering, training of personnel and joint exercises in dealing with serious incidents. While recognising the primary role of other networks, particularly police, in addressing this area, the Forum agreed that Forum programmes, particularly in the civil aviation area, should continue to take account of terrorism concerns.

Up until 11 September 2001, however, combating terrorism was not seen as a priority in the region. Many of the Pacific Island countries have no framework to deal with terrorism due to their relative peace and stability and geographic isolation.

Post September 11, transnational organised crime and terrorism is now widely recognised as a growing problem.

In a letter dated 4 October 2001, the Secretary-General of the United Nations urged States to reaffirm their abhorrence of terrorism by becoming parties to the international framework of conventions which deal with terrorism, where they have not already done so. Through bodies such as the Pacific Islands Forum, the Forum Regional Security Committee and the Pacific Islands Law Officers’ Meeting, Australia has urged South Pacific jurisdictions to consider adherence to these instruments in the global fight against terrorism. The text and status of these treaties may be found at: <http://untreaty.un.org>.

Australia has signed the United Nations Convention Against Transnational Organised Crime and the migrant smuggling and firearms Protocols. Within the region, Nauru has signed the Convention and the Protocols.

A Regional Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime, jointly hosted by Australia and Indonesia, was held in Bali from 26-28 February 2002. Representatives from Fiji, Kiribati, Palau, PNG, Samoa, Solomon Islands and Vanuatu attended the conference.

At the conclusion of the conference, Ministers agreed to the importance of enacting legislation to criminalise people smuggling and trafficking. As part of the follow-up activity to the conference, it was proposed that regional workshops be conducted to encourage countries to enact people smuggling and trafficking as domestic criminal offences. Consideration is being given to conducting a workshop for the Oceania region.

Australia also hosted a meeting of Pacific Island Forum Ambassadors on 26 September 2001 at the United Nations in New York. The purpose of the meeting was to provide a briefing on the terrorist threat and subsequent developments in the UN Security Council and General Assembly.

UN Security Council Resolution 1373 sets out a comprehensive set of measures for combating terrorism including:

- preventing and suppressing the financing of terrorism,
- criminalising the provision and collection of funds for terrorism,
- freezing of assets related to terrorists and terrorist activities,
- prohibiting the making of funds available to those involved in terrorist acts,
- refraining from providing any form of support,
- preventing the commission of terrorist acts through early warning,
- denial of safe haven,
- preventing acts against other States or citizens,
- ensuring justice and appropriate penalties,
- encouraging international co-operation; and
- preventing the movement of terrorists.

The Resolution also calls on states to intensify and accelerate the exchange of information, use of bilateral and multilateral instruments for co-operation and become parties to the relevant international conventions relating to terrorism.

In addition, the Financial Action Task Force has agreed to Eight Special Recommendations setting out the basic framework to detect, prevent and suppress the financing of terrorism. A copy of the Eight Special Recommendations is at **Attachment B**.

The Department also contributed to a Pacific Regional Workshop on Combating Terrorism held in Hawaii from 25-27 March 2002. The Workshop was co-hosted by Australia, NZ, and the US, and the Forum Secretariat. The objectives of the Workshop were to encourage compliance with the Resolution.

The Forum Secretariat is developing a matrix on the implementation requirements, technical assistance needs and technical assistance available to South Pacific jurisdictions for implementation of the UN Security Council Resolution 1373.

The Forum Regional Security Committee met from 12-14 June 2002 in Fiji. It provided an opportunity to review the progress and to identify gaps and means for addressing these as well as any other problems that have come to attention. A sub-committee has been formed with the Forum Secretariat to address these issues. Australia and the Department will play an important role in that process.

3.2 Mutual Assistance in Criminal Matters

Mutual assistance in criminal matters concerns the provision of assistance to, and the obtaining of assistance from other countries for the purpose of the investigation and prosecution of crime, and the restraint and confiscation of the proceeds of crime.

The *Mutual Assistance in Criminal Matters Act 1987* provides the legislative basis for Australia to enter into arrangements with other countries for mutual assistance in criminal matters. It is an exclusive channel for requests by and to foreign countries for assistance which requires the exercise of coercive powers.

Australia has no bilateral mutual assistance in criminal matters treaties with any South Pacific jurisdiction. However, assistance can be conducted under the Act with any country in the absence of a treaty (subsection 7(1)). This represents a significant enhancement of Australia's ability to expeditiously request and provide mutual assistance in criminal matters. Treaty negotiations are only undertaken with countries with which Australia has substantial mutual assistance case traffic and where a treaty would significantly facilitate that traffic, or with countries which require a treaty for their own domestic legal reasons.

