

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT

**Output 1.6**

**Question No. 34**

**Senator Ludwig asked the following questions at the hearing on 14 February 2005**

What was the total cost of the Phillips Fox review?

**The answer to the honourable senator's questions is as follows:**

Phillips Fox was paid a total of \$201,011.42 comprising their fee of \$193,094 (\$175,540 plus \$17,554 GST) plus \$7,917.42 in non-fee related charges incurred in connection with the consultancy and GST on those charges. The non-fee related charges mainly related to specific costs associated with the public consultation forums held in Sydney and Melbourne.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
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**Output 1.6**

**Question No. 35**

**Senator Ludwig asked the following questions at the hearing on 14 February 2005**

Was it a condition of the contract between the Department and Phillips Fox that personnel working on the Digital Agenda Review be separated from those working for clients with an interest in the outcome of the review?

**The answer to the honourable senator's questions is as follows:**

No.

Phillips Fox was bound to use its best endeavours to ensure all personnel working on the Digital Agenda Review complied with clause 15.4 of the contract (see answer to Question No. 32).

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
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**Output 1.6**

**Question No. 36**

**Senator Ludwig asked the following questions at the hearing on 14 February 2005**

What is the Department's standard model for ensuring probity and the absence of real or perceived conflicts of interest when work of this nature is outsourced? Does this model require the erection of 'Chinese walls' within the contracted firm, such as specific rules on which personnel may work on the outsourced job or on the physical location of files within offices? Was the standard model applied to Phillips Fox for the Digital Agenda Review? If not, what adjustments were made to that model?

**The answer to the honourable senator's questions is as follows:**

The Department's standard approach to addressing probity and conflict of interest issues when outsourcing work of any nature is to seek details of any actual or potential conflict and to determine whether any such conflict disqualifies the person's or organisation's engagement or whether it can be satisfactorily addressed by some other mechanism. In this regard the Department has a standard tender template for consultancy contracts.

Although the Department's standard tender template for consultancy contracts has changed since 2002, the Department's standard approach for ensuring probity and the absence of conflicts of interest remains substantially the same. The Department's current standard tender template requires tenderers to state their compliance with the conflict of interest condition of the tender and provide various details, as follows:

6.1.7 Suppliers must include details, at Annex C of any known circumstances which may give rise to either an actual conflict or perception of conflict of interest with the Attorney-General's Department and their proposed method of managing each issue.

6.1.8 Where no conflict exists, the supplier must explicitly so state.

6.1.9 If at any time prior to entering into a Services Contract for the Services, an actual or potential conflict of interest arises or may arise for any supplier, that supplier must immediately notify the Department in writing.

6.1.10 If a conflict of interest arises, the Department may:

- (a) enter into discussions to seek to resolve such conflict of interest, or
- (b) disregard the submission submitted by such a supplier, or
- (c) take any other action, as it considers appropriate.

The actual or perceived level of risk associated with conflict of interest for a particular tender may result in changes to the tender evaluation criteria.

Each response to a request for tender is assessed on a case-by-case basis. If there are areas where a tenderer's methodology for dealing with conflict of interest issues is assessed by

the Department as deficient this would be addressed in discussions with the relevant tenderer. Providing the tenderer's methodology ultimately satisfies the Department that the tenderer was aware of all conflict of interest concerns and had an appropriate plan for dealing with the matter, the conflict of interest condition of tender will be met.

Neither the Department's standard tender nor contract require the erection of 'Chinese walls' by a tenderer or impose any specific rules about a tenderer's personnel or the physical location of files. However, the Department's standard contract contains clauses concerning the protection of personal information and requiring compliance with law and Commonwealth policies such as the Australian Public Service Values and Code of Conduct. The standard contract also contains access and accountability requirements that ensure the Department has reasonable access to premises where the contract is being performed and material relevant to the services being performed under the contract.

In the request for tender for the Digital Agenda review consultancy conflict of interest was treated as a mandatory technical selection criterion. It was made clear to prospective tenderers that failure to address this criterion may result in a tender not being further considered. It was also made clear that information provided against that criterion would be further considered in the assessment of value for money to determine the level of risk, if any, created by any existing or potential conflict.

Each tender for the Digital Agenda Review consultancy was assessed against the mandatory criterion above. If a tenderer had failed to satisfy this criterion it would have been ruled out of contention. While all tenderers were asked to supply the Department with further information in order to satisfy this criterion, all tenderers ultimately met the criterion and were then assessed and compared on the basis of other criteria.

As advised in the answer to Question No. 32, the contract with Phillips Fox contained conflict of interest obligations concerning any conflict of interest issues arising during the performance of the consultancy.

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**Output 1.6**

**Question No. 37**

**Senator Ludwig asked the following questions at the hearing on 14 February 2005:**

Was the Department aware that Mr Matthew Hall, partner at Phillips Fox, was acting for Sharman Networks at the same time as acting as the principal contact for the firm in the Digital Agenda Review? [Please see attached documents which show that Mr Hall was in communication with IP Australia on behalf of Sharman Networks in respect of an application for the trade mark 'Kazaa'.] If the Department was not aware, what action would the Department have taken if it was aware? Would this have been a contravention of the conflict of interest management plan agreed between the Department and Phillips Fox? If the Department was aware, what action was taken in respect of this issue?

**The answer to the honourable senator's questions is as follows:**

The Department was aware that Mr Matthew Hall was acting for Sharman Networks Limited at the time of the tender process in September 2002.

