



HIGH COMMISSIONER

AUSTRALIAN HIGH COMMISSION

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3 September 2008

The Chairman
Foreign Relations Committee
National Parliament
PO Box G19
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SOLOMON ISLANDS

Dear Sir

Thank you for the opportunity to provide a submission to the inquiry into the Facilitation of International Assistance (FIA) Notice currently being undertaken by the Solomon Islands National Parliament's Foreign Relations Committee. I respond on behalf of the Government of Australia, which has a leading role in the Regional Assistance Mission to Solomon Islands (RAMSI). The engagement of the region as a whole in RAMSI is vital. RAMSI's strength is in its regional nature.

RAMSI's overarching goal is to assist the Solomon Islands Government to establish a peaceful, well-governed and more prosperous nation under the terms of its mandate. The work of RAMSI, complemented by bilateral assistance from Australia and other bilateral, regional and multilateral donors, is assisting to address Solomon Islands' development priorities. We anticipate that the proposed Australia-Solomon Islands Pacific Partnership for Development will further complement the work of RAMSI, and will build on our already strong bilateral relations by committing new assistance to support Solomon Islands' development strategies.

The Solomon Islands Government – RAMSI Partnership Framework will be a key tool for strengthening the partnership between RAMSI and the Solomon Islands Government. It will seek to ensure the continuing alignment of RAMSI's priorities with those of the Solomon Islands Government, and create shared responsibility for priority setting. RAMSI is working in close consultation with the Solomon Islands Government to ensure that the Partnership Framework provides the most effective mechanism possible for constructive dialogue and genuine partnership.

The Australian Government considers that the FIA Act which underpins RAMSI's presence and activities in Solomon Islands remains appropriate and consistent with standard international practice.

Please do not hesitate to contact me for clarification of the above submission or further information. Once again, thank you for the opportunity to make a submission.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Alison Duncan', with a long horizontal stroke extending to the right.

Alison Duncan
Acting High Commissioner

AUSTRALIAN GOVERNMENT SUBMISSION TO THE INQUIRY INTO THE FACILITATION OF INTERNATIONAL ASSISTANCE NOTICE

5 September 2008

RAMSI's achievements

RAMSI's achievements in Solomon Islands have been significant. RAMSI's initial goal of restoring law and order was quickly realised and has allowed RAMSI to focus on building local capacity and assisting to repair the essential machinery of government. The mission's objectives are now focused on three broad areas, or programs, developed to meet Solomon Islands' most pressing needs: Law and Justice, Economic Governance and Machinery of Government.

RAMSI is working in close conjunction with the Solomon Islands Government to build the country's capacity to address its development needs and to strengthen governance. RAMSI is continuing to make significant gains in assisting the Solomon Islands Government to achieve stability, security, good governance, economic reform and growth in Solomon Islands.

Building a stable, long-term security environment remains fundamental to the success of the mission. Under the Law and Justice program, RAMSI has removed 3,600 guns from the community and worked to reconstitute the Solomon Islands Police Force. RAMSI police have a presence in all nine provinces of Solomon Islands, and 332 new police recruits have graduated. Good progress has also been made in the justice sector, where RAMSI has provided support to key institutions to ensure the Solomon Islands justice system operates effectively, openly and fairly. Half the 'tension' trials have been completed and remand times have been halved. RAMSI is supporting the Corrections Service with personnel and specialist advisers, training and improvements to infrastructure and equipment.

RAMSI has achieved significant successes in creating an enabling environment to progress economic reform in Solomon Islands. RAMSI's Economic Governance program is supporting the Solomon Islands Government's economic and financial management and is encouraging reforms to generate broad-based economic growth. Under the Economic Governance program, RAMSI has assisted Solomon Islands to develop balanced national budgets, better manage revenue and expenditure, and negotiate restructured loans to reduce public sector debt. Since the mission's arrival, government revenue has increased by over 50 per cent and the economy by an average of five per cent. A new Foreign Investment Act has been implemented and has led to a significant growth in planned foreign investment. Tariffs have been reduced and the overall level of debt has declined.

