Chapter 2

Annual reports of statutory and non–statutory authorities and government companies

Defence portfolio

Defence Materiel Organisation

2.1 The annual report of the Defence Materiel Organisation (DMO) is contained in volume 2 of Defence's Annual Report 2009–2010. It was tabled in the Senate on 24 November 2010.

2.2 On 1 July 2005, the organisation became a prescribed agency under the *Financial Management and Accountability Act 1997*. It has a CEO with statutory responsibilities and authority under the Act. The Chief Executive Officer (CEO) DMO also has 'joint responsibilities to the Secretary and the Chief of the Defence Force under section 9A of the *Defence Act 1903* and is delegated significant powers from the Secretary to manage and allocate staff resources under the *Public Service Act 1999*'. The majority of its funding comes from Defence under agency agreements.[1]

2.3 DMO is one of Australia's largest project management organisations. Its business 'is complex and involves purchasing, upgrading and maintaining a range of specialist military and other equipment. It is typified by high-end technology and highly complex project and systems integration, and demands a mature approach to risk management'.[2]

2.4 In his year in review, the CEO, Dr Stephen Gumley, noted that the DMO had again made a major contribution to overseas deployments and to providing and supporting equipment needed urgently overseas:

> Responding to emerging operational demands within very tight timeframes is challenging. The reprioritisation of work is often a test of the adaptability of our people and processes, and the capacity and responsiveness of our suppliers. It can also, on occasion, leave us vulnerable to criticism for delays with lower-priority tasks, but there is no more important task for the DMO than to ensure the provision of safe, fit-for-purpose and high quality equipment to the men and women of the ADF.
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> From the supply and maintenance of front-line warfighting equipment in the Middle East to the modification of commercial vehicles to be used as patient transports for wounded soldiers on their return to Australia, the DMO continues to respond well to the operational requirements of the ADF.[3]

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1 Defence Annual Report 2009–2010, Volume two, Defence Materiel Organisation, p.17.

2 Defence Annual Report 2009–2010, Volume two, Defence Materiel Organisation, p.17.

3 Defence Annual Report 2009–2010, Volume two, Defence Materiel Organisation, p. 2.

2.5 Dr Gumley said that DMO 'is witnessing the tangible results of the continued hard work of hundreds of DMO staff as carefully laid plans—each many years in the making—are now coming to fruition'.[4]

Financial statements

2.6 The Australian National Audit Office (ANAO) performed financial statement audits on all agencies for the period 2009–2010. The audit report for the DMO states:

> At the conclusion of the 2009–2010 audit, three moderate audit issues remained outstanding. These issues relate to the DMO's financial reporting framework, the reporting of the commitments in the financial statements, and the need to improve bureau service arrangements between Defence and the DMO.
>
> The DMO has been proactive in actioning issues identified by the ANAO. This is reflected in the decrease in the number of audit issues and as a result four moderate audit issues have been resolved.
>
> An unqualified audit report was issued on 10 September 2010.[5]

2.7 The committee notes that the Australian National Audit Office has again provided an unqualified opinion on the DMO's 2009–2010 Financial Statements. Dr Gumley stated that:

> Additional assurance activities were undertaken to support the 2009–2010 Financial Statements. These activities highlighted that our financial processes and records are of a satisfactory standards, but there is still room for improvements.'
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> ...
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> I am very proud of our financial management performance, it reflects well on the whole of the DMO as a key measure of our professional management and our credibility with Defence, the central agencies and with Government.[6]

2.8 The committee looks forward to reviewing these results against next year's audit of financial statements.

2.9 The committee finds that DMO's annual report provides a comprehensive coverage of the organisation's activities during 2009–2010. The committee considers that DMO fully met its respective reporting requirements.

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4 Defence Annual Report 2009–2010, Volume two, Defence Materiel Organisation, p. 2.

5 Australian National Audit Office, *Audit of the financial statements of Australian Government Entities for the period ended 30 June 2010*, Audit Report no 22, 2010–2011, p. 109. See also in the same report, Defence–Financial management framework (relating to service bureau arrangements), paragraphs 5.184 to 5.186, p. 99.

