

MEKONG-AUSTRALIA PROGRAM ON TRANSNATIONAL CRIME INVESTMENT DESIGN

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| Investment Design Title: Mekong-Australia Program on Transnational Crime (MAP-TNC) | |
| Start date: March 2021 | End Date: February 2029 |
| Total proposed DFAT funding: AUD30m | Total proposed funding from all donors: AUD30m |

30 June 2020

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Key Data

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| Partner Countries: | Southeast Asia - Mekong region. The investment will focus on delivery in Cambodia, Laos, Myanmar, Thailand and Vietnam. |
| Activity Name: | <i>Mekong-Australia Program on Transnational Crime (MAP-TNC)</i> |
| Program: | Bilateral program with five partner countries. Some engagement/activities will be delivered on a regional basis. |
| Location of Activity: | Program management will be based in Bangkok. Relationships with Australian Government agencies will be supported by DFAT Canberra. Technical, logistics and administrative support in Australia and the Mekong region will be provided by the managing contractor. |
| Counterpart Agencies: | Counterpart ministries and law enforcement and border security agencies in partner countries. Australian Public Service Agencies (APS Agencies) are expected to lead delivery of technical assistance (TA). |
| Implementing Agency: | Australian Department of Foreign Affairs and Trade |
| Goal: | <i>To build deeper and stronger cooperation between Australia and Mekong Countries to address transnational crime</i> |
| Key Dates: | Implement from FY 20/21 to FY24/25 (four calendar years initially with the intention to extend by a further four years, subject to funding and review). The Program is expected to commence early in 2021. |
| Cost of Proposed Investment | |
| GoA: | AUD 15 million over initial four calendar years (2021-2024, inclusive). Year 1: \$2 million Year 2: \$3 million Year 3: \$5 million Year 4: \$5 million AUD 30 million over eight years (Jan 2021 to Dec 2028), subject to extension. |
| Partners and other donors: | To be determined. |

Acknowledgement and Disclaimer

The design team would like to thank government and non-government representatives in the Mekong Countries, as well as Australian Government officers posted in the region, who gave up their valuable time to discuss this design. The design team would also like to thank the members of the Reference Group in Canberra for their guidance and support and valuable whole of government insights and guidance. Views presented in this document are those of the design team, and in no way represent the views of individuals or organisations consulted.

Acronyms, Abbreviations and Definitions

Acronyms

AACT
AAPTIP

ABF
ACCCE
ACIC
AFP
AGD
AIC
AIPM
AML/CTF
AMMD
AMMTC
APG-ML
APS Agency
ARLEMP
ASEAN
ASPI
BCAMP
CCP
CSE
CSOs/NGOs
DFAT
EOPO
FATF
FRA
FSV
FTE
GEDSI
GoA
Home Affairs
ICN
IDD
IO
IP-JuSP
JCLEC
KAPR
LES
M&E
MAP-TNC
MC
MEF
Mekong Countries
MoU
MPF
MPS
ODA
ODE
OECD/DAC

Definitions

ASEAN-Australia Counter-Trafficking
Australia-Asia Program to Combat Trafficking in Persons (now succeeded by AACT)
Australian Border Force
Australian Centre to Counter Child Exploitation
Australian Criminal Intelligence Commission
Australian Federal Police
Attorney General's Department
Australian Institute of Criminology
Australian Institute of Police Management
Anti-Money Laundering and Counter-Terrorism Financing
ASEAN Ministerial Meeting on Drugs
ASEAN Ministerial Meeting on Transnational Crime
Asia/Pacific Group on Money Laundering
Australian Public Service Agencies
Asia Region Law Enforcement Management Program
Association of Southeast Asian Nations
Australian Strategic Policy Institute
Border Control Agency Management Program
Cyber Cooperation Program
Child Sexual Exploitation
Civil Society Organisations/Non-Governmental Organisations
Department of Foreign Affairs and Trade (Australia)
End of Program Outcome
Financial Action Task Force
Fiduciary Risk Assessment
Family and Sexual Violence
Full-time equivalent
Gender equality, disability and social inclusion
Government of Australia
Department of Home Affairs
Investment Concept Note
Investment Design Document
Intermediate Outcome
Indo-Pacific Justice and Security Program
Jakarta Centre for Law Enforcement Cooperation
Knowledge, attitudes, practices and relationships
Locally Engaged Staff
Monitoring and Evaluation
Mekong-Australia Program on Transnational Crime
Managing Contractor
Monitoring and evaluation framework
Cambodia, Laos, Myanmar, Thailand and Vietnam
Memorandum of Understanding
Myanmar Police Force
Ministry of Public Security (Laos)
Official Development Assistance
Office of Development Effectiveness
Development Advisory Committee of the Organisation for Economic Cooperation and Development

Acronyms

Partner countries
PCC
PEA
PSEAH
PWD
RoU
SEAEGIF
SGR
SOM-TC
SOCJA
SWAp
TA
TAF
TAP
TICAC
TNC
ToR
TSOC
TWGs
UK
UNODC
WPS

Definitions

Cambodia, Lao PDR, Myanmar, Thailand and Vietnam
Program Coordination Committee
Political Economy Analysis
Preventing Sexual Exploitation, Abuse and Harassment
Persons with disability
Record of Understanding
Southeast Asia Economic Governance and Infrastructure Facility
Stop / Go Review
Senior Officials Meeting on Transnational Crime (ASEAN)
Serious and Organised Crime Joint Analysis
Sector-wide approach
Technical Assistance
The Asia Foundation
Technical Assessment Panel
Thailand Internet Crimes Against Children
Transnational Crime
Terms of Reference
Transnational, Serious and Organised Crime
Technical Working Groups (activity-level)
United Kingdom
United Nations Office on Drugs and Crime
Women, Peace and Security

Glossary

Mekong Countries – For the purposes of this Program, ‘*Mekong Countries*’ denotes the following: Cambodia, Laos, Myanmar, Thailand and Vietnam.

Transnational, Serious and Organised Crime (TSOC) – TSOC covers a wide range of the most serious crime threats including:

- › manufacture and trade of illicit commodities, including drugs and firearms
- › sexual exploitation of children
- › human trafficking and slavery
- › serious financial crime
- › cybercrime, and
- › key enablers of TSOC include money laundering, identity crime and public sector corruption.¹

TSOC is an accepted terminology frequently used across the Australian Government, and the Council of Australian Governments. On 1 May 2018, the Australian Government appointed the first Commonwealth TSOC Coordinator (the Coordinator), Australian Federal Police Deputy Commissioner Karl Kent OAM.² The mission of the Coordinator is to lead and strengthen the national effort to combat TSOC impacting Australia, with a focus on strategy, policy and capability.

Transnational Crime (TNC) – Transnational crime is defined as violations of law that involve more than one country in their planning, execution, or impact. These offences are distinguished from other crimes in their multinational nature, which poses unique problems in understanding their causes, developing prevention strategies, and in mounting effective adjudication procedures. Transnational crimes can be grouped into three broad categories involving provision of illicit goods (drug trafficking, trafficking in stolen property, weapons trafficking, and counterfeiting), illicit services (commercial sex and human trafficking), and infiltration of business and government (fraud, racketeering, money laundering, and corruption) affecting multiple countries. Transnational crimes are distinct from international crime, which involves crimes against humanity that may or may not involve multiple countries. Examples of international crimes are genocide and terrorism.³

It is acknowledged that the GoA’s preferred terminology is TSOC. This design document more commonly uses the broader term – TNC – and this is to be read as including TSOC.

¹ <https://www.homeaffairs.gov.au/about-us/our-portfolios/national-security/tsoc/about>

² <https://www.homeaffairs.gov.au/about-us/our-portfolios/national-security/tsoc/coordinator>

³ <https://www.oxfordbibliographies.com/view/document/obo-9780195396607/obo-9780195396607-0024.xml>

A: Executive Summary

What is the development problem that this investment will address?

Transnational crime (TNC) is a lucrative and growing business, generating tens of billions of dollars a year for organised crime groups through illicit activities in the region.⁴ These crimes undermine political processes, weaken security, harm communities, inhibit economic development and impede good governance.⁵ Cambodia, Laos, Myanmar, Thailand and Vietnam (the Mekong Countries) and neighbouring southern China are experiencing significant TNC changes as a result of shifting power dynamics, large-scale development, improved Association of Southeast Asian Nations (ASEAN) connectivity, highly porous borders, and uneven regional cooperation. Transnational, serious and organised crime (TSOC), such as trafficking in illicit drugs, human trafficking, child sexual exploitation, and financial crimes are fuelled by and fuel corruption, money laundering, poor governance and lack of transparency. TNC decreases government revenue, adds to business costs and in some cases it also funds terrorism and fuels conflict. Poverty associated with COVID-19 related economic downturn presents fertile ground for illicit, criminal and terrorist networks, including those who engage in TNC for economic gain. Globally, it is expected that drug production and trafficking will expand, drug markets will stabilise and prosper, and money laundering efforts will increase during the recovery period.⁶ The proposed program seeks to engage with these five Mekong Countries to address TNC, focussing initially on illicit drugs.

What are Australia's policy objectives relevant to the investment?

Partnerships for Recovery: Australia's COVID-19 Development Response, released in May 2019, reshapes Australia's development efforts to support the health security, economic recovery and stability of the Indo-Pacific. Recognising that our influence, interests and capabilities are concentrated in our immediate neighbourhood, it identifies Southeast Asia as a priority region. Under its stability pillar, *Partnerships for Recovery* commits Australia to invest in partner country efforts to improve law and justice. Given the potential link between economic downturn in Mekong Countries and poverty to exacerbate insecurity, provide fertile ground for illicit, criminal and terrorist networks, including TNC, the Program aligns squarely with Australia's COVID-19 response objectives.

The 2017 *Foreign Policy White Paper* outlines how TNC threatens Australia's interests, undermines regional stability and economic development. The White Paper commits Australia to working more closely with Southeast Asia partners to combat TSOC, including through development assistance to build capacity across law and justice sectors.

The *National Strategy to Fight Transnational, Serious and Organised Crime*, endorsed by the Council of Australian Governments in December 2018, identifies TSOC as a national security threat which originates offshore, requiring Australia to work with our international partners to harden regional and global responses.

Australia is already engaged in Southeast Asia on TSOC and border security issues, including through:

- › the *ASEAN-Australia Counter Trafficking Program (AACT)*⁷ investment to counter trafficking in persons.
- › Australian Public Sector (APS) Agency law enforcement cooperation operational efforts led by the Australian Federal Police (AFP), the Department of Home Affairs (Home Affairs), and the Australian Border Force (ABF),
- › annual engagement with ASEAN mechanisms such as the ASEAN Senior Officials Meeting on Transnational Crime (SOM-TC), which brings together the region's chiefs of police and heads of home affairs.

The above activities seek to improve the Mekong Countries' abilities to manage their borders and to assist disruption of TSOC. However, Australia recognises that disruption-targeted capacity building alone is insufficient. Addressing TNC in the Mekong Countries requires intervention strategies to be underpinned by sound political economy analysis (PEA) and theories of change which are capable of addressing TNC at both

⁴ UNODC *Transnational organised crime in Southeast Asia: Evolution, Growth and Impact*, July 2019, Pp 2-8.

⁵ Foreign Policy White Paper 2017, p. 73. Accessed from: <https://www.fpwhitepaper.gov.au/>.

⁶ Jason Eligh. *Crisis and Opportunity: Impacts of the coronavirus pandemic on illicit drug markets*. May 2020. Global Initiative Against Transnational Organised Crime: Policy Brief. Accessed from: <https://globalinitiative.net/coronavirus-illicit-drug-markets/>

⁷ AACT's predecessor was the Australia-Asia Program to Combat Trafficking in Persons (AAPTIP).

operational and strategic levels. Over the long term, opportunities may exist to work with Mekong Countries to address the broader TNC transnational marketplace and its interaction with the Mekong Countries. This will require building deeper and stronger cooperation between Australia's and Mekong Countries' institutions to address TNC. In the interim, careful PEA will inform annual planning, activity prioritisation and discontinuation.

Mekong-Australia Program on Transnational Crime

Noting the above, Australia's Department of Foreign Affairs and Trade (DFAT) wishes to establish the Mekong-Australia Program on Transnational Crime (MAP-TNC). This regional program, funded from Australia's official development assistance (ODA) budget, will address operational and strategic TNC challenges identified in the Mekong Countries, where possible coordinating with the United States, China and other partners. The Program seeks to strengthen Australia's links with law enforcement agencies in the Mekong countries. Addressing TNC will require a mix of policy and operational approaches at national and regional levels. Given Australia's existing relationships within the Mekong Countries, its technical competencies, and its long-term relationships-focused development approaches, Australia is well positioned to contribute. The proposed investment will complement the existing AACT Program and other ODA and non-ODA transnational crime activities funded by the Australian Government.

The MAP-TNC will implement a coordinated approach to addressing TNC in the Mekong Countries, through working closely with Mekong Countries to identify key issues, to contribute research and analysis, and to harness APS Agency expertise through cohesive program delivery. The Program will build on existing relationships in the Mekong Countries, develop stronger institutional links with APS Agencies and Mekong Country counterpart agencies and others working on TNC in the Mekong Countries (e.g. CSOs, China, Japan and the USA, and the United Nations), and monitor results for discussion at regional Program meetings. While Australia will not respond to all emerging priorities, these efforts will improve Australia's ability to make meaningful contributions to addressing TNC in the Mekong Countries, in line with our strategic interests.

What are the key outcomes we expect from this investment?

Goal: *To build deeper and stronger cooperation between Australia and Mekong Countries to address transnational crime.*

End of Program Outcomes (EOPOs) include:

1. Policy framework and strategic analysis: *Australian collaboration on demand-driven research and strategic analysis informs national and regional TNC and border security policies and legislation:* (Better policy analysis, evidence, and a stronger information base to assess TNC challenges, delivered through collaboration between Australian and Mekong Country research bodies).
2. Operational capacities: *Mekong Countries implement intelligence-led TNC and border security operations at national and regional levels, aligned with existing Australian TNC contributions:* (Stronger national operational capacities to prevent, detect, and address TNC developed leveraging Australian expertise. This may include drawing on political economy and transnational market analysis under pillar 1 above to inform strengthening operational capacities), and
3. Regional Collaboration: *Mekong Countries collaborate to strategically address TNC and border security issues at bilateral and regional levels:* (Enhanced regional cooperation and information sharing on operational issues, border security, and transnational market analysis).

How will we implement the Program?

A managing contractor (MC), appointed through a DFAT-managed tender process, will support Program delivery, including activity design, activity and program-level M&E, reporting on the Program's activities and progress, and supporting the design, M&E and reporting of activities delivered by APS Agencies (including provision of gender equality expertise).

On the back of a baseline and PEA in the Mekong Countries, **multi-year country-specific engagement plans** will be developed. These will be complemented by **country-specific annual work plans**, developed through consultation with Mekong Country stakeholders, with support from DFAT Posts, including APS Agencies,

(Australian Border Force (ABF), Australian Federal Police (AFP), Attorney General's Department (AGD) and Home Affairs), and contracted implementing partners (e.g. sub-contracted organisations). Country-specific annual work plans will be coordinated under a **regional annual work plan** approved by the Assistant Secretary Regional Engagement Branch, Southeast Asia Division, and endorsed by the Program Coordination Committee (see below).

A **central activity approval process**, based on a set of Program Principles, will provide parameters that maximise flexibility, and foster Mekong Countries' ownership of the jointly developed annual plans and APS Agency leads on implementation. Funding for APS Agency projects will be contingent upon the proposals passing through the program's activity design requirements. These include compliance with DFAT's ODA eligibility requirements, alignment with the program's higher-level goal and objectives, and positive PEA analysis of the context in which the activity is to take place. Institutional links between Australia and Mekong Countries, joint regionally-focussed activity planning, and careful political economy analysis will enable the Program to leverage Australian expertise to accelerate the Mekong Countries' development of sound national systems that address TNC at both national and regional levels.

Staff from APS Agencies and subcontractors will deliver technical assistance (TA) to Mekong Countries' key TNC stakeholders (police, border security agencies and their ministries, research bodies and civil society organisations). Australia's Diplomatic Academy is expected to provide opportunities for APS Agency TA to gain relevant development and international engagement training.⁸ Regular bilateral and regional management meetings will coordinate activities.

Phased implementation will see the initial four-year term focus on developing and aligning bilateral activities in each Mekong Country with the Program's objectives. This will include funding capacity development activities that not only have practical results, but which build closer relationships and exchange of ideas between Australian and Mekong Country counterpart agencies.

The focus of the second phase will be on leveraging the links between Australian and Mekong Country institutions to increase Mekong Countries' regional cooperation on TSOC. The second phase would also see a focus on strengthening the Program's links to ASEAN architecture and processes, including supporting Mekong Countries' enhanced participation in the ASEAN Ministerial Meeting on Transnational Crime (AMMTC), the ASEAN Ministerial Meeting on Drugs (AMMD), and associated senior officials' meetings, and mini-lateral arrangements.⁹ Transnational market analysis is also expected to be further pursued during the second phase.

The Program will prioritise multi-year activities under each EOPO pillar. Funding will be released to APS Agencies and subcontractors on an annual basis, subject to results. The annual planning process will also enable adaptive programming in response to emerging needs. This mixed approach signals Australia's intent to engage over the long-term, and to respond swiftly to emerging needs, highlighting the value to Mekong Countries of partnering with Australia in combatting TNC. The monetary value of regional activities is anticipated to increase over time as the program gains traction in each Mekong Country and is able to foster improved participation in regional initiatives. Significant expertise exists within the region which may be subcontracted to support program delivery.

Governance and Management

- › Annual Program Coordination Committee (PCC) meeting. A senior government representative from each Mekong Country would be identified to participate in the PCC. The PCC meetings will provide an opportunity for strategic oversight and consideration of jointly identified activities to be funded through the Program in each Mekong Country (through endorsement of annual plans), as well as opportunities to discuss regional TNC issues and build a subregional perspective. DFAT's Assistant Secretary, Regional Engagement Branch will participate in the annual PCC meeting at which the annual plan is endorsed.
- › Six-monthly management oversight meetings between DFAT, the MC, implementing agencies, and APS Agencies to review progress against the annual plan and to appraise new activity proposals.

⁸ See: <https://diplomaticacademy.dfat.gov.au/>

⁹ E.g. Meetings operationalising the Mekong Memorandum of Understanding on Drug Control

- › Appropriate Program-internal analysis, particularly political economy analysis and transnational market analysis to inform decisions, support flexible resourcing and measure success.
- › Monthly MC-DFAT Program management meetings.

What procurement and collaboration will be required?

A single MC will support bilateral and regional Program implementation: activity design (including ODA eligibility of proposed APS Agency activities); implementing select activities; managing subcontractors; and conducting strategic analysis, monitoring and evaluation (M&E), promoting gender equality, and reporting. DFAT will require the MC to support its lead role in implementation and support APS Agency coordination in line with Records of Understanding (RoUs). The MC will also contribute development expertise to the design and implementation of APS Agency activities, including activity design, establishing sound M&E Plans, and supporting overall annual plan development. The MC will also provide secretariat services to the PCC and to other governance and management meetings. The MC will need to facilitate the Program's objective of promoting Mekong Country representatives' engagement with Australian institutional peers (e.g. police-police).¹⁰

Priority areas for reform, policy advocacy and budget dialogue

Australia's engagement on policy dialogue with Mekong Countries on TNC will be most successful if it is conducted by technically competent Australian government representatives, and importantly, if quality policy dialogue processes are assured.¹¹

Priority policy areas that this investment will target include:

- › The process for developing TNC policy across the five Mekong Countries, in particular the links between sound research into TNC (including political economy analysis and transnational market analysis), and policy development and implementation.
- › Encouraging Mekong Countries to allocate resources in support of operational requirements, particularly on countering illicit drugs, child sexual exploitation, financial crimes, and enhancing border security, leveraging Australian experience and expertise.
- › In the latter years of the Program, advocating for increased information sharing, cooperation and effective use of regional architecture to address TNC issues, including broader transnational market-driven issues. This may include targeted regional interventions by Mekong Countries' criminal justice institutions (i.e. prosecutions), efforts to tackle key financial hubs through which criminal profit is channelled, and efforts aimed at political marginalisation and denial of opportunities to individuals participating in TNC. Ongoing sound political economy analysis will be required to realise this approach.