See answer to Question No. 32.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT

**Output 1.6**

**Question No. 38**

**Senator Ludwig asked the following questions at the hearing on 14 February 2005:**

What assurance has the Department been given by Phillips Fox that the firm gave no assistance or advice to clients in relation to submissions to the Digital Agenda Review?

**The answer to the honourable senator's questions is as follows:**

Phillips Fox advised the Department that it had not contributed in any way to or assisted with any submission made to the Digital Agenda Review.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT

**Output 1.6**

**Question No. 39**

**Senator Ludwig asked the following questions at the hearing on 14 February 2005:**

Has the Department received any complaints in respect of Phillips Fox conduct of the Digital Agenda Review, including complaints that the firm had a conflict of interest? If so, what are the details of these complaints? What action was taken in response to these complaints?

**The answer to the honourable senator's questions is as follows:**

The Department received no formal complaints in respect of Phillips Fox. Some criticism of the review process, including Phillips Fox's role was noted in the media and Phillips Fox's report also referred to criticism that had been made in some submissions about the firm's review process and methodology. The Report also noted that there were other submissions that considered the process was balanced and reasonable.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
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**Output 1.6**

**Question No. 40**

**Senator Ludwig asked the following question at the hearing on 14 February 2005:**

- a) Could the Department outline what consultation has been made with the Federal Privacy Commissioner regarding the central identity database and central document exchange?
- b) What is the current status of the project?
- c) Is it the case as the article "Privacy fears rule out central database" (Australian Financial Review 31/01/05 p 17) states that the database will check federal and state computer records for drivers licences, passports and birth certificates?
- d) Will photographs form a part of the database?
- e) If so, can the Department explain then how that is different from a central identity exchange?
- f) Can the Department explain how the document exchange will actually work?
- g) What is the status of discussions with the private sector including banks being allowed access to this?
- h) Will this exchange service be centrally hosted?

**The answer to the honourable senator's question is as follows:**

- a) The Office of the Federal Privacy Commissioner has been involved in all the feasibility work conducted to date on identity security including the concept of a document verification service. There are no proposals for a central identity database or for a document exchange. Australian Government policy on a document verification system does not involve the exchange of documents or the holding of personal identity information. This approach would enable agencies to send information appearing on key documents to the issuing authority, for that particular document, and allow the issuing authority to verify the accuracy of that information.
- b) On 14 April 2005, the Attorney-General, Philip Ruddock, and Minister for Justice and Customs, Chris Ellison, announced the development as a matter of priority of a national identity security initiative to combat identity theft and the fraudulent use of stolen and assumed identities. In the next 12-18 months, the Government will examine a number of key areas including:
  - documents presented as proof of identity;
  - security features on proof of identity documents;
  - document verification;



- improving the accuracy of information on government databases; and
- authentication of individuals accessing services.

The strategy will be developed in partnership with State and Territory Governments recognising their responsibility for primary identification documents such as birth certificates, fact of death data and drivers' licences. The private sector will also be consulted. The proposals will be developed in consultation with the Federal Privacy Commissioner to ensure the rights of individuals to privacy are protected.

- c) Australian Government policy on a document verification service does not involve the creation of a database. The document verification service will provide a simple communications pathway to allow the data items recorded on those documents to be verified online against federal and state computer records including drivers licences, passports and birth certificates.
- d) See answer a). No decision has been made on the types of information contained on key documents that will be verified using an on-line document verification service. Detailed proposals for a document verification service will be developed over the next 12 to 18 months.
- e) and f) A document verification service will enable authorised agencies to verify the data on key proof-of-identity documents (such as passports, birth certificates and drivers' licences) which clients provide when registering for services. The document issuer would respond to the requesting agency via the service with either a "yes" or "no" depending on whether the document details were matched or not.
- g) General discussions have been held with some private sector representatives about business problems with identity fraud. The Government has not canvassed with business representatives the notion of private sector access to any document verification service.
- h) Most document verification concepts require a hub, or exchange server, to route the verification transactions from the enquiring agency to the document issuer. Detailed consideration has not yet been given to questions such as location.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
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**Output 1.6**

**Question No. 41**

**Senator Ludwig asked the following question at the hearing on 14 February 2005.**

What was the cause of the \$1,000,000 budget overrun in output 1.6?

**The answer to the honourable senator's question is as follows:**

Output budget estimates and actual expenses comprise Divisional direct costs and attributed overheads.

The direct component of output 1.6 comprises a portion of what was then the Information and Security Law Division (ISLD). The other portion of that Division was reported as output 2.2. Taking the Division as a whole, it had a very slight budget overrun of less than one half of one per cent against the final allocation for the Division for 2003-04.

During the financial year, funding is reallocated between Divisions to meet changing and emerging priorities. This will generally result in variances being reported in the Resource Summary tables in the Department's Annual Reports as was the case for output 1.6 for 2003-04. Where Divisions are split across outputs, variances can also arise due to changes in funding allocations within the Division during the financial year. In this case, while output 1.6 had an apparent budget overrun, output 2.2 was underspent against budget although in a lesser amount than the overrun in output 1.6.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
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Output 2.1

Question No. 42

**Senator Ludwig asked the following question at the hearing on 14 February 2005:**

Please provide the Committee a list of the signatories to the UN Convention against Corruption.