6 Defence Annual Report 2009–2010, Volume two, Defence Materiel Organisation, p. 4.

Australian War Memorial

2.10 The Australian War Memorial Annual Report 2009–2010 was tabled in the Senate on 26 October 2010.

2.11 The Australian War Memorial (AWM) is a statutory authority within the Veterans' Affairs portfolio and functions in accordance with the requirements of the Australian War Memorial Act 1980 and the Commonwealth Authorities and Companies (CAC) Act 1997.[7]

2.12 The purpose of the AWM is 'to commemorate the sacrifice of those Australians who have died in war'.[8]

2.13 The Council Chair, General Peter Cosgrove AC MC (Ret'd), stated that 'at the end of yet another year...the Australian War Memorial has achieved much, reached many milestones, and overcome various challenges'.[9] General Cosgrove stated further that:

> In the broader Australian community there has been a certain dynamism, with an evolving political and economic landscape, including, thankfully, the steady recovery from the global financial crisis. The Memorial cannot operate in isolation from the state of the national economy which impacts on appropriations. Our present circumstances reflect this and the corporate sector's ability to provide substantial funding to cultural institutions.
>
> This year has seen a further reduction in the operational budget for the Memorial, and for other federal cultural agencies, through the ongoing application of the efficiency dividend. The challenge for the Memorial is to do more with less, but there are limits to how far this approach can be taken. In response, the Memorial has continued to review the ways activities and events are provided to the public. Cuts have been unavoidable in these areas.[10]

2.14 General Cosgrove stated that the continuing reduction in the operating budget of the Memorial means that further rationalisation of staff positions and program has had to occur during this financial year, and will continue in the next.[11]

Major projects

2.15 The committee notes that the Memorial has completed the Eastern precinct, which opened in April 2010. The Chair explained:

> This has altered the previously undeveloped eastern side of the Memorial's grounds by providing a new cafe facility, a large underground carpark, and

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7 Australian War Memorial, Annual Report 2009–2010, pp. 3, 45–53.

8 Australian War Memorial, Annual Report 2009–2010, p. 9.

9 Australian War Memorial, Annual Report 2009–2010, p. 1.

10 Australian War Memorial, Annual Report 2009–2010, p. 1.

11 Australian War Memorial, Annual Report 2009–2010, p. 1.

> the long-awaited National Service memorial that sits beautifully amid the enhanced landscaping. We are looking forward to the dedication of the National Service memorial in September later this year.[12]
>
> Council was also pleased to see this year the continued dedication of management and staff to progress the Enterprise Content Management project. This project is scheduled for implementation in late 2010, and will improve the Memorial's information systems by the introduction of three integrated IT components

2.16 The Chair concluded on this topic by stating that the remaining major project for this past year has been the half-life refurbishment of the Second World War galleries, and the redevelopment of the Hall of Valour...both projects are ongoing and due for completion in 2010.[13]

2.17 The committee finds that the AWM's annual report provides a comprehensive coverage of the organisation's activities during 2009–2010. It is an informative and well–produced document, which allows the reader to access information easily. The committee is of the view that this report complies with all reporting requirements for statutory authorities.

Judge Advocate General

2.18 The Judge Advocate General report for the period 1 January to 31 December 2009 was tabled in the Senate on 29 September 2010.

2.19 The Office of Judge Advocate General of the Australian Defence Force (ADF) is a statutory body created under the *Defence Force Discipline Act 1982* (DFDA). The Judge Advocate General (JAG) must be, or have been, a Federal Court or a Supreme Court judge.[14]

2.20 The functions of the JAG are prescribed by the DFDA. It should be noted that legislation subsequent to the High Court ruling in *Lane v Morrison* have effectively restored to the JAG the roles and responsibilities that existed prior to the legislation that created the Australian Military Court. The JAG is responsible for the following functions:

- reporting annually to Parliament on the operation of DFDA the regulations, the Rules of Procedures, and, the operation of any other law of the Commonwealth or of the ACT insofar as that law relates to the discipline of the Defence Force;
- making Procedural Rules for Service tribunals, being Court Martial and Defence Force Magistrate Rules, and Summary Authority Rules;

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12 Australian War Memorial, Annual Report 2009–2010, p. 2.

13 Australian War Memorial, Annual Report 2009–2010, p. 1.

14 Judge Advocate General, Annual Report for 2009, p. 1.

- nominating the judge advocate (JA) for a court martial and Defence Force magistrates (DFMs);
- nominating to a Service Chief, officers to be members of the judge advocate's panel;
- appointing DFMs from officers appointed as members of the JA's panel;
- nominating to a Service Chief, legal officers for the purposes of DFDA s.154(1)(a); and
- if requested, providing a final and binding legal report in connection with the internal review of proceedings before Service tribunals.[15]

2.21 The current Judge Advocate General, Major General the Honourable Justice Tracey, was re-appointed on 10 February 2010, for a term of four years. He is also President of the Defence Force Discipline Appeals Tribunal (DFDAT).

