



## PACIFIC ISLANDS FORUM SECRETARIAT

### 2014 MEETING OF THE PACIFIC LEGISLATIVE DRAFTERS' TECHNICAL FORUM

Committee Room A, PIFS Conference Centre, Suva

9 – 11 April 2014

#### SUMMARY REPORT

1. From 9 – 11 April 2014, the Pacific Islands Forum Secretariat hosted the 2014 meeting of the Pacific Legislative Drafters' Technical Forum ('Drafters' Forum') in Suva, Fiji.
2. The meeting was attended by senior government lawyers responsible for legislative drafting, and parliamentary counsel, from the following Forum Island Countries: Cook Islands, Federated States of Micronesia (FSM), Kiribati, Palau, Papua New Guinea (PNG), Nauru, Republic of the Marshall Islands (RMI), Samoa, Tonga, Tuvalu and Vanuatu. The list of participants is attached at [Annex 1](#).
3. Also participating in the meeting were representatives from the Australian Attorney-General's Department and relevant regional and international organisations including: the Secretariat of the Pacific Islands Law Officers' Network (PILON); the Secretariat of the Pacific Community (SPC), specifically the Economic Development Division, the Regional Rights Resource Team (RRRT), and the SOPAC Deep Sea Minerals Project; the Secretariat of the Pacific Regional Environment Programme (SPREP); the University of the South Pacific (USP); the Secretariat of the Pacific Immigration Directors' Conference (PIDC); the International Federation of Red Cross and Red Crescent Societies (IFRC); and the Regional Office of the United Nations High Commissioner for Human Rights (UNOHCHR).
4. The meeting was opened by Ms Cristelle E. Pratt, Acting Secretary General of the Forum Secretariat. The opening statement is attached at [Annex 2](#).

#### **Objectives and structure of the meeting**

5. The overall objective of the meeting was to improve Forum Island Countries' ready access to high quality legislative drafting services, and in turn strengthen the rule of law in the Pacific region. In support of this objective, the meeting comprised the following 2 parts:
  - (a) **Part 1: Sharing of experiences and information in legislative drafting:** the objective of this part was to enable government lawyers to: share their respective approaches to providing legislative drafting services to their governments; learn about the range of regional assistance available for legislative development; and discuss priority issues and opportunities for regional cooperation in legislative development and drafting;
  - (b) **Part 2: Interactive training on legal policy development:** the objective of this part was to share and develop legislative drafters' skills in relation to legal policy development. The training was delivered by the Australian Attorney-General's Department.

6. The agenda of the meeting is attached at Annex 3.

### **Overview of Part 1 discussions**

7. During the course of Part 1, government representatives discussed: ways that legislation was developed and drafted in their countries; the resources that were available to governments for undertaking legislative development and drafting; and ways for strengthening legislative development and drafting in small jurisdictions.

8. Discussions indicated that some jurisdictions had recently enhanced their resources and processes for legislative drafting and publication of laws. For other jurisdictions, the allocation of dedicated resources for legislative drafting remains a challenge due to financial and human resource constraints. Participants highlighted the importance of governments allocating sufficient resources to support effective legislative drafting services.

9. Most jurisdictions noted the common and continuing practice of government ministries outsourcing legislative development and drafting (particularly in the context of donor-funded projects) and the common consequence of the outsourced legislation being drafted without appropriate reference to the particular context and circumstances of the relevant jurisdiction (including national constitutional and drafting requirements). Participants discussed ways to address these issues, including through enhancing oversight of outsourced work by the relevant government law office.

10. Government representatives also emphasized the importance of access to professional training to improve legislative drafting skills, noting that legislative drafting is a specialised area of legal practice. In this regard, participants expressed their strong interest in the proposal (including draft programme) by the Commonwealth Secretariat to convene a legislative drafting course, to be held from 23 – 27 June 2014 in Auckland, New Zealand, for Pacific government and parliamentary lawyers.

11. Government representatives shared national experiences of developing specific legislation in areas such as family protection, deep sea mining, and immigration. These discussions highlighted issues such as: the role of community consultation on new legislative proposals; the availability of assistance from regional and international organisations on specific policy issues; and the political context of legislative development.

