

TECHNICAL ASSISTANCE COMPLETION REPORT

Division: SPRM

TA No. and Name TA 3613-VAN: Capacity Building of the Legal Sector			Amount Approved: \$330,000	
			Revised Amount: \$330,000	
Executing Agency: State Law Office (SLO).		Source of Funding: JSF	TA Amount Undisbursed \$27,035	TA Amount Utilized \$302,632
Date			TA Completion Date	
Approval 21 Dec 2000	Signing 28 Dec 2000	Fielding of Consultants 30 Apr 2001	Original 29 Apr 2003	Actual 5 Sep 2002
			Account Closing Date	
			Original 29 Apr 2003	Actual Being closed off ¹

Description

The Government of Vanuatu embarked upon an ambitious program of economic and public sector reform in 1998. This resulted in the enactment of significant new legislation. The enforcement of legislation required substantial support from the SLO and the new measures to counter money laundering and fraud also meant that SLO had to take a lead and directive role. The new legislation covered a wide range of areas and involved significant changes that the staff of the SLO had very little experience in. These areas included privatization, corporatization and contracting out, amongst others. The SLO is severely restricted by a shortage of staff. The staff of the SLO is, with the exception of the Attorney General (AG), inexperienced, being recent graduates. The workload and the stress confronted by the AG make it difficult for him to undertake training. There was a need to increase the expertise of the SLO by assisting with training, in the provision of advice, and facilitating the process of change within the Government consistent with the aims of the Comprehensive Reform Program (CRP).

Objectives and Scope

The objective was to help the Government enhance governance through providing a capacity building program for the legal sector. In particular, building the capacity of the SLO and strengthening the institution to ensure better functioning of the office in all respects. The scope of the TA included (i) providing an awareness heightening program to public sector officials on the law and their rights and obligations under it; (ii) assisting the Government to meet international standards with respect to money laundering and international fiscal responsibility; (iii) providing capacity building and skills transfer training to legal officers in the SLO and other legal offices, including the capacity to monitor and prevent fraudulent activities and ensure the Government complies with the legislative requirements; (iv) providing high quality and timely advice to government ministries; (v) assisting the Government to improve the quality of its action in defense of its legal obligations; (vi) assisting the Government to provide public awareness campaigns; and (vii) helping the SLO establish and operate a public law information center.

Evaluation of Inputs

The TA was formulated reasonably well building on the lessons learnt under previous TAs, with an emphasis on monitoring capacity building on a periodic basis. The terms of reference were comprehensive, focused and addressed some critical areas of reform. An experienced and well-qualified senior Queen's Counsel undertook the assignment for 11 months on an intermittent basis over an 18 month period. The same consultant had previously worked with the SLO under two previous ADB funded TAs² thereby providing continuity and stability of support and advice to SLO and the Government. Because the TA was based in-country, direct contact and liaison with the ADB Office in Vanuatu was on a regular basis and issues arising were dealt with promptly. The TA helped support training of SLO counterparts in various international and locally organized workshops/seminars. In all cases of training, both the TA consultant and a counterpart would participate at workshops and on return, the counterpart prepared a feedback report. Such a mentoring exercise proved effective in building confidence of counterparts, allowing them to grow on the job. However, the real challenge will be retention of trained counterparts if the decisions of the Remuneration Tribunal to pay higher remuneration are not acted on soon. During TA implementation, the TA was responsive to some pressing requests of different coalition governments in an effort to protect the country from any unscrupulous deals. In such cases, prior consultation with the ADB Office in Vanuatu was sought.

The SLO also maintained close contact with the University of the South Pacific (USP) Law School based in Port Vila, Vanuatu. The design and updating of the laws of Vanuatu was closely coordinated with the SLO. Overall, the performance of ADB and SLO was satisfactory and effectively contributed to TA accomplishment.

¹ No pending claim by TA consultant. ADB awaiting receipt of final confirmation from GRM Int'l. before closing the TA account.

² ADB. 1999. *Technical Assistance to Vanuatu for Strengthening the State Law Office*. Manila; ADB. 1999. *Technical Assistance to Vanuatu for Law Reform and Capacity Building*. Manila.