**The answer to the honourable senator's question is as follows:**

The signatories to the UN Convention against Corruption, current to 7 March 2005, are contained in the extract below, taken from the United Nations Office on Drugs and Crime website (ref: [http://www.unodc.org/unodc/en/crime\\_signatures\\_corruption.html?print=yes](http://www.unodc.org/unodc/en/crime_signatures_corruption.html?print=yes))

**United Nations Convention against Corruption**

**Not yet in force:** see article 68 which reads as follows: "1.This Convention shall enter into force on the ninetieth day after the date of deposit of the thirtieth instrument of ratification, acceptance, approval or accession. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization. 2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Convention after the deposit of the thirtieth instrument of such action, this Convention shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date this Convention enters into force pursuant to paragraph 1 of this article, whichever is later."

**Status:** Signatories: 118, Parties: 15.

**Text:** Doc. A/58/422.

**Note:** The Convention was adopted by the General Assembly of the United Nations on 31 October 2003 at United Nations Headquarters in New York. It shall be open to all States for signature from 9 to 11 December 2003 in Merida, Mexico, and thereafter at United Nations Headquarters in New York until 9 December 2005, in accordance with article 67 (1) of the Convention. The Convention shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Convention in accordance with its article 67 (2).

Country	Signature	Ratification, Acceptance (A), Approval (AA), Accession (a)
Afghanistan	20 February 2004	
Albania	18 December 2003	
Algeria	9 December 2003	25 August 2004
Angola	10 December 2003	
Argentina	10 December 2003	
Australia	09 December 2003	
Austria	10 December 2003	
Azerbaijan	27 February 2004	
Bahrain	8 February 2005	
Barbados	10 December 2003	
Belgium	10 December 2003	
Balarus	28 April 2004	
Benin	10 December 2003	14 Oct 2004
Bolivia	09 December 2003	
Brazil	09 December 2003	

Country	Signature	Ratification, Acceptance (A), Approval (AA), Accession (a)
Brunei Darussalam	11 December 2003	
Bulgaria	10 December 2003	
Burkina Faso	10 December 2003	
Cameroon	10 December 2003	
Canada	21 May 2004	
Cape Verde	09 December 2003	
Central African Republic	11 February 2004	
Chile	11 December 2003	
China	10 December 2003	
Colombia	10 December 2003	
Comoros	10 December 2003	
Costa Rica	10 December 2003	
Côte D' Ivoire	10 December 2003	
Croatia	10 December 2003	
Cyprus	09 December 2003	
Denmark	10 December 2003	
Djibouti	17 June 2004	
Dominican Republic	10 December 2003	
Ecuador	10 December 2003	
Egypt	09 December 2003	
El Salvador	10 December 2003	1 Jul 2004
Ethiopia	10 December 2003	
Finland	10 December 2003	
France	09 December 2003	
Gabon	10 December 2003	
Germany	09 December 2003	
Greece	10 December 2003	
Guatemala	09 December 2003	
Haiti	10 December 2003	
Honduras	17 May 2004	
Hungary	10 December 2003	
Indonesia	18 December 2003	
Iran (Islamic Republic of)	09 December 2003	
Ireland	09 December 2003	
Italy	09 December 2003	
Japan	09 December 2003	
Jordan	09 December 2003	
Kenya	09 December 2003	09 December 2003
Kuwait	09 December 2003	
Kyrgyzstan	10 December 2003	
Lao's People's Democratic Republic	10 December 2003	
Libyan Arab Jamahiriya	23 December 2003	
Liechtenstein	10 December 2003	
Lithuania	10 December 2003	
Luxemburg	10 December 2003	
Madagascar	10 December 2003	22 Sep 2004
Malaysia	09 December 2003	
Malawi	21 September 2004	
Mali	09 December 2003	
Mauritius	09 December 2003	15 Dec 2004

Country	Signature	Ratification, Acceptance (A), Approval (AA), Accession (a)
Mexico	09 December 2003	20 Jul 2004
Morocco	09 December 2003	
Mozambique	25 May 2004	
Namibia	09 December 2003	3 Aug 2004
Nepal	10 December 2003	
Netherlands	10 December 2003	
New Zealand	10 December 2003	
Nicaragua	10 December 2003	
Nigeria	09 December 2003	14 Dec 2004
Norway	09 December 2003	
Pakistan	09 December 2003	
Panama	10 December 2003	
Paraguay	09 December 2003	
Peru	10 December 2003	16 Nov 2004
Philippines	09 December 2003	
Poland	10 December 2003	
Portugal	11 December 2003	
Republic of Korea	10 December 2003	
Republic of Moldova	28 September 2004	
Romania	09 December 2003	2 Nov 2004
Russian Federation	09 December 2003	
Saudi Arabia	09 January 2004	
Senegal	09 December 2003	
Serbia and Montenegro	11 December 2003	
Seychelles	27 February 2004	
Sierra Leone	09 December 2003	30 Sep 2004
Slovakia	09 December 2003	
South Africa	09 December 2003	22 Nov 2004
Sri Lanka	15 March 2004	31 March 2004
Sudan	14 Jan 2005	
Sweden	09 December 2003	
Switzerland	10 December 2003	
Syrian Arab Republic	09 December 2003	
Thailand	09 December 2003	
Timor-Leste	10 December 2003	
Togo	10 December 2003	
Trinidad and Tobago	11 December 2003	
Tunisia	30 March 2004	
Turkey	10 December 2003	
Uganda	09 December 2003	9 Sep 2004
Ukraine	11 December 2003	
United Kingdom of Great Britain and Northern Ireland	09 December 2003	
United Republic of Tanzania	09 December 2003	
United States of America	09 December 2003	

<b>Country</b>	<b>Signature</b>	<b>Ratification, Acceptance (A), Approval (AA), Accession (a)</b>
Uruguay	09 December 2003	
Venezuela	10 December 2003	
Vietnam	10 December 2003	
Yemen	11 December 2003	
Zambia	11 December 2003	
Zimbabwe	20 February 2004	

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
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**Output 2.1**

**Question No. 43**

**Senator Ludwig asked the following question at the hearing on 14 February 2005:**

Please provide the Committee with a copy of the Asian Development Bank-OECD Anticorruption initiative action plan.

