



Asian Development Bank

## REPORT TO THE FATF PLENARY

October 2008

### Ongoing Technical Assistance and Other Activities

#### 1. Background

ADB continues to provide assistance to a number of its developing member countries (DMCs) to enhance their AML/CFT regimes. Such assistance is occurring via focused technical assistance (TA) projects, financial sector program support which includes AML/CFT reform measures, and ad hoc technical legislative drafting and legal advice support and cross-border regional trade TA. This work is undertaken in accordance with ADB's policy on *Enhancing The Asian Development Bank's Role in Combating Money Laundering and the Financing of Terrorism*<sup>1</sup>. TA activities have included country-specific enhancement of AML regimes involving training for officials involved in AML operations, assistance in drafting AML legislation, technical advice to establish or enhance financial intelligence units (FIU), and support for trade based money laundering, customs enhancement, and cash courier measures. Much of ADB's assistance to DMCs to combat money laundering has been undertaken within the broader context of its existing policies and strategies to facilitate poverty reduction, promote good governance, reduce corruption, and strengthen national financial and border control systems.

In April 2008, a review<sup>2</sup> of ADB's role in combating money laundering and the financing of terrorism was undertaken. The report recognized the importance of ADB to contribute to the substantive aspects of AML/CFT developments (and not simply as a provider of finance). The ability to engage with DMCs at the technical level enables ADB staff, its counterparts in the DMCs, and consultants to forge a better understanding of what might be more important and practicable areas of AML/CFT reform and implementation measures.

#### 2. Ongoing Technical Assistance

Current technical assistance being undertaken since the last report is as follows:

- **Cambodia**

The first of three workshops, funded by ADB and organized by Bank Negara, Malaysia was held last month to support Cambodia to develop a strategic approach to develop a strategy to implement a national AML/CFT program and the main objective of the Workshop was to develop a strategic implementation plan for Cambodia which would include the implementation of the AML/CFT law and regulation as well as the APG mutual evaluation recommendations. The second workshop is for the financial sector (banks, securities, insurance, etc) to develop internal AML/CFT program where training on the reporting obligations of the financial sector will be provided. It is to assist the financial sector in understanding their roles, obligations and responsibilities in

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<sup>1</sup> The four main components of the policy, which was adopted on 1 April 2003, are: (i) assisting DMCs in establishing and implementing effective legal and institutional systems for AML/CFT; (ii) increasing collaboration with other international organizations; (iii) strengthening internal controls to safeguard ADB funds; and (iv) upgrading ADB's staff capacity.

<sup>2</sup> See report at <http://www.adb.org/Documents/policies/Review-ADB-Role-In-Combating-Money-Laundering/IN108-08.pdf>

implementing the AML/CFT laws and regulations. The third workshop will cover AML/CFT supervision for financial institutions and DNFBPs

- **Lao PDR**

As a new member of the Asia Pacific Group on Money Laundering (APG), the Lao PDR's AML regime will be evaluated by APG in the third quarter of 2010. In preparing for the evaluation, AMLIU will need to develop a short to medium term plan including programs for building capacity of staff and AML processes. ADB is providing assistance to the Bank of the Lao PDR (BOL) to establish a National Coordination Committee (NCC) to be chaired by the Governor of BOL with representation from high ranking officials from relevant line ministries and agencies. The NCC would be responsible for policy and strategy. In the transition to the NCC, BOL is being supported to set up a working group with representation from the relevant agencies to ensure effective implementation of the AML decree No. 55. Related to this, BOL also recognizes the need to upgrade AML Decree No. 55 into a law to be consistent with international practice. An assessment of the AML regime to date and further awareness raising amongst the senior officials will also be undertaken. The ADB technical assistance is supporting the further development and capacity strengthening of the AML regime, and in the following areas:

- finalization of the guidelines for reporting of covered and suspicious transactions;
- development of a short to medium term plan for enhancing the AML regime;
- on-the-job training for staff of the AMLIU. Areas include intelligence analysis, monitoring and inspections, and report writing for AMLIU staff based on best international practices;
- Communications and media training to raise public awareness;
- training for relevant staff in government agencies as well as financial institutions with responsibilities for implementing the AML regime;
- support preparation for the APG mutual evaluation in 2010 and input to upgrading the decree to a law.

- **Mongolia**

While significant steps supported by ADB Technical Assistance have been taken to improve compliance of Mongolia's AML/CFT framework with relevant prudential norms in banks, less progress had been made as regards non-banks due to the only recent creation of the Financial Regulatory Commission, the consolidated non-banking financial markets regulator. The Financial Intelligence Unit (FIU) has recently been created in the Bank of Mongolia and been assisted by implementation of ADB's Financial Regulation and Governance Program through drafting of regulations, investing in IT-MIS for the FIU and training of FIU staff, financial institutions and relevant government agencies on AML Law. ADB consultants conducted several trainings for banks compliance officers and provided instruction how to prepare reports to the FIU. All banks appointed a compliance officer, but compliance by the banks with regulations and procedures has so far been varying. Major gaps in the AML framework include legal deficiencies as regards suspicious transaction reporting requirements by banks and capacity constraints in law enforcement.