Approach to M&E and cross-cutting issues, including gender equality

The Program will identify a baseline in its first six months, produce quarterly contractual progress reports, six-monthly outcome-level results reports, strategic analysis, and annual ODA statistics collation. All reporting will include disaggregation for gender, age, and inclusiveness. Mainstream and spotlight gender equality activities will be built into implementation and where possible will include enhancing women's voice in decision-making including on COVID-19 response and recovery, leadership and peacebuilding; promoting women's economic empowerment; and ending violence against women and girls. The MC will procure gender expertise to support activity planning, monitoring and implementation. Gender analysis will be included as a requirement in all activities funded through the Program.

Timeframe for engagement and resource commitments; resources leveraged

DFAT has allocated a budget of \$30 million over eight years for this Program. As is normal with program start-up, a gradual increase in expenditure is anticipated over the initial four years during which baseline activities, analysis and relationship building efforts will dominate the Program's activities. Annual expenditure over the

¹⁰ See: 2012 AusAID's Office of Development Effectiveness thematic evaluation of Australia's law and justice assistance titled *Building on Local Strengths: Evaluation of Australian Law and Justice Assistance*, available at: <https://dfat.gov.au/aid/how-we-measure-performance/ode/other-work/Pages/building-on-local-strengths-evaluation-of-australian-law-and-justice-assistance.aspx>

¹¹ See *Lessons from Australian Aid, 2013 report on independent evaluation and quality assurance*, Office of Development Effectiveness, DFAT, January 2014.

first four calendar years is anticipated to be: Year 1 - \$2 million; Year 2 - \$3 million; Year 3 - \$5 million; and Year 4 - \$5 million. The budget profile across Australian financial years has been reviewed in light of COVID-19 impediments to program commencement.

If the option to extend the Program for a further four years is exercised, an additional \$15 million is anticipated over the next four years. A stop/go review (SGR) at the end of Program Year 3 (Oct-Dec 2023, aligning with the second quarter of Australian financial year 2023/24) will inform the extension decision.

A program management team based at DFAT's Bangkok Post will oversee implementation. DFAT's donor convening powers will also be engaged in Bangkok to support the Program to leverage national resources (including in-kind contributions by the Mekong Country governments), Mekong Country finances, and development partner resources (e.g. from governments of Japan, USA, Canada, the EU, the UK, and China etc.). The MC will support DFAT to develop a strategy to identify and leverage such bilateral and multilateral resources.

What are the key risks to achieving the anticipated results?

Key risks include:

- › *COVID-19-related delays limit program effectiveness*: Social distancing and travel restrictions, health impacts for stakeholders, and competing priorities may cause further delays to program implementation, delaying achievement of program objectives. The program design builds flexibility into the annual workplan development process, which enables program activities to be adapted in light of changing circumstances. Further options for flexible program delivery are being explored. GoA and Mekong Country health advice will be followed and recommended to all Program stakeholders.
- › *Challenging operating environment and complexity of TNC issues*: Given the scale and complexity of the TNC challenges facing the region, and the fact that underlying challenges to addressing TNC may lie outside the Mekong Countries in the transnational market place, the Program's modest scope and budget may limit the impact of the Program.
- › *Relationships between APS Agencies and Mekong Country counterpart agencies are slow to emerge*: Differing priorities, work cultures, and institutional constraints (either in Australia or in the Mekong Countries) may inhibit development of meaningful relationships. As this is likely to be compounded by COVID-19 restrictions, existing relationships will be drawn on where possible.
- › *Program activities lack coordination and cohesiveness*: Careful APS Agency and program coordination will be necessary to ensure that duplication of effort is minimised. Joined-up annual planning and effective governance and communication mechanisms will be key.
- › *Program's gender traction remains weak*: Activities do not adequately address the links between gender equality and TNC. The MC will engage dedicated gender equality advice, and research into gender perspectives of TNC in Mekong Countries will support program quality.

B: Development Context and Situational Analysis

Country/Regional and Sector Issues

Cambodia, Laos, Myanmar, Thailand and Vietnam (the Mekong Countries) and neighbouring southern China are experiencing significant changes as a result of shifting power dynamics and large-scale energy and infrastructure development. The potential impacts on food, water and energy security and on the environment in the Mekong are profound. Continuing growth and deepening economic integration across Southeast Asia are bringing significant development benefits, as reflected in an array of economic and social indicators. But integration is also causing considerable security challenges, notably in relation to transnational crime and border security. Cross-border collaboration between the Mekong Countries has improved but the scale of the challenges the region faces continues to grow.

As the United Nations Office on Drugs and Crime (UNODC) points out, TNC represents the dark side of improved connectivity. Integration leads to increased opportunities – licit and illicit. Unregulated migration due to highly porous borders and unconsolidated border management information systems also presents internal security challenges.

Southeast Asia is now the largest methamphetamine market in the world, with seizures surpassing those in North America for the first time in 2015. It is the second largest source of heroin. Illicit drugs, money laundering, human trafficking, smuggling migrants, child sexual exploitation (CSE), counterfeiting (including pharmaceuticals), cybercrimes and the illegal trade in antiquities and wildlife products are growing threats.

The UNODC provides the following estimated range of values of the illicit flows of goods and persons in Southeast Asia:¹²

Table 1: Estimated range of values of illicit flows of goods and persons in Southeast Asia annually

| Issue | Minimum estimate value | Maximum estimated value |
|--|---------------------------|----------------------------|
| Methamphetamine | US\$30.3 billion | US\$61.4 billion |
| Heroin | US\$8.7 billion | US\$10.3 billion |
| Smuggling migrants from Myanmar, Cambodia and Laos to Thailand | US\$132 million | US\$196 million |
| Counterfeit goods (excluding falsified medicines) | US\$33.8 billion | US\$35.9 billion |
| Falsified medicines | US\$520 million | US\$6.2 billion |
| Totals | US\$73.452 billion | US\$113,996 billion |

This is big business.

Many of these threats are in the Mekong region in mainland Southeast Asia. Poverty, underdevelopment and conflict are drivers of TNC. Criminal activities and networks in the Mekong are closely linked to activities and networks in the broader region. Given its geographic location, the Mekong Countries are particularly vulnerable to the diversion and trafficking of the precursor chemicals used in illicit drug production. However, a criminological approach which seeks to combat TNC at the operational capability level alone – primarily through disruption and prosecution – is unlikely to lead to the outcomes which the Mekong Countries and Australia seek; strategies underpinned by careful context analysis, including PEA will be necessary to move beyond these traditional law enforcement approaches, noting the reality that TNC in the Mekong Countries, particularly illicit drugs, is commercially motivated, and often operate beyond the reach of traditional law enforcement approaches.

¹² These figures exclude trafficking in persons. See UNODC *Transnational organised crime in Southeast Asia: Evolution, Growth and Impact*, July 2019. Pp 2-8.

Development Problem/Issue Analysis

Existing regional institutions, most notably ASEAN, have a mandate to drive cooperation on TNC issues. The AMMTC and its associated officials' meeting (SOM-TC) meet regularly to share experiences and coordinate efforts to combat TNC. Despite the existence of ASEAN Declaration on Transnational Crime since 1997, there remain gaps in policy, legislative frameworks, and in implementation for addressing transnational security challenges. In 2017, ASEAN Member States (including the five Mekong Countries) agreed to consider the formulation of regional legal instruments and harmonization of relevant national policies, laws and regulations among ASEAN Member States to further strengthen regional efforts to combat transnational crimes, and to strengthen the capacity of the criminal justice system and enhance cooperation and coordination among ASEAN law enforcement operational as well as intelligence units responsible for tackling transnational crimes.¹³

TNC in Southeast Asia corrodes institutions, distorts the regional economy and results in lost tax revenue. By fuelling corruption, poor governance and lack of transparency, it adds to business costs and reduces business certainty – key barriers to attracting investment. Lack of compliance by some regional countries with financial transparency standards has implications for the region's ability to access development finance.

Several Mekong Countries have recently undergone, or will soon undergo, a third round of the Asia/Pacific Group on Money Laundering's (APG-ML) mutual evaluation. The mutual evaluation assesses technical compliance with the Financial Action Task Force (FATF) recommendations as well as effectiveness (effectiveness was not assessed under the procedures in the previous round). Opportunities exist for Australia to contribute analysis and expertise supporting efforts to address TNC-related AML in the Mekong Countries.

There is a significant gender dimension associated with TNC in Southeast Asia. A recent UNODC study on women and drugs¹⁴ found that women's drug use differs greatly from that of men, indicating that the prevalence of the non-medical use of opioids and tranquillizers among women remains at a comparable level to that of men. Women make up one third of drug users globally and account for one fifth of the global estimated number of people who inject drugs. Women have a greater vulnerability than men to HIV, hepatitis C and other blood-borne infections. Women are more likely to use substances for self-medication of internalised anxiety, depression and social withdrawal stemming from childhood adversity; men who have experienced childhood adversity tend to use substances as social defiance. Women who use drugs have a two to five times higher prevalence of gender-based violence than women (who do not use drugs) in the general population. Women may become involved in drug trafficking to sustain their own drug consumption (or for other economic reasons); however, as shown in other studies, some women involved in trafficking in drugs are victims of trafficking in persons, including trafficking for the purposes of sexual exploitation. Despite this evidence, the relationship between women and the drug trade is not well understood.¹⁵ The gender aspects of countering TNC in Southeast Asia would benefit from greater attention and resources.

Addressing TNC requires a mix of political economy analysis (PEA)-driven policy and operational approaches at national and regional levels. This will require solid analysis of drivers of TNC in the Mekong Countries, building sound working relationships with key stakeholders in Mekong Countries, and contributing to meaningful problem-driven solutions. Given its existing relationships within the Mekong Countries, its technical competencies across APS Agencies and civil society, its experience in developing and implementing effective TNC policy, and its experience in international development approaches which focus on long-term relationships, Australia is well positioned to contribute to this challenge.

¹³ ASEAN Plan Of Action In Combating Transnational Crime (2016-2025), adopted by 11th AAMTC, 20 September 2017, available at: https://asean.org/wp-content/uploads/2012/05/ASEAN-Plan-of-Action-in-Combating-TC_Adopted-by-11th-AMMTC-on-20Sept17.pdf

¹⁴ World Drug Report 2018, Women and Drugs - Drug use, drug supply and their consequences, pp 6-7 available at: https://www.unodc.org/wdr2018/prelaunch/WDR18_Booklet_5_WOMEN.pdf

¹⁵ World Drug Report 2018, Women and Drugs - Drug use, drug supply and their consequences, pp 6-7 available at: https://www.unodc.org/wdr2018/prelaunch/WDR18_Booklet_5_WOMEN.pdf

Impacts of COVID-19 pandemic

The pandemic is creating new business opportunities for transnational and organised crime groups and may be driving longer-term changes to the organised crime economy. Poverty associated with prolonged economic downturn may exacerbate insecurity and pre-existing societal tensions, providing fertile ground for illicit, criminal and terrorist networks, including those who engage in TNC for economic gain.¹⁶ While some organised crime activities have been constrained by social distancing and travel restrictions, some groups have scaled up their activities as the attention of authorities is diverted by the crisis.¹⁷ Service restrictions due to social distancing health measures may restrict security and border services' exercise of their mandates. In addition, local crime groups have access to significant stockpiles of precursors that could continue to support industrial-level methamphetamine production for some months, cementing their status as a global amphetamine source. Globally, it is expected that drug production and trafficking will expand, drug markets will stabilise and prosper, and money laundering efforts will increase during the recovery period.¹⁸ Increased criminal activity may impede response efforts and the longer-term prospects for an inclusive economic recovery.

Political Economy Analysis

Detailed political economy analysis (PEA) in each Mekong Country was not possible at design. The Program will be required to conduct a comprehensive baseline of the five Mekong Countries in Year 1. PEA, together with other analyses (influence mapping, transnational market analysis, and baseline) will be central to the Program's implementation. Design consultations with stakeholders from Mekong Country agencies with responsibility for TNC and border security, and from international non-governmental organisations (NGOs), United Nations Agencies (e.g. UNODC), and representatives of other governments (European Union, Japan, United States of America), confirmed the relevance of the Program and its proposed approach. Support amongst the Mekong Countries' government officials for enhanced Australian engagement and building links with Australian institutions was strong, particularly given the positive existing relationships Australia enjoys with each of the Mekong Countries.

Australia's ambition is to further strengthen relationships between the Mekong Countries themselves, and between APS Agencies and the Mekong Countries, through the provision of timely expert advice and support as the Mekong Countries confront an increasingly high-tech TNC environment. This Design acknowledges that significant vested interests, including large scale business interests with investments in the illicit economy, including money laundering, have dealings with TNC networks in the Mekong Countries. A traditional international development capacity building approach alone will not realise the outcomes that this Program seeks, both in terms of successful actions to address TNC, and in terms of enhancing Australia-Mekong Country cooperation. The Program's implementation will need to be underpinned by sound political economy analysis. The Program will need to develop and adopt theories of change which address TNC both at the operational and strategic levels. Over the long term, the Program will need to maintain sufficient scope and flexibility to seize opportunities to work with Mekong Countries to address the broader TNC transnational marketplace and its interaction with the Mekong Countries.

While not specifically addressing technological threats, this Program also acknowledges that technology plays a key role in TNC and border security threats within the region. This Program will focus on policy, strategy and operational elements that improve Mekong Countries' capabilities to address TNC. This may include alignment and coordination with other Australian government efforts (either ODA-funded or non-ODA funded) supporting efforts which target the transnational marketplace and associated financial elements.¹⁹

¹⁶ Partnerships for Recovery: Australia's COVID-19 Development Response, p11. Available at: <https://www.dfat.gov.au/sites/default/files/partnerships-for-recovery-australias-covid-19-development-response.pdf>

¹⁷ *Crime and Contagion: The impact of a pandemic on organized crime*. March 2020. Global Initiative Against Transnational Organized Crime: Policy Brief. Accessed from: <https://globalinitiative.net/crime-contagion-impact-covid-crime/>

¹⁸ Jason Eligh. *Crisis and Opportunity: Impacts of the coronavirus pandemic on illicit drug markets*. May 2020. Global Initiative Against Transnational Organized Crime: Policy Brief. Accessed from: <https://globalinitiative.net/coronavirus-illicit-drug-markets/>

¹⁹ See for example the work of the Sydney-based Asia/Pacific Group on Money Laundering (APG-ML), which is an inter-governmental organisation, consisting of 41 member jurisdictions, focused on ensuring that its members effectively implement the international standards against money laundering, terrorist financing and proliferation financing related to weapons of mass destruction.

The Program, via DFAT, will engage regularly with Mekong Country leadership, and with ASEAN officials through DFAT's convening and policy role in Southeast Asia. The Program will develop constructive working relationships with key Mekong Country and ASEAN representatives, and work with DFAT to identify and leverage opportunities for Australian expertise to influence development systems and outcomes in the areas of TNC and border security.

Australian Government and senior officials will have a role to play in strengthening uptake of Australian ideas and expertise, and in promoting regional collaboration (amongst the Mekong Countries) through ongoing institutional and individual relationships. In some cases there may be a need to trade-off between the level of Australian influence over a particular reform or standard, and considerations of sustainability, impact and development effectiveness. The Program will manage such trade-offs through politically informed, adaptive programming, particularly through the annual planning process, and based on a comprehensive baseline and ongoing political economy analysis, influence mapping, and analysis of TNC transnational marketplace.

Central to success will be establishing and maintaining close working relationships with a range of stakeholders within Mekong Governments, in the private sector and in civil society organisations (CSOs) and NGOs. Where it makes sense, the Program will support activity proposals from CSOs, including for facilitation of consultations, awareness raising, and for research.

Evidence-base/Lessons Learned

This Design is informed by several reviews and evaluations, particularly in the law and justice sector, from regional partners working in the TNC and border security areas, and by capacity development lessons learned garnered by DFAT and its predecessor, AusAID. See **Annex 1**.

This design has been developed cognisant of the lessons and recommendations contained in DFAT's 2012 Office of Development Effectiveness (ODE) *Evaluation of Australian Law and Justice Assistance*²⁰ (ODE LJS Evaluation) about the delivery of assistance in the law and justice sector, and about capacity building more generally. This Design has also drawn on the experience and lessons learned from *the Australia-Asia Program to Combat Trafficking in Persons (AAPTIP): Mid-Term Review*.²¹ The proposed Program has a clear theory of change which focusses on improving human capital and capability to address TNC and border security challenges within the region, while also acknowledging Australia's ambition to engage over the long term through building closer institutional relationships. While it is acknowledged that increased capacity through training courses is necessary, training alone will not realise an improvement in addressing TNC in the Mekong Countries. Therefore, this design's approach to capacity development targets training courses (including workshops), practical operational training, as well as careful research and analysis of contexts, using several approaches.

MAP-TNC will harness the advantages of whole-of-government delivery by APS Agencies, and will benefit from relationships between Australian law enforcement officials and their peers in the Mekong Countries, as well as contracted specialist advisers. MAP-TNC, building on the AAPTIP Mid Term Review and the ODE LJS Evaluation, will therefore include support to the development of long-term relationships between APS Agency officials and their counterparts in the Mekong Countries. The Program will establish effective whole-of-government delivery, aligning with principles of shared whole of Australian Government collaboration to achieve national interest aims. This will require genuine APS Agency collaboration in developing annual plans, strategies and priorities in the Mekong Countries. This Design proposes a set of Program Principles to guide resource allocation decision-making. Efforts to address gender equality will also be mainstreamed, including through specific attention to women and girls in analysis and scenario exercises.

It is well recognised that responses to illicit drugs can be viewed from educational, health, security, social, political and law enforcement perspectives. While Australia's response in the region to date has focussed largely on law enforcement, future efforts aspire to encompass a 'broader-spectrum' approach to address

²⁰ *Evaluation of Australian Law and Justice Assistance*, Office of Development Effectiveness, DFAT, 2012 (available at: <https://dfat.gov.au/aid/how-we-measure-performance/ode/other-work/Pages/building-on-local-strengths-evaluation-of-australian-law-and-justice-assistance.aspx>)

²¹ <https://dfat.gov.au/about-us/publications/Pages/australia-asia-program-combat-trafficking-persons-aaptip-mid-term-review.aspx>

prevention, disruption, and supply and demand reduction. The involvement of non-law enforcement partners such as health, education, infrastructure and employment agencies will be critical in the development of comprehensive strategic policy that will result in sustained success in preventing TNC. PEA and transnational market analysis conducted in the first term will build the foundation for broader approaches anticipated in later phases.