**The answer to the honourable senator's question is as follows:**

The Asian Development Bank-OECD Anti-Corruption Action Plan for Asia Pacific is available online at: <<http://www1.oecd.org/daf/asiacom/ActionPlan.htm#actionplan>>. A copy of the Action Plan is attached.

ADB OECD Anti-Corruption Initiative  
for Asia-Pacific  
Combating Corruption In the New Millennium

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**Anti-Corruption Action Plan  
for Asia and the Pacific**



## PREAMBLE<sup>1</sup>

**WE**, governments of the Asia-Pacific region, building on objectives identified at the Manila Conference in October 1999 and subsequently at the Seoul Conference in December 2000;

**CONVINCED** that corruption is a widespread phenomenon which undermines good governance, erodes the rule of law, hampers economic growth and efforts for poverty reduction and distorts competitive conditions in business transactions;

**ACKNOWLEDGING** that corruption raises serious moral and political concerns and that fighting corruption is a complex undertaking and requires the involvement of all elements of society;

**CONSIDERING** that regional co-operation is critical to the effective fight against corruption;

**RECOGNIZING** that national anti-corruption measures can benefit from existing relevant regional and international instruments and good practices such as those developed by the countries in the region, the Asian Development Bank (ADB), the Asia-Pacific Economic Co-operation (APEC), the Financial Action Task Force on Money Laundering (FATF), the Organisation for Economic Co-operation and Development (OECD), the Pacific Basin Economic Council (PBEC), the United Nations and the World Trade Organisation (WTO)<sup>2</sup>.

**CONCUR**, as governments of the region, in taking concrete and meaningful priority steps to deter, prevent and combat corruption at all levels, without prejudice to existing international commitments and in accordance with our jurisdictional and other basic legal principles;

**WELCOME** the pledge of representatives of the civil society and the business sector to promote integrity in business and in civil society activities and to support the governments of the region in their anti-corruption effort;

**WELCOME** the pledge made by donor countries and international organisations from outside and within the region to support the countries of the region in their fight against corruption through technical co-operation programmes.

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<sup>1</sup> The Action Plan, together with its implementation plan, is a legally non-binding document which contains a number of principles and standards towards policy reform which interested governments of the region politically commit to implement on a voluntary basis.

<sup>2</sup> In particular: the 40 Recommendations of the FATF as supported by the Asia/Pacific Group on Money Laundering, the Anti-Corruption Policy of the ADB, the APEC Public Procurement Principles, the Basel Capital Accord of the Basel Committee on Banking Supervision, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the Revised Recommendation, the OECD Council Recommendation on Improving Ethical Conduct in the Public Service, the OECD Principles on Corporate Governance, the PBEC Charter on Standards for Transactions between Business and Government, the United Nations Convention on Transnational Organised Crime and the WTO Agreement on Government Procurement.

## PILLARS OF ACTION

In order to meet the above objectives, participating governments in the region endeavour to take concrete steps under the following three pillars of action with the support, as appropriate, of ADB, OECD and other donor organisations and countries:

### Pillar 1 - Developing effective and transparent systems for public service

#### *Integrity in Public Service*

Establish systems of government hiring of public officials that assure openness, equity and efficiency and promote hiring of individuals of the highest levels of competence and integrity through:

- Development of systems for compensation adequate to sustain appropriate livelihood and according to the level of the economy of the country in question;
- Development of systems for transparent hiring and promotion to help avoid abuses of patronage, nepotism and favouritism, help foster the creation of an independent civil service, and help promote a proper balance between political and career appointments;
- Development of systems to provide appropriate oversight of discretionary decisions and of personnel with authority to make discretionary decisions;
- Development of personnel systems that include regular and timely rotation of assignments to reduce insularity that would foster corruption;

Establish ethical and administrative codes of conduct that proscribe conflicts of interest, ensure the proper use of public resources, and promote the highest levels of professionalism and integrity through:

- Prohibitions or restrictions governing conflicts of interest;
- Systems to promote transparency through disclosure and/or monitoring of, for example, personal assets and liabilities;
- Sound administration systems which ensure that contacts between government officials and business services users, notably in the area of taxation, customs and other corruption-prone areas, are free from undue and improper influence.
- Promotion of codes of conduct taking due account of the existing relevant international standards as well as each country's traditional cultural standards, and regular education, training and supervision of officials to ensure proper understanding of their responsibilities;
- Measures which ensure that officials report acts of corruption and which protect the safety and professional status of those who do.

#### *Accountability and Transparency*

Safeguard accountability of public service through effective legal frameworks, management practices and auditing procedures through:

- Measures and systems to promote fiscal transparency;
- Adoption of existing relevant international standards and practices for regulation and supervision of financial institutions;
- Appropriate auditing procedures applicable to public administration and the public sector, and measures and systems to provide timely public reporting on performance and decision making;
- Appropriate transparent procedures for public procurement that promote fair competition and deter corrupt activity, and adequate simplified administration procedures.
- Enhancing institutions for public scrutiny and oversight;
- Systems for information availability including on issues such as application processing procedures, funding of political parties and electoral campaigns and expenditure;
- Simplification of the regulatory environment by abolishing overlapping, ambiguous or excessive regulations that burden business.