12. Regional and international organisations also shared information on the types of assistance which they provide to Forum Island Countries in developing policies and laws in different areas including: human rights; maritime and environmental regulation; transnational and organised crime; facilitation of international assistance in disaster situations; intra-regional trade in goods and services; and deep-sea mining. Government representatives welcomed the opportunity to learn about these issues and the assistance provided by regional and international organisations. They also expressed interest in increasing opportunities for government lawyers to access more information and training on the legislative implications of these policy issues.

## **Overview of Part 2, Interactive training on legal policy development**

13. The Legal Policy Development course was delivered by Ms April Howley of the International Legal Assistance Branch of the Australian Attorney-General's Department. The training was selected on the basis that it addressed an issue raised by government lawyers at the 2012 meeting of the Drafters' Forum, being the need to improve the availability and quality of underlying policy for legislative proposals.

14. The course used 7 'policy steps' as a framework for understanding and describing the policy process: (1) obtain information to clarify the problem; (2) uncover, identify and understand stakeholders; (3) think ahead and plan the policy process; (4) create, develop and assess possible options to solve the problem; (5) outreach to stakeholders and decision-makers through consultation and communication; (6) make it happen – implement and deliver; and (7) evaluate and monitor whether the policy is producing the desired outcome.

15. Participants examined these steps in detail, and applied them to a hypothetical scenario of advising government on options for addressing sexual and gender based violence. While the '7 policy steps framework' applied to policy development generally, participants discussed its utility in supporting the development of legislation to address policy objectives.

16. Participants also developed individual Action Plans which identified how they could improve policy development in their own countries so as to support the development and drafting of legislation. They also prepared general messages for Pacific policy officers. These messages will be incorporated into the future delivery of the course in the Pacific by the Australian Attorney-General's Department to raise awareness of the needs and perspectives of legislative drafters in policy processes.

## **Priority areas for regional cooperation**

17. Participants discussed ways that legislative drafting services in Forum Island Countries could be supported through regional activities and proposed the following:

- (a) more regular meetings of the Drafters' Forum: participants recommended that the Drafters' Forum meet annually, rather than biennially, so as to maintain and strengthen their professional networks and increase the opportunities for information sharing between Pacific legislative drafters;
- (b) more opportunities for technically focused discussions: participants recommended that future meetings include sessions to discuss and seek peer review on specific draft bills (subject of course to governments' approving the sharing of draft bills in this way);
- (c) raising awareness of the importance of legislative development and drafting: participants considered that there needed to be greater awareness within governments and regional and international organisations (including development partners) of the process of

legislative development, and the importance of allocating sufficient and high quality resources to the important government function of legislative development and drafting;

- (d) more opportunities for training: participants emphasised their need for training, both in relation to the technical skills of legislative drafting, as well as on the subject matter of proposed legislation, for example, legal policy issues shared at the meeting such as deep sea mining and maritime and environmental regulation. Participants also emphasised the need for advanced legislative drafting courses to supplement the introductory level course offered by the USP; and
- (e) more opportunities for professional mentoring: participants suggested that options for professional mentoring of legislative drafters be explored, with a preference for in-country mentoring.

### **Next steps and conclusion**

18. The Forum Secretariat undertook to consider the above-mentioned proposals in more detail and further develop regional support for legislative drafters in Forum Island Countries. The Forum Secretariat further undertook to:

- (a) report on the meeting to the 2014 meetings of the Forum Regional Security Committee and PILON;
- (b) convey to the Commonwealth Secretariat the meeting's strong interest in its proposal (including draft programme) to convene a regional advanced legislative drafting course in New Zealand in June 2014; and
- (c) discuss with relevant organisations options for further developing advanced regional courses and other training opportunities.

19. Samoa offered to host the next meeting of the Drafters' Forum in 2015.

20. Participants expressed to the Forum Secretariat their appreciation for the organisation of the 2014 Drafters' Forum meeting. Participants also congratulated Ms Howley of the Australian Attorney General's Department for her excellent facilitation of Part 2 of the meeting.

Suva, Fiji  
April 2014