DFAT has identified²² its most successful strategies for bringing about institutional change as:

- › taking an incremental rather than comprehensive approach to improving existing capacities and functions.
- › seeking flexible, localised, ‘good enough’ solutions, rather than relying on institutional templates. Harnessing APS Agency expertise to develop flexible, local solutions to countering TNC will be a central approach of the Program, and
- › focusing on issues where there are local constituencies for change, that could be mobilised and supported.

This Program will align with the above thinking, including by involvement of Mekong Country representatives in a consultative annual planning process, in a regional governance mechanism (the PCC), and where feasible, in country-level coordination mechanisms.

Building institutional relationships

Key lessons drawn from the delivery of Australian aid at an institutional level that this Design reflects include:²³

Considering the institutional environment’s influence on shaping the capacities of both individuals and organisations to change is essential. Programs most successful in effecting change are those established on sound analysis, including PEA, and which take a ‘systems approach’, which seeks to influence the drivers, institutions, rules and actors constraining development. *PEA will drive MAP-TNC, and through its focus on baseline, influence mapping, transnational marketplace analysis, and research, the Program will seek to build clear understanding of institutional environments in each Mekong Country, together with an understanding of the regional context. This will inform program implementation.*

In the absence of common ground on principles, purpose and function of institutions, more success is likely to flow from a focus on supporting the underlying mechanisms of change (representation processes, consultation networking and information flows, and the organisations through which different interests are expressed (e.g. business associations, trade unions, NGOs etc.). *Through its focus on regional consultation and DFAT’s convening role, MAP-TNC will seek to develop functions and capacities that realise improved operational outcomes in Mekong Countries, while also fostering regional cooperation and perspectives.*

In some environments, an organisation’s capacity to manage change may be limited. Adopting a strengths-based approach to assistance, and tailoring support to build on existing areas of promising practice are more likely to have results. *MAP-TNC includes a strengths-based criterion in its Program Principles, which will be applied to proposals seeking funding approval. The MC will need to ensure that PEA and other analyses drive design of activities beyond traditional capacity development activities.*

Whole of government support by APS Agencies is most effective when part of a broader package of law and justice assistance. *MAP-TNC’s whole of government delivery (led by DFAT, with technical assistance delivered by APS Agencies) will be carefully coordinated in the field, with Canberra-based interdepartmental meetings to ensure program alignment and efficiencies. The MC will provide an important value-add in working with APS Agencies and DFAT to design activities so that the potential for development success in terms of outcomes, not just results, is maximised. Where possible, multi-year allocations will be made.*

Contracting a MC combined with an increased level of management resources at Post are expected to maximise the potential for activities to be well planned and designed so that they lead to, and can be measured as, sustainable development outcomes. The Program aims to deepen existing APS Agency relationships with

²² ODE LIS Evaluation, *ibid.* p9.

²³ See *Lessons from Australian Aid, 2013 report on independent evaluation and quality assurance*, Office of Development Effectiveness, DFAT, January 2014 – Lesson Three: Taking a more institutional view of capacity building, pp16-21.

Mekong Country governments for purposes of sustainable development. Strengthened relationships are seen as both the means and the end, noting that the program is ODA funded.

Effectively addressing TNC

Where a range of actors are involved in organized crime, traditional criminal justice approaches may be largely ineffective. In these circumstances, interventions are most likely to be successful if founded on comprehensive PEA of the TNC challenges. PEA and other analyses will be required to identify potential entry points for the Program, including activities beyond the traditional criminal justice/law enforcement repertoire.

SOCJA

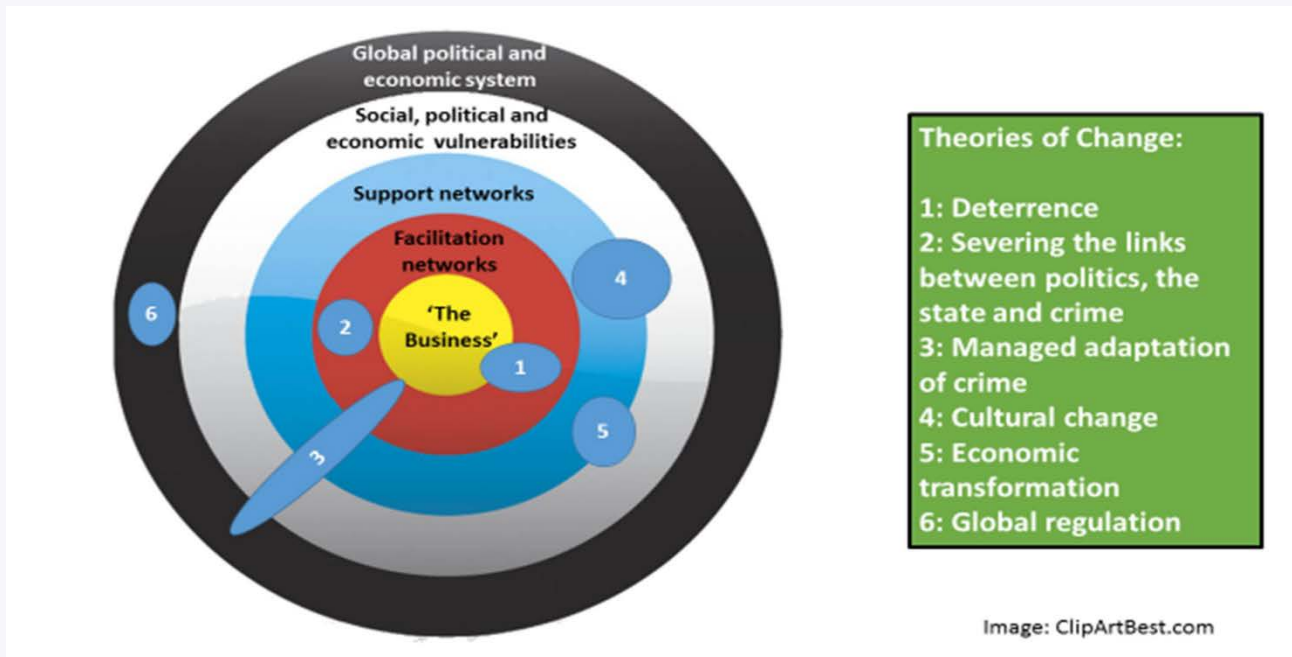
One operationally focussed analytical tool which could be used to support activity design is the United Kingdom's (UK) Serious and Organised Crime Joint Analysis (SOCJA). SOCJA is an integrated analysis and planning process tailored to understanding and responding to TSO in overseas contexts.²⁴ The SOJCA process takes a holistic approach that seeks to understand the structural drivers of organised crime, the transnational networks involved in the illicit economy, and the role of the state actors within any given region. The SOCJA relies on the idea that organised crime operates in a shadow economy – *a transnational marketplace*. Organised crime groups that operate in a country – whether specialising in producing or sourcing illicit commodities or even migrants – are situated within a broader regional supply chain that includes nodes, hubs and roles spanning several jurisdictions. SOCJA provides an analytical tool to affect organised crime groups' business costs by adopting a wider, transnational lens to identifying entry-points outside of countries which might have little interest/commitment to curbing transnational crime (i.e. outside the Mekong Countries). Law enforcement and criminal justice approaches need to be complemented with development and diplomatic levers aimed at 'changing the rules of the game.'

A Theory of Change Dashboard

While SOCJA provides a useful analytical tool, given MAP-TNC's limited budget, considering the potential level of APS Agencies' resources to be made available, and given Australia's ambition to build relationships between Australian and Mekong Country institutions (including amongst Mekong Countries themselves), the Program will need to remain cognisant of its limitations, and the likelihood of success of adopting various theories of change which have broader scope. It is anticipated that SOCJA may become a more relevant tool in the second phase of the Program, once relationships are established and contexts are well understood.

²⁴ *Serious and Organised Crime Joint Analysis (SOCJA), Understanding and Responding to the Threat Overseas*, DFID Stabilisation Unit. SOCJA comprises four five steps: (i) defining the scope of the analysis; (ii) a strategic analysis of the political, social, historic and economic factors that have shaped the illicit economy; (iii) market analysis of the different sectors and services involved in the criminal market; (iv) identifying the critical factors (opportunities, vulnerabilities, enablers and pressure points); and (v) developing planning options based on the critical factors, spanning the full spectrum of interventions.

DFID's Conflict, Crime and Violence Results Initiative has identified several theories of change set out below that are commonly used in programs addressing TNC.²⁵



MAP-TNC's current theory of change straddles items 1 and 2, above and focusses on building relationships and fostering research into TNC and policy frameworks.

Over its initial eight year term (assuming an extension) MAP-TNC will provide opportunities for Australia to build sound personal and institutional relationships with a broader group of stakeholders in the Mekong Countries, conduct detailed analysis and research including of Mekong Countries' contexts, their PEA, the transnational marketplace, and to develop and test strategies with the Mekong Countries themselves to address TNC. This positions Australia as a potential source of both expertise and knowledge to the Mekong Countries (and to other donors) in addressing TNC. Over the long-term, it is anticipated that the Program's theory of change will be updated as new approaches are developed and tested. This may allow the Program to expand its approaches beyond the initial theory of change included in this Design. Given its development expertise, the MC will be central to realising any such expansion.

The Design Process

This Design was developed in close consultation with APS Agencies through establishment of a Design Reference Group. Consultations were held in Canberra with APS Agencies and relevant DFAT sections. In each Mekong Country, the design team met with, and relied upon the expertise of deployed APS Agency staff. Consultations in Mekong Countries included Heads of Missions, and senior Mekong Country government officials. Response from all key stakeholders was positive and encouraging of the investment.

²⁵ *Identifying approaches and measuring impacts of programmes focussed on Transnational Organised Crime*, Tim Midgley, Ivan Briscoe and Daniel Bertoli, 30 May 2014 – a Practice Product developed under the DFID Conflict, Crime and Violence Results Initiative, p10

C: Strategic Intent

Strategic Setting and Rationale for Australian/DFAT Engagement

DFAT's Policy objectives

Australia has a national interest in helping Southeast Asian countries achieve long-term progress in addressing transnational crime. With the onset of the COVID-19 pandemic, the investment remains highly relevant to support regional security and stability in the changed COVID-19 context, and aligns closely with the strategic objectives set out in *Partnerships for Recovery: Australia's COVID-19 Development Response*. The strategy, released in May 2020, reshapes Australia's development efforts to support the health security, economic recovery and stability of the Indo-Pacific. Recognising that our influence, interests and capabilities are concentrated in our immediate neighbourhood, it identifies Southeast Asia as a priority region. Under its stability pillar, *Partnerships for Recovery* commits Australia to invest in partner country efforts to improve law and justice. Given the potential for poverty associated with prolonged economic downturn due to the pandemic to exacerbate insecurity and pre-existing societal tensions, which in turn can provide fertile ground for illicit, criminal and terrorist networks, including TNC, the Program aligns squarely with Australia's COVID-19 response objectives.

In addition, the investment aligns with the long-term vision of the Foreign Policy White Paper for a stable, prosperous and resilient region. The 2017 White Paper outlines the ways in which TNC threatens Australia's interests and undermines regional stability and economic development. The White Paper commits Australia to working more closely with Southeast Asian partners to combat TNC, including through development assistance to build capacity across the law and justice sector.

Regionally, Australia's strategic partnership with ASEAN includes enhanced cooperation to prevent and combat a range of transnational crimes.²⁶ In November 2019, Australia joined leaders at the East Asia Summit to call for enhanced collaboration to address TNC, including through greater intelligence sharing and law enforcement capacity building, legislative assistance and enhanced investigative, prosecution and judicial cooperation.²⁷

The *National Strategy to Fight Transnational, Serious and Organised Crime*, endorsed by COAG in December 2018, identifies TSOC as a national security threat to Australia. It notes that, since the threat posed by TNC originates offshore, our activities to combat transnational, serious and organised crime must be global in outlook. The strategy recognises the importance of working with our international partners to harden the regional and global response to transnational, serious and organised crime.

DFAT's *Gender Equality and Women's Empowerment Strategy* (2016) commits Australia to enhancing women's voice in decision-making, leadership and peacebuilding; promoting women's economic empowerment; and ending violence against women and girls. There is potential to advance these objectives through a TNC investment that pursues gender-sensitive approaches.

Why should Australia invest in this Program?

Southeast Asia is a top priority for Australian engagement. A high percentage of the TNC threats we face have a Southeast Asia dimension. The region's importance to Australia's transnational crime and border security interests will likely continue to grow. Transnational crime and border security impact negatively on the large investments Australia is making across the aid program to improve governance in the region.

As the most consumed illicit drug in Australia, methamphetamine (particularly in its crystalline form, ice) is a high priority for the Australian Government. Much of our current effort to disrupt the ice market is operationally focused, especially our law enforcement cooperation led by the AFP and Home Affairs. But

²⁶ Plan of Action to Implement the ASEAN-Australia Strategic Partnership (2020-24). <https://asean.org/storage/2019/08/ASEAN-Australia-POA-2020-2024-FINAL.pdf> See 1.3

²⁷ East Asia Summit Leaders' Statement on Cooperation to Combat Transnational Crime (November 2019) Accessed from: <https://asean.org/storage/2019/11/4.-Finalised-EAS-Statement-Combat-Transnational-Crime.pdf>

Australian agencies also engage in a wide range of policy, training, technical assistance and capacity building activities on a bilateral and regional basis. This includes an annual consultation with the ASEAN SOM-TC, which brings together the region's chiefs of police and heads of home affairs.

Southeast Asian counterparts value our training and technical expertise. The trust and influence we have built through our policy and technical exchanges have brought growing operational benefits. Our engagement has helped strengthen regional capacity in areas such as aviation security, counterterrorism, disaster victim identification, forensics, surveillance, countering document fraud, and criminal intelligence and targeting. We have led regional efforts to support compliance with counter money laundering and terrorist financing standards set by the Financial Action Task Force (FATF).

Australia's current investments in the region include:

- › The **Indo-Pacific Justice and Security Program (IP-JuSP)**, an aid investment program administered by the Department of Home Affairs and funded by DFAT, has helped regional countries improve policies and legal frameworks for addressing TNC and violent extremism and supported more effective implementation.
- › The **Australia-Asia Program to Combat Trafficking in Persons (AAPTIP)** – succeeded from 2019 by the **ASEAN-Australia Counter-Trafficking (AACT)** program – has helped strengthen regional and national capabilities for investigating and prosecuting human trafficking cases, and has promoted regional cooperation. The new program will have a stronger focus on victim rights.
- › Australia is supporting UNODC, the World Bank and Transparency International to strengthen **anti-corruption legislative, regulatory and policy frameworks** in Southeast Asia, including through enhancing the implementation of the United Nations Convention against Corruption.²⁸
- › Since 2005 Australia has delivered leadership training for police and security leaders through the **Asia Region Law Enforcement Management Program (ARLEMP)**, in partnership with Vietnam and RMIT University.
- › Australia has supported the five Southeast Asian countries in the Mekong, plus China, by providing capacity building support and equipment to the **Safe Mekong Operation** targeting narcotics trafficking.
- › Australia's **Cyber Cooperation Program (CCP)** supports some activities in Southeast Asia to **strengthen legislative frameworks and institutional capacity to prevent, investigate and prosecute cybercrime**, including through the UN Global Programme on Cybercrime.

In addition, Australia is also currently designing a four-year infrastructure investment in Southeast Asia. The provisional name is Southeast Asia Economic Governance and Infrastructure Facility (SEAEGIF). Budget is approximately \$60 million over 4 years and includes all ASEAN countries except Singapore and Brunei, plus Timor-Leste.

The above activities, with the exception of SEAEGIF, seek to improve the Mekong Countries' abilities to manage their borders and to assist disruption of TSOC. However, Australia recognises that disruption-targeted capacity building alone is insufficient. Underlying constraints to addressing TNC in the Mekong Countries are likely to require intervention strategies to be underpinned by sound political economy analysis and theories of change which are capable of addressing TNC at both operational and strategic levels. Over the long term, opportunities may exist to work with Mekong Countries to address the broader TNC transnational market place and its interaction with the Mekong Countries. This will require building deeper and stronger cooperation between Australia's and Mekong Countries' institutions to address TNC, and is subject to available budget and the results of implementation reviews and evaluations.

What are others doing?

ASEAN member states have put in place regional architecture and processes to advance collaborative efforts to counter TNC, including the AMMTC, AMMD, associated senior officials' meetings, and meetings to

²⁸ DFAT currently funds the UNODC's anti-corruption work in Southeast Asia through to 30 June 2021.

operationalise the Memorandum of Understanding on Drug Control. These processes evidence the importance accorded by ASEAN member states at a regional level to countering TNC.

Our allied and likeminded partners, notably the United States and Japan, are also active in combatting TNC in the region. In 2018 the United States announced additional international narcotics and law enforcement assistance to the region as part of the Administration's Indo-Pacific Strategy.

Australia has strong relationships in each Mekong Country and is well placed to do more. Regional counterparts – at the political and operational levels – have signalled their interest in greater engagement with Australia, including through personnel and policy exchanges and capability development in established and emerging areas. The Program seeks to leverage Australian expertise in combatting TNC to work closely with the Mekong Countries towards developing appropriate local solutions that both support regional efforts to counter TNC and also align with Australia's interests.

Given the politics, regional dynamics and institutions of Southeast Asia, addressing TNC is a difficult and complex area of public policy and one that is vulnerable to setbacks. This points to the need for long-term approaches by Australia and other partners, grounded in productive bilateral relationships and robust analysis of impediments to progress and opportunities for reform.

How does the investment meet Australia's four aid tests?

Australia's four aid tests are: national interest and influence, impact on economic growth and poverty, Australia's value add and leverage, and performance. An Australian aid investment to strengthen policy engagement and capacity building on transnational crime and border security in Southeast Asia would enable a more focused development approach to key regional challenges. The investment will also complement existing aid investments in law and justice, anti-corruption, cybercrime and countering human trafficking. This investment's focus on developing and exchange of information between the Mekong Countries will harness APS Agency training on several relevant priorities, including cybercrime and AML.

As TNC and border security challenges are estimated at over US\$100 billion per year, strengthening strategic and operational responses to TNC and border security would have tangible economic impact, including reducing Mekong Countries' lost revenue, which could be applied to health care, clean water, and infrastructure. Counterfeit medicine related TNC has significant impact on citizens' health care, including for HIV/AIDS and malaria. TNC is a challenge to the social contract, driving out legal economic activity, threatening law and order, and undermining the legitimacy of the state.²⁹ The proposed investment therefore has the potential for wide-reaching impact, which links to citizens' welfare and their economic development. Additionally, the Program will have direct impact on citizens' lives by limiting exposure to TNC, including the incidence of drug addiction and CSE.

This investment seeks to harness Australia's policy and technical strengths and draw on the expertise on transnational crime and border security resident in Australia (inside and outside government) as well as relevant international expertise. Harnessing specific technical expertise only available in APS Agencies will be a key attraction for the Mekong Countries. A primary focus will be on strengthening regional cooperation and information sharing to respond to common threats.

Through a focus on strengthening the quality of research and its links to policy development by mobilising a MC to support Program delivery, this investment will take a heightened approach to activity design (including APS Agency implemented activities), and will vigorously monitor progress and evaluate results to direct its focus to achieving stated outcomes. The investment will contribute to knowledge and capacity building, and apply a process of continuous self-improvement to maximise performance effectiveness.