2.22 On 26 August 2009, the High Court of Australia handed down its decision in Lane v Morrison, declaring invalid, Division 3 of the Part VII of the DFDA. Following that decision, the Military Justice (Interim Measures) Acts (Nos 1 and 2) 2009 were enacted.[16] The JAG commented that:

> The legislation concerned was struck down for non-compliance with the Constitution. There was no criticism of the work of the AMC or of the standards of justice dispensed. Tangible evidence of the quality of the work of the AMC is provided by the very small number of appeals taken to the DFDAT, and by the independent review of the military justice system, which then included the AMC, conducted by Sir Laurence Street AC, KCMG, QC and Air Marshal Les Fisher AO FRAeS, MAP (Ret'd) (the Street/ Fisher Review).
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> So far as appeals to the DFDAT are concerned, there were four appeals taken from the AMC during its twenty months of operation. Of these, only one was successful. [17]

2.23 The JAG acknowledged the work of Defence Legal Office, stating that the High Court decision striking down the legislation creating the AMC had the immediate result of rendering the disciplinary system inoperable:

> The fact that this hiatus was restricted to a period of weeks is a testament to the extreme hard work, forethought and planning of all those involved in instituting the interim measures ... this process was, to a large extent, managed by Defence Legal.[18]
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> ...

15 Judge Advocate General, Annual Report for 2008, p. 3.

16 Judge Advocate General, Annual Report for 2009, p. 2.

17 Judge Advocate General, Annual Report for 2009, p. 6.

18 Judge Advocate General, Annual Report for 2009, p. 8.

> Following the decision in Lane v Morrison, it was necessary for the two volumes of the DLM to be substantially re-written to reflect the reinstatement of the proceedings before courts-martial and DFM. While the volumes have not been re-issued in hard copy, the Defence Legal Office is to be commended on the extent of the material that was made available in electronic form.[19]

2.24 In conclusion, the JAG stated that it is disappointing that the significant effort that had gone into reforming the military justice system in recent years should have been found constitutionally wanting:

> The interim arrangements appear to be operating satisfactorily. However, the number of matters proceeding to court martial (as opposed to DFM) is placing a burden on the available administrative support out of proportion with the demands in recent years.[20]

2.25 The JAG's 2009 annual report again demonstrates the value of having such a strong independent civilian judicial oversight of the operation of the DFDA and related legislation.

2.26 The committee finds that the report adequately complies with all reporting requirements for statutory authorities.

Other reports

2.27 Other Defence portfolio authorities, agencies and/or companies which had their annual reports examined by the committee, but were not otherwise commented upon in this edition, include:

Army and Air Force Canteen Service (trading as *Frontline Defence Services*)

Australian Military Forces Relief Trust Fund

Australian Strategic Policy Institute

Defence Force Remuneration Tribunal

Defence Force Retirement and Death Benefits Scheme

Defence Housing Australia

Military Superannuation and Benefits Scheme

Repatriation Medical Authority

Royal Australian Air Force Welfare Trust Fund

Royal Australian Navy Central Canteens Board

Royal Australian Navy Relief Trust Fund

Veterans' Review Board.

2.28 The committee considers that all the annual reports of the above–mentioned organisations fully met their respective reporting requirements.

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19 Judge Advocate General, Annual Report for 2009, p. 13.

20 Judge Advocate General, Annual Report for 2009, p. 17.

Foreign Affairs and Trade portfolio

Australian Agency for International Development

2.29 The Australian Agency for International Development Annual Report 2009–2010 was tabled in the Senate on 27 October 2010.

2.30 AusAID provides advice to the government on development policy and manages the implementation of Australia's overseas aid program. AusAID plans, leads and coordinates Australia's poverty reduction activities and its response to humanitarian disasters. It evaluates and improves Australia's overseas aid program as well as analyses and publishes data relating to development.[21]

2.31 Its objective is 'to assist developing countries reduce poverty and achieve sustainable development, in line with Australia's national interest. The focus of Australia's development assistance on poverty 'is guided by the Millennium Development Goals (MDGs), the internationally agreed targets for poverty reduction'.[22]

2.32 AusAID is an administratively autonomous agency within the Foreign Affairs and Trade portfolio. The Director General reports directly to the Minister for Foreign Affairs on all aspects of aid policy and operations and is responsible for the agency's financial and personnel management.[23]

2.33 The Director General, Mr Peter Baxter, stated in his review that the impact of the global recession continued to be felt by many developing countries throughout 2009–2010:

> While a global recovery is now underway, with growth strongest in the major developing economies, uncertainties remain and many smaller developing countries continue to struggle. The World Bank has estimates that there will be 64 million more people in developing countries living in extreme poverty by the end of 2010 than would have been the case without the crisis.
>
> Having followed a prolonged period of volatility in food and fuel prices, the global recession exacerbated hardship and suffering for many people in developing countries. Falling revenues also made it increasingly difficult for some governments to provide essential services. In this context, meeting the Millennium Development Goals remains a challenge for many developing countries, including those in our immediate area.[24]

2.34 Mr Baxter said that Australia responded effectively to the crisis by building partner country resilience and implementing targeted assistance programs:

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21 AusAID, Annual Report 2009–2010, p. iii.