In August 1986, Commonwealth law ministers approved a Scheme Relating to Mutual Assistance in Criminal Matters between Commonwealth countries. The scheme is known as the "Harare Scheme". It is not treaty-based and envisages that all Commonwealth countries will enact complementary legislation enabling the provision by each country of the types of assistance set out in the Harare Scheme.

The following mutual assistance cases are current or recent in the South Pacific region:

Fiji

There are two current Australian requests to Fiji, one seeking restraint of proceeds of crime and another seeking information relevant to an insurance fraud being investigated in Australia.

Fiji has recently requested Australia to take evidence for use in a prosecution for rape in Fiji.

Papua New Guinea

Australia has requested assistance from PNG in tracing proceeds of drug trafficking offences committed in Australia.

PNG has made a request for assistance to Australia concerning an illegal shipment of gold from PNG.

Vanuatu

Two requests were made, and accepted, by Vanuatu during 2001-2002 for assistance in obtaining evidence relevant to major frauds against the Commonwealth.

Vanuatu requested Australian assistance in obtaining evidence for a prosecution concerning the abuse of public office. Australia provided the evidence.

3.3 Extradition

The Commonwealth Scheme for the Rendition of Fugitive Offenders ('the London Scheme') is a non-treaty agreement whereby all Commonwealth countries apply their extradition laws to all other Commonwealth countries. This agreement enables each Commonwealth country to extradite on the basis of that country's domestic extradition legislation. Thirteen of the 16 nations in the Pacific Islands Forum are also members of the Commonwealth.

Australia can conduct extradition with the following countries pursuant to the Extradition (Commonwealth Countries) Regulations: Cook Islands, Kiribati, Nauru, PNG, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. Under separate non-treaty regulations, Australia can also conduct extradition with Fiji and the Marshall Islands.

There have been no extradition requests from PNG to Australia in the last 20 years. However one extradition request from PNG is anticipated involving an alleged fraud. Australia has made one extradition request to PNG for 4 people involved in drug trafficking. The request was successful.

3.4 Illicit Drugs

Australia's National Framework for the *Tough on Drugs* Diversion Program outlines a clear pathway for individuals from detection to assessment, education, treatment and post treatment support. It also establishes the responsibilities of the police and those services involved in diversion.

Since the commencement of the *Tough on Drugs* strategy, considerably more funding and law enforcement effort has been directed at reducing the supply of illicit drugs entering Australia. This has been achieved through a variety of means which go beyond traditional law enforcement. These include increased international co-operation, intelligence gathering in key source and transit countries, improved border protection through more sophisticated detection expertise and detection equipment, and crop eradication programs in source countries.

The implementation of such initiatives has contributed to major international operations in the South Pacific region, such as in Fiji in October 2000. The Fiji operation resulted in the seizure of large quantities of heroin in several different locations and the arrest of a number of critical players in heroin importation networks. The case involved international agencies, including the Australian Federal Police (AFP), National Crime Authority (NCA), the Fiji Police Force, New Zealand Police, the Royal Canadian Mounted Police and the United States Drug Enforcement Administration, at different stages. The Department played an important role in organising for an Australian prosecutor to assist the Fijian Director of Public Prosecution in the case.

3.5 Disaster Management Assistance

Emergency Management Australia (EMA) joined the Attorney-General's Department in November 2001. EMA manages Commonwealth emergency management responsibilities in Australia and co-ordinates Commonwealth disaster management assistance to the Pacific Islands region.

EMA's mission is to provide national leadership in the development of measures to reduce risk to communities and manage the consequences of disasters in Australia and the region.

EMA has been working with the nations of the South Pacific for many years to build the capability of national governments, organisations and individuals to reduce risks and manage the consequences of disasters. EMA's engagement has included training in disaster preparedness, prevention and response activities; funding of regional meetings to bring together Pacific national disaster management co-ordinators; scientific studies and activities to raise public awareness.

EMA has established partnerships with a range of Australian, Pacific and international agencies working on disaster management in the South Pacific region. It promotes the co-ordination of all agencies' activities through the South Pacific Applied Geoscience Commission's Disaster Management Unit.

EMA's working relationships with Papua New Guinea and the countries of the Pacific Islands region are particularly close, involving regular liaison, training and assistance. EMA seeks to achieve the following four broad outcomes:

- development of a strategic emergency management framework and agenda,
- building effective emergency management partnerships,
- enhancing emergency management capability, and
- facilitating the development of sustainable and resilient communities.

The relevance of this mission is not confined to the Australian community, but extends to the wider community including nations in the region. The growing economic, social and environmental inter-dependency between countries makes it imperative for Australia to work with its near neighbours.

Recent Involvement

During the International Decade for Natural Disaster Reduction (IDNDR), 1991-2000, Australia implemented an extensive program of disaster prevention and preparedness activities. Approximately one third of this program was devoted to disaster reduction projects outside Australia, primarily in PNG and the Pacific Islands.