Evaluation of Outputs

Under the TA, monthly reports were submitted. A well-prepared and thorough final report was received on 19 September 2002. The SLO has significantly improved capacity, especially in the area of the Financial Intelligence Unit (FIU) and the provision of advice to Government. Individual lawyers received training, as did members of government departments and agencies. The TA assisted in putting a system of contract approvals in place to ensure that legal requirements were met. As part of the process of ensuring that reform policies are consistent with the law, the TA assisted in vetting Council of Ministers papers to ensure that reforms proposed were in line with the law and produced many legal opinions on policy matters. The establishment and management of the FIU was a major output under the TA. Two capable young officers who have benefited under the TA training scheme, now manage it. Through the TA, SLO was substantially restructured into divisions, tracking systems were introduced, as were case management systems for litigation matters. All of these changes have resulted in greater efficiency in the SLO. In terms of assisting SLO staff in developing capacity and the skills required for executing their functions under the SLO Act, the TA introduced concepts of risk management to be able to better assess and deal with the liability of the Government in an efficient and cost effective way.

In terms of training and capacity building, training seminars were held for staff on a weekly basis and the staff given individual training on a daily basis when their work was reviewed by the TA as part of a quality assurance system. At the same time seminars were held on a regular basis for government departments. A SLO service provision booklet was devised and distributed. It is regularly updated. The TA produced a small manual for use by government administrative tribunal members outlining the discharge of their functions in a lawful way. Similarly, an updated version of the laws of Vanuatu was compiled into a CD-ROM and made available to the public, including on the USP Law School website. Overall, Government officials valued highly the quality of service and advice provided by the TA consultant. The TA consultant satisfactorily fulfilled his terms of reference.

Overall Assessment and Rating

The TA is rated as highly successful, as concrete impacts were achieved under the TA, notwithstanding the challenging, difficult, and highly charged political environment. The setting up of the FIU has proven effective and sustainable in monitoring and controlling the laundering of money in the banking system. The introduction of the risk management concept will save the Government a great deal on an ongoing basis. The TA fostered a cultural change in the legal system and provided SLO with a different way of dealing with cases. It also had an impact on Government on an ongoing basis.

Major Lessons Learned

The TA adviser encountered some problems due to the almost complete change of legal officer staff during the term of the project. One officer was found to have criminal convictions and was judged by the AG to not be suitable to continue in the SLO; another officer was absent from the office for long periods and was given the option of resigning; and the third, and most senior of the legal officers, decided within weeks of being admitted to practice, that he would leave and join an expatriate law firm. The retention of staff to be trained is very important in a project such as this. An assurance of stability in the work force to be trained should be considered as a necessary condition for long-term sustainability.

The AG was also absent from the office for long periods, suffering from job-related stress. This caused some difficulty for the TA adviser who found himself having to resist the pressure to act "in line", rather than being merely an adviser. This situation should not have had to be confronted. The management of the SLO was deficient after the departure of an adviser/manager. This made the TA more difficult.

The great volume of work that had to be undertaken to directly assist the AG in relation to legal opinion work put great pressure on the TA in relation to other aspects of the TOR. There was no way of avoiding this if risk management was to be effected. In future projects of this nature, there must be a commitment by the recipient Government to ensure that the office involved has sufficient staffing levels, that such staff are retained, and that adequate resources are available for the staff to be trained to be able to carry out their functions properly. In this project, the volume of work to be handled by the staff was far too great given their experience. This caused difficulty in having time easily allocated for training. Much of the training was undertaken after hours, which put additional pressure on the staff.

Recommendations and Follow-Up Actions

ADB through its policy dialogue should actively pursue with the Government the implementation status of the decisions of the Remuneration Tribunal approved in 2000. The latter was part of the second tranche release conditions of the CRP. One of the determinations addressed the salary conditions of legal officers employed by the Government.

Prepared by	<u>Anaseini T. Vatucawaqa</u>	Designation	<u>Senior Project Implementation Officer, SPRM</u>
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