The proposed Program will implement a coordinated approach to addressing TNC in the Mekong Countries, through working closely with Mekong Countries to identify key issues, to contribute research and analysis, and to harness APS Agency expertise through cohesive program delivery. The Program will build on existing

²⁹ <https://www.cfr.org/blog/how-transnational-crime-hinders-development-and-what-do-about-it>

relationships in the Mekong Countries, develop stronger institutional links with APS Agencies and Mekong Country counterpart agencies and others working on TNC in the Mekong Countries (e.g. CSOs, China, Japan and the USA, and the United Nations), and monitor results for discussion at regional Program meetings. While Australia will not respond to all emerging priorities, these efforts will improve Australia's ability to make meaningful contributions to addressing TNC in the Mekong Countries, in line with our strategic interests.

This investment will be funded from Australia's ODA budget. Checks will be put in place to ensure that activities proposed for consideration as part of the Program's annual planning process, meet ODA eligibility requirements. Program funds will not be employed to fund operational activities. It is anticipated that Program funding will support technical training and case studies which target improving capacity, skills and knowledge. The MC will play a key role in supporting the design of activities to ensure ODA eligibility, and in supporting production of learning materials and case studies to contribute to continuous learning across the Program.

D: Investment Description

Logic and Expected Outcomes

To address the identified TNC development needs, the *Mekong-Australia Program on Transnational Crime (MAP-TNC)* is proposed.

The **Program Goal** is: *To build deeper and stronger cooperation between Australia and Mekong Countries to address transnational crime.*

The program would work in three pillars over an initial four year period from 2021 to 2024:

Pillar 1: Policy frameworks and strategic analysis – Under this pillar, the Program would seek to realise the availability to Mekong Countries and to partners of better TNC and border security analysis, and transnational marketplace analysis, including on gender issues. Success under this pillar would include availability of quality research and evidence on these issues, generating a stronger information base to assess TNC and border security challenges, and ultimately to formulate policies and strategies to underpin operational initiatives. Research is expected to be specific to the context and sufficiently granulated to be useful in policy making and generated (at least in part) domestically in order to increase domestic research capacity. Research into gender differences on TNC is anticipated. The Program will seek to establish links between research bodies and relevant Mekong Country government agencies with responsibility for policy formulation. Joint research activities conducted by research bodies in Australia and by research bodies in Mekong Countries will be promoted, harnessing both local and Australian expertise and perspectives, and building institutional and individual relationships between Australia and Mekong Countries.

Pillar 2: Operational capacities – Under this pillar, the Program would seek to strengthen national-level operational capacities to analyse, prevent, detect, and address TNC and border security threats, aligned with Australian TNC contributions. This would be delivered through analysis, training and strengthened legislation, realised by closer relationships between APS Agencies and their Mekong Country counterparts. Success under this pillar would include strengthened analysis and operational capacity, including from gender perspectives, to identify, disrupt, and support Mekong Countries efforts to successfully prosecute TNC and border security transgressions. This would include strengthened institutional and individual relationships between APS Agencies and Mekong Country agencies, and emergence of an enduring network of colleagues/community of practice comprising Mekong Country and Australian counterparts. Links to AML efforts would also be explored under this pillar, with potential to explore links to money laundering prosecutions.

Pillar 3: Regional collaboration – This pillar complements and builds on Pillars 1 and 2. Accordingly, in the initial years activities under this pillar are likely to centre on meetings and briefings provided by the Program. With strengthened information and analysis available (PEA and marketplace analysis), improved policy and legislative frameworks in place, strengthened operational capacities at the national level, scaffolded by expanded relationships between APS Agencies and Mekong Countries, (and between Mekong Countries themselves), the Program would seek to facilitate improved cross-border collaboration between the five Mekong Countries. Success under this pillar would include Mekong Countries regularly exchanging accurate TNC and border security information and analysis with each other (under agreed information exchange protocols) to detect, deter and prosecute TNC and border security threats. Successful cross-border TNC and border security operations involving two or more Mekong Countries are also envisaged. Heightened engagement in regional and sub-regional architecture is also anticipated, particularly linking the Program with ASEAN efforts. Strengthened quality and availability of TNC and border security analysis and information, including from gender perspectives, PEA, and marketplace analysis concerning the five Mekong Countries, are expected to both enhance engagement in regional architecture as well as provide practical operational success stories which can be shared more broadly within ASEAN, including for demonstration effect.

A Program Logic Diagram is set out in **Annex 2**. The Program would work towards realising the following three key **end of program outcomes** (EOPOs):

Pillar 1: Policy frameworks and strategic analysis

EOPO 1: *Australian collaboration on demand-driven research and strategic analysis informs national and regional TNC policies and legislation.*

Activities required to realise this EOPO include:

- › Collaboration between Australian and Mekong Country institutions to conduct research into TNC in Mekong Countries, including bilateral and regional relationships, stakeholders, PEA, transnational marketplace analysis, and influence mapping.
- › Developing multi-year country-specific engagement plans, informed by PEA and other analyses.
- › Focusing on strategic planning, implementation of policies and laws, compliance with international commitments (e.g. FATF) and the use of information and technology to support operational goals.
- › TA focussing on solving problems and addressing issues in specific country environments, including gender analysis.
- › Mapping the knowledge-to-policy cycle in each Mekong Country, to identify entry points for activities under this Pillar. This is expected to draw on lessons from other Australian investments targeting evidence-based policy development.³⁰

Key Pillar 1 **outputs** anticipated include:

- › TA provided to develop research papers on national and regional TNC issues (illicit drugs, child sexual exploitation, FATF etc.).
- › Research conducted jointly by research bodies in Mekong Countries and international research bodies (e.g. Australian research bodies) would be important contributions to availability of high-quality research and analysis on TNC.
- › TA provided to identify and address national-level TNC policy and legislative gaps (gap analysis).
- › TA provided to strengthen regional policy and legislative frameworks (e.g. regional convention).
- › TA provided to strengthen gender analysis of TNC and border security issues.

The following **intermediate outcomes** (IOs) are also identified under EOPO 1:

IO 1.1: *Research bodies in Mekong Countries produce high quality research and conduct policy dialogue on TNC and border security, including gender issues, from national and regional perspectives.*

IO 1.2: *Mekong Countries implement measures to address policy and legislative research and analysis gaps, including gender issues.*

Pillar 2: Operational capacities

EOPO 2: *Mekong Countries implement intelligence led TNC and border security operations at national and regional levels, aligned with existing Australian TNC contributions.*

Activities required to realise this EOPO include:

- › Support to operational capacity development on TNC across Mekong Countries.
- › Support to analysis-driven (including PEA and marketplace analysis) operational capacity development on TNC across Mekong Countries, including border security.
- › Focusing on strategic planning, implementation of policies and laws, compliance with international commitments (e.g. FATF) and the use of information and technology to support operational goals.
- › TA focussing on solving problems and addressing issues in specific country environments, aligned with Australian TNC contributions.

³⁰ Key evidence-based policy development lessons from Phase 1 of the Knowledge Sector Initiative in Indonesia include: (i) a narrow scope – clearly identify a target policy area and refrain from a wide scope; (ii) clarify key concepts – i.e. what constitutes ‘quality’ policy research; (iii) develop a clear understanding of the political economy of ‘demand for evidence’ – i.e. refrain from technical solutions and focus on identifying the political economy of the demand for evidence; (iv) finding and using ‘policy hooks’ – i.e. linking supply and demand sides of evidence-based policy research; (v) identify clear entry points in policy development cycles; (vi) use the research resources to foster GEDSI; and (vii) engage with the media as intermediaries between researchers and policy-makers to stimulate demand for evidence-based policy making.

Key Pillar 2 **outputs** anticipated include:

- › Training, mentoring and TA provided to address national TNC and border security operational needs (e.g. forensics, investigations, customs, child sexual exploitation, national border security information management mapping, FATF). This may include production of training materials in local languages.
- › Training, mentoring and TA provided to develop and apply lessons learned from national TNC and border security operational training and mentoring.

The following **IOs** are also identified under EOPO 2:

IO 2.1: Mekong Countries invest in TNC and border security capacity building activities, drawing on operational lessons learned and inputs from APS Agencies, including gender approaches.

IO 2.2: Mekong Countries revise operational approaches, including from gender perspectives, in response to collaboration with Australia on TNC and border security operations.

Pillar 3: Regional Collaboration

EOPO 3: Mekong Countries collaborate to strategically address TNC and border security issues at bilateral and regional levels.

Activities required to realise this EOPO include:

- › Fostering closer cooperation across Mekong Countries (bilateral, sub-Mekong, Mekong, and ASEAN levels).
- › Focusing on information management and sharing, addressing barriers to cooperation, and institutionalising cooperation frameworks.
- › Supporting efforts by Mekong Countries to use the regional architecture to advance their goals.

Key Pillar 3 **outputs** anticipated include:

- › TA provided to operationalise agreed bilateral and regional policy and legislative frameworks.
- › TA provided to foster development of bilateral and regional information sharing protocols (i.e. regional TNC and border security information management).
- › TA provided to implement bilateral and regional TNC & border security information management protocols.
- › National TNC focal points established and functioning as a regional network.
- › Communities of practice established across the Mekong Countries.
- › Links to regional TNC architecture (ASEAN) supported.

The following **intermediate outcomes** (IOs) are also identified under EOPO 3:

IO 3.1: Mekong Countries invest in capacity building to operationalise information gathering, analysis and sharing.

IO 3.2: Mekong Countries agree on TNC and border security information gathering, analysis, and information sharing protocols (regional cooperation framework)

Delivery Approach

Form of Aid Proposed

Options considered for Program delivery included separate specific purpose investments, budget support, core contributions to multilateral donors, and a sector wide approach (SWAp). Managing separate investments across the Mekong Countries is considered less effective, less efficient, and would significantly limit the emergence of effective regional security collaboration. While the Program may fund specific activities proposed by multilateral agencies, such as the UNODC, which remains an important Southeast Asian regional stakeholder on combatting TNC, delivering the investment primarily through a multilateral partner may limit opportunities for APS Agency officials to directly engage in policy and operational discussions with Mekong Country counterparts. Similarly, the design considered the option of scaling up existing related investment in the region – IP-JuSP or AACT – to incorporate this investment. However, their differing geographic focuses and objectives as well as stakeholders, militated in favour of a separate investment. Unlike IP-JuSP and AACT, this

investment has been specifically designed to support policy engagement with the Mekong Countries. The SGR will provide an opportunity to review the effectiveness of these various investments once this Program has established itself and its client base. Implementation is expected to benefit from lessons and experiences of both IP-JuSP and AACT.

This Design has specifically drawn on the AAPTIP (now AACT) experience of focussing initially on building bilateral relationships and approaches, from which a mini-regional (five Mekong Country) approach can build. A SWAp is not possible given the range of stakeholders and donor partners involved, and the need for engagement at national and regional levels across complex topics (TNC and border security) dealing with multiple agencies. Lessons drawn from similar investments (e.g. IP-JuSP) and from the 2012 review of DFAT-funded activities in the law and justice sector³¹ militate in favour of inclusion of a project-based approach, using a MC to support program management.

This would include activity design quality assurance and ensuring that activities and the Program align with Australia's commitments for management of its ODA funds. As such, given Australia's objectives, the project-based programmatic delivery approach proposed represents the best value for money. The Program will be delivered through a transparent, inclusive and effective process. It will demonstrate flexibility and collaboration to ensure it remains fit for purpose and is able to respond to the Mekong Countries' TNC and border security challenges. In addition, DFAT will lead coordination of the provision of APS Agency TA through the Program, and the MC will provide support as required. Where opportunities make sense, the Program will seek to identify candidates for longer-term study in Australia (e.g. Masters level) through Australia Awards Scholarships.³²

³¹ *Building on Local Strengths Evaluation of Australian Law and Justice Assistance*. See: <https://www.oecd.org/derec/australia/australia-lawjustice-building-on-local-strengths.pdf>

³² Cambodia, Laos, Myanmar and Vietnam are eligible countries for Australia Awards Scholarships. See: <https://dfat.gov.au/people-to-people/australia-awards/pages/australia-awards-scholarships.aspx>

E: Implementation Arrangements

Governance Arrangements and Structure

The Program's strategic direction will be overseen by the following governance arrangements.

- › Annual Program Coordination Committee (PCC) meeting. A senior government representative from each Mekong Country would be identified to participate in the PCC. Representatives from DFAT and other APS Agencies would also participate. The MC would participate to provide secretariat services. The PCC meetings will provide an opportunity for strategic oversight and consideration of jointly identified activities to be funded through the program in each Mekong Country (endorsement of annual plans), as well as opportunities to discuss regional TNC issues.
- › Six-monthly management oversight meetings between DFAT, the MC, implementing agencies, and APS Agencies to review progress against the annual plan and to appraise new activity proposals.
- › Appropriate Program-internal analytical capability to inform decisions, support flexible resourcing and measure success.
- › Monthly managing contractor-DFAT Program management meetings.

Annual Plans that foster Mekong Country ownership

With support from DFAT Posts in each Mekong Country, National Coordinators will facilitate detailed dialogue with Mekong Country stakeholders, including government, multilateral, bilateral partner governments, and civil society organisations, to develop country-specific annual plans. These country-specific annual plans will be coordinated under a Program **Annual Plan**, including APS Agencies, (AFP, Home Affairs and AGD) and contracted implementing partners (e.g. sub-contracted organisations).

An annual planning process will be held in Bangkok, including key Mekong Country stakeholders, and APS Agency representatives, to review activity proposals, and agree on a cohesive draft annual plan for the Program. The MC will support DFAT's lead in facilitating this discussion so that activities are pitched to realise outcomes (not just results), are based on sound PEA, are meaningful to Mekong Countries, are achievable (and measurable) within the time and budget limitations, and are implemented cohesively. This annual planning process is critical to the Program objectives (and to its success), and is one of the key entry points where the MC is expected to add value by supporting strong activity design grounded in political economy analysis, in turn promoting effective development outcomes. Decisions concerning financial allocations to specific activities will be made in line with the following Program Principles:

- › *Contribution to high-level objectives*: How does the activity contribute to achievement of the Program's high-level objectives? How will activity performance monitoring and outcome measurement be conducted?
- › *Good development practice*: How does the activity maximise results against the Organisation for Economic Cooperation and Development-Development Assistance Committee (OECD/DAC) criteria (relevance, effectiveness, efficiency, impact and sustainability, etc.)?
- › *Maximising Mekong Countries' ownership*: How does the activity align with the responsibilities and strategic plans of the Mekong Countries' authorities and institutions and with agreed bilateral GoA-Mekong Country priorities?
- › *Harnessing APS Agency resources*: How does the activity harness existing APS Agency resources for activity delivery?
- › *Multi-country engagement*: How does the activity seek efficiencies by promoting collaboration between Mekong Countries, particularly officials in counterpart organisations in more than one Mekong Country?
- › *Consistent engagement throughout activity cycles*: How does the activity include engagement by Mekong Country stakeholders in its development, implementation and results measurement?

- › *Policy dialogue and communication*: How does the activity build on established relationships between Mekong Countries and Australia and promote a longer-term engagement?
- › *Strengths-based approach*: How does the activity maximise opportunities for success, informed by expert analysis, advice and dialogue, and use local expertise?
- › *Thinking and working politically*: Is the activity design based on sound PEA, including consultations with CSOs and other non-government organisations? How will PEA, baseline research, and other research and analysis be incorporated into the activity? A positive PEA of the context in which an activity will be conducted is required. Political economy analysis will also influence decisions concerning prioritisation of activities.
- › *Mainstreaming gender equality efforts*: How does the activity include proactive promotion of the GoA's commitment to the equitable representation of women and men? Does the activity give due consideration to addressing gender implications and efforts to narrow gender gaps?
- › *Inclusiveness*: How does the activity address inclusiveness and respect for international human rights, promote gender equality, remain sensitive to cultural issues, promote awareness of HIV / AIDS and child protection, and promote good governance?
- › *Leveraging development and public diplomacy dividends*. How does the activity provide opportunities for Australia to highlight its results and collaboration with other donor partners?
- › *Identifying opportunities for innovative approaches*: Does the activity include any innovative approaches that have both bilateral and regional development dividends?
- › *Promoting responsibility for recurrent costs*: Does the activity promote Mekong Countries' own responsibility for recurrent costs, say for equipment? Support to small-scale equipment purchase may be considered on a case by case basis.

Allocation decision-making in reference to the Program Principles above will maximise flexibility, and foster a sense of ownership by Mekong Country stakeholders who will be involved in developing the activities and annual plans to address their identified needs. This approach also strengthens prioritisation capabilities of key stakeholder agencies.

APS Agencies, including the AFP and Home Affairs, have provided indicative proposals for potential Program activities. Funding for such activities will be contingent upon the proposals passing through the Program's activity design requirements, including compliance with the GoA's ODA eligibility requirements, and alignment with the Program's higher-level objectives, and subject to budget availability.

Where feasible, the Program will design multi-year activities under each EOPO, with appropriate M&E and lessons learning mechanisms in place to foster continuous improvement in the Program's effectiveness. Funding will be released to APS Agencies on an annual basis, subject to results. The annual planning process will adopt an **adaptive programming approach**, permitting lessons learned from previous activities to be applied to future activities, with a view to increasing their effectiveness and results. This approach will also permit the Program to respond to emerging needs. As mentioned above, PEA will also be applied to activity prioritisation and to decision-making concerning discontinuation of activities where political economy factors inhibit progress towards development outcomes. The Program's adaptive approach is intended to provide both certainty that Australia is engaged for the long-term, and flexibility to respond to the Mekong Countries' emerging needs. Responsiveness is highly valued within the region. This mixed approach is expected to further position Australia as a valued, responsive and skilled partner for Mekong Countries when combatting TNC and addressing border security challenges.

Phased Implementation

The Program will implement activities in partnership with key stakeholders in each Mekong Country. Key stakeholders are expected to include police and border security agencies and their ministries, non-law enforcement agencies such as health, education and infrastructure, as well as research bodies and civil society

organisations, where relevant. It is expected that through PEA, the Program will identify opportunities to support reform, including by supporting emerging Mekong Country agency champions, particularly women. Close PEA will be required to drive such efforts, which seek to disrupt existing incentive structures that keep TNC in play. This design acknowledges that this may take time and that it will be important to maintain realistic expectations about expected changes, given the limited budget and resources that Australia can mobilise. APS Agency TA and contracted TA will deliver technical assistance. Regular bilateral and regional management meetings will coordinate activity implementation. In the initial four-year term the Program will focus on developing bilateral activities that align with the EOPOs outlined above. Over time (especially during the second phase), the Program will foster increased collaboration and cooperation between the Mekong Countries themselves, and stronger links to ASEAN architecture and processes, where appropriate. Bilateral activities are expected to account for approximately half of the Program's investments initially, with the remainder focussing on regionally implemented activities. This proportion may shift over time, as the program gains traction in each Mekong Country, and is increasingly capable of fostering regional initiatives.

Program to harmonise with regional architecture and coordination mechanisms

The Program will also align with and support regional architecture and each Mekong Country's participation in such coordination arrangements, including the AMMTC, AMMD, and associated senior officials' meetings, and mini-lateral arrangements, such as the meetings operationalising the Mekong Memorandum of Understanding on Drug Control. Given its phased approach, as existing relationships with APS Agencies are deepened, and new relationships are formed, increased bilateral engagement at the regional level is expected to build over time, particularly in Year 3 and 4, and in any subsequent extension of the Program. Given that the Program's footprint includes only five ASEAN countries, implementation during the initial stages will remain cognisant that the Program sits within the larger ASEAN regional approach to TNC and border security. The Program would seek to support Mekong Countries' ASEAN engagements where it makes sense during its first eight-year time frame. Ongoing reflection will be required about the feasibility of institutionalising this sub-regional Program within the larger ASEAN architecture, and how to effect that.