## Pillar 2 – Strengthening Anti-Bribery Actions and Promoting Integrity in Business Operations

### *Effective Prevention, Investigation and Prosecution*

Take effective measures to actively combat bribery by:

- Ensuring the existence of legislation with dissuasive sanctions which effectively and actively combat the offence of bribery of public officials;
- Ensuring the existence and effective enforcement of anti-money laundering legislation that provide for substantial criminal penalties for the laundering of the proceeds of corruption and crime consistent with the law of each country;
- Ensuring the existence and enforcement of rules to ensure that bribery offences are thoroughly investigated and prosecuted by competent authorities; these authorities should be empowered to order that bank, financial or commercial records be made available or be seized and that bank secrecy be lifted.
- Strengthening of investigative and prosecutorial capacities by fostering inter-agency co-operation, by ensuring that investigation and prosecution are free from improper influence and have effective means for gathering evidence, by protecting those persons helping the authorities in combating corruption, and by providing appropriate training and financial resources.
- Strengthening bi- and multilateral co-operation in investigations and other legal proceedings by developing systems which – in accordance with domestic legislation – enhance (i) effective exchange of information and evidence, (ii) extradition where expedient, and (iii) co-operation in searching and discovering of forfeitable assets as well as prompt international seizure and repatriation of these forfeitable assets.

### *Corporate Responsibility and Accountability*

Take effective measures to promote corporate responsibility and accountability on the basis of existing relevant international standards through:

- Promotion of good corporate governance which would provide for adequate internal company controls such as codes of conduct, the establishment of channels for communication, the protection of employees reporting corruption, and staff training;
- The existence and the effective enforcement of legislation to eliminate any indirect support of bribery such as tax deductibility of bribes;
- The existence and thorough implementation of legislation requiring transparent company accounts and providing for effective, proportionate and dissuasive penalties for omissions and falsifications for the purpose of bribing a public official, or hiding such bribery, in respect of the books, records, accounts and financial statements of companies;
- Review of laws and regulations governing public licenses, government procurement contracts or other public undertakings, so that access to public sector contracts could be denied as a sanction for bribery of public officials.

## Pillar 3 – Supporting Active Public Involvement

### *Public discussion of corruption*

Take effective measures to encourage public discussion of the issue of corruption through:

- Initiation of public awareness campaigns at different levels;
- Support of non-governmental organisations that promote integrity and combat corruption by, for example, raising awareness of corruption and its costs, mobilising citizen support for clean government, and documenting and reporting cases of corruption;
- Preparation and/or implementation of education programs aimed at creating an anti-corruption culture.

### *Access to information*

Ensure that the general public and the media have freedom to receive and impart public information and in particular information on corruption matters in accordance with domestic law and in a manner that would not compromise the operational effectiveness of the administration or, in any other way, be detrimental to the interest of governmental agencies and individuals, through:

- Establishment of public reporting requirements for justice and other governmental agencies that include disclosure about efforts to promote integrity and accountability and combat corruption;
- Implementation of measures providing for a meaningful public right of access to appropriate information.

### *Public participation*

Encourage public participation in anti-corruption activities, in particular through:

- Co-operative relationships with civil society groups such as chambers of commerce, professional associations, NGOs, labor unions, housing associations, the media, and other organisations;
- Protection of whistleblowers;
- Involvement of NGOs in monitoring of public sector programmes and activities.

## IMPLEMENTATION

In order to implement these three pillars of action, participating governments of the region concur with the attached Implementation Plan and will endeavour to comply with its terms.

Participating governments of the region further commit to widely publicise the Action Plan throughout government agencies and the media and, in the framework of the Steering Group Meetings, to meet and to assess progress in the implementation of the actions contained in the Action Plan.

# IMPLEMENTATION PLAN

## 1 Introduction

The Action Plan contains legally non-binding principles and standards towards policy reform which participating governments of the Asia-Pacific region (hereinafter: participating governments) voluntarily commit to implement in order to combat corruption and bribery in a co-ordinated and comprehensive manner and thus contribute to development, economic growth and social stability. Although the Action Plan describes policy objectives that are currently relevant to the fight against corruption in Asia and the Pacific, it remains open to ideas and partners. Updates of the Action Plan will be the responsibility of the Steering Group.

This section describes the implementation of the Action Plan. Taking into account national conditions, implementation will draw upon existing instruments and good practices developed by countries of the region and international organisations such as the Asian Development Bank (ADB), the Asia-Pacific Economic Co-operation (APEC), the Organisation for Economic Co-operation and Development (OECD) and the United Nations.

## 2 Core principles of Implementation

The implementation of the Action Plan will be based upon two core principles: i) establishing a mechanism by which overall reform progress can be promoted and assessed; ii) providing specific and practical assistance to governments of participating countries on key reform issues.

The implementation of the Action Plan will thus aim at offering participating countries regional and country-specific policy and institution-building support. This strategy will be tailored to policy priorities identified by participating countries and provide means by which participating countries and partners can assess progress and measure the achieved results.

### *Identifying Country priorities*

While the Action Plan recalls the need to fight corruption and lays out overall policy objectives, it acknowledges that the situation in each country of the region may be specific.