22 AusAID, Annual Report 2009–2010, p. iii.

23 AusAID, Annual Report 2009–2010, pp. iii, 16.

24 AusAID, Annual Report 2009–2010, p. 2.

> We gave priority to generating employment and restoring growth, supporting delivery of basic services, such as health care and education, and protecting the vulnerable.
>
> Against this backdrop the Australian Government provided an estimated $3.818 billion in official development assistance (ODA) in 2009–2010, and the Minister for Foreign Affairs, Mr Smith, reaffirmed the government's commitment to increase ODA to 0.5 per cent of gross national income by 2015–2016 to address poverty in the Asia Pacific region and globally.[25]

2.35 The committee notes that this is in keeping with the objectives of the *AusAID 2010 Director General's blueprint 2007:*

> ...AusAID's overseas presence, which is primarily in the Asia Pacific region, has grown to meet the increased need for effective management and implementation of our expanding development program. Best practice networks for staff working on similar development topics in different program areas, known as thematic networks, and the Office of Development Effectiveness exist to enhance AusAID's analytical capacity and the quality and performance of its programs. These are further supported by a responsive and connected management framework which incorporates stronger business systems and processes and controls.[26]

ANAO performance audit

2.36 In its report on annual reports last year, the committee drew attention to the ANAO's audit report on AusAID's management of Australia's aid program. It identified program running costs as an important area of the aid program's funding that 'is not yet transparent'. The audit suggested that over the last decade AusAID has 'increasingly funded staff and other administration costs using the administered appropriation, on the basis of their proximity to aid'. This practice was based on AusAID's interpretation of government guidelines. The audit found that:

> AusAID's approach to classifying expenses is not in line with conventional practices, and the extent of use of aid funds in this matter is not transparent. It is, therefore, difficult for external stakeholders to hold AusAID to account on the costs that it controls.[27]

2.37 It concluded:

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25 AusAID, Annual Report 2009–2010, p. 2.

26 AusAID, Annual Report 2009–2010, p. 10.

27 Australian National Audit Office, *AusAID's Management of the Expanding Australian Aid Program, The Australian Agency for International Development (AusAID)*, The Auditor-General, Audit Report No. 15, 2009–2010, Performance Audit, p. 22.

> Clarifying the classification of AusAID's expenses would improve transparency and accountability of aid program expenditure, in a way that maintains the integrity of the budget system.[28]

2.38 To improve transparency and accountability for aid program expenditure, the ANAO recommended that AusAID:

- obtain clarification from the Department of Finance and Deregulation on its use of administered expenses for departmental purposes; and
- if the current approach to classifying administered expenses is to be continued, disclose, in its annual report, details of the program, role and cost of Australian Public service and locally engaged staff funded from the administered appropriation, as well as travel, accommodation, information technology and other administration costs paid from this source.[29]

2.39 AusAID agreed with this recommendation and the Department of Finance and Deregulation supported it. In this regard, the committee looks forward to a change in practice consistent with the ANAO's recommendation.

Areas of audit focus

2.40 The ANAO's audit approach identified the following areas that were significant in terms of their potential impact on the 2009–2010 financial statements:

- valuation, accounting and reporting disclosures associated with Australia Indonesia Partnership for Reconstruction and Development (AIPRD) loan agreements;
- accounting, reporting and disclosures relating to international payments and subscriptions, primarily International Development Association/Asian Development Fund (IDA/ADF), and multi-lateral liabilities and grant funding;
- appropriation accounting and disclosures;
- administered and departmental classification of items;
- IT general and application controls as they relate to the financial statements; and
- financial statement preparation processes.[30]

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28 Australian National Audit Office, *AusAID's Management of the Expanding Australian Aid Program, The Australian Agency for International Development (AusAID)*, The Auditor-General, Audit Report No. 15, 2009–2010, Performance Audit, p. 22.

