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c Islands Law Officers’ Network (PILON) Secretariat

Report on PILON Secretariat activities in 2011

The PILON Secretariat is pleased to welcome delegates to the 30th PILON Annual Meeting being hosted by the New Zealand Crown Law Office from 4 – 6 December 2010 in Auckland, New Zealand (30th PILON Meeting). The theme ‘Legal Challenges and Strategies to Enhance Pacific Sustainable Economic Development’ and program for the meeting will enable delegates to consider legal and regulatory issues and share experiences, challenges and initiatives across common sectors relevant to sustainable economic development in the Pacific.

The Secretariat has undertaken a range of activities during 2011. At the 29th PILON Meeting held in Australia in December 2010 (29th PILON Meeting), the Secretariat was given the responsibility of advancing a number of work items and projects. In addition, Members agreed to take action in certain areas, including legislative reform where appropriate. An update on these activities is provided in this report.

Report on 2011 Secretariat Work Plan

1. Technical Legal Assistance - Database

At the 29th PILON Meeting the Secretariat was tasked to make available a document to PILON members, outlining technical legal assistance programs and initiatives available to PILON member countries and contact details of technical legal assistance providers.

Throughout 2011, the Secretariat has conducted research and liaised with observer members and other regional and international organisations to gather information regarding relevant programs and initiatives. This has been a productive exercise, both in terms of obtaining comprehensive information regarding a broad range of assistance available, and also in strengthening contact between the Secretariat and organisations offering technical assistance.

The final document recently produced, outlining technical legal assistance programs and initiatives available to Members, takes the form a ‘database’. The document is available via a dedicated page on the PILON website or on request from the Secretariat. The database categorises programs and
initiatives under relevant sectors, outlines details of the type of assistance available, and provides eligibility and contact details.

As part of this process, the Secretariat has also compiled and made available on the PILON website a database of model legislation. This was considered a useful extension to complement the technical assistance database, and it was noted in previous PILON meeting reports that this proposal had been discussed by Members in the past.

The PILON Secretariat will continue to maintain and update the technical assistance database, and circulate information to Members in relation to relevant opportunities in this regard. Feedback on the structure or contents of the database is welcome. Observer members and invited meeting observers are also encouraged to provide information to the Secretariat regarding programs or initiatives offered.

2. Transition to an independent Secretariat

Completion of the transition of the PILON Secretariat and establishment of an independent office in Apia, Samoa has been a significant focus of the Secretariat’s work during 2011.

Tracey White commenced as Secretariat Coordinator in Apia in late January 2011. An officer of the Australian Attorney-General’s (AGD) Department visited Samoa for two weeks at this time to conduct a handover, meet with stakeholders and assist with initial arrangements. During the early stages of the year, the Secretariat worked with the Samoan Office of the Attorney General (SOAG) and the AGD to establish financial process arrangements and approval processes. The involvement of both offices has continued throughout the year, in relation to the required financial and approval processes and also in offering general support and assistance in setting up the Secretariat office.

Mace Neve joined the Secretariat as Assistant Coordinator in October 2011. Mace will work with the PILON Secretariat for 12 months under the Australian Youth Ambassadors for Development (AYAD) volunteer program.

The office space for the PILON Secretariat has been established within the Secretariat of the Regional Environment Programme (SPREP) premises.

3. PILON Secretariat funding options and arrangements

At the 29th PILON Meeting, following a presentation on future funding options for the PILON Secretariat, PILON members agreed that New Zealand would prepare, in consultation with Samoa and Australia, a paper for the 30th PILON Meeting on the following matters:

(a) identifying sustainable future funding sources for the PILON Secretariat post-2012
(b) inquiring into the future legal status of the PILON Secretariat and whether current arrangements are sustainable, and
(c) the future roles and functions of the PILON Secretariat.

The Secretariat was tasked with working with New Zealand, Samoa and Australia on this matter.
This working group discussed and compiled information regarding each of the three issues during 2011. The Secretariat assisted New Zealand Crown Law to compile a discussion paper, which was circulated to Members providing the relevant background information and seeking feedback on each issue. The discussion paper is included in the papers for the 30th Meeting, and is the basis of the discussion proposed for Day 2 of the Meeting.

4. Regulation – Environmental and Resource Management

At the 29