To address these differences and target country-specific technical assistance, each participating country will endeavour, in consultation with the Secretariat of the Initiative, to identify priority reform areas which would fall under any of the three pillars, and aim to implement these in a workable timeframe.

The first consultation on these priorities will take place in the framework of the Tokyo Conference, immediately after the formal endorsement of the Action Plan. Subsequent identification of target areas will be done in the framework of the periodical meetings of the Steering Group that will be set up to review progress in the implementation of the Action Plan's three pillars.

### *Reviewing progress in the reform process*

Real progress will primarily come from the efforts of the governments of each participating country supported by the business sector and civil society. In order to promote emulation, increase country responsibilities and target bilateral and international technical assistance, a mechanism will be established by which overall progress can be promoted and reviewed.

The review process will focus on the priority reform areas selected by participating countries. In addition, there will be a thematic discussion dealing with issues of specific, cross-regional importance as identified by the Steering Group.

Review of progress will be based on self-assessment reports by participating countries. The review process will use a procedure of plenary review by the Steering Group to take stock of each country's implementation progress.

### ***Providing assistance to the reform process***

While governments of participating countries have primary responsibility for addressing corruption related problems, the regional and international community as well as civil society and the business sector have a key role to play in supporting countries' reform efforts.

Donor countries and other assistance providers supporting the Action Plan will endeavour to provide the assistance required to enhance the capacity of participating countries to achieve progress in the priority areas and to meet the overall policy objectives of the Action Plan.

Participating governments of the region will endeavour, in consultation with the Initiative's Secretariat, to make known their specific assistance requirements in each of the selected priority areas and will co-operate with the assistance providers in the elaboration, organisation and implementation of programmes.

Providers of technical assistance will support participating governments' anti-corruption efforts by building upon programmes and initiatives already in place, avoiding duplications and facilitating, whenever possible, joint ventures. The Secretariat will continue to support this process through the Initiative's web site ([www.oecd.org/daf/ASIAcom](http://www.oecd.org/daf/ASIAcom)) which provides information on existing and planned assistance programmes and initiatives.

## **3 Mechanisms**

### ***Country Representatives***

To facilitate the implementation of the Action Plan, each participating government in the region will designate a contact person. This government representative will have sufficient authority as well as adequate staff support and resources to oversee the fulfilment of the policy objectives of the Action Plan on behalf of his/her government.

### ***Regional Steering Group***

A Steering Group will be established and meet back-to-back with the Initiative's annual conferences to review progress achieved by participating countries in implementing the Action Plan. It will be composed of the government representatives and national experts on the technical issues discussed during the respective meeting as well as representatives of the Initiative's Secretariat and Advisory Group (see below).

The Steering Group will meet on an annual basis and serve three main purposes: (i) to review progress achieved in implementing each country's priorities; (ii) to serve as a forum for the exchange of experience and for addressing cross-regional issues that arise in connection with the implementation of the policy objectives laid out in the Action Plan; and (iii) to promote a dialogue with representatives of the international community, civil society and the business sector in order to mobilise donor support.

Consultations in the Steering Group will take place on the day preceding the Initiative's annual meeting. This shall allow the Steering Group to report on progress achieved in the implementation of the policy objectives laid out in the Action Plan, present regional good practices and enlarge support for anti-corruption efforts among ADB regional member countries.

### ***Secretariat***

The ADB and the OECD will act as the Secretariat of the Initiative and, as such, carry out day-to-day management. The role of the Secretariat also includes to assist participating governments in preparing their self-review reports. For this purpose, in-country missions by the Secretariat will be organised when necessary.

### ***Advisory Group***

The Secretariat will be assisted by an informal Advisory Group whose responsibility will be to help mobilise resources for technical assistance programmes and advise on priorities for the implementation of the Action Plan. The Group will be composed of donor countries and international donor organisations as well as representatives of civil society and the business sector, such as the Pacific Basin Economic Council (PBEC) and Transparency International (TI), actively involved in the implementation of the Action Plan.

### ***Funding***

Technical assistance programmes and policy advice in support of government reforms as well as capacity building in the business sector and civil society aiming at implementing the Action Plan will be financially supported by international organisations, governments and other parties from inside and outside the region actively supporting the Action Plan.

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SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN FEDERAL POLICE

**Question No. 44**

**Senator Ludwig asked the following question at the hearing on 15 February 2005:**

In relation to Air Security Officers:

- a) Which countries (other than Singapore and the USA) are in discussion with Australia?
- b) Has any country declined to participate? Has any country ceased negotiations? If so, have they indicated any reason?

**The answer to the honourable senator's question is as follows:**

- a) The Attorney Generals Department, in partnership with other departments including Prime Minister and Cabinet, Foreign Affairs and Trade, Transport and Regional Services and the Australian Federal Police, is currently participating in dialogue with several countries. For reasons of operational security it is not intended to identify those countries.
- b) All countries approached by Australia are participating in discussions. None of these countries have ceased discussions.



SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT

**Output 2.1**

**Question No. 45**

**Senator Ludwig asked the following question at the hearing on 14 February 2005:**

National Strategy to prevent the Diversion of Precursor Chemicals: What is the administration cost of the strategy?