APS Agency Coordination

The GoA recognises the importance of the Program aligning with broader GoA efforts across the Mekong Countries to enable flexible and effective support. Central to this is the need to ensure that the GoA's efforts are as cohesive, consistent and effective as possible, and that they lead to tangible development outcomes for the Mekong Countries. DFAT will lead on coordination of APS Agencies to implement the Program. The MC will support DFAT's efforts on this front and will be tasked to engage with APS Agencies to develop the annual plan and design activities (ensuring that they are ODA compliant and align with OECD/DAC aid effectiveness principles). DFAT may also task the MC to implement specific activities. Given the APS Agencies' technical expertise and existing relationships, it makes sense for MC implemented activities to be complementary to, not in competition with, APS Agency activities. The decision to engage a MC is prompted by experience and lessons learned from GoA whole of government aid delivery, including programs managed by DFAT.

This Design specifically recognises the need to balance Mekong Country representatives' engagement with their Australian peers (i.e. police-police) and with contracted advisors and the associated development of mutually beneficial long-term relationships, with the risk that fragmented programming will lead to less effective support and poor value for money and a proliferation of small-scale assistance, decreasing effectiveness.³³ Therefore the design also recognises that technical competence in the context of an APS Agency and delivery of development activities in challenging environments require skill sets additional to those normally developed through APS Agency career paths. The MC role will support DFAT and the APS Agencies to balance these issues. The MC will support application of development knowledge and capacity development approaches to improve the shape of the APS Agency activities proposed (e.g. activity design, M&E and reporting), and the development outcomes that flow from them. APS Agencies are expected to access

³³ See: 2012 AusAID's Office of Development Effectiveness thematic evaluation of Australia's law and justice assistance titled *Building on Local Strengths: Evaluation of Australian Law and Justice Assistance*, available at: <https://dfat.gov.au/aid/how-we-measure-performance/ode/other-work/Pages/building-on-local-strengths-evaluation-of-australian-law-and-justice-assistance.aspx>

separately funded training relating to international development, including GEDSI and PEA, through DFAT's Diplomatic Academy. DFAT, in turn, will monitor the risks associated with engagement of a MC in contexts where discussion of sensitive information may be required. DFAT, supported by the MC, will also ensure that this Program coordinates with, and where possible, harnesses results of other GoA-funded Programs, such as IP-JuSP, AACT, ARLEMP, the CCP. In-country coordination meetings are anticipated, complemented by annual Canberra-based IDCs.

Technical Working Groups (TWGs)

The MC will explore establishment of appropriate activity-level engagement mechanisms, such as TWGs, including cross-border TWGs. Such mechanisms would serve as entry points for the Program, particularly to build consensus, and broaden the scope of engagement on difficult policy issues. For example, in Pillar 1, bringing together government officials, APS Agency representatives, research organisations, and CSOs may stimulate dialogue and consideration of complex TNC and border security issues. The MC will provide secretariat services to TWGs, if established.

Policy Dialogue

This Program will support DFAT's objective of strengthening TNC and border security policy development and operationalisation in the Mekong Countries through fostering policy dialogue with Mekong Countries, at a regional level. DFAT will take the lead on these policy discussions. Australia's engagement on policy dialogue with Mekong Countries on TNC will be most successful if it is conducted by technically competent Australian government representatives, and importantly, if quality policy dialogue processes are assured.³⁴ Evaluations by DFAT's Office of Development Effectiveness have found that key aspects to successful policy dialogue include:

- › Good quality evidence to inform policy development.
- › Building capacity amongst partners.
- › Bringing front-line experience to bear on discussions, and
- › Creating and positioning flexible funding instruments to respond to opportunities.

Opportunities for DFAT to engage with Mekong Country leadership, Ministers, government officials, and technical staff will be identified throughout implementation. PEA, research and strategic advice from the MC will support identification of points of entry, and strategies to leverage those opportunities. The Program will build on lessons from other Australian investments which have targeted development of high-quality public policy grounded in rigorous research, analysis and evidence.³⁵ These opportunities will include: annual planning processes including Mekong Country representatives; the SGR (to be conducted in the final quarter of Year 3); and ongoing reporting and feedback processes. DFAT Posts, supported by the National Coordinators, are expected to engage in these policy discussions.

Policy dialogue is anticipated on:

- › Mekong Countries' investments in improving their research capacity in TNC and border security that may inform policy development.
- › How best to build capacity of the multiple agencies with responsibility for TNC and border security at national and regional levels.
- › How APS Agencies can best provide support and advice to Mekong Country agencies with TNC and border security responsibility.
- › How best to improve collaboration between the Mekong Countries on TNC and border security.
- › The shape of effective regional collaboration on TNC and border security between the Mekong Countries. This may include information exchange, data management, and reporting and information requirements.

³⁴ See *Lessons from Australian Aid, 2013 report on independent evaluation and quality assurance*, Office of Development Effectiveness, DFAT, January 2014.

³⁵ See for example: Knowledge Sector Initiative, a joint program of the GoA and the government of Indonesia, available at: <https://dfat.gov.au/about-us/publications/Pages/indonesia-knowledge-sector-initiative-phase-2-guiding-strategy.aspx>

- › How Mekong Countries can best engage with and access resources and TA provided through the Program, and
- › How to address perverse incentives that act to undermine the Program's efforts in countering TNC.

Sustainability

Sustainability is central to the MAP-TNC's approach to building human resource and collaboration capabilities in and between the Mekong Countries. However, several issues might affect sustainability including:

- › The time taken to develop regional research and analytical capacity on TNC and border security may impact on the Program's sustainability. Despite best efforts, capacity and leadership gaps in Mekong Country agencies with responsibility for TNC and border security will likely persist. The Program will identify capacity gaps and phase TA support to maximise sustainable results, minimising the need for ongoing inputs.
- › Reduction in GoA and Mekong Country budgets or budget execution delays may also reduce sustainability. Political will to invest in capacity development will also influence sustainability.
- › Political instability and social unrest, changes in government, as well staff turnover in Mekong Country agencies with responsibility for TNC and border security, may limit sustainability. Flexibility will be key, including scaling up and scaling down activities in response to these factors. The Program will develop a Stop-go Matrix that has objective measures of success. This will support annual performance reviews and decisions about whether to cancel underperforming activities. PEA will underpin activity design and implementation. Capacity development activities will focus on systems (such as ongoing in-service training), rather than individual personalities; this is expected to sustain results beyond staff turnover.
- › APS Agency staff turnover, GoA machinery of government changes, changing strategic and operational priorities of contributing APS Agencies will also affect the supply side of this Program.
- › Outsourcing part of the Program's implementation to a MC (for activity design, M&E, logistics and reporting) may compromise sustainability, and
- › The political economy in which the Program's activities are conducted.

Profile and Public Diplomacy

The Program's success is linked to its profile, influence, and ability to reach a broad audience within the Mekong Countries. The Program will identify and propose opportunities to promote Australia's role in supporting Mekong Countries to address TNC and border security, where appropriate, including media engagement opportunities for Australian and Mekong Country Ministers. This may include events linked to capacity development, such as workshops; use of media, including social media, digital content; signage, and branding. All Program materials, workshop materials, and communication materials will be appropriately branded to show Australia's commitment. The MC will be tasked to develop a communications plan for the Program, including to support clarity about the limitations of the Program's support (e.g. the Program will not support infrastructure and its funds will not be expended on operations).

F: Monitoring, Evaluation and Learning

Monitoring and Evaluation and Learning (MEL)

Main components of the Monitoring and Evaluation Framework (MEF)

The MAP-TNC MEF has two main components:

1. **Input and activity monitoring:** This will track participation in activities and achievement of outputs required to fulfil accountability and contractual compliance, and
2. **Outcome evaluation:** The Program will gather quantitative and qualitative data to generate reports (for the PCC, the Mekong Countries, the APS Agencies, and other stakeholders) on changes in knowledge, attitudes, practices and relationships (KAPR). The MEF will enable aggregation of results from the activity level to support annual outcome level reports.

How will the proposed M&E and learning approach support the Program's Outcomes?

MAP-TNC's implementation will be complex, involving several stakeholders in each Mekong Country at any one time. Political economy analysis (PEA) will drive implementation strategy development, which the Program will test using comparative surveys and other research methods and apply results to improve the implementation strategy. The Program will implement adaptive management, with the MC having a key role in supporting DFAT and other APS Agencies to iteratively build (and monitor) a coherent implementation strategy that leads to meaningful measurable outcomes, including through involvement of APS Agencies in the review of the MEF and development of a M&E Plan. The MEF will emphasise **information analysis and use for both operational and for strategic purposes**. Knowledge management and contributions to evidence are relevant to demonstrate support for operations and to inform policy. The Program M&E will have a **strong communications focus**, and information generated will be used to develop products and to support events (seminars, workshops) facilitating transfer of ideas and experience, as well as contributing to broader engagement in the Mekong Countries on TNC and border security. The Program would engage with Mekong Country stakeholders to implement M&E in ways that supports the Mekong Countries to strengthen their own data collection and analysis without unduly burdening their systems. Where feasible, joint M&E activities will be pursued, particularly with relevant Mekong Country donor coordination M&E sections. M&E activities will also include appropriate PEA to feed into decisions about prioritisation of activities (for funding allocation purposes) and activity discontinuation, in circumstances where the political economy prevents realisation of development outcomes.

MAP-TNC will track changes in knowledge, attitudes, practices (behaviour), and relationships

MAP-TNC will use a **simplified outcome mapping** approach for planning, monitoring and evaluation to:

- › identify individuals, groups or organisations with whom it will work to influence KAPR change. This step is expected to include an appropriate policy influence mapping approach.
- › plan and monitor behavioural change and the strategies to support those changes, including monitoring policy influence.
- › monitor Program-internal practices to remain effective – the MC will play a key role in delivering on implementation effectiveness, and
- › evaluate outcomes, including changes in KAPR.

Indicators

The Program will use a combination of progress markers and data collected against a small set of indicators to assess performance, assist annual planning and resourcing, and track accountability and contract compliance. Indicators will be identified during the MC-facilitated annual planning processes. The MEF set out in **Annex 3** includes draft indicators and indicative progress markers for the high-level end of program outcomes (EOPOs) and intermediate outcomes (IOs).

The MC will develop a detailed M&E Framework (MEF) and a costed M&E Plan within the first six months. Close consultation with DFAT's Office of Development Effectiveness is anticipated, particularly to ensure that APS Agencies actively contribute to information collection, reporting and analysis. The MEF will support the information needs of the PCC, the Mekong Countries, APS Agencies and the Program itself. The costed M&E Plan will describe specific activities that will generate the information (i.e. surveys, data collection activities, analysis etc.), using local Mekong Country-based research organisations where practicable.

MAP-TNC will establish a baseline

The Program will conduct a baseline for the Mekong Countries, drawing on available data, including that of other programs working on TNC and border security in the Mekong Countries (i.e. UNODC, USA, Japan), and APS Agencies. The baseline exercise will provide an opportunity to revise the targets set out in the MEF (Annex 3). Where data are not available, the Program will develop those data. Key baseline research activities are expected to include:

- › mapping country and regional TNC and border security priorities against Australia's objectives, strategies and investments.
- › PEA and policy influence mapping on TNC and border security, including assessments of the roles of civil society, research partners, and other important non-government actors.
- › mapping information systems, capacity, training provided, and information sharing protocols between Mekong Countries, and
- › a Knowledge, Attitudes, Practices and Relationships (KAPR) Survey of key stakeholders in Mekong Countries.

The APS Agencies and the MC will participate in the baseline identification exercise, which will be a mutual learning opportunity. The Program will use the baseline information to identify gaps in policy frameworks and strategic analysis, operational capacities, and regional collaboration to be targeted through the Program. The DFAT program manager at Post will consult closely with DFAT's Office of Development Effectiveness to review the MEF during the first six months of implementation to ensure that APS Agencies' roles in terms of M&E activities, reporting, results measurement, and analysis are adequately captured in the MEF.

Monitoring Gradual Progression Changes in Knowledge, Attitudes, Practice and Relationships

The Program will use **data collected against a small set of indicators** to assess performance and results (i.e. achievement of outcomes). This information will also assist subsequent years' annual planning and annual resource allocations. Intermediate outcomes will be used to chart the gradual progression of behavioural changes across the Mekong Countries.

The Program's outcome statements are in 'active voice' - 'who does what by when'. While the Program will not have targeted M&E activities that specifically build Mekong Countries' M&E systems, the MEF is intended to generate data and analysis that will contribute to Mekong Countries' efforts in developing their M&E systems. This is expected to be part of Australia's value add to the Mekong Countries bolstering their efforts to counter TNC. Indicators selected will generate information that will either draw on or stimulate the strengthening of Mekong Country information management and M&E systems, or which will generate information that will be useful to the Mekong Countries.

Monitoring and gender

The MEF specifically addresses gender which is reflected at the Intermediate Outcome level. All data collection will be disaggregated, including for gender. The baseline will be gender-sensitive and will address TNC and border security through a gender lens, including establishing a baseline about women working in the Mekong Country agencies, their positions, the barriers to participation in TNC and border security operations and training (if any), and the barriers that women face in benefitting from TA provided through the Program (i.e. do the Mekong Countries' relevant agencies have gender policies, and do they include training circumstances). The Program will also include a strong focus on how TNC as a field and the agencies that work on TNC understand, analyse and address the gender dimensions of TNC, including but not limited to, gender issues in

human resource development and management. Monitoring will also focus on women's role as perpetrators of TNC and border security threats, acknowledging that there is a knowledge gap on the gender dimension to women's engagement in TNC and border security threats.

Consistent with a range of international literature, this design theorises that influencing social norms through behaviour change is an important strategy to encourage help-seeking behaviour, accessing services, and reducing stigma and discrimination against persons with disabilities (PWD) and for women affected by family and sexual violence (FSV). As an Australian ODA-funded investment, the Program will play a constructive role in promoting positive norms during its term, including through positive role modelling by women and men working in the Program. The Program will measure changes KAPR as a result of gender-related activities. While the Program will not measure changes in social norms more broadly, it will monitor the role and influence of leaders concerning work practices and culture and specific gender equality and inclusion within their organisations, including levels of knowledge about the gender dimensions of TNC. Key gender areas that the Program is expected to engage on include FSV, women, peace and security, enhancing women's role in decision-making, leadership and peacebuilding, and ending violence against women and girls.

Disaggregated data (sex, age group (adult-children) and disability) will be required as standard. Any disability related M&E will draw on the methodologies and questions of the Washington Group on Disability Statistics or other relevant updated valid tools.

Review Points

The Program will review progress on a six-monthly basis. This will also provide opportunities to consider how research results can be applied to benefit the Program's effectiveness. An independent **Stop/Go Review** (SGR) will be conducted in the final quarter of Year 3 to inform the extension decision. The SGR will interrogate the Program's theory of change, collect data on immediate, basic changes that lead to longer, more transformative change, and provide a plausible assessment of the Program's contribution to results. The MC will review the draft MEF in the first six months concurrently with baseline development.

Resourcing for M&E

The Program will require long-term M&E resourcing to:

- › Provide support to develop activity-level M&E activities and to fulfil M&E requirements.
- › Provide M&E that contributes to Mekong Countries' ownership of the Program and its results.
- › Facilitate information sharing between the Mekong Countries, APS Agencies and other stakeholders, and
- › Develop high quality communications products based on progress and results.

Specialist M&E inputs are anticipated to finalise the MEF and the costed M&E Plan, to design specific activity-level M&E activities, and to review M&E elements of activity proposals prepared by APS Agencies, including for ODA eligibility.

Reporting

The Program will produce quarterly progress reports (at the activity level), and annual reports (at activity and outcome level). Program reporting will facilitate collation of annual ODA statistics, and support DFAT Partner Performance Report processes. DFAT may task the MC to develop targeted reports on specific topics as necessary. APS Agencies will be involved in revision of the MEF and will provide progress reports against agreed activity-specific reporting requirements. The MC will need to work with APS Agencies to develop specific activity-level M&E actions, including reporting pro forma that focus on appropriate outcome and results measurement.

G: Gender, Disability and Other Cross Cutting Issues

Gender Equality and TNC

There is growing evidence that improved understanding of gender relations, identities and gender inequality can improve TA provided through development programs. Stereotypical perceptions of women's and men's roles often see men as perpetrators of TNC and women as passive victims. Field work for this design demonstrated that significant numbers of women are detained at a border crossing in Thailand while attempting to smuggle illicit drugs. It seems that women may play an active role in smuggling illicit drugs at least at that border point. South American research also indicates that the number of female offenders is substantial and growing.³⁶ However, there is a need to bolster our understanding of the different concerns, perspectives, experiences and solutions to the strategies that the Program will employ to address TNC, particularly women's role in illicit drug trafficking.

There are also gender dimensions associated with the use of illicit substances by women in Southeast Asia. As mentioned earlier in this Design Document, women are one third of the world's drug users globally, and women are more likely to engage in substance abuse for self-medication reasons (anxiety, depression and social withdrawal stemming from childhood adversity). Analysis of women's economic profile regarding TNC is also weak, with implications for Mekong Countries' policy settings. Research under Pillar 1 is expected to contribute to the Program's understanding of these gender differences and inequalities in Southeast Asia.

Enhancing women's voice in decision-making, leadership and peacebuilding

Fostering uptake of gendered approaches to TNC and border security threats may require some additional thinking on the shape of research to be conducted. *"The overrepresentation of male researchers in organized crime research in many countries has also shaped the agenda. For example, most studies on organized crime focus on the experiences of men, and tend to explore their roles as leaders, heads or bosses."*³⁷ This Program therefore represents an opportunity to advance alternate lines of research on gender and TNC, as well as to explore the effectiveness of gendered approaches to addressing TNC and border security threats in Southeast Asia. As part of its baseline exercise, the Program will map recent gender equality interventions on TNC which can be used as a basis for the Program's efforts. The Program will be required to:

- › Include modules on Women, Peace and Security (WPS) in activities, workshops and seminars.
- › Recruit female TA personnel.
- › Set targets for female participation in workshops, training and activities.
- › Specifically target active women's engagement activities.
- › Appoint a (part-time) gender advisor as part of the Program team.
- › Incorporate gender equality as a standing item on the PCC's meetings and on the country-level coordination meetings.
- › Aim for gender parity on the PCC and other governance and management mechanisms.
- › Conduct gender-sensitive work planning and activity programming, including baseline research and gender-specific elements included in the SGR. CSOs with gender expertise may be engaged to support these activities.
- › Provide gender-sensitive security policy advice, including exploration of how the Program can contribute to removing barriers for women Mekong Country agencies, to participate in regional training and workshops / seminars, and to participate in regional TNC and border security collaboration mechanisms. This analysis may need to include assessments of workplace safety for women and gender-sensitivity training, and
- › Promote a regional WPS dialogue as part of activity implementation (i.e. at regional workshops and seminars).

³⁶ Gender and Serious and Organised Crime, Helpdesk Report, Sue Enfield, Institute of Development Studies, 27 March 2019.

³⁷ Module 15: Gender and Organised Crime, Education for Justice, UNODC.