RAMSI's work under the Machinery of Government program focuses on improving planning and management systems, and on developing a professional public service to ensure effective, transparent and accountable governance. The mission has helped strengthen formal accountability institutions such as the Auditor-General's Office and Leadership Code Commission. RAMSI also assists the National Parliamentary Office

to enhance Parliament's representative and oversight functions through improved Cabinet processes and through support to Members in the performance of their roles. The Machinery of Government program has moved from its initial provision of short-term advice to managing longer-term integrated programs focused on local capacity building. It is also supporting the efforts of the Solomon Islands Government to minimise barriers impeding women's participation in government decision-making.

RAMSI maintains a high degree of public support. The 2008 People's Survey, which provided nationwide community feedback on RAMSI's work in Solomon Islands, indicated that 89 per cent of Solomon Islanders supported RAMSI's presence in their country and most considered that their security and general economic conditions had improved.

Since the beginning of its deployment in 2003, RAMSI has pursued its over-arching goal of assisting the Solomon Islands Government to establish a peaceful, well-governed and more prosperous Solomon Islands through its cooperation with the Solomon Islands Government. This mandate is based on the restoration of civil order; the stabilisation of government finances; the promotion of longer-term economic recovery and the rebuilding of the machinery of government. RAMSI's mandate remains suitable for appropriately and effectively meeting its objectives in supporting and assisting Solomon Islands.

RAMSI's legal framework

The Facilitation of International Assistance (FIA) Act is the key Solomon Islands legislation that underpins RAMSI's presence in Solomon Islands. It reflects the RAMSI Treaty as agreed by Solomon Islands and contributing Pacific island countries in July 2003 and implements the RAMSI Treaty in Solomon Islands domestic law. It provides the basis for RAMSI's operations in Solomon Islands and grants the powers, privileges and immunities essential for the mission's effective functioning.

It is important that RAMSI personnel continue to have immunities as provided under the FIA Act. These immunities exist to help the mission run smoothly by insulating RAMSI personnel from the threat of individuals bringing vexatious legal claims which could distract from their core objective of assisting Solomon Islanders. The immunities applicable to RAMSI personnel reflect standard international and regional practice. Similar immunities are typically provided for international organisations and missions such as the United Nations operation in East Timor. The 'United Nations Model Status of Forces Agreement for Peacekeeping Operations' sets out privileges and immunities very similar to those under RAMSI, which have operated in East Timor, Lebanon, Sudan and Haiti. These cover civilian as well as police and military deployees. Indeed, Solomon Islanders operate with similar immunities when they are deployed to such bodies. Australian personnel have operated with equivalent protections when deployed to, for instance, East Timor, Bougainville and Israel / Egypt. It was agreed at the 2005 Pacific Islands Forum (PIF) Leaders' Meeting that the PIF and country representatives would have immunities necessary to fulfil the PIF's purpose and carry out its functions, through the Agreement Establishing the Pacific Islands Forum (although the treaty has yet to enter into force).

RAMSI immunities only cover conduct falling within official duties. Unlike diplomats, RAMSI personnel are not immune for actions not connected or incidental to their official duties. However, the FIA Act does allow a contributing country to assert jurisdiction over all criminal acts of RAMSI personnel who are nationals of that State. Where the Contributing Country does not assert jurisdiction, Solomon Islands will have jurisdiction. The Solomon Islands High Court has found that these immunities are consistent with the Solomon Islands Constitution, and do not infringe upon the fundamental rights and freedoms provided for under the Constitution. Furthermore, contributing countries can waive immunity, and have done so in the past. There are a number of safeguards in place to ensure that the immunities granted to RAMSI personnel under the FIA Act are not abused; these are listed in the 2007 PIF RAMSI Task Force Report, pp. 19-20. RAMSI does not tolerate misconduct by its personnel.

Removal of these core legal protections would mark a significant departure from both international and regional practice. The obligation to accord the immunities would remain as a matter of international law under the RAMSI Treaty. Any amendment to the RAMSI Treaty to mirror changes to the FIA Act would require fresh agreement by the fifteen contributing Pacific island countries (as outlined in the PIF RAMSI Task Force report and the outcomes statement of the 17 July 2008 Forum Ministerial Standing Committee (FMSC) meeting).

Previous reviews of RAMSI

RAMSI's rigorous performance management processes have allowed its work to be transparently assessed. All assessments to date have been largely positive in finding that RAMSI's mandate remains appropriate to the mission's aims and that the mission's activities are consistent with this mandate. RAMSI will continue to work to make these processes as robust as possible and ensure that independent assessments and data are used to make judgements about the success of RAMSI's work.