Projects funded included translation and printing in local languages of public awareness publications such as cyclone action guides, sponsorship of community theatre, sociological studies of volcanic eruption impacts, upgrading of meteorological warning systems, disaster management training, Geographic Information System (GIS) workshops for emergency managers and the development of guidelines to protect water and sanitation systems.

One of the most significant outcomes of the IDNDR was the initiation of annual Pacific Regional Disaster Management Meetings (PRDMM). The success of these meetings has meant they have continued to be conducted beyond the end of IDNDR. Sponsored by EMA since 1992, these meetings bring together Pacific National

Disaster Management Officers to share information on common issues, discuss new disaster/risk management techniques with technical experts, and establish networks with other officers in the region. They are also an important forum for the exchange of ideas and for regional co-operation between national representatives, Australia, New Zealand, Non Government Organisations, donors and United Nations agencies.

In addition to IDNDR activities, EMA has conducted courses in disaster management, including public awareness, disaster planning, development of National Emergency Co-ordination Centres and training needs identification in the Pacific. Training has regularly included 'train the trainer' activities, enabling local practitioners to spread their knowledge further throughout their communities.

Another important role for EMA has been co-ordinating the provision of Commonwealth physical or technical assistance during the immediate post-impact phase of a disaster. EMA undertakes this function as an agent for the Australian Agency for International Development (AusAID).

The mechanism for activation of this assistance is the Australian Government Overseas Disaster Assistance Plan (AUSASSISTPLAN) which details principles and procedures involved in co-ordinating use of Commonwealth assets to provide disaster relief. While assets from any Commonwealth Department may be committed, due to the nature of Defence assets, their capacity for quick reaction, the special skills of personnel and its capacity to be self supporting, there is often considerable reliance on the Australian Defence Force. The Plan is prepared and maintained by EMA on behalf of AusAID, which normally funds the Australian response to an overseas disaster.

AUSASSISTPLAN was used to co-ordinate Australian assistance during the 1997-1998 drought in PNG, in which most of the country was affected, and the 1998 tsunami in PNG in which over 2,500 lives were lost. The ADF provided considerable assistance in health and transportation assistance to the disaster. Most recently, AUSASSISTPLAN was used for the provision of assistance to the Kingdom of Tonga following Tropical Cyclone Waka in January 2002.

To facilitate the sharing of information on disasters, develop better information sharing systems for risk assessment, conduct effective disaster mitigation, preparedness, response and recovery, and building networks, EMA hosted the 4th Global Disaster Information Network conference in 2001. Delegates from around the world provided representatives with the opportunity to make contact with practitioners outside their region. EMA funded the attendance of several representatives from PNG and the South Pacific region.

Over the last decade EMA funding of capability building activities in the South Pacific has averaged around \$300,000 per annum, including in-kind contributions.

Partnerships

The importance of effective partnerships in the management of disasters cannot be overstated. EMA works closely with a range of organisations in Australia and the Pacific Islands to build capacity and achieve the most effective use of resources and expertise in response to a disaster. Key relationships are outlined below.

National Disaster Management Officers (NDMOs)

NDMOs are the on-ground practitioners for disaster management in PNG and the Pacific Islands region. In any relief operation, they are the key co-ordinating authority, operating as the representative of the government of the affected country.

Relief assistance is provided only at the country's request and external assistance must be co-ordinated carefully with national priorities. In the past, disaster management has been a low national priority in some South Pacific countries with NDMOs being poorly resourced. However, this is slowly changing due to a comprehensive advocacy program being undertaken by the SOPAC Disaster Management Unit.

AusAID

EMA maintains close ties with the Australian Agency for International Development. AusAID is one of the main international donors providing development assistance to PNG and the Pacific Islands region. Assistance in preparedness for and response to disasters is a priority area within the AusAID Program. During the period 1994 to 2000, AusAID contributed funding, along with New Zealand, the United Kingdom and the United Nations Development Program, to the South Pacific Disaster Reduction Program (SPDRP).

EMA worked closely with AusAID in implementing the SPDRP and was able to fund a training program and other activities aimed at developing disaster management capabilities within the Region. The SPDRP project ceased in 2000 with the formation of a Disaster Management Unit (DMU). AusAID has continued to be a major donor to the DMU.

EMA and AusAID maintain a Record of Understanding for the provision of emergency management services in the Pacific Island Region. Under this arrangement, AusAID provides funding to partly subsidise a position within EMA which is dedicated to assisting the NDMOs in PNG and the Pacific Island Region to build their national capability.

