

SUBSIDIARY ARRANGEMENT
BETWEEN
THE GOVERNMENT OF AUSTRALIA
AND
THE GOVERNMENT OF VANUATU
RELATING TO THE
VANUATU LAW AND JUSTICE PARTNERSHIP PROGRAM
(Stretem Rod Blong Jastis)

1. GENERAL

- 1.1. This Subsidiary Arrangement expresses the understanding of the Government of Vanuatu (GOV) and the Government of Australia (GOA) (the “Parties”) and is made pursuant to the terms of Article 7 of the Memorandum of Understanding between GOA and GOV on Development Cooperation that came into force on 15 December 2005 (the “MOU”). The terms of the MOU apply to this Subsidiary Arrangement.

2. NAME OF ACTIVITY

- 2.1. The name of the activity is the **Vanuatu Law and Justice Sector Partnership Program (Stretem Rod blong Jastis)** (“the Activity”).

3. PURPOSE

- 3.1. The Parties will cooperate in implementing the Activity in support of the development needs of Vanuatu. The purpose of the Activity is to **support justice agencies to promote justice and provide fair and equitable services to meet the needs of the community, the rule of law and protection of human rights.**

4. COORDINATING AUTHORITIES

- 4.1. The Coordinating Authorities for this Activity will be:

For the GOA: The Australian Agency for International Development.

For the GOV: The Ministry of Justice and Community Services or such other authority the GOV may nominate.

- 4.2. AusAID may engage suitably qualified contractors or organisations to carry out any of its functions under this Subsidiary Arrangement.

- 4.3. The role of the Partnership Governance Group (PGG) will be to provide strategic advice on the overall Program’s direction, particularly in relation to the priorities and direction of the broader sector wide coordination and collaboration. It will meet on a six-monthly basis and comprise appointees of

the GOV. Appointees of GOA will be part of the donor coordination section of the PGG.

- 4.4. The Partnership Management Group (PMG) will be responsible for regular management oversight to interpret guidance provided by the Heads of Agency Group for implementation of Partnership activities. The PMG will comprise of the following GOV representatives - Director General Ministry of Justice and Community Services (MoJCS), and/or appropriate MoJCS staff, Vanuatu Police Force representative and MoJCS Coordination and Liaison Officer. The partnership coordinator, the Vanuatu Australia Police Project representative and AusAID representative will represent the GOA. The PMG should meet at least quarterly and take a more hands-on role in the management and monitoring of the Activity.

5. **DURATION OF THE ACTIVITY**

- 5.1. The Parties anticipate that the Activity will be implemented from **6 March 2012 to 5 June 2013**. This Subsidiary Arrangement covers the initial period of the Activity and may be extended subject to review in accordance with a mechanism approved by both GOA and GOV and subject to normal Australian annual parliamentary approval of budget appropriations.
- 5.2. Either Party may advise the other Party of their withdrawal of participation in, or discontinuation of support for, the Activity in accordance with paragraph 18.1.

6. **ACTIVITY LOCATION**

- 6.1. The Activity will be undertaken in Vanuatu and the Activity offices will be located at the Ministry of Justice and Community Services in Port Vila.

7. **ACTIVITY DESCRIPTION**

Background

- 7.1. The Vanuatu Law and Justice Partnership Program (Stretem Rod blong Jastis) builds on the Vanuatu Legal Sector Strengthening Project (VLSSP). The first phase of VLSSP began in 2000 following a request from GOV for assistance to key public legal offices. Phase II of VLSSP commenced in July 2002 and extended to December 2005. VLSSP's third phase commenced in January 2006 and ended 30 June 2011. The Governments of Vanuatu and Australia have agreed that ongoing cooperation in the law and justice sector will make an important contribution to the achievement of Vanuatu's development objectives.
- 7.2. In 2009-10, VLSSP supported the newly re-structured MoJCS, which is responsible for many of the key legal sector agencies, to facilitate sector-wide consultations. This resulted in the development and launching of the GOV's first Law and Justice Sector Strategy and Action Plan in 2009. The Strategy and Action Plan brings together all Vanuatu stakeholders in the Sector, hence a need for improved coordination on the donor side.

- 7.3. During 2010, AusAID, at the request of GOV, commissioned a design team to work with Ni-Vanuatu counterparts to design the next phase of GOV – GOA collaboration in the sector. Stage One of the Activity will provide technical assistance and capacity building for key legal sector agencies and support the MoJCS and the rest of the sector develop detailed implementation plans for the sector policy framework that is currently under development. During this stage of the Activity, the MoJCS and legal sector agencies will work with the Contractor to develop a plan for a second stage of the Activity.
- 7.4. The Activity will involve shared GOV and GoA governance and management processes, where GOV leadership is increased over time, consistent with international aid effectiveness practices. Such an approach requires emphasis on good quality relationships, ongoing negotiations about the contributions of donors to a single plan and a shared responsibility for achievements and flexibility. The Contractor will play the role of Secretariat to the Activity, while also being responsible for management and coordination of a wide range of activities.