Gender equality, disability and social inclusion

Within six months of mobilisation, the MC will be required to develop, in consultation with DFAT's gender, disability and social inclusion teams, and with APS Agencies, a *Gender Equality, Disability and Social Inclusion (GEDSI) Strategy* that describes how the Program will support the GoA's social inclusion objectives and how this Program will address GBV (where it can). The MEF will generate age, disability and sex-disaggregated data which will be available for analysis of possible differential impacts of the Program's activities on women and on persons with disabilities. The MC will develop a *GEDSI Strategy* for activity implementation and incorporation into the MAP-TNC operations manual. The GEDSI Strategy will include a focus on research around gender norms, violence against women and their relationship to TNC, and also articulate how the Program will address the needs of PWDs. Regular updates of the MEF will identify GEDSI targets and indicators. The implementation team will include appropriately skilled and qualified GEDSI expertise in planning and M&E activities, as required. The Program will seek to empower marginalised people with whom it engages to receive the benefits of the Program, as well as to protect them from prejudice and stereotypes that may prevent them from accessing the Program's benefits. In mainstreaming GEDSI principles the Program will increasingly model inclusive behaviour and attitudes in the community.

Key GEDSI mainstreaming approaches include:

- › APS Agency and TA personnel mentoring and accompaniment in activities will prioritise inclusion, and seek gender equity in implementation teams, where possible.
- › Where GBV issues emerge during the course of activities, the Program will proactively engage with relevant authorities and support services to ensure that victims, which may include children, receive adequate support, and that perpetrators are brought to justice.
- › Supporting the Mekong Country agencies with responsibility for TNC and border security to provide career development and leadership opportunities to women, persons with disability and other disadvantaged people.
- › Ensuring that there are equal opportunities for all relevant staff from Mekong Country agencies with responsibility for TNC and border security to participate in training and other capacity development activities
- › Ensuring that research into TNC and border security, includes consideration of gender equality issues.
- › Prioritising incorporation of a gender lens approach to Mekong Countries' development and operationalisation of TNC and border security policies.
- › Requiring all Program staff, TA personnel (both APS Agency and contracted), LES and consultants to actively apply GEDSI principles in their work under the Program.
- › Ensuring that procurement practices for hiring personnel (LES, contractors) take into account the need for diversity, and that infrastructure and program materials funded by the Program are accessible by a wide range of individuals and groups.
- › Reflecting inclusion risks in the risk register and treating those risks, and
- › Collecting data through M&E processes to ensure that the Program can monitor and learn from its efforts to incorporate GEDSI principles.

Gender-based violence

Globally it is now widely accepted that gender inequality is the underlying cause of gender-based violence (GBV) at various levels:³⁸

- › Individuals believing that men and women are not equal are more likely to accept or condone violence.³⁹
- › In relationships, male dominance and control is a significant predictor of violence.⁴⁰
- › In families, children witnessing violence, or who are affected by adult violence against children, are more likely to perpetrate violence or enter into violent relationships, and

³⁸ This draws on a range of studies including European Commission (2010), WHO (2010), Heise, (2011), Fulu, et al., (2013)

³⁹ The CDHS found that 26.5 percent of women compared to 50.4 percent of men aged 15-49 agreed with at least one of six proposed reasons a man is justified in hitting or beating his wife.

⁴⁰ The CDHS shows that spousal violence increases linearly with the number of controlling behaviours displayed by the husband. Among women whose husbands exhibit three or more types of controlling behaviours, at least three in four (89-91 percent) have experienced one or more forms of violence (NIS et al, 2015, section 20.12)

- › Levels of violence are higher in societies where there is impunity for perpetration of violence due to inadequacies in laws, the legal system, gender sensitive services, and attitudes that discourage women from seeking help. Honour and obedience codes also contribute to an environment conducive to GBV.

GBV links to TNC are becoming increasingly apparent, but more research is required to map this issue. The Program will take specific steps to ensure that GBV is addressed wherever possible through its activities.

As part of implementing its GEDSI Strategy, the Program will:

- › Ensure that women and girls' vulnerability is addressed in operational accompaniment and training, including workplace safety assessments and gender sensitivity training.
- › Explore, through consultation with gender specialist organisations and individuals, strategies that successfully encourage Mekong Country representatives and community leaders to foster positive norms that discourage violence, support women, and encourage help-seeking, with a view to their integration into the Program, and
- › Participate in or establishment of gender equality and TNC and border security meetings across the region. The Program can play a useful role contributing gender perspectives and gender analysis during workshops, seminars and regional meetings.

Private Sector

Developing countries' private sectors (global and local commercial enterprises (businesses) ranging from the informal sector to large multinational corporations) provide some 60 percent of gross domestic product, 80 per cent of capital flows and 90 per cent of jobs. The MC will identify appropriate private sector partners and entry points during the six-month inception period, and throughout the Program's term,⁴¹ including through:

- › **Complementary priorities** – ensuring that the private sector engagements advance Australia's aid investment priorities in the Mekong Countries.
- › **Building value** – ensuring that the Program's private sector engagements build value greater than would otherwise be achieved without collaboration.
- › **Return on investment** – ensuring that results from the Program's private sector engagements are greater than or proportional to the time and resources invested.
- › **Open and transparent** – ensuring that the private sector engagements are conducted in an open and transparent manner – i.e. compliance with Commonwealth Procurement Rules, and
- › **Commitment to responsible business** – ensuring that the Program engages with business partners who are committed to:
 - responsible business practices, including ethical behaviour.
 - contributing to sustainable economic, social and environmental outcomes.
 - promoting gender equity, and
 - advancing women's economic empowerment without adversely impacting on children.

Opportunities are expected to include subcontracted research and training TA, support services, logistics, training venues, accommodation and travel services.

DFAT will also play a role in convening and influencing the private sector in this Program. While the focus of the Program during the first phase will be on engaging with Mekong Country government representatives, this Design specifically acknowledges the value of collaborating with the private sector in each Mekong Country to support the Program's objectives. Specifically, work with chambers of commerce and other industry groupings are potential areas of engagement. The MC will be required to develop a *Private Sector Engagement Strategy* within the first six months of implementation. This is expected to include consultations with APS Agencies and key chambers of commerce in each Mekong Country, to identify issues relevant to the Program's objective of countering TNC in the Mekong Countries. Chambers of commerce can play an important role in socialising the certain policy changes, such as registers of pre-cursor chemicals for legitimate business purposes, and as information sources for Mekong Country agencies. Private sector engagement is also anticipated to act as a

⁴¹ The MC will refine these selection criteria.

force multiplier for information and communication efforts. DFAT offers knowledge of the regional security environment and will also identify opportunities for the private sector to engage. The Program provides an opportunity for DFAT and the private sector to leverage each other's assets, connections, creativity and expertise to achieve mutually beneficial outcomes on TNC and border security in the Mekong Countries.

Innovation

Given the Program's footprint across the five Mekong Countries, MAP-TNC will explore, where possible, opportunities to engage with business to deliver sustainable social impact in developing countries while achieving commercial returns.⁴² This may include researching profitable alternatives to illicit drug production within the region. Private sector expertise will be central to this exploration. A focus on private sector engagement also acknowledges that public and private interests need to coalesce for economic growth to occur. This also includes the security elements which underpin economic growth. The MC will identify innovative ways of working where possible with the private sector in a *Private Sector Engagement Strategy* to be developed during the inception period (in close consultation with business communities in the Mekong Countries and with APS Agencies), and modified as PEA and relationships develop in each Mekong Country.⁴³ The MC will pursue innovation in work planning, analysis, and activity delivery and support throughout the Program's cycle. A key test will be the MC's ability to innovatively support APS Agency activity implementation.

Environment and Climate Change

The *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) is the GoA's central piece of environmental legislation and applies to APS Agencies. DFAT's 2019 *Environmental and Social Safeguards Policy*⁴⁴ and its associated *Environmental and Social Safeguard Operational Procedures*⁴⁵ and *guidance notes*⁴⁶ provide clear policies on DFAT's environmental management system, including: understanding the policy settings and legal requirements; conducting environmental assessment and planning; implementing; and monitoring and evaluating. As land disputes can drive instability and are associated with FSV, when developing activities and TA inputs the Program will examine environmental security dimensions. Activities funded through the Program are unlikely to have direct negative impact on the physical environment.

In consultation with DFAT's Environment and Safeguards Section, the MC will develop and apply a set of environment assessment criteria, which can be used to screen the Program's activities. Where engagement with the environment is necessary, a *Strategic Environmental Assessment* may be required. The MC will maintain ongoing consultation with DFAT's Environment and Safeguards Section throughout implementation, including drawing on this Section's expertise for inputs into analysis of environmental issues and for compliance with DFAT's *Environmental and Social Safeguards Policy*.⁴⁷ The MC will ensure that for service, repair or replacement of vehicles or other items e.g. printers, batteries and IT equipment, appropriate practices are followed to minimise (or repair) any damage to the environment. The Program is not expected to give rise to climate change risks. The MC will consult with DFAT's Climate Change area in the event that unspecified climate issues emerge during implementation.

Security and disaster management

Program staff, TA personnel, APS Agency staff and Mekong Country government representatives are likely to travel within Southeast Asia. Where activities are conducted in these locations, they might attract security and work health and safety risks, particularly for women. Earthquakes, tsunamis, and other natural disasters occur in Southeast Asia. The MC will be required to work with APS Agencies to develop a *Security and Disaster Management Plan* which describes measures to ensure the safety and security of Program staff, TA personnel, APS Agency staff and Mekong Country government representatives, as they travel or participate in activities,

⁴² Creating Shared Value Through Partnership, Ministerial Statement on Engaging the Private Sector in Aid and Development, DFAT, August, 2015, pp3-4.

⁴³ Creating Shared Value Through Partnership, Ministerial Statement on Engaging the Private Sector in Aid and Development, DFAT, August, 2015, p1.

⁴⁴ <https://dfat.gov.au/about-us/publications/Pages/environmental-social-safeguard-policy.aspx>

⁴⁵ <https://dfat.gov.au/about-us/publications/Pages/environmental-and-social-safeguard-operational-procedures.aspx>

⁴⁶ <https://dfat.gov.au/about-us/publications/Pages/safeguard-guidance-notes.aspx>

⁴⁷ <https://dfat.gov.au/about-us/publications/Pages/environmental-social-safeguard-policy.aspx>

and to ensure business continuity. The Security and Disaster Management Plan will comply with DFAT policy guidance.

Anti-corruption

The risk of corruption associated with the Program's implementation is small. The MC will put in place systems and processes that guard against fraud, nepotism and corruption, including:

- › Transparent processes for selection of local service providers and TA personnel.
- › Clear financial operating procedures that promote and take a 'zero tolerance' position on fraud.
- › Compliance with the DFAT financial management, fraud control and accountability requirements.
- › An annual independent financial audit of the MC's financial and program management systems and of Program's Annual Financial Report.
- › Access to the financial management information and expenditure summaries at any time to nominated DFAT staff through a password-protected part of a web-based information management portal, and
- › Reflection of changes in anti-corruption profiles associated with the Program in the Risk Matrix.

Child protection

As the Program will include activities that work directly with children (i.e. addressing CSE), and as Program activities will take place in community contexts (i.e. at border crossings), the Program will interact with children. Children, particularly girls, will need to be addressed in the development and implementation of Program activities. The MC will develop a specific, clear, unambiguous *Child Protection Protocol*, which aligns with DFAT policy and Australian law, which it will implement in planning, operations and management.

The MC will also be expected to be vigilant, including monitoring conduct of all TA personnel, staff and sub-contractors, as appropriate. DFAT's Child Protection Compliance Section will work with the MC to ensure adequate child protection safeguards are in place.

DFAT recognises that many of the risks to children are the result of unintended consequences which occur during activity design or implementation. The MC will rigorously review all activities and mitigate risks to children in the activities supported by the Program.

Displacement and resettlement

It is unlikely that activities funded through the Program will directly lead to displacement and resettlement of communities. The MC will screen Program activities for displacement and resettlement risks. The MC, in consultation with the Bangkok Post and the DFAT-Canberra Resettlement Area, will establish:

- › a displacement and resettlement assessment tool.
- › a displacement and resettlement management protocol, which provides guidance for activities that have resettlement and displacement risks, and
- › training in displacement and resettlement issues for Program staff, TA personnel and where relevant activity implementers and partners (i.e. APS Agencies and Mekong Country government representatives).

The MAP-TNC adopts a 'do-no-harm' approach

The Program activities will be conducted in several Mekong Countries and through engagement with several suppliers of expertise (including APS agencies), TA personnel, and subcontracted organisations. Individuals will be required to:

- › Support 'do no harm' principles when implementing activities.
- › Identify any conflict-exacerbating impact of activities.
- › Be aware of inter-group relations and help people come together through work.
- › Determine activity entry points based on political economy analysis, and understand potential relationships affected by operational decisions e.g. about where to work, and with whom, and

- › Comply with GoA and DFAT policies, including DFAT's *Preventing Sexual Exploitation, Abuse and Harassment Policy* (PSEAH), throughout implementation. The MC will need to include monitoring of these policies in regular reporting.

H: Budget and Resources

Budget Rationale

The indicative total budget for this initiative is \$30 million over eight years (GST exclusive), including whole-of-government funding, comprising of \$15 million over the first four years with an option of a further \$15 million over years five to eight. The probable value of the tender for a Managing Contractor (MC) is anticipated to be around \$6m for up to an initial four years, with an option to extend for a further four years.

Priorities for Year 1 include establishing the office, recruitment of some MC staff, developing and updating various Program materials, developing strategies, and to develop annual planning guidelines and procedures, conduct annual planning, as well as conducting initial in-country start-up meetings with Mekong Country stakeholders and posts (likely to be part of the annual planning process). A six-month start-up (inception) period is anticipated during which the MC would work with APS Agencies to conduct various baseline analysis, including PEA in each Mekong Country. It is proposed that Country Coordinators are recruited in the latter half of Program Year 1. Year 1 will be devoted to start-up, relationship building, baseline etc. and by the commencement of Year 2, the MC is expected to have recruited all staff, including Country Coordinators in Mekong Countries and the PCC will have approved an initial annual plan.

As part of APS Agency proposal vetting processes during the annual planning process, the DFAT Program manager at Post will need to consult with DFAT's Financial Division to identify funding of activities to be implemented by APS Agencies. Where duplication/overlap occurs, Post will directly raise the issue with the relevant APS Agency for activity proposal adjustment.

With its initial focus at bilateral levels, Program expenditure on regionally implemented activities is expected to increase gradually over time. Actual expenditure will vary, depending on the approved activities, and implementation realities. In addition to the Annual Plan, the MC will be required to develop a costed implementation plan, updated annually.

Costing methodology and cost assumptions

Tenderers will need to propose a costing methodology as per the requirements to be listed in the response to tender for MAP-TNC. The budget will reflect costs for reasonable accommodation (in accordance with DFAT guidance note on provision of reasonable accommodation), including to maximise participation of persons with disabilities.

Resources

DFAT Resources

A DFAT Program Management team based at DFAT's Bangkok Post will oversee implementation. Close DFAT and APS Agency operational engagement on the Program's implementation will be required, both in Bangkok and in Canberra.

APS Agency Resources

APS Agencies will provide key TA personnel to deliver activities approved under the annual plans. The MC may also be tasked to deliver certain activities (i.e. research, strategic analysis, and specific capacity development activities – i.e. cross-cultural international development capacity development training for APS Agency staff deployed). APS Agencies' contribution is expected to include the cost of its TA personnel for activity delivery; activity costs would be sourced from the Program budget.

Implementing Team's required skills

Contracted locally through the MC in four of the five Mekong Countries, **Country Coordinators** and associated support staff would support the MC management team. For reasons of ease of logistics and access to regional

perspectives within DFAT, APS Agencies, and other bilateral and multilateral stakeholders, the Bangkok Post will manage the Program. Country Coordinators could work at Posts in each Mekong Country (save for Thailand) and other suitable locations and support the Program in each Mekong Country. Country Coordinators will support national level coordination mechanisms, as well as providing technical support to Mekong Country agencies in the development of their activity proposals and work plans. A Country Coordinator for Thailand is not proposed, given the level of management resourcing in the Bangkok Post for the Program, and given that the MC is anticipated to establish a head office in Bangkok, Thailand. This provides a further opportunity for management costs efficiencies. A certain number of the MC's key staff (identified by DFAT) may be required to receive GoA security clearance, facilitating access to GoA classified information. The DFAT manager at Post will need to remain cognisant of the risks associated with this approach, drawing from other DFAT investments that have taken a similar approach.

Examples of skills sets to implement the Program could include:

- › **Strategic leadership, analysis and stakeholder engagement** - working with the Mekong Countries and other stakeholders on designing, planning, implementing and monitoring activities.
- › **Specialist expertise**, such as:
 - Research and policy development expertise.
 - TNC and border security expertise (APS Agencies are expected to lead on operational expertise).
 - Capacity development, targeting senior Mekong Country government officials.
 - Gender equality and disability inclusion expertise.
 - Human resource and organisational development.
 - Learning and knowledge management, and
 - Marketing and communications.
- › **Political Economy Analysis (PEA)**, including drivers to integrate operational results into policy development and influence.
- › **Development program management/corporate services** – high quality activity design, planning, and activity implementation, program administration (financial and progress reporting, Human Resources Management, M&E, logistics, etc.), and operational and corporate services including:
 - recruitment and contractual management of TA personnel.
 - financial management and reporting of Program activities in accordance with contractual and DFAT requirements, i.e. designing activities, appraising activity proposals (i.e. from APS Agencies and from partners in Mekong Countries), and monitoring and reporting on results and expenditure.
 - management tools, policies and procedures.
 - provision of secretariat services to the PCC, and
 - strategic analysis and advice – relationship building, opportunities for innovation, private sector involvement, and results.

DFAT will hold primary responsibility for the Program's outcomes. Where the MC and APS Agencies work closely with the Mekong Countries, regular management and oversight meetings will keep DFAT apprised of policy and operational developments.

I: Procurement and Partnering

Procurement Arrangements

A MC appointed through a DFAT-managed tender process will support Program delivery, including activity design, activity and program-level M&E and reporting on the Program's activities and progress, and supporting the design, M&E and reporting of activities delivered by APS Agencies (including provision of gender equality expertise). DFAT may invite APS Agency representatives to participate in the procurement process.

Approximately one third of the program's budget is anticipated to be expended on APS Agency-implemented activities (AFP, AGD, Home Affairs), subject to performance and results. The Program is likely to subcontract specific activities to implementing agencies through transparent procurement processes managed by the MC. A rich array of organisations, both within the region and in Australia, represents significant potential as implementing agencies for the Program.

A MC will provide to DFAT the benefit of outsourced administration services that support DFAT's lead on program management and support a cohesive approach across the five Mekong Countries, including APS Agency activity implementation. The MC will need to harmonise the Program's approaches and reporting in each Mekong Country and for the Program as a whole, supporting DFAT's reporting. The MC would also support DFAT's strategic analysis, through use of internal and external resources. Both the AFP and the Home Affairs' strengths lie in their operational expertise; the MC will support activity design of proposed AFP and Home Affairs activities to ensure they focus on development outcomes consistent with ODA eligibility criteria.

Table 2 overleaf sets out the key responsibilities of the MC. The MC will need to work harmoniously in support of DFAT's coordination of APS Agencies activities, delivering activities at the country and regional level.

Fiduciary Risk Assessments

DFAT may task the MC to conduct a fiduciary risk assessment (FRA) of any Mekong Country agency that the Program works with and for which no current FRA exists; DFAT may also require the MC to conduct FRAs for private sector organisations or CSO/non-governmental organisations (NGOs).