South Pacific Applied Geoscience Commission (SOPAC)

SOPAC is an inter-governmental regional organisation based in Fiji. It has a membership of 18 Pacific Island countries and territories and provides members with technical and policy advice, training and advocacy of Pacific issues, particularly in the management of natural resources and reduction of vulnerabilities. SOPAC has been given the mandate by the Pacific Islands Forum for disaster management issues across the Pacific.

SOPAC's Disaster Management Unit focuses particularly on hazard assessment and disaster management. It provides a range of training for NDMOs, acts as a source of technical advice and has undertaken a significant advocacy program aimed at integrating risk management concepts across Pacific Island governments.

One of the DMU's major achievements has been to become a central co-ordination point for disaster management related activities undertaken by a range of donors and organisations. EMA has strongly supported its establishment and routinely works with DMU staff to tailor training and other activities to meet the unique needs of each country. The EMA's support for the PRDMM has proved to be an essential co-ordination venue for DMU collaboration.

United Nations Development Program (UNDP)/United Nations Office for the Co-ordination of Humanitarian Affairs (OCHA)

The UNDP has been involved in disaster management in the Pacific for many years, in particular co-funding the SPDRP. The UNDP and EMA worked closely together

during this project in the provision of training and the development of disaster management capabilities. Although UNDP is not involved with the DMU, UNOCHA maintains an officer with disaster management responsibilities in Fiji to facilitate training activities and co-ordinate UN involvement in disaster response. EMA has worked in partnership with this Office on a number of regional initiatives.

The Asia Foundation (TAF) /Office of U.S. Foreign Disaster Assistance (OFDA)

The OFDA is part of the US Agency for International Development's Bureau for Humanitarian Response. Its role is to co-ordinate international disaster assistance for the US government. OFDA provides funds for disaster relief, rehabilitation, and prevention, mitigation and preparedness activities. In the Pacific, OFDA works with The Asia Foundation, a private, non-profit, non-government organisation, to provide training.

EMA and TAF/OFDA have worked together on training activities since the mid-1990s, with TAF/OFDA planning and staging courses, and EMA providing trainers. The most recent of these activities was an exercise management course held in Fiji in April 2002. This was the culmination of a process of curriculum development and consultation with Pacific Island officers to tailor courses to their specific needs. Fourteen Pacific Island participants successfully completed the course.

Australian Defence Force (ADF)

Under AUSASSISTPLAN, Commonwealth assets may be deployed overseas to assist with the response to a disaster. Assets belonging to the ADF are often made available to transport resources and to provide equipment, personnel and expertise, such as medical assistance. EMA works in partnership with the ADF to ensure appropriate resources are deployed with maximum speed and efficiency. The ADF and EMA also share information to achieve the most efficient management of disasters.

FRANZ Agreement

The FRANZ Joint Statement on Disaster Relief Cooperation in the South Pacific was signed in 1992 by France, Australia and New Zealand. The purpose of this arrangement is to avoid duplication in meeting needs following a disaster. The signatories usually meet annually to exchange information on disaster management arrangements. EMA participates in FRANZ activities as a member of the Australian delegation.

Benefits for Australia

Through these activities, EMA, on behalf of Australia, is helping to build disaster management capabilities in PNG and the Pacific Islands region. This engagement assists both the Pacific and Australia.

EMA training activities are aimed at enhancing national emergency management capability. By enhancing capability to mitigate risks and manage the consequences of disasters in-country, the likelihood of a flow-on of negative consequences to Australia is reduced.

Deploying Australian emergency management professionals to assist with disasters in the South Pacific region provides them with an opportunity to put training into practice and refine their skills within a different environment. Participation of practitioners in regional meetings, disaster response, and provision of training promotes links with disaster management professionals in the Pacific and fosters the

sharing of information and techniques for solving common problems. This regional participation also enhances Australia's international reputation as a leader in emergency management.

Current Initiatives

EMA is currently involved in a range of initiatives aimed at enhancing disaster management capabilities in PNG and the Pacific Islands region. These initiatives include the following:

South Pacific Funding Program

EMA has recently allocated \$300,000 to establish a funding program to be administered by SOPAC DMU and aimed at building capacity through the improvement of disaster co-ordination arrangements. Projects to be funded are expected to focus on areas such as deployable communications equipment, facilities and equipment needed to create effective Emergency Operations Centres.

Community Awareness Raising Activities in the South Pacific

EMA is currently planning a series of community awareness raising activities for which in-kind support will be provided for educational specialists from EMA to work with NDMOs to establish the risks most relevant to communities. These specialists will then assist with the development of a broad range of materials which can be used by community groups to raise awareness of effective preparedness and response.

Urban Search and Rescue Course

In June 2002, EMA, in partnership with UNOCHA and the New Zealand Ministry of Civil Defence and Emergency Management conducted a basic Urban Search And Rescue Course in Fiji. EMA contributed \$30,000 in funding. Thirty representatives from PNG and the South Pacific region participated in the course.