29 Australian National Audit Office, *AusAID's Management of the Expanding Australian Aid Program, The Australian Agency for International Development (AusAID)*, The Auditor-General, Audit Report No. 15, 2009–2010, Performance Audit, p. 24.

30 Australian National Audit Office, *Audit of the financial statements of Australian Government Entities for the period ended 30 June 2010*, Audit Report no 22, 2010–2011, pp. 167-168.

2.41 The committee notes that audit coverage of these matters was finalised during the 2009–2010 final audit. The ANAO concluded the matter by stating that there were no significant or moderate audit issues identified during the 2009–2010 audit.[31]

2.42 The committee finds that AusAID's annual report provides a comprehensive coverage of the organisation's activities during 2009–2010. As usual the committee considers it to be generally of high quality; it is informative and well produced. The committee concludes that this report complies with all reporting requirements for non–statutory authorities.

Australian Trade Commission

2.43 The Australian Trade Commission Annual Report 2009–2010 was tabled in the Senate on 16 November 2010.

2.44 The Australian Trade Commission (Austrade) is a statutory authority established by the *Australian Trade Commission Act 1985* and is responsible to the Minister for Trade and the Australian Government. On 1 July 2006, following amendments to the *Australian Trade Commission Act 1985* and the *Export Market Development Grants Act 1997*, Austrade became an agency under the *Financial Management and Accountability Act 1997* and the *Public Service Act 1999* and is managed by a Chief Executive Officer.[32]

2.45 The annual report states that 'Austrade is the Australian Government's trade and investment development agency helping businesses of all sizes across all sectors to success in international trade and investment'.[33]

2.46 The Chief Executive Officer, Mr Peter Grey, in his first 'year in review', noted that a 12.2 per cent contraction in the volume of global trade in 2009 has provided a challenging backdrop for Australian exporters.

> Foreign direct investment (FDI) flows have been impacted to an even greater extent during this period, with the United Nations Conference on Trade and Development (UNCTAD) reporting a 37 per cent decline in global FDI inflows in 2009.
>
> Australian exports have nevertheless shown notable resilience, with the Treasury reporting that export growth for Australia in 2009 was among the highest in the world.[34]

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31 Australian National Audit Office, *Audit of the financial statements of Australian Government Entities for the period ended 30 June 2010*, Audit Report no 22, 2010–2011, p. 168.

32 Australian Trade Commission, Annual Report 2006–2007, p. 6; and Australian Trade Commission, Annual Report 2009–2010, p. 5.

33 Australian Trade Commission, Annual Report 2009–2010, p. 5.

34 Australian Trade Commission, Annual Report 2009–2010, p. 2.

2.47 The committee notes that Austrade's operating environment is expected to remain dynamic and complex and will continue to be impacted by changes in the global economy. Mr Grey stated:

> However, according to the Treasury, Australian export volumes are forecast to increase by approximately 5 per cent and the terms of trade are forecast to grow by more than 14 per cent in 2010-2011 to their highest level in 60 years.[35]

2.48 The committee notes that during the course of the year, Austrade took responsibility for a number of significant new projects:

- The Government's Brand Australia program, with the launch of Australia Unlimited in Australia and internationally;
- Preparing for the 1 July 2010 transfer of responsibility for the international marketing of education to Austrade from the Department of Education, Employment and Workplace Relations;
- Extending Austrade's network in India to support the Government's commitment to enhance Australia's relationship with India; and
- Working with the Department of Foreign Affairs and Trade (DFAT) to promote two-way trade and investment, and strengthen institutional and people-to-people links through the Shanghai World Expo.[36]

2.49 In addition, with the conclusion of the ASEAN-Australia-New Zealand Free Trade Agreement, Austrade has worked closely with DFAT and other parties to help Australian businesses leverage opportunities made possible through the agreement.[37]

2.50 The committee finds that Austrade's annual report provides a comprehensive coverage of the organisation's activities during 2009–2010. The committee concludes that this report complies with all reporting requirements for statutory authorities.

Other reports

2.51 Other Foreign Affairs and Trade portfolio authorities and/or agencies which had their annual reports examined by the committee but were otherwise not commented upon in this edition, include:

Australian Centre for International Agricultural Research

Australian Safeguards and Non–Proliferation Office

Export Finance and Insurance Corporation.

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35 Australian Trade Commission, Annual Report 2009–2010, p. 3.

36 Australian Trade Commission, Annual Report 2009–2010, p. 2

37 Australian Trade Commission, Annual Report 2009–2010, p. 2.

2.52 The committee considers that all the annual reports of the abovementioned organisations fully met their respective reporting requirements.

Senator Mark Bishop

Chair