Table 2: Key responsibilities of the managing contractor

| Program Set-Up |
|--|
| Draft <i>Inception Plan</i> , based on consultations with the Mekong Countries and informed by APS Agencies. |
| Develop a Program baseline (PEA, influence mapping, stakeholder mapping, evidence-to-policy mapping, TNC transnational marketplace analysis, gender analysis, etc.). |
| Develop country-specific engagement plans. |
| Workshop Program Logic (EOPOs) with key stakeholders in each Mekong Country. |
| Draft and implement a MEF that outlines performance indicators, detailed methodology, implementation responsibilities and timelines. This includes a Stop-go Matrix that has objective measures of success to support annual performance reviews and decisions about whether to cancel underperforming activities. |
| Establish the process for annual planning, including activity design, review of APS Agency proposals. |
| Procure and manage TA personnel. |
| Develop APS Agency cooperation arrangements. |
| Set-up the PCC secretariat function, including clear terms of reference for the PCC and the role of the MC (prepared in conjunction with DFAT). |
| Establish a strategy testing process to ensure that the Program responds to changes in context in a timely manner. |
| Office set-up. |
| Support to Governance |
| Provide strategic advice and analysis to DFAT, APS Agencies, and Mekong Countries |
| Provide secretariat services to the PCC. |
| Work closely with APS Agencies to develop country-specific and regional annual work plans identifying interventions for endorsement by the PCC. |
| Implementation |
| Recommend and design activities under each outcome (courses, seminars, workshops, TA inputs). |
| Consider risks associated with each identified activity. |
| Develop rolling annual work plans identifying opportunities for activities. |
| Implement relevant activities and procure and manage TA personnel. |
| Manage funds and activities, as necessary. |
| Monitor and report on all Program activities. |
| Evaluate the impact of the activities and of the Program, and develop practical implementation recommendations that improve the effectiveness of Australia's efforts through the Program. |
| Ensure that all activities meet Australian Aid Program's compliance obligations, including those related to managing risk; work, health and safety; safeguards; and fraud. |
| Screen activities prior to approval to ensure compliance obligations are met. |
| Provide program management services including financial reporting across the Program. |
| Provide secretariat services to <i>ad hoc</i> meetings, consultations, and work planning, if required. |
| Provide corporate services, including establishment of the office, management of human resources in each Mekong Country, procurement, finance, logistics/fleet management, audit and risk, information technology, where requested support to APS Agencies. |

J: Risk Management and Safeguards

Risk Management Plan

Key risks identified include:

COVID-19-related delays limit program effectiveness. The ongoing impact of COVID-19 (including travel and meeting restrictions, health impacts for stakeholders, competing priorities for partner governments, and ODA budget uncertainty) may cause further significant delays to program implementation, delaying achievement of program objectives. The program design builds flexibility into the annual workplan development process, which enables review of program activities in light of changing circumstances. For example, frontloading research and analytical work if capacity building activities are affected by ongoing travel and meeting restrictions. In addition, APS agencies may draw on existing relationships in delivering some capacity building activities remotely. The program will explore flexible working options, including for example remote working and videoconferencing to facilitate discussion where face-to-face meetings are not possible. Through the procurement process, we will seek managing contractors' views on additional measures to help manage uncertainty in the operating environment. GoA and Mekong Country health advice will be followed and recommended to all Program stakeholders.

Challenging operating environment and complexity of TNC issues: Despite concerted efforts, addressing TNC on a bilateral and regional basis across the five Mekong Countries with the limited budget is challenging, including the fact that underlying challenges to addressing TNC may lie outside the Mekong Countries in the transnational market place. The TNC problems identified are not easily solvable, and are characterised by difficult policy challenges.

Program activities lack coordination and cohesiveness, reducing impact and influence: Careful APS Agency and program coordination will be necessary to ensure that duplication of effort is minimised, and so that implementation can be founded on continuous improvement, drawing on lessons from each of the five Mekong Countries. The quality of the implementing agencies will also be key to success. Effective governance and oversight mechanisms will be key to addressing this risk.

Program's gender equality traction remains weak: If the Program is unable to implement both spotlight and mainstreaming gender equality activities, the Program may be misaligned with gender equality priorities of the GoA and of the Mekong Countries. This may mean that the program will fail to leverage a major opportunity to advance thinking on how addressing gender inequality is relevant to the effectiveness of its work on TNC and that of its partners and like-minded actors. Dedicated gender advice throughout Program implementation is envisaged.

Relationships between APS Agencies and Mekong Country counterpart agencies are slow to emerge: Differing priorities, work cultures, and institutional constraints (either in Australia or in the Mekong Countries) may inhibit development of meaningful relationships. As this is likely to be compounded by COVID-19 restrictions, existing relationships will be drawn on where possible. APS Agency staff will have access to the Australian Diplomatic Academy to build relationship and international development skills and knowledge.

The appointed MC will consult with stakeholders during work planning and progress reporting to identify emerging risks. Internally, the MC will review risks quarterly and update the Risk Register at least quarterly, and otherwise as new risks are identified and mitigation strategies developed. Risk will be a standing item on PCC meeting agenda.

Environmental and Social Safeguards

The Program will engage with government officials in work locations and use existing training facilities and venues across Southeast Asia. Major infrastructure, resettlement or environmental activities are not anticipated in the Program. Equally, safeguards issues for indigenous peoples are not anticipated.

CSE prevention and detection activities are most likely to be implemented at the strategic and policy domains. As TA personnel working through the Program, including APS Agency staff, may come into contact with children in the general community during training and accompaniment activities, the appointed MC will be required to develop a strategy to monitor safeguard issues in accordance with DFAT's Environmental and Social Safeguard Policy and Operational Procedures. Specific attention will be paid to safeguard issues associated with CSE and in compliance with DFAT's PSEAH policy, throughout implementation. The MC will be required to include monitoring of these policies in regular reporting. Steps required will include:

- › A PSEAH policy, which is clearly communicated to all working through the Program.
- › Establishing reporting and investigating procedures.
- › Including PSEAH in risk management.
- › Providing PSEAH training.
- › Prohibiting transactional sex for all personnel while engaged in the direct delivery of DFAT business, and
- › Prohibiting fraternisation for all non-national personnel, while engaged in the direct delivery of the DFAT business.

K: Annexes

Annex 1: Relevant Lessons Learned

This Design builds on the following recommendations contained in the 2012 DFAT Office of Development Effectiveness Law and Justice Review - *Building on Local Strengths Evaluation of Australian Law and Justice Assistance*.⁴⁸

The goals of Australian law and justice assistance

That Australian law and justice assistance adopts more modest and specific goals, based on analysis of what is achievable in the political, economic, social and geographical context. Where the overarching goal is stabilisation and conflict reduction, the starting point should be conflict analysis to identify drivers of conflict and instability, leading to a package of support for the institutions and processes best suited for managing them (whether or not in the formal justice system). Where the objective is promoting human rights and access to justice as development goals in their own right, the design should begin from an analysis of the types and sources of injustice or denial of human rights in the society in question, with a package of support to address those issues where Australia is best placed to make a difference.

Strategies for achieving institutional change

That Australia avoids working towards idealised institutional forms or offering standardised packages of support. Instead, it should take existing law and justice services and the financial constraints within the recipient countries as its starting point and support incremental improvement, building on the strengths of existing providers. To maximise its impact, Australia should take a multi-dimensional approach to promoting institutional change, using top down capacity building in combination with service-delivery, problem-solving and thematic approaches.

Investing in cross-cutting issues

That Australia gives higher priority to addressing violence against women within its law and justice assistance, helping to develop services and law enforcement approaches better suited to the needs of women. It should also invest in analysis of the needs of people with disability and other marginalised groups, assessing both their level of access to law and justice services and whether law and justice interventions could help promote their rights to other services and programs. Australia should consider options for reorganising country teams to improve the integration of law and justice assistance with other elements of the country program.

Dealing with justice systems

That Australia looks for opportunities to promote collaboration on specific, substantive issues, rather than on aid management, when seeking to address fragmentation in the law and justice sector. Programmatic assistance is appropriate only where genuine country leadership is in place and institutionalised.

Planning stabilisation and development

That Australia plans its stabilisation and development efforts in post conflict situations in parallel, rather than sequentially, to enable better management of the inevitable tensions between the two phases. In an immediate post conflict situation, Australia may need to support a higher level of justice and security provision than would be sustainable over the longer term. However, this form of support should be provided in such a way as to avoid distorting local institutions and spending patterns, and should be drawn down as soon as feasible, bearing in mind the need to offset the risks of renewed conflict with the risks of long-term dependency. At the same time, longer term development efforts should focus on restoring law and justice services to pre-conflict levels and building them up in a sustainable way, paying particular attention to long-term recurrent costs and their affordability.

⁴⁸ https://www.oecd.org/derec/australia/australia_lawjustice-building-on-local-strengths.pdf These recommendations have been updated to reflect the integration of AusAID into DFAT.

Whole of government delivery

That whole-of-government delivery of law and justice assistance is preserved, and its effectiveness ensured. This requires significantly greater investment by GoA agencies involved. It requires agreement on overarching goals and approaches, aid effectiveness principles, joint indicators of progress and a clear division of labour, with agency leads on particular themes or areas. Effective whole-of-government delivery requires funds allocation processes that minimise unhelpful competition for resources. It calls for genuine collaboration in developing assistance strategies and priorities in countries where Australia provides substantial law and justice assistance. It would also benefit from closer institutional links, including mutual secondments (as already occur between DFAT and the AFP).

For DFAT, this means:

- › investing more in developing policies and technical guidance for law and justice assistance.
- › opening up its processes for preparing country plans and designing law and justice programs to allow more effective participation by other agencies.
- › providing support to other agencies to help them build their capacity in development assistance and understand the principles of aid effectiveness, and
- › providing greater technical support to other agencies in program design, implementation and M&E.

For other agencies, it means:

- › acknowledging that entering into the international development sphere involves a commitment to building up expertise on development assistance and a willingness to follow DFAT's guidance on aid effectiveness.
- › providing active input into DFAT-led processes for developing country strategies and program design.
- › committing to reducing fragmentation of aid by ensuring that all support is tailored to the country context and supports agreed priorities—avoiding off-the-shelf or supply-driven assistance.
- › investing in rigorous M&E systems, or becoming part of DFAT-led M&E processes, and
- › ensuring a high level of transparency in all external assistance.

Sustainability

That Australia considers whether there is a case for providing long-term financial and technical support in small island states to support basic law and order capability and for the more advanced functions needed for effective international law enforcement cooperation. If so, it may be appropriate to move away from short-term project cycles to more sustainable delivery arrangements.

Scaling up

That Australia takes a gradual approach to scaling up its law and justice programs, based on proven successes, avoiding investments that might distort institutional development and national resource allocation.

Results management

That DFAT's Law and Justice Unit invests in developing more detailed guidance for results management in law and justice programs. It should increase the level of technical support available for advisors and program managers in country posts. It should ensure that M&E expertise is included in all design teams and should play an active role in quality assuring the design of results frameworks. Results frameworks should track country-level results, project outcomes and management data, using quantitative and qualitative data, to enable a more holistic picture of the results of Australian law and justice assistance to emerge. Projects should, as far as possible, align with counterpart monitoring systems, making sure that investments in monitoring data are also useful to counterpart institutions, and making efforts to demonstrate to counterparts the practical value of quality results data.

This Design builds on findings contained in the *Australia-Asia Program to Combat Trafficking in Persons (AAPTIP): Mid-Term Review*.⁴⁹

Learning/analysis from past programming

| Lessons/issues from ARTIP ICR, AAPTIP design and Mid-Term Review (MTR), and AAPTIP program responses | MAP-TNC Design response |
|---|---|
| Context | |
| <p>Sustainability of the capacity building approach: The AAPTIP MTR concluded that the program was efficient at delivering quality training, but that individual skills are not the binding constraint on organisational performance. A problem-solving approach to capacity development was recommended, which requires diagnostic work to identify constraints, and more intensive engagement by the program’s technical advisers to build on and complement formal training. Such an approach might also involve a wider range of interventions, including working with actors outside the criminal justice system.</p> | <p>MAP-TNC recognises both the strengths and limitations of training-focused capacity development models. Project proposals developed for inclusion in the annual planning process will need to clearly identify how capacity gaps have been identified and propose appropriate capacity development approaches. Working closely with APS Agency TA is expected to be a key capacity development approach.</p> <p>Acknowledging the complexity of reform in law enforcement and justice institutions, the investment has been designed to stage assistance over an eight-year delivery timeframe.</p> |
| <p>Targeted change: The AAPTIP design (Theory of Change) ToC focused on strengthening counter-trafficking structures, justice officials’ individual skills and justice agency processes to contribute to more effective and ethical investigation, prosecution and adjudication of trafficking cases. The AAPTIP MTR viewed this as insufficient because the diffuse nature of criminal networks lowered the likelihood of sanction; the justice system’s political economy is a more binding constraint than systemic capacity; and trafficking is not necessarily a promising entry point for broader reform of weak criminal justice institutions.</p> <p>In response, the subsequently revised AAPTIP ToC focused on building more capable transnational partnerships.</p> | <p>MAP-TNC is not intended to deliver broad institutional reform, but to build relationships, strengthen technical capacities, build stronger links and better-quality evidence-based policies in Mekong Countries on countering TNC, and build closer operational collaboration and sharing of information. The Program will target behaviours of key stakeholders and seek to effect change.</p> |
| <p>Gender and trafficking: The AAPTIP MTR found that gendered attitudes remain entrenched within the criminal justice system, in terms of both staff understanding of the trafficking phenomenon and the roles played by men and women within criminal justice agencies. The MTR recommended testing new approaches (moving beyond training) to</p> | <p>MAP-TNC will engage on gender issues through targeted research into women’s role in TNC and will seek to influence work culture and practice, within the Mekong Country agencies with which the Program engages, to positively influence social norms. APS Agencies gender profiles are expected to contribute significantly through positive role</p> |

⁴⁹ <https://dfat.gov.au/about-us/publications/Pages/australia-asia-program-combat-trafficking-persons-aaptip-mid-term-review.aspx>

| Lessons/issues from ARTIP ICR, AAPTIP design and Mid-Term Review (MTR), and AAPTIP program responses | MAP-TNC Design response |
|---|--|
| <p>challenge entrenched gendered roles and attitudes within the criminal justice sector.</p> <p>AAPTIP's gender strategy adopted DFAT's recommended 'twin track' approach to integrating gender equality. The program mainstreamed gender considerations into its targeted capacity building training, while also undertaking targeted action on the position of women as justice makers through coaching of policewomen and the development and implementation of Gender Action Plans in justice agencies.</p> | <p>modelling. Research into gender dimensions of TNC is also expected to contribute.</p> |
| <p>Support to victims in the criminal justice system: The AAPTIP design sought to actively promote enhanced cooperation and collaboration between criminal justice officials and government agencies responsible for directing support to victims. The AAPTIP MTR recommended that AAPTIP intensify efforts on the protection of victim-witnesses (who are predominantly women and children) within the criminal justice process and be more active in promoting measures to minimise risks to victim-witnesses.</p> <p>AAPTIP's Annual Work Plan responded to this recommendation, including by developing a Victim Strategy and identifying specific activities in collaboration with NGOs in Myanmar and Indonesia.</p> | <p>MAP-TNC will be mindful of human rights concerns implementing the program. The Program does not anticipate working directly with persons accused or convicted of TNC. Where potential risks emerge, the Program will act in accordance with Australian government policies and APS Agency protocols on this issue. The focus of the Program in its initial phases is to work with Mekong Country government stakeholders.</p> |
| <p>Other DFAT-funded activity collaboration: The AAPTIP MTR found little evidence that there was a high degree of beneficial collaboration between AAPTIP and DFAT's other regional investments (principally GMS TRIANGLE / TRIANGLE in ASEAN).</p> <p>AAPTIP subsequently reinvigorated collaboration with ILO, including through promoting previously established recommendations for the integration of law enforcement and labour officials' responses to human trafficking.</p> | <p>Selection of Bangkok as the Post at which MAP-TNC will be managed will provide opportunities to explore synergies with other GoA investments, including AACT.</p> |
| <p>Appropriate level of regional/national focus: ARTIP engaged in setting regional priorities and standards and supporting their implementation at the national level. AAPTIP continued this balance, but the MTR contended that, as the focus of the program moved on from the development of</p> | <p>MAP-TNC engages with a subset of the ASEAN member states and will seek to establish heightened information sharing and cooperation between that subset. It is anticipated that the Program will need to build a regional (sub-regional) perspective on countering TNC centred on</p> |

| Lessons/issues from ARTIP ICR, AAPTIP design and Mid-Term Review (MTR), and AAPTIP program responses | MAP-TNC Design response |
|---|---|
| <p>regional norms and standards on trafficking to securing their implementation at the national level, the need for this kind of regional engagement diminished. The MTR identified a need to further focus on cross-border responses.</p> <p>Subsequent AAPTIP Annual Work Plans have been more focused on the need to promote whole-of-sector responsibility, collaborative cross-border responses and improved coordination as a priority for AAPTIP’s engagement.</p> | <p>common interests and priorities between the Mekong Countries. At the same time, National Coordinators will work in each Mekong Country to identify entry points, key stakeholders, and opportunities, which would then be used to support cohesive approaches across the subregion. It is anticipated that a focus at both the regional and national levels will be required throughout the eight-year period, although the balance may alter over time.</p> |
| <p>Sustainability of program reach: Noting the wide disparity in capacity and commitment between program countries, the AAPTIP MTR recommended exploring the possibilities for moving out of, or significantly reducing its presence in, some ASEAN Member States, to allow higher quality engagement in others.</p> | <p>MAP-TNC has carefully targeted the five Mekong Countries at the outset. The SGR will provide an opportunity to reflect on the effectiveness of this approach.</p> |
| <p>Flexibility: Following on from ARTIP, which allocated no more than 2% to a Flexible Fund, the design intent of AAPTIP’s ‘Flexible Fund’ was to ensure that AAPTIP is able to respond quickly to new or emerging priorities to combat human trafficking that arise outside previously agreed work planning. The administration of this fund proved administratively cumbersome when compared with alternative models of budget management and did not substantially contribute to the program’s responsiveness or flexibility.</p> | <p>MAP-TNC does not include a ‘Flexible Fund’ but builds flexibility into the annual work plan development process. This will be facilitated by the National Coordinators, and coherence and development methodologies applied through the MC’s technical support to activity design, M&E and reporting.</p> |
| <p>M&E approach and sustainability: The AAPTIP MTR concluded that, like ARTIP, AAPTIP’s M&E system was elaborate but did not significantly contribute to improved reporting.</p> <p>This issue was largely addressed in AAPTIP’s revised M&E strategy, through the simplification of the program logic; the selection of intermediate outcomes for the overarching results framework; simplification of reporting; the addition of key qualitative reporting methods; and the realignment of program M&E and reporting with DFAT’s quality criteria.</p> | <p>MAP-TNC’s MEL is intended to be uncomplicated, while tracking progress and outcomes at appropriate levels.</p> |
| <p>Inception phase and delays: Despite a detailed inception plan, AAPTIP had a substantial break in program activities from ARTIP in several countries.</p> | <p>MAP-TNC’s risk assessment identifies that some delay associated with finalising subsidiary agreements in the Mekong Countries could be</p> |

| Lessons/issues from ARTIP ICR, AAPTIP design and Mid-Term Review (MTR), and AAPTIP program responses | MAP-TNC Design response |
|---|---|
| <p>This was due mainly to delays in concluding agreements with partner countries (the last of which was signed in November 2015, more than two years after the start of the program).</p> | <p>mitigated through reliance on APS Agencies' existing arrangements. This is expected to minimise start-up delays. Start-up may also be affected by COVID-19 associated requirements.</p> |
| <p>Management and organisation of project resources: The AAPTIP MTR called for more devolved management and better use of national experts.</p> <p>AAPTIP devolved more quarterly reporting responsibility to Country Program Coordinators and established 'TIP Expert' positions to contribute to some country programs.</p> | <p>MAP-TNC contemplates a strong role for national experts in the delivery of the Program. A National Coordinator is anticipated to be appointed in each Mekong Country, playing an important role in identifying and facilitating the Program's entry points in each country, while working closely with relevant Posts.</p> |

Capacity Development Lessons Learned

The following is a summary of capacity building lessons learned drawn from the DFAT Aid Program's implementation of capacity development activities.⁵⁰ The summary provides useful and succinct advice on approaches to capacity building which are relevant to the Program.