- **Nepal**

Judiciary: Support to Special Court - ADB TA 4962-NEP: Support to Anticorruption Institutions supports the Government's initiatives in strengthening the institutional capacity of five anticorruption institutions as well as the capacity of the Special Court. The Special Court is legally authorized to effectively and swiftly dispense with corruption cases that are filed with it. The Court is also mandated to consider cases of crimes against the State, and review decisions taken by the Commission for the Investigation of Abuse of Authority.

- **Pakistan**

ADB is supporting the State Bank of Pakistan (SBP) with technical assistance of \$1.5million to strengthen the country's AML/CFT regime including (i) effective consolidation of AML/CFT monitoring and analytical measures within a single financial intelligence unit, (ii) implementation of the AML law including preparation of implementing regulations as needed; (iii) enhancing the capacity of the financial intelligence unit (FMU) in SBP for a comprehensive STR reporting and analysis with capacity for cross-border sharing of information; (iv) organization and the design of the FMU monitoring and database systems, including preparation of a detailed action plan and budget; (v) training and capacity building of FMU and concerned agencies staff, including in the areas of forensic accounting and auditing procedures; (vi) preparation of an analytical report on AML typologies in Pakistan; and (vii) promotion of public awareness and understanding of AML/CFT under the new regime.

- **People's Republic of China**

In conjunction with China's AML/CFT efforts and through ADB's Law and Policy Reform work with the Chinese authorities, a TA project was approved in August 2006 and is currently being implemented. The TA assisted with the development and subsequent enactment of China's AML law, particularly in facilitating stakeholder consultations on the draft AML law through an international symposium.

Further implementation of the TA is focused on: (a) revising relevant aspects of the criminal law; (b) strengthening the regulation and supervision of financial institutions under the AML law; and (c) extending the application of the AML law to relevant parts of the non-financial sector. This includes two international symposiums; the first was held in May 2008 and the second will be held in November 2008.

- **The Philippines**

ADB's technical assistance is supporting the further development and capacity strengthening of the AML regime to bolster the compliance by the Philippines with the FATF Revised 40 + 9 Special Recommendations, specifically on the assessment of the NPO sector, compliance by government agencies with AML/CFT international standards, public awareness on AML/CFT, continuous educational and training programs, and inter-agency coordination and international cooperation, among others.

- **Viet Nam**

Capacity building and FIU support was provided under ADB's second TA following the establishment of the Anti-money Laundering Information Center (AMLIC- financial intelligence unit) within the State Bank of Vietnam and the appointment of a Director. The third TA is supporting strengthening of the anti-money laundering regime. Major components of this TA include support for: (i) increased public-awareness on the importance of effective AML measures; (ii) strengthening inter-agency coordination as well as coordination between supervisory authorities and regulated entities in implementation of the AML regime; (iii) AML-related capacity building in supervisory authorities and regulated entities; and (iv) strengthening international cooperation.

- **Bhutan**

ADB's Loan No. 2279-Financial Sector Development Program provides assistance to the Government to review and revise, as necessary, the existing AML laws and regulations. It will also help Royal Monetary Authority (central bank) establish a Financial Intelligence Unit to address AML/CFT related issues.

- **Bangladesh** : Under Loan No. 2362- Good Governance Program, while there is no specific component on trade based money laundering, support is being provided to the Anticorruption

Commission to link up with relevant agencies (such as the National Board of Revenue, the Bangladesh Bank, etc.) on corruption related and other matters. ADB is also assisting the Government of Bangladesh to implement the UN Convention Against Corruption, which also covers money laundering.

### **3. Border Controls and Port Security**

ADB has completed the mapping exercise for the pilot border crossings in the Brunei Darussalam-Indonesia-Malaysia-Philippines East ASEAN Growth Area (BIMP-EAGA). The mapping exercise is a major activity under ADB's technical assistance for customs, immigration, quarantine and security (CIQS) harmonization. The CIQS mapping aims to consolidate the existing CIQS rules, regulations and procedures (RRPs) in BIMP-EAGA's priority entry points. This will serve as basis to identify gaps and differences in the member countries' procedures and documents, facilitate formulation of solutions to address them and build consensus among member countries on the required regulatory and procedural reforms to streamline, simplify and harmonize CIQS operations in accordance with international conventions, protocols and best practices.

The mapping exercise looked into the rules, regulations and procedures implemented by each country's CIQS authorities in the various stages of CIQS work—including enforcement of maritime programs and policies to promote security, safety and stability within each country's territorial waters; formalities applicable for ship and vehicle arrival and departure at ports and land border check points; and procedures and regulations pertaining to the clearance of incoming and outgoing passengers and cargoes.

This is a base for the next steps of the RETA activities, which are to formulate reforms in CIQS procedures to streamline and simplify the existing procedures. A continuing RETA is being processed which will provide capacity building for the CIQS offices to ensure the implementation of the reforms and also replicate the similar exercise to other border crossings in the archipelagic Southeast Asia.