Activity Description

- 7.5. The high level objectives for the Activity are to contribute towards GOV's vision for the sector “A professional, competent and accountable law and judicial system that enables equal rights and access to justice for all” and its mission statement “To support justice agencies to promote justice and provide fair and equitable services to meet the needs of the community, the rule of law and protection of human rights”.
- 7.6. The outcomes for the Activity are expected to be as follows:
- (a) Increased GOV leadership of the sector;
 - (b) Increased coordination across the sector;
 - (c) Increased sectoral capacity represented through improved performance and ability of GOV and other stakeholders to achieve shared objectives relating to law and justice priorities, such as human rights;
 - (d) The quality of formal legal service delivery for GOV and the Vanuatu population is maximized within an affordable budget;
 - (e) The interface between formal justice and kastom law systems is more clearly and widely understood within the sector and beyond;
 - (f) A broader definition of the law and justice sector is used by all stakeholders to take into account the critical role of agencies and kastom leaders beyond urban centres and outside Government;
 - (g) Increased and more equitable access by ni-Vanuatu women and men to affordable, sustainable and culturally relevant services which promote harmony and justice; and
 - (h) Increased understanding of the interface between formal (including police) elements and kastom systems in delivering services and maintaining harmonious communities to inform better practice and increased access.

- 7.7. To contribute to these high level objectives, the Activity will consist of three components:
- (a) Component 1: Support for sectoral coordination, including donor coordination
 - Assist GOV to develop its comprehensive framework to support the implementation of the sector strategy and policy, including the identification and documentation of processes to prioritise, plan, cost and report on the strategy; and
 - Prepare a plan for Australia's contribution to this framework for Stage Two of the Activity, including in police and justice agencies.
 - (b) Component 2: Capacity development
 - Ensure sustained delivery of current level of legal services to GOV and population.
 - (c) Component 3: Policy Development, Research and Sector Monitoring
 - Enhanced understanding about key legal issues to inform policy development, particularly those identified by GOV as priorities for 2011-12 including (i) Better coordination and strengthening of sector plan activities; (ii) Human resources and capacity; (iii) Provincial service delivery; (iv) Legislation and international conventions; and (v) Support for victims of crime.
 - Under these headings, support will be provided subject to early discussions between GoA and GOV on selected issues such as Family Law related to progressing the rights of women, children, people with disability; the interface between formal and customary law particularly at community levels; and continuing legal education beyond specific agencies.
 - Sector wide monitoring system developed to enable GOV and partners to monitor progress and assess sector-wide achievements. This will encompass three kinds of monitoring: (i) policy development and the outcomes of policy changes; (ii) sector's progress against its strategy objectives; and (iii) donors' contributions to achievement of objectives.

8. COORDINATION AND MANAGEMENT ARRANGEMENTS

- 8.1. The GOV will provide the following management and coordination functions to assist with the implementation, progress and monitoring of the Activity:
- (a) Overall coordination of GOV participation in the Activity;
 - (b) Nominating the Chairperson and GOV representatives on the PMG;
 - (c) Disseminating relevant information about the Activity to all participating line agencies;
 - (d) Ensuring participating line agencies are aware of their responsibilities in relation to provision of counterparts and training costs;

- (e) Facilitating engagement with other national and local GOV agencies that indicate their interest in being involved in the Activity; and
- (f) Assisting and facilitating approval of the Activity review and the Annual Plan.

9. **MATERIALS, SERVICES AND EQUIPMENT TO BE SUPPLIED**

GOA

9.1. The GOA will provide the following materials, services and equipment for the Activity:

- (a) Support for sectoral coordination, including donor coordination

This includes support for the GOV in the development of its Sector Policy Framework and implementation plan, with costed details and an associated monitoring plan, including priorities for donor funding. Support for GOV to articulate its plans for an affordable, culturally relevant and accessible law and justice sector for women and men, including recognition of the value of community-based activities, which prevent crime, respond to conflicts and settle disputes. Support for GOV led coordination of donor-funded contributions to the sector. Providing secretariat services to the joint GoV - GoA Partnership Governance and Management systems.

- (b) Capacity development

Support the capacity development efforts of Vanuatu law and justice sector agencies by organising short listing of technical assistance, in partnership with MoJCS and respective legal offices, for the Public Prosecutor's Office (PPO); Public Solicitor's Office (PSO); and State (Police) Prosecutors' Department (SPD).

Capacity development support to a broader range of legal sector agencies. The exact nature of the activities will be negotiated with the relevant agencies and MoJCS, and will need to reflect lessons learned from previous phases. The focus will be "organisational development" rather than personal development of individual officers.

- (c) Policy Development, Research and Sector Monitoring

Support GoV to make its own policy decisions about the future of the sector and about key law and justice issues in Vanuatu by funding personnel and other activities that can provide data and research to inform these decisions. While these responsibilities will be required of MoJCS in the medium term, the Activity will support MoJCS in the short-term in order to facilitate effective decision-making in 2012 and 2013.