**The answer to the honourable senator's question is as follows:**

From 1 July 2003 to 14 February 2005 \$208,852 was spent on administering the National Strategy. This expenditure covers office and communication expenses, travel, project management and the salary for one Executive Level 1 (EL1) staff member. The projected total expenditure on administration under the National Strategy will be approximately \$525,000 from a total budget of \$5.4 million.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT

**Output 2.1**

**Question No. 46**

**Senator Ludwig asked the following question at the hearing on 14 February 2005:**

Please provide a breakdown of payments to jurisdictions under the Handgun buyback programme.

**The answer to the honourable senator's question is as follows:**

As at 28 February 2005, \$85,146,681 has been paid to States and Territories under the National Handgun Buyback as detailed below. This amount includes funds advanced to jurisdictions for administration and the reimbursement of the agreed Commonwealth proportion of compensation for items surrendered under the Buyback.

New South Wales	\$ 23,003,195
Victoria	\$ 21,689,383
Queensland	\$ 20,208,282
Western Australia	\$ 4,449,423
South Australia	\$ 10,865,863
Tasmania	\$ 2,414,177
Australian Capital Territory	\$ 995,533
Northern Territory	\$ 1,520,825

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT

**Output 2.1**

**Question No. 47**

**Senator Ludwig asked the following question at the hearing on 14 February 2005:**

Firearms Policy Issues: What projects were delayed (as a result of the need to manage the handgun buyback scheme)?

**The answer to the honourable senator's question is as follows:**

The Australasian Police Ministers' Council Firearms Policy Working Group (FPWG) delayed consideration of the following projects due to the need to manage the handgun buyback scheme:

- Review of audit practices for the safe storage of firearms and educational literature for firearm storage. This is now complete.
- Development of recommendations on firearm allocation and storage practices, training and licensing in the security industry. This is now complete.
- Annual report to the Australasian Police Ministers' Council on the implementation of the National Firearms Trafficking Policy Agreement. The FPWG was to report in 2003, but reported at the first meeting of 2004.
- Development of nationally consistent regulations for firearms manufacture. The FPWG has now commenced work on this issue.
- Acceleration of uniform national standards for tracking firearms via the development of the National Firearms Licensing and Registration System. This was delayed but has now been superseded by the development of the National Firearms Management System, which is on track for completion within agreed timeframes.
- Review of the ongoing role and operation of the FPWG. This is now complete.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT

**Output 2.1**

**Question No. 48**

**Senator Ludwig tabled the following question:**

- a) How many requests for firearm importation were refused in 2002-03, 2001-02, and 2000-01?
- b) How many of these refusals have been challenged or appealed?
  - i) How much money has been spent in fighting any challenges?
- c) How many of these refused requests relate to the same individual or company?
- d) How many firearms, in total, have been refused importation in those above periods?
- e) How many firearms have been imported, and subsequently seized by ACS?

**The answer to the honourable senator's question is as follows:**

- a) None. All applications were approved on the basis that they met the necessary requirements under Regulation 4F and Schedule 6 of the *Customs (Prohibited Imports) Regulations 1956*.
- b) See answer to question 48 (a)
- c) See answer to question 48 (a)
- d) See answer to question 48 (a)
- e) During financial year 2000/2001 Customs seized 435 imported firearms. Over the same period a further 259 firearms parts and accessories, and 118 replica firearms were also seized.

During financial year 2001/2002 Customs seized 561 imported firearms. Over the same period a further 347 firearms parts and accessories, and 159 replica firearms were also seized.

During financial year 2002/2003 Customs seized 177 imported firearms. Over the same period a further 641 firearms parts and accessories, and 251 replica firearms were also seized.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT

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**The answer to the honourable senator's question is as follows:**

- a) None
- b) See answer to question 48 (a)
- c) See answer to question 48 (a)
- d) See answer to question 48 (a)
- e) During financial year 2000/2001 Customs seized 435 imported firearms. Over the same period a further 259 firearms parts and accessories, and 118 replica firearms were also seized.

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SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT

**Output 2.1**

**Question No. 49**

**Senator Ludwig asked the following question at the hearing on 14 February 2005:**

Proposed Document Verification Service:

- a) How is the document verification service different from the Australia Card proposal of the 80s?
- b) Will it involve a central database of Australians' personal information?
- c) What types of information will be available on the DVS?
- d) Will Commonwealth agencies be able to use the DVS to call up personal information without the permission of the person to whom the information relates? All agencies or only some?
- e) When an agency accesses the DVS, would they only receive information about the document in question, or other personal information as well?
- f) What kind of privacy protections are intended to prevent the misuse of that information?
- g) Which Commonwealth or state agencies have been involved in discussions about the document verification service? Which of these agencies are likely to participate in the service?
- h) Which private sector organisations and businesses have been involved in discussions about the DVS? Which of these are likely to participate in the service? Will private organisations or individuals be able to access the DVS? Will they require the permission of the person to whom the information relates? Will there be a fee for use of the service by the private sector?
- i) What is the anticipated total cost of implementing and then running the service?
- j) What changes to legislation might be required to implement the DVS?
- k) What does the Department consider to be the risks or downsides of a DVS?
- l) Has the Department provided advice any alternative means of achieving the same goals?
- m) What community consultation has the department done on this scheme so far? Have you consulted:
  - i) The Australian Privacy Foundation?
  - ii) The Australian Council of Civil Liberties?
  - iii) The Law Council of Australia?
  - iv) Electronic Frontiers Australia?
  - v) Any other groups with an interest in privacy issues?
- n) What community consultation does the Department propose to do before the project commences?
- o) What consultation has been made with the Federal Privacy Commissioner regarding this project?