### **4. Countering the Financing of Terrorism**

- **Lao PDR and Cambodia**

ADB staff joined the UNCTED assessment team in for Lao PDR and Cambodia to monitor the implementation of Security Council resolution 1373 which requires Member States to take appropriate actions to counter terrorism.

### **5. Status of APEC Cooperation Fund for Regional Trade and Financial Security Initiative**

The FRTFSI is funding a wide variety of AML/CFT projects. Going forward it is proposed to move the FRTFSI into the next phase of its operations and additional funds are being sought.

### **6. Publications/Internal Measures**

ADB's online AML/CFT toolkit is being continually updated to expand the available reference materials in order to facilitate research on AML/CFT topics and to provide more links to relevant websites. See <http://www.adb.org/documents/others/anti-money-laundering-toolkit/>

ADB attended the Asia Pacific Group on AML/CFT (APG) Annual Meeting, the Technical Assistance & Training Forum, and the AML/CFT Technical Seminar in Bali. This annual Meeting provides an opportunity for International Donors to coordinate and streamline their activities aimed at strengthening AML/CFT capacities of countries-recipients. The Meeting also highlights the results and achievements in this area of assistance. ADB staff also have made a number of

presentations on AML/CFT at training sessions and workshops on AML/CFT measures, such as the APEC Inspections of Market Intermediaries Training Workshop, held in Manila.

## 7. ADB/OECD Anti-Corruption Initiative for Asia-Pacific<sup>3</sup>

The Initiative continues to support governments' efforts toward effective and transparent systems for public service, anti-bribery and business integrity, and active public involvement in the Asia/Pacific Region and the Initiative has built strong partnerships with the private sector, civil society, donors, and regional and international organizations actively involved in combating corruption and related matters.

### New Publications of interest to the AML/CFT Community

**Mutual Legal Assistance (MLA), Extradition and Recovery of Proceeds of Corruption – outcome of the Initiative's 2nd thematic review** This publication provides information on requirements for requesting and granting mutual legal assistance among Asian and Pacific countries and with Parties to the OECD Anti-Bribery Convention. It also identifies ways to strengthen legal cooperation in the fight against corruption. A full-text database of legislation and treaties that govern MLA and extradition in Asia-Pacific complements the report.<sup>4</sup>

### **Asset Recovery and MLA**

Bringing the corrupt to justice and recovering the proceeds of corruption have become more challenging as people and assets cross borders with ever greater ease. Law enforcement authorities in corruption cases increasingly depend on international cooperation to gather evidence and recover proceeds of corruption. At present, many requests for mutual legal assistance (MLA) and asset recovery remain unsuccessful due to defects in frameworks or practice for MLA and asset recovery. To address these defects, the Initiative's [member countries](#) currently conduct a thorough [review on their frameworks and practice](#) in this area, following a [training seminar](#) on the matter held in March 2006. A follow-up seminar on asset recovery and mutual legal assistance was held on 5-7 September 2007 in Indonesia, to make the international standards in this area, set notably by the UN Convention against Corruption and the [OECD anti-bribery Convention](#), operational.<sup>5</sup>

- Proceedings of the 5th Regional Technical Seminar: "Managing Conflict of Interest"<sup>6</sup>
- Proceedings of the 7th Regional Technical Seminar: "Fighting Bribery in Public Procurement"<sup>7</sup>
- Annual report 2007 of the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific<sup>8</sup>

At the 11<sup>th</sup> Steering Group Meeting a report was delivered on comprehensive anti-bribery and AML legislation with effective sanctions, effective institutional frameworks and resources to investigate and prosecute these offenses, and effective mechanisms for transnational cooperation in the prosecution of corruption (Pillar 2, Effective Prevention, Investigation and Prosecution).<sup>9</sup>

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<sup>3</sup> The Initiatives' new website outlining its activities is at [www.oecd.org/corruption/asiapacific](http://www.oecd.org/corruption/asiapacific)

<sup>4</sup> See <http://www.oecd.org/dataoecd/32/2/39985369.pdf>

<sup>5</sup> [http://www.oecd.org/document/25/0,3343,en\\_34982156\\_34982441\\_38950361\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/25/0,3343,en_34982156_34982441_38950361_1_1_1_1,00.html)

<sup>6</sup> [http://www.oecd.org/document/56/0,3343,en\\_34982156\\_34982441\\_39367864\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/56/0,3343,en_34982156_34982441_39367864_1_1_1_1,00.html)

<sup>7</sup> [http://www.oecd.org/document/6/0,3343,en\\_34982156\\_34982441\\_39578310\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/6/0,3343,en_34982156_34982441_39578310_1_1_1_1,00.html)

<sup>8</sup> <http://www.oecd.org/dataoecd/46/42/40485068.pdf>

<sup>9</sup> Reports by: Australia; P.R. China; Fiji Islands; India; Indonesia; Japan; Korea; Malaysia; Pakistan; Papua New Guinea; Samoa; Thailand; See <http://www.oecd.org/dataoecd/20/11/40811157.pdf>