Risk Management Training

In July 2002, as part of a SOPAC DMU program aimed at mainstreaming risk management across government, a workshop on Risk Management was conducted in the Marshall Islands for the Mayors Association's Executive Committee. EMA provided in-kind support, facilitating the workshop on behalf of SOPAC.

Pacific Island Region Aviation Accident Preparedness Workshop

In October 2002, EMA, in consultation with SOPAC, the Association of South Pacific Airlines, QANTAS, Air New Zealand and Air Pacific is planning to conduct an aviation accident preparedness workshop in Fiji. The aim of the workshop is to enhance the capability of the Pacific Islands region to manage aviation accidents. EMA expects to contribute around \$30,000 to fund the activity.

Future Directions

EMA has been a major contributor to the development of disaster management capabilities in PNG and the Pacific Island Region over many years. EMA recognises however that there is a lot more to be done to assist countries to be better prepared to cope with disasters and will continue to maintain existing programs and explore opportunities for further collaboration. Excellent working relationships have been established with countries and organisations working in the region and EMA intends to continue to build on these relationships.

In addition to exploring opportunities for new collaborative initiatives with regional countries and organisations, EMA intends to continue to support the following initiatives:

- maintenance of AUSASSISTPLAN, in consultation with AusAID,
- sponsorship of the PRDMM and other sub-regional meetings,
- collaboration with the SOPAC DMU in the provision of training,
- support for the DMU as a focal point for co-ordination of the development of regional disaster management capabilities,
- support the DMU's advocacy efforts at mainstreaming risk management strategies within Pacific Island governments and raising awareness of the economic and social importance of preparedness and mitigation, and
- establishing sound working relationships with NDMOs including the sharing of knowledge.

Challenges

The Pacific is one of the most disaster-prone regions of the world, with a range of significant hazards including earthquakes, volcanoes and cyclones. There has been considerable investment over the last decade in building national disaster management capacity. However, as there have not been any events involving major loss of life in recent times, with the exception of PNG, this capacity has not been fully tested.

Further, political instability during the past few years has exacerbated the stress on resources and created a more complex environment in which NDMOs must work. These political changes have often led to changes in arrangements and the loss of experienced staff, making it necessary for training and support to be regularly provided for new officers.

Based on these considerations, EMA considers it prudent to continue to contribute to the development of disaster management capability in the region.

EMA recognises a particular challenge relates to assisting PNG to improve its disaster management arrangements. These were severely tested during the drought in 1997-1998 and the tsunami in 1998 and were found to be in need of some enhancement. EMA will continue to use its best endeavours to assist PNG through liaison with the NDMO and assisting with an AusAID PNG Disaster Management Project currently being developed.

3.6 Provision of Legislative Drafting services

Australia has an ongoing relationship with the Pacific Islands Forum through its participation and assistance in the development of model legislation for adoption in South Pacific jurisdictions. The Office of Legislative Drafting (OLD) has been contracted by the Forum Secretariat to assist a number of South Pacific nations to draft legislation to give effect to the Honiara Declaration on Law Enforcement Co-operation regarding money-laundering, proceeds of crime, and mutual assistance in criminal matters.

The OLD has provided legislative drafting assistance to the Cook Islands, Tuvalu and Vanuatu.

There is a discernible need in the future for assistance with the implementation of model legislation. The Department is in a strong position to meet that need in the future.

3.7 Twinning of Law Libraries program

The Attorney-General's Department Lionel Murphy Law Library is committed to supporting the reference needs of the twinned libraries in the South Pacific region.

The Library supports the libraries of:

Nauru:	Samoa:	Tonga:
- Department of Justice.	- Attorney-General; - Department of Justice (Supreme Court).	- Crown Law Department; - Department of justice (Supreme Court); - Court Library, Vava'u

There has been continuing contact throughout the year between government lawyers in these 3 countries and the Library. Reference materials, such as copies of cases and legislation, are sent to the twinned libraries when requested. Copies of articles requested from the current awareness service (AGIS) are also provided. The introduction of email and Internet facilities in some Pacific Island countries has made communication and the provision of reference materials quicker and easier.

The Library remains committed to assisting the law libraries of the South Pacific region. A number of other law libraries of South Pacific countries are twinned with other Australian law libraries under the program.