Lesson 1: Leadership Matters Most

'Leadership' is another way of talking about 'ownership'. It is critical both at senior levels in an agency and at the political level in a country. Remember that capacity building is about change. The key point is that if the top person in an organisation is not 100% behind a program of capacity building (i.e. change) then forget it! Sure, there may be technical issues in an organisation that need fixing, but experience tells us that technical solutions will only be effective and sustainable if undertaken in an environment of change led from the top. Even leadership from the top is not enough; a culture of leadership needs to be nurtured at all management levels for the sake of effectiveness and long-term sustainability of the activity outcomes.

Tips

- › Ascertain overall political commitment from Government to the capacity building program. This might be demonstrated through its inclusion in National Development Plans, budget allocations and so forth.
- › Ensure DFAT (Post or desk) meets with the agency CEO from the early "idea" stages and at regular intervals thereafter.
- › Seek written statements of 'vision', not just verbal assurances of high-level "ownership".

Lesson 2: Make sure there are 'internal incentives' for change

Even with strong leadership from the top there must be "ownership" at middle and junior levels. It is these staff who do most of the work in the counterpart agency, who often go through the most upheaval and whose commitment and efforts will be critical to the success of a capacity building activity. These staff need to have some incentives to get behind a program of change. Incentives must go beyond notions of "the good of the country" to something tangible, something that affects staff in a more personal way (e.g. more resources in the work area, more satisfying work, improved working conditions). Think innovatively about incentives, they can include the expenditure of money on things that are not 'capacity building' in themselves, but create openness to capacity building, for example refurbishment of office space.

Tips

- › Ask yourself "what's in it for the staff in an Agency?" before getting started
- › Include a staff survey into the feasibility/design process of the activity
- › Include in design ToRs a requirement for appropriate incentives to be included
- › Don't be afraid to spend small amounts of money on "incentives" that don't fit within the definition of capacity building but create a positive attitude towards capacity building

Lesson 3: Training 'methods' first; 'content' later

Too often the DFAT Aid Program has approached short-term training as an exercise in transferring technical knowledge - which it is - without giving enough attention to ensuring that the methodologies used will be effective in ensuring sustainable learning outcomes. Design processes have often ignored expertise in educational psychology and adult learning. And technical experts, not skilled trainers, are used to deliver short-term training courses in developing countries. Sustainable learning, and the effective application of this learning in the workplace, has occurred where the initial focus has been on the establishment of an effective and consistent training methodology that can be applied to any content.

⁵⁰ AusAID (2005) 'Capacity Building Handout – Lessons Learned', Canberra: Australian Agency for International Development.

Tips

- › Include expertise in educational psychology and adult learning in design teams and technical assessment panels (TAPs)
- › Include in ToRs for design teams a requirement for training programs to be multi- faceted, e.g. preparation, follow-up, action plans etc

Lesson 4: Make the most of scholarships

Scholarships are a huge part of the DFAT Aid Program's capacity building portfolio. The Agency has high expectations of the medium and long;-term impact of scholarships on the overall capacity of developing countries. There are two basic approaches being undertaken by DFAT: 1) the *ad hoc* approach whereby eligible candidates undertake the course of study of their choice; 2) the targeted approach whereby DFAT and the partner government provide a specified number of scholarships in agreed areas of priority at the most appropriate institutions (in Australia, regional or in-country). Experience to date suggests that the second approach, the targeted approach, provides much greater value for money for the limited scholarships dollar.

Tips

- › Put the issue of 'targeting scholarships' on your next program management agenda
- › include an analysis of scholarship performance in the next program strategy
- › Explore the possibility of providing capacity building assistance to the counterpart 'Scholarships Unit'

Lesson 5: Find the right advisers

The quality of Australian advisers can 'make or break' a capacity building activity in implementation. There are two key issues:

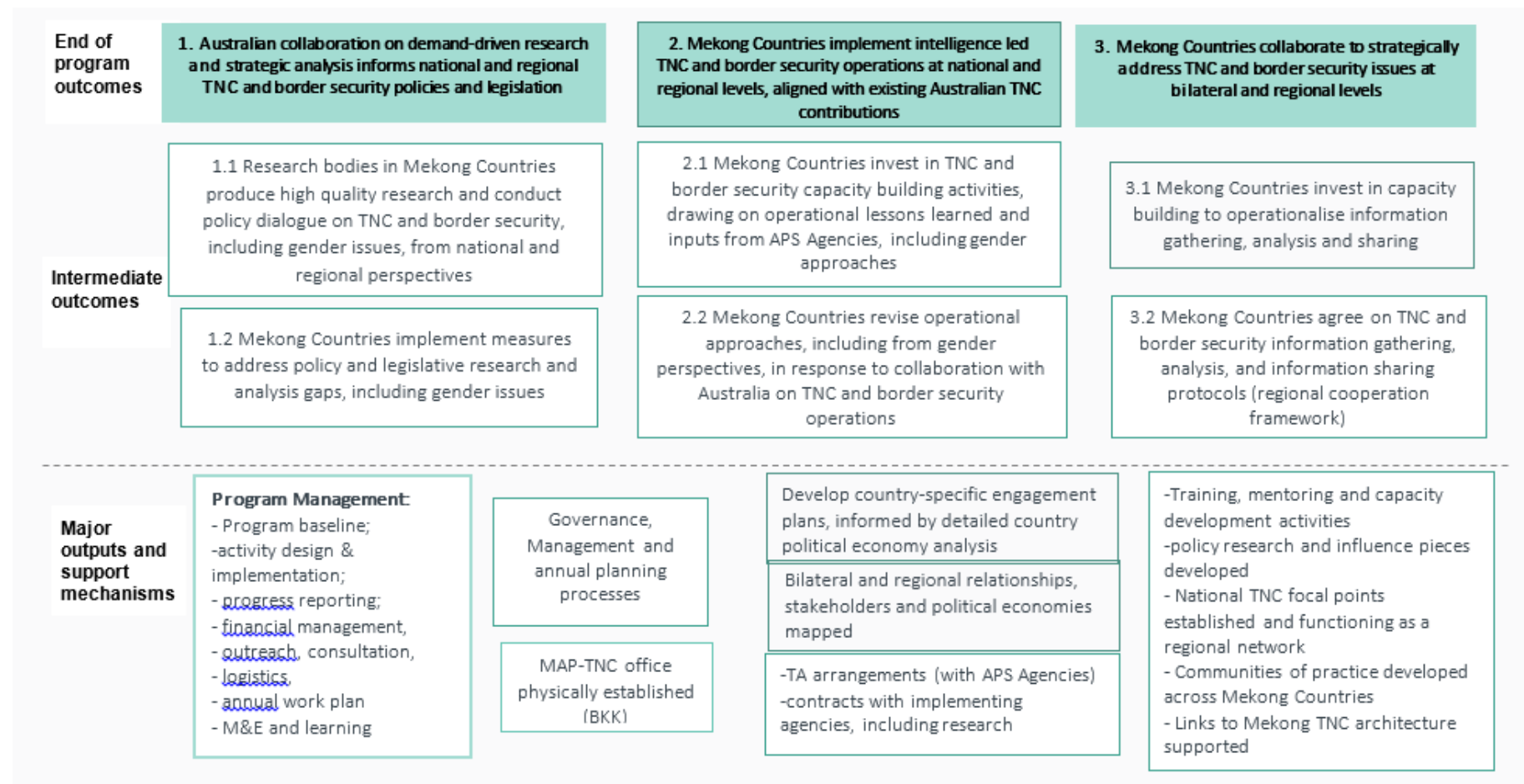
- › Finding: individuals, firms, agencies with the right skills, attitude and cultural awareness; and
- › Maximising: the sustainability of capacity building; by seeking out individuals/firms, agencies with their own internal incentives to maintain a relationship with the counterpart agency.

Tips

- › In the early days, research the "Australian market" and ask the following questions:
 - Are there Australian experts available? How many?
 - Is the expertise available in the public sector? If YES: Does the relevant APS Agency have the motivation to develop a long-term relationship with the counterpart agency?
 - Is the expertise available in the private sector?
- › Include partner government representative on the TAP
- › Think about what skills the project personnel really need to demonstrate and then how the TAP process can be used to identify the right people, e.g. by including: a human resources expert on the TAP, face to face interviews with as many key personnel as possible.

Annex 2: MAP-TNC Program Logic Model

Goal: To build deeper and stronger cooperation between Australia and Mekong Countries to address transnational crime



Annex 3: Draft M&E Framework

Program Goal: To build deeper and stronger cooperation between Australia and Mekong Countries to address transnational crime

Pillar 1: Policy Frameworks and Strategic Analysis

| Item | Desired result | Baseline | Target | Indicator | Data sources & frequency | Who will collect and analyse the data |
|--------|--|---|--|---|---|---|
| EOPO 1 | Australian collaboration on demand-driven research and strategic analysis informs national and regional TNC policies and legislation | <ul style="list-style-type: none"> › TBD during first six months. › Links between research organisations (either public / private) and Mekong Countries' TNC and border security policy decision-makers need to be identified. › Australian research institutions with interest in TNC research need to be mapped. | <ul style="list-style-type: none"> › Increasing use by Mekong Countries' TNC and border security policy decision-makers of research and analysis of TNC and border security issues generated through Australian-Mekong Country research collaborations. | <ul style="list-style-type: none"> › Mekong Countries' use of/ reference to research organisations' research and analysis of TNC and border security issues (i.e. in legislation, policy, and in public fora). › Use of research on gender aspects of TNC and border security. › Australian-Mekong Country collaborations on TNC and border security research and analysis. › Value of regional and national resources that the Program has leveraged for research and policy development. <p>Progress Marker: Amendments to policy and legislation in the Mekong Countries is informed by sound research into TNC and border security across the region, including Australia-Mekong Country collaborations.</p> | <ul style="list-style-type: none"> › MAP-TNC PEA reports. › Individual case studies. › MAP-TNC internal reports. › Subcontractors' reports. › APS Agency progress reports. › Mekong Countries governments' reports. › International donor reports (U.S.A., EU, UN Agency) Baseline and End-line KAPR Surveys (2021 and 2028). › Reports of Australia-Mekong Country collaborations. | <ul style="list-style-type: none"> › MAP-TNC. › Mekong Countries. › GoA (APS Agencies). › Australian research institutions. |

| Item | Desired result | Baseline | Target | Indicator | Data sources & frequency | Who will collect and analyse the data |
|--------|--|---|--|--|--------------------------|---------------------------------------|
| IO 1.1 | Research bodies in Mekong Countries produce high quality research on TNC and border security, including gender issues, from national and regional perspectives | <ul style="list-style-type: none"> › TBD during first six months. › Research organisations exist in the region, but capacity and knowledge of TNC issues, including gender perspectives, needs to be clarified. | <ul style="list-style-type: none"> › Increasing number of high-quality research and analytical reports on TNC and border security, including from gender perspectives, produced by regional research organisations. | <ul style="list-style-type: none"> › Number and quality of research and analytical reports on TNC and border security produced, including gender analysis. Progress Marker: › Availability across the region of high-quality research and analysis on TNC and border security. including from gender perspectives. | › As above. | › As above. |
| IO 1.2 | Mekong Countries implement measures to address policy and legislative research and analysis gaps, including gender issues. | <ul style="list-style-type: none"> › TBD during first six months. › Policy and legislative gap analysis, including gender, drawing on APS Agency expertise (AGD, Home) | <ul style="list-style-type: none"> › Increasing number of policy and legislative initiatives addressing identified gaps, including gender. | <ul style="list-style-type: none"> › Number of identified policy and legislative gaps being addressed, including gender. Progress Marker: › An array of TA assistance being delivered to address policy and legislative gaps, including gender. | › As above. | › As above. |

Pillar 2: Operational Capacities

| Item | Desired result | ›Baseline | ›Target | ›Indicator | ›Data sources & frequency | ›Who will collect and analyse the data |
|--------|--|---|---|--|--|---|
| EOPO 2 | Mekong Countries implement intelligence led TNC and border security operations at national and regional levels, aligned with existing Australian TNC contributions | ›TBD during first six months. ›Capacities to develop and apply intelligence on TNC issues and border security varies greatly between the Mekong Countries. | ›Increasing TNC reporting rates. ›Increasing border detection. ›Increasing frequency and quality of collaboration between Australian and Mekong Country agencies. | ›TNC reporting rates. ›Border detection rates. ›Gender-specific approaches to border detection and TNC issues. ›APS Agency advocacy initiatives which have advanced operational capacity development on TNC and border security. ›Value of regional and national resources that the Program has leveraged for TNC and border security operational capacity development. Progress Marker: ›Evidence exists to support improved TNC and border security operational effectiveness linked to Mekong Countries' investments in capacity development and TA, including gender aspects. | ›MAP-TNC PEA reports. ›Individual case studies. ›MAP-TNC internal reports. ›APS Agency progress reports. ›Mekong Countries governments' reports (police, courts, media). ›International donor reports (U.S.A., EU, UN Agency) Baseline and End-line KAPR Surveys (2021 and 2028). | ›MAP-TNC. ›Mekong Countries. ›GoA (APS Agencies). |
| IO 2.1 | Mekong Countries invest in TNC and border security capacity | ›TBD during first six months. ›Levels of investment in and capacity to analyse lessons learned from | ›Increasing capacity to identify ways to improve TNC operations and border security, including from gender perspectives. | ›Knowledge management of TNC operations and border security approaches. ›Value of investment in TNC operations and border | ›As above. | ›As above. |

| Item | Desired result | ›Baseline | ›Target | ›Indicator | ›Data sources & frequency | ›Who will collect and analyse the data |
|--------|---|---|--|--|--|---|
| | building activities, drawing on operational lessons learned and inputs from APS Agencies, including gender approaches. | operations, including gender approaches, need to be mapped. | ›Increasing investment in capacity development for TNC operations and border security, including from gender perspectives. ›Increasing frequency and effectiveness of operations, including from gender perspectives. | security capacity development. ›Frequency and effectiveness (results) of operations. ›Number of women leading and/or participating in capacity development activities. <i>Progress Marker:</i> Evidence exists to support improved results linked to Program’s operationally focussed capacity development and TA, including from gender perspectives. | | |
| IO 2.2 | Mekong Countries revise operational approaches, including from gender perspectives, in response to collaboration with Australia on TNC and border security operations | ›TBD during first six months. ›Existing operational approaches of each Mekong Country need to be mapped, including from gender perspectives. | ›Increasing quality of operational approaches to TNC and border security, including from gender perspectives. | ›Quality of operational approaches to TNC and border security. ›Integration of gender differentiated perspectives into operational approaches. <i>Progress Marker:</i> ›Evidence exists that Mekong Countries’ revised operational approaches are in line with international best practice, including from gender perspectives. | ›MAP-TNC PEA reports. ›Individual case studies. ›MAP-TNC internal reports. ›APS Agency progress reports. ›Mekong Countries governments’ reports (police, courts, media). ›International donor reports (U.S.A., EU, UN Agency) Baseline and End-line KAPR Surveys (2021 and 2028). | ›MAP-TNC. ›Mekong Countries. ›GoA (APS Agencies). |

Pillar 3: Regional Collaboration

| Item | Desired result | ›Baseline | ›Target | ›Indicator | ›Data sources & frequency | ›Who will collect and analyse the data |
|---------|---|--|--|--|--|---|
| EOPO 3: | Mekong Countries collaborate to strategically address TNC and border security issues at bilateral and regional levels | ›TBD during first six months. ›Level of regional collaboration on TNC and border security information gathering, analysis and sharing needs to be mapped. | ›Increasing levels of regional collaboration on TNC and border security information gathering, analysis and sharing by each Mekong Country. ›National TNC focal points established in each Mekong Country. ›A TNC community of practice developed across Mekong Countries. ›Links to regional architecture supported. ›Additional regional and national resources that the Program has leveraged in support of cross-border collaboration. | ›Level of regional collaboration on TNC and border security information gathering, analysis and sharing by each Mekong Country. ›Gender dimensions to information sharing. ›APS Agency advocacy initiatives which have advanced collaboration on TNC and border security. ›Number of TNC focal points appointed. ›Value of regional and national resources that the Program has leveraged for TNC and border security cross-border collaboration. Progress Marker. ›TNC seizures and border detections linked to exchange of TNC and border security information between Mekong Countries. ›TNC Community of Practice meets regularly. | ›MAP-TNC PEA reports. ›Individual case studies. ›MAP-TNC internal reports. ›APS Agency progress reports. ›Mekong Countries governments' reports (police, courts, media). ›International donor reports (U.S.A., EU, UN Agency) Baseline and End-line KAPR Surveys (2021 and 2028). | ›MAP-TNC. ›Mekong Countries. ›GoA (APS Agencies). |

| Item | Desired result | ›Baseline | ›Target | ›Indicator | ›Data sources & frequency | ›Who will collect and analyse the data |
|--------|---|---|--|---|--|---|
| IO 3.1 | Mekong Countries invest in capacity building to operationalise information gathering, analysis and sharing | ›TBD during first six months. ›Levels of capacity development investment to support operationalisation of regional information gathering, analysis and sharing identified in each Mekong Country. | ›Increasing levels of capacity development investment to support operationalisation of regional information gathering, analysis and sharing in each Mekong Country. | ›Levels of capacity development investment to support operationalisation of regional information gathering, analysis and sharing in each Mekong Country. ›Specific gender-targeted capacity development activities. Progress Marker: ›Mekong Countries implement capacity development activities to operationalise TNC and border security information exchange agreements. | ›As above. | ›As above. |
| IO 3.2 | Mekong Countries agree on TNC and border security information gathering, analysis, and information sharing protocols (regional cooperation framework) | ›TBD during first six months. ›Mapping of TNC and border security information gathering, analysis, and sharing arrangements in place. ›Identification of TNC and border security needs information gathering, analysis, and | ›Increasing number of information gathering, analysis and sharing protocols between Mekong Countries agreed. ›Increasing level of understanding of Mekong Countries' TNC and border security information gathering, analysis and sharing needs at national and regional levels. | ›Number of information gathering, analysis and sharing protocols between Mekong Countries agreed. ›Gender aspects of information sharing protocols. ›Map of Mekong Countries' TNC and border security information gathering, analysis and sharing needs at national and regional levels, including gender. Progress Marker: ›Mekong Countries signed TNC and border security | ›MAP-TNC PEA reports. ›Individual case studies. ›MAP-TNC internal reports. ›APS Agency progress reports. ›Mekong Countries governments' reports (police, courts, media). ›International donor reports (U.S.A., EU, UN Agency) Baseline and End-line KAPR Surveys (2021 and 2028). | ›MAP-TNC. ›Mekong Countries. ›GoA (APS Agencies). |

| Item | Desired result | ›Baseline | ›Target | ›Indicator | ›Data sources & frequency | ›Who will collect and analyse the data |
|------|----------------|---|---------|---------------------------------|---------------------------|--|
| | | sharing needs at national and regional levels required. | | information exchange protocols. | | |