Both the 2005 Eminent Persons Group Review of RAMSI and the 2007 PIF RAMSI Task Force Review provided comprehensive external assessments of RAMSI's performance. Both reviews were positive about RAMSI's progress, making only relatively minor recommendations for change. The 2007 PIF RAMSI Task Force Review report noted RAMSI's 'strong and widespread support throughout Solomon Islands'. The 2007 PIF Leaders' meeting outcomes commended and confirmed the continuing support of all Forum members as contributing countries to RAMSI as an outstanding example of cooperative regionalism. Australia welcomes Solomon Islands' endorsement of the PIF RAMSI Task Force Review report at the Forum Leaders' meeting in Niue in July 2008.

The 2007 PIF RAMSI Task Force review report underscored regional support for the maintenance of RAMSI's mandate in its current state, welcoming the SIG's decision to maintain RAMSI's mandate unchanged for a further year from July 2007 as provided for in the FIA Act.

As noted in the 2007 PIF Task Force review of RAMSI, any changes made to any of the four inter-related documents which constitute both the legal framework and the mandate for RAMSI (the Framework Agreement on Strengthened Assistance, the

2003 Forum Foreign Ministers' Outcome statement, the 2003 Treaty between Solomon Islands and contributing Forum countries and the FIA Act) may require changes to all of these. The report noted that 'any unilateral amendments to the FIA Act would inevitably have serious implications for the willingness of participating nations to continue contributing to RAMSI. They would also damage the greater sense of partnership that is now emerging in Honiara'.

The report considered that some of the concerns regarding RAMSI's organisational structure derived from inadequacies in the dialogue mechanism between the Solomon Islands Government and RAMSI. These perceived inadequacies have been addressed through the implementation of the report's recommendations in the formation of a Forum Ministerial Standing Committee to provide the PIF with oversight and governance of RAMSI, supported by the Enhanced Consultative Mechanism and a triumvirate to provide a formal framework for communication between the SIG, PIF and RAMSI. The Australian Foreign Minister, the Hon Stephen Smith MP, was pleased to be able to participate in the two FMSC meetings held in Honiara in February and July 2008.

Future directions

Australia recognises that RAMSI does not operate in a static political and economic environment and that the situation in Solomon Islands has changed since 2003. Accordingly, RAMSI has responded to the changing conditions in Solomon Islands since its initial deployment by remaining dynamic and forward-looking, regularly assessing and calibrating its programs to ensure they address the most pressing needs of the country. In this way, RAMSI's strong, negotiated and agreed mandate remains appropriate to its goals. Australia supports the work of RAMSI bilaterally through a targeted and evolving aid package to Solomon Islands, and the proposed Pacific Partnership for Development which our two Prime Ministers, in March 2008, agreed to work to establish, will reinforce Australia's capacity to work closely with Solomon Islands in addressing Solomon Islands' evolving priorities.

RAMSI responded promptly to the recommendations of the 2007 PIF RAMSI Task Force Review to strengthen mechanisms for dialogue with the Solomon Islands Government. The Solomon Islands Government - RAMSI Partnership Framework, agreed to at the inaugural Forum Ministerial Standing Committee meeting in Honiara in February 2008, will be a key tool for strengthening the partnership by aligning RAMSI's priorities with those of the Solomon Islands Government, and creating shared responsibility for priority setting. The Partnership Framework will establish mutually-agreed, conditions-based timelines with a view to reducing RAMSI's engagement in critical areas of government as the Solomon Islands Government's capacity continues to grow. Leaders at the 2008 PIF Leaders' Meeting in Niue welcomed the development of the Partnership Framework. RAMSI is working in close consultation with the Solomon Islands Government to negotiate the terms of the Framework to ensure that it continues to provide the most effective mechanism possible for constructive dialogue and genuine partnership in calibrating RAMSI's activities with the priorities of the Solomon Islands Government.

In the spirit of the Port Moresby Declaration announced by Prime Minister, the Hon Kevin Rudd, on 6 March 2008, Australia is committed to continue to support and assist Solomon Islands through RAMSI and through its bilateral programs.