The Attorney-General's Department provides copies of AGIS to a number of South Pacific countries:

COOK ISLANDS National Library, Ministry of Cultural Development Solicitor-General	FEDERATED STATES OF MICRONESIA Attorney-General	FIJI Director of Public Prosecutions Law Department, University of the South Pacific Solicitor-General
KIRIBATI Attorney-General	MARSHALL ISLANDS Attorney-General	NAURU Secretary of Justice
PAPUA NEW GUINEA Law Librarian, University of Papua New Guinea Librarian, Department of	SAMOA Chief Justice	SOLOMON ISLANDS Attorney-General

Justice

Librarian, Legal Training
Institute

Professor of Law, Law
Faculty, University of Papua
New Guinea

Secretary, Attorney-
General's Department

Secretary, Law Reform
Commission

TONGA

Chief Justice, Supreme Court

Secretary of Justice

Solicitor-General

TUVALU

Attorney-General

VANUATU

Attorney-General

Law Librarian, University of
the South Pacific

Senior State Counsel

3.8 Intellectual Property developments

The Department is responsible for the administration of the *Copyright Act 1968*, and provides legal assistance to South Pacific Island countries on copyright law and related issues. In conjunction with other Commonwealth Departments (Foreign Affairs and Trade and Communications, Information Technology and the Arts), the Department is monitoring and providing input to relevant meetings administered by the Forum Secretariat and the South Pacific Commission on the development of suitable model laws for the protection of traditional knowledge and traditional ecological knowledge. As Pacific Island countries seek to implement legislation on these issues requests for technical assistance are expected.

The Department is also involved in negotiations leading to the WIPO-Australia Joint Statement on Co-operation for Intellectual Property Technical Assistance in the Asia and the Pacific Region which was made on 6 March 2000. The Joint Statement was signed on behalf of Australia by the Attorney-General, the then-Minister for Industry for Science and Resources, and the Minister for Communications, Information Technology and the Arts. A major project for Pacific Island Forum countries initiated under the agreement is the three year Regionally Focused Action Plan (RFAP) for the Intellectual Property Development of the Pacific Island Forum countries.

The overall objective of the RFAP is to assist the Pacific Islands Forum countries to establish a regional intellectual property infrastructure and to enable them to effectively use the system for sustainable economic development. The Plan formally commenced on 1 October 2001. A broad range of activities will be undertaken in areas such as modernisation of intellectual property legislation, strengthening of intellectual property administration, human resource development and awareness building.

Consistent with this co-operative process, officers of the Department and a full-time consultant to the Department have been made available for expert missions in the region conducted by WIPO.

3.9 International Human Rights developments

Australia is continuing to encourage regional countries to become a party to the six core international human rights instruments. The Department will also continue to offer practical and effective technical assistance to help regional countries develop appropriate domestic mechanisms to implement treaty obligations and comply with reporting requirements.

All Pacific Island countries are party to the Convention on the Rights of the Child. Fiji, Papua New Guinea, the Solomon Islands and Tonga are parties to the Convention on the Elimination of All Forms of Racial Discrimination. Fiji, Papua New Guinea, Samoa, Tuvalu and Vanuatu are also parties to the Convention on the Elimination of Discrimination against Women.

Through bodies such as the Pacific Islands Law Officers' Meeting, Australia has encouraged Pacific Island countries to consider becoming a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment.

3.10 International Family Law developments

Child abduction

Australia has encouraged countries in the Pacific region to join the Hague Convention on the Civil Aspects of International Child Abduction or to enter into bilateral agreements with Australia.

Australia has been a party to the Convention for a number of years. Australia takes the view that widening the number of members of the Abduction Convention is the most effective answer to the growing problem of international child abduction.

The increasing number of inter-country or cross-cultural marriages and the relative ease of travel between countries inevitably increases the risk of international child abduction, heightening the need for international co-operation in this area.

There are presently 66 countries which are parties to the Abduction Convention. Within the Pacific region Fiji has joined the Convention.

The Convention provides a mechanism for the prompt return of a child abducted from one Convention country to another. It leaves the issue of deciding the arrangements for care of the children with the Courts of the country from which the child was abducted and according to its law.

Child Support

Australia has been encouraging countries in the Pacific region to enter into reciprocal arrangements with Australia for child support.

From 1 July 2000 Australian Regulations commenced which substantially altered the existing arrangements for the establishment of child support liabilities where one party does not reside in Australia. The changes provide a more streamlined process

for the establishment and enforcement of maintenance liabilities.

The Child Support Agency (CSA) is the sole Receiving and Transmitting Agency for all new and existing child support cases. The new laws allow the CSA to:

- register and enforce overseas Court orders and administrative assessments; and
- issue an administrative assessment of a child support liability against the liable parent.

Child support matters between Australia and New Zealand represent the largest category of on-going matters. A separate agreement was reached to ensure reciprocal enforcement procedures operate effectively. However, the Australian-New Zealand Agreement does not extend to Niue or the Cook Islands, and therefore Australia does not currently have any agreement with those countries.