9.2. The GOV will provide the following materials, services and equipment for the Activity:

- (a) Provide office space necessary, as specified in paragraph 6.1, (MoJCS) including for Partnership Coordinator and support personnel, and if

necessary, other MoJCS associated offices in Port Vila or the outer islands of Vanuatu, appropriately co-located with counterparts;

- (b) Facilitate engagement of key stakeholders within the Law and Justice Sector and the wider community; and
- (c) Facilitate processes with stakeholders and the broader Law and Justice Sector on matters approved by the PGG.

10. **ACTIVITY PERSONNEL**

GOA

- 10.1. The GOA will provide approximately five (5) long term technical personnel with short term technical support being recruited as necessary..

Counterpart Staff of GOV

- 10.2. The GOV will provide personnel necessary to enable the Activity personnel to efficiently and economically carry out the Activity and without limiting the generality of this paragraph such contributions will include:
 - (a) Access to the MoJCS staff to be counterparts to team members working with them through the life of the Activity, gradually taking on greater responsibility for decision making and implementation; and
 - (b) All necessary approvals for carrying out the activities approved under the Inception Report and Progress Reports..

11. **FINANCIAL CONTRIBUTIONS**

GOA

- 11.1. The total GOA contributions to the Activity are estimated to be up to AUD 2,900,000. The GOA contributions will cover implementation, management and monitoring of the Activity and related activities.
- 11.2. The provision and disbursement of GOA contributions to the Activity will be subject to the normal Australian annual Parliamentary approval of appropriations.

GOV

- 11.3. The GOV funding contributions will cover budget resources to enable counterparts to participate fully in Activity related activities such as staff, office and other administrative costs necessary for efficient implementation.

12. **MONITORING, REVIEW, EVALUATION AND REPORTING ARRANGEMENTS**

Monitoring and Evaluation

- 12.1. The GOA and GOV will undertake Activity monitoring and evaluation of the Activity at times arranged between, and mutually convenient to, both GOV and GOA. Evaluation will be carried out by a joint investigation team appointed by both Governments and independent of staff involved in the Activity.

12.2. **The Activity will carry out monitoring**

Reporting Arrangements

- 12.3. The Activity will produce an inception report, six monthly progress reports and plan for stage 2 of the Activity that will be submitted to the Partnership Management Group (PMG) and shared with the PGG.

13. **INTELLECTUAL PROPERTY**

- 13.1. Despite any other paragraph in this Subsidiary Arrangement, all Intellectual Property rights with respect to the Activity that are vested in the GOA will be retained by the GOA.

14. **SETTLEMENT OF DISPUTES**

- 14.1. This Subsidiary Arrangement serves only as a record of the Parties' intentions and does not constitute or create (and is not intended to create) rights or obligations under domestic or international law and will not give rise to any legal process and will not be deemed to constitute or create any legally binding or enforceable rights or obligations (expressed or implied). Consequently, any dispute, controversy, or claim, which arises out of the interpretation or application of this Subsidiary Arrangement will not be subject to adjudication or arbitration, but will instead be dealt with through amicable consultations and negotiations as the only method of achieving the peaceful settlement of that dispute, controversy, or claim.

15. **AMENDMENTS**

- 15.1. This Subsidiary Arrangement may be amended at any time through an Exchange of Letters signed by the Parties.

16. **ANTI-CORRUPTION**

- 16.1. Consistent with both Parties' commitment to good governance, accountability, and transparency, each Party reserves the right to investigate, directly or through its agents, any alleged corrupt, fraudulent, collusive, or coercive practices relating to the Activity.

17. **UNDERTAKING TO PREVENT FINANCING OF TERRORISM**

- 17.1. Both Parties are firmly committed to the international fight against terrorism and, in particular, the financing of terrorism consistent with United Nations Security Council (UNSC) regulations relating to terrorism, including UNSC Resolution 1373 (2001), 1267 (1999) and related resolutions.
- 17.2. Both Parties reaffirm their commitment to the principles of the International Convention for the Suppression of the Financing of Terrorism (New York, 9 December 1999).
- 17.3. The Parties will cooperate to ensure that no Activity funds are used, directly or indirectly, to provide support to individuals or entities associated with terrorism.

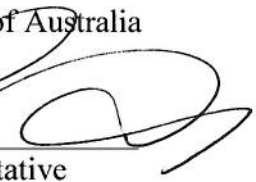
17.4. If, during the term of this Subsidiary Arrangement, either Party discovers an organisation or individual involved in the Activity is associated with terrorism, it will immediately inform the other Party.

18. COMMENCEMENT AND TERMINATION

18.1. This Subsidiary Arrangement will take effect on signature by both Parties.


18.2. Either Party may terminate this Subsidiary Arrangement by giving written notice of its intention to terminate to the other Party. In the event that written notice of termination is given, this Subsidiary Arrangement will terminate three months after the date that the other party receives that notice of the intention to terminate.

Signed at PORT VILA this 19th day of MARCH 2012

For the Government of Australia

Signature of representative

KATHERINE RUIZ-AVILA
Printed name of representative

CONSELLOR, AUSAID
Official title of representative

For the Government of Vanuatu

Signature of representative

MARK I. BEBE
Printed name of representative

DIRECTOR GENERAL - MICS
Official title of representative

