SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S DEPARTMENT

Output 2.1

Question No. 47

Senator Stott-Despoja asked the following question at the hearing on 31 October 2006:

Can AUSTRAC or AGD confirm that the FATF Recommendations are not 'binding treaty obligations', and do not therefore have to be slavishly followed by the Australian Government?

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

Obligations to enact measures to combat money laundering and terrorism financing derive from the following treaties which have been ratified by Australia:
- United Nations Convention Against Corruption, done at New York on 31 October 2003 [2006] ATS 2;
- United Nations Convention Against Transnational Organized Crime, done at New York on 15 November 2000 [2004] ATS 12;
- Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime, done at Strasbourg on 8 November 1990 [1997] ATS 21.

The obligation to put in place appropriate measures to combat money laundering and terrorism financing are also derived from the following Resolutions of the UN Security Council:
- United Nations Security Council Resolution 1267 S/RES/1267 (1999);
- United Nations Security Council Resolution 1373 S/RES/1373 (2001);
- United Nations Security Council Resolution 1617 S/RES/1617 (2005).

The Financial Action Task Force (FATF) is an international body whose purpose is the development and promotion of policies to combat money laundering and terrorist financing. The Revised Forty Recommendations of the Financial Action Task Force and Nine Special Recommendations on Terrorist Financing are internationally recognised minimum standards for combating money laundering and terrorist financing.

Australia, as a member of the FATF is obliged to implement those standards which have been endorsed at Ministerial level by all FATF members. The recommendations as such are not included in the text of any multilateral or bilateral treaty to which Australia is a party.