There are a number of other countries within the South Pacific region such as; Kiribati, Vanuatu, Tonga and Tuvalu which do not have any agreements with Australia for child maintenance. These countries, including Niue and the Cook Islands, have been encouraged to consider establishing such agreements in the future.

3.11 Private International Law: Judicial assistance arrangements

Australia has treaty and non-treaty arrangements with a number of countries to facilitate co-operation between courts in civil litigation. Australian courts traditionally co-operate with service and evidence requests from foreign courts as a matter of comity.

Multilateral treaty arrangements

Australia has been a member of the Hague Conference on Private International Law since 1973. New Zealand became a member State during 2002. Australia acceded to the Hague Convention on the Taking of Evidence Abroad in Civil and Commercial Matters in 1992. The Australian Central Authorities under the Hague Evidence Convention are the Commonwealth Attorney-General's Department and the Registrars of State and Territory Supreme Courts.

None of the countries in the South Pacific region have acceded to the Hague Convention on the Taking of Evidence Abroad in Civil and Commercial Matters.

Bilateral treaty arrangements

Australia is a party to a number of bilateral treaties on judicial co-operation entered into by the United Kingdom and certain European countries in the 1920s and 1930s regarding legal proceedings in civil and commercial matters.

The Australian Central Authorities under the treaties are the Commonwealth Attorney-General's Department and the Registrars of State and Territory Supreme Courts.

Australia does not have any bilateral treaties on judicial co-operation with any of the countries in the region. In recent years the Conference of Chief Justices of Asia and the Pacific has been discussing a proposal for a network of bilateral treaties in the region on service of process and taking of evidence in civil matters.

Australian law on service of foreign process

A party in another country who wishes to serve a party in Australia with documents issued by a foreign court may employ a private agent in Australia to serve the documents. The common law tradition is that Australia does not raise objection to the service of process within its territorial jurisdiction by a foreign plaintiff or agents on his or her behalf.

Requests are sometimes sent through the diplomatic channel from another country to the Department of Foreign Affairs and Trade seeking the assistance of Australian authorities in serving documents under a treaty or as a matter of comity. Private agents are sometimes used for this purpose. The diplomatic channel is not used between most Commonwealth countries because the foreign ministries of some of those countries usually will not assist with a request for service between Commonwealth countries.

Details of service of documents arrangements in New Zealand and Papua New Guinea are included in Table 1.

Table 1: Service of documents in New Zealand and Papua New Guinea.

Country	Arrangements
New Zealand	<p>There is no Convention in force between Australia and New Zealand relating to the service of documents in civil proceedings.</p> <p>A party in Australia who wishes to serve a party in New Zealand with documents issued by an Australian court would employ a private agent in New Zealand to serve the documents. The common law tradition is that Commonwealth countries do not raise objection to the service of process within their territorial jurisdiction by a foreign plaintiff or agents on his or her behalf.</p> <p>The New Zealand government will not accept requests through the diplomatic channel seeking the assistance of its authorities in serving documents.</p>
Papua New Guinea	<p>There is no Convention in force between Australia and Papua New Guinea (PNG) relating to the service of documents in civil proceedings.</p> <p>A party in Australia who wishes to serve a party in PNG with documents issued by an Australian court would employ a private agent in PNG to serve the documents. The common law tradition is that Commonwealth countries do not raise objection to the service of process within their territorial jurisdiction by a foreign plaintiff or agents on his or her behalf. The PNG Government will not accept requests through the diplomatic channel seeking the assistance of its authorities in serving documents.</p>

Other Commonwealth jurisdictions in the South Pacific are covered by the same general arrangements with Australia.

Australian law on taking of evidence in civil cases for foreign courts

The two usual ways in which evidence may be obtained in Australia for foreign civil courts are by taking evidence on commission or taking evidence by an Australian court at the request of a foreign court.

Taking evidence on commission

Legislation in most Australian States and Territories permits persons (including foreign judicial personnel, lawyers or diplomatic officials) to take evidence in Australia without compulsion. If evidence is to be taken by a person other than a judge, or if evidence is to be taken on oath, the permission of the relevant State or Territory government Minister may be required under State and Territory legislation. A person who wishes to take evidence in Australia without the intervention of Australian authorities should ensure that this legislation is not breached.

Legislation in most States and Territories regulates whether persons (including overseas courts and diplomatic officials) may take evidence or administer oaths in Australia. The legislation generally permits foreign courts to take evidence in Australia.

Taking of evidence by an Australian court at the request of a foreign court

A foreign court may send a letter of request to Australia seeking the taking of evidence for use in civil proceedings in the foreign court. If evidence is to be taken by compulsion in Australia for a foreign court, the letter of request procedure must be used. Most letters of request received in Australia are made pursuant to treaty but, even in the absence of a treaty, Australian courts may agree to accept a letter of request as a matter of international or judicial comity.