- p) Is it the case that the database will check federal and state computer records for drivers' licences, passports and birth certificates?
- q) Will photographs form a part of the database?
- r) Will the exchange server be centrally hosted?

**The answer to the honourable senator's question is as follows:**

(a - f) and (h - r) See answer to Question on Notice Number 40.

Current thinking on a document verification service does not involve an identity card, would not result in the allocation of an identifying number or the storage of personal details on a database. The concept is to provide a mechanism to allow data items recorded on key documents to be verified with the document issuer.

Detailed consideration has not yet been given to questions such as cost, legislative changes, authorised users, appropriate consultative arrangements or possible alternative systems.

- g) Commonwealth and State agencies involved in discussions about identity security issues include the Australian Crime Commission, Australian Electoral Commission, Australian Federal Police, Australian Government Information Management Office, Australian Securities and Investments Commission, Australian Security Intelligence Organisation, Australian Secret Intelligence Service, Australian Taxation Office (ATO), Australian Transaction Reports and Analysis Centre, Australian Customs Service, Centrelink, Commonwealth Scientific and Industrial Research Organisation, Department of Transport and Regional Services (DOTARS), Department of Family and Community Services, Department of Foreign Affairs and Trade (DFAT), Department of Human Services, Department of Immigration and Multicultural and Indigenous Affairs (DIMIA), Department of Veterans' Affairs (DVA), Department of Finance and Administration, Department of Health and Ageing, Health Insurance Commission (HIC), Office of the Federal Privacy Commissioner, Department of the Prime Minister and Cabinet, Department of the Treasury, the State and Territory Registries of Births, Deaths and Marriages and Road Transport Authorities (through Austroads).

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT

**Output 2.1**

**Question No. 50**

**Senator Ludwig asked the following question at the hearing on 14 February 2005:**

Criminal Justice Certificates

- a) How many were requested?
- b) So far this year, how many have been refused, and how many are still pending?
- c) On what grounds were they refused?
- d) What were the nationalities of the persons who were refused CJs?
- e) What is the average processing time for the determination of a CJC?
- f) Are there any Ministerial Instructions relating to the Criminal Justice Certificates?
  - i) If so, please provide.
- g) What is the average amount of time a person stays in Australia on a CJC?
  - i) What is the least amount of time a person has stayed in Australia on a CJC?
  - ii) What is the most amount of time a person has stayed in Australia on a CJC?
- h) How many people who have been granted a CJC have subsequently applied for entry on a humanitarian visa, from either inside or outside of Australia?
  - i) If some, in considering the application of those people, is any weight given to any assistance they provided the Commonwealth in the criminal matter?

**The answers to the honourable senator's questions are as follows:**

- a) In the 2003 – 04 financial year, 195 Criminal Justice Certificates were requested. In the current financial year (up until 10 March 2005), 106 Criminal Justice Certificates have been requested.
- b) In the 2003 – 04 financial year, no applications for Criminal Justice Certificates were refused. In the current financial year (up until 10 March 2005), no applications for Criminal Justice Certificates have been refused. No applications are pending.
- c) Not applicable.
- d) Not applicable.
- e) The processing time for the determination of a Criminal Justice Certificate application varies according to the nature of each application. However, once this Department receives a request, most applications are processed within five days.
- f) No.
  - i) Not applicable.
- g) The length of time a person stays in Australia on a Criminal Justice Certificate depends on the purpose for which the Criminal Justice Certificate was granted and can vary significantly. The average stay is not calculated by the Department.



- i) Of the Criminal Justice Certificates that have been issued in the current financial year (up until 10 March 2005), the least amount of time a person has stayed in Australia is six days.
  - ii) Of the people who are currently on Criminal Justice Certificates, the longest amount of time a person has stayed in Australia is 15 and a half years.
- h) The issuing of visas is the responsibility of the DIMIA. DIMIA has advised that it is unable to provide the requested information, as it does not maintain a record of visas subsequently granted to Criminal Justice Visa (CJV) holders once the CJV ceases.
- i) As above.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT

**Output: 2.1**

**Question No. 51**

**Senator Ludwig asked the following question at the hearing on 14 February 2005:**

- a) Has the Attorney-General's Department ever received any request for any extradition treaty or bilateral extradition treaty from any Russian office, agency, department, or embassy?
- b) If so, when and in what form was such a request made?
- c) If so, has the Attorney-General's Department received any request or approach for any extradition treaty or bilateral extradition treaty from any other country in the years 2004-04, 2002-03, 2001-02 or so far this year?

**The answer to the honourable senator's question is as follows:**

- a) This question was answered by the Department in response to part (a) of Question No 79 asked by Senator Ludwig on 2 December 2004. The Department's response was submitted to the Committee on 14 February 2005.
- b) This question was answered by the Department in response to part (b) of Question No 79 asked by Senator Ludwig on 2 December 2004. The Department's response was submitted to the Committee on 14 February 2005.
- c) Yes. The Government follows the international practice that a bilateral treaty remains confidential to the parties until it is signed, unless both parties agree to disclose.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT

**Question No. 52**

**Senator Ludwig asked the following question at the hearing on 14 February 2005:**

Please provide a breakdown of the 154 individual matters relating to federal prisoner's sentences and how many were successful.

**The answer to the honourable senator's question is as follows:**

Of the 154 decisions, 99 decisions were made on parole of federal prisoners; 11 were made on early release; and 44 decisions were made on other applications by federal offenders.

The Attorney-General's Department does not collect statistics on the success of applications.