The model letter of request devised by the Hague Conference on Private International Law, would be used in preparing letter of request to Australia under that Convention. The request must be made by a judicial authority, rather than by a party to the legal proceedings, and must be accompanied by translations in English of the letter of request and any accompanying documents.

In Australia the Hague Evidence Convention, and Australia's bilateral treaty obligations for the taking of evidence on behalf of foreign courts, are implemented by State and Territory legislation.

Details of taking of evidence arrangements in New Zealand and Papua New Guinea are included in Table 2.

Table 2: Taking of evidence in civil proceedings in New Zealand and Papua New Guinea.

Country	Arrangements
New Zealand	There is no treaty in force between Australia and New Zealand relating to the taking of evidence in civil proceedings. New Zealand is not a party to

the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters 1970.

Legislation in Australia and New Zealand provides for subpoenas from certain Australian courts to be served in New Zealand. Legislation also provides for evidence to be taken by Australian courts from persons in New Zealand by video link or telephone.

A letter of request for the taking of evidence may be sent through the diplomatic channel seeking the assistance of authorities in New Zealand to take evidence as a matter of international or judicial comity whether the party wishes to be present and whether the party wishes to be represented.

**Papua
New
Guinea**

There is no treaty in force between Australia and Papua New Guinea (PNG) relating to the taking of evidence in civil proceedings.

A letter of request for the taking of evidence may be sent through the diplomatic channel seeking the assistance of the PNG authorities in the taking of evidence as a matter of international or judicial comity. This procedure must be followed where the evidence is to be taken by compulsion.

The enforcement of foreign judgments in civil proceedings

In Australia the recognition and enforcement of a judgment does not depend on whether there is a formal treaty or agreement with the other country. To determine whether a foreign judgment will be recognised and enforced in Australia, Australian law must be considered. To determine whether an Australian judgment will be recognised and enforced in other countries, the law of other countries must be considered.

Common law in Australia provides that a judgment from any other country will be recognised and enforced by an Australian court if it meets a number of conditions. The most important condition is that Australian court must accept that the foreign court had jurisdiction to decide the case.

Statute law in Australia also provides that some judgments from specified countries will be recognised and enforced by an Australian court if they meet a number of conditions. In particular the *Foreign Judgments Act 1991* provides for the recognition and enforcement of money judgments given by the courts of foreign countries listed in the *Foreign Judgments Regulations*.

Details of taking of recognition of foreign judgments in New Zealand and Papua New Guinea are included in Table 3.

Table 3: Enforcement of foreign judgements in New Zealand and Papua New Guinea.

Country	Arrangements
New Zealand	<p data-bbox="384 389 1086 423"><u>Enforcement of Australian judgments in New Zealand</u></p> <p data-bbox="384 443 1342 510">There is no Convention or other treaty in force between New Zealand and Australia relating to the enforcement of civil money judgments.</p> <p data-bbox="384 530 1270 674">The New Zealand <i>Reciprocal Enforcement of Judgments Act 1934</i> provides for the recognition and enforcement of decisions of foreign courts. Orders in Council extend that Act to the recognition and enforcement of civil money judgments of Australian courts.</p> <p data-bbox="384 694 1070 728"><u>Enforcement of New Zealand judgments in Australia</u></p> <p data-bbox="384 748 1342 853">Regulations made under the <i>Foreign Judgments Act 1991 (Cth)</i> extend the Act to recognition and enforcement of civil money judgments of New Zealand courts specified in the regulations.</p>
Papua New Guinea	<p data-bbox="384 873 1166 907"><u>Enforcement of Australian judgments in Papua New Guinea</u></p> <p data-bbox="384 927 1262 1032">There is no Convention or other treaty in force between Papua New Guinea and Australia relating to the enforcement of civil money judgments.</p> <p data-bbox="384 1052 1342 1265">The Papua New Guinea <i>Judgments Enforcement (Reciprocal Arrangements) Act 1976</i> provides for the recognition and enforcement of decisions of foreign courts. The provisions of this Act, by Declaration of 30 August 1983, have been extended to judgments of superior courts of Australia and its external territories, including the High Court and Federal Court of Australia, and the Supreme Courts of the States and Territories.</p>

3.12 Regional Panel of Appellate Judges

The Regional Panel of Appellate Judges was established to enable South Pacific Island jurisdictions to draw upon judicial officers, on an ad hoc basis, to help resource their appellate courts. Australia, along with the Cook Islands, Fiji, the Marshall Islands, New Zealand, Papua New Guinea, Samoa, the Solomon Islands, Tonga and Vanuatu, have contributed judicial personnel to the Panel.

The Attorney-General's Department works with the Pacific Islands Forum Secretariat for Australian judges to be available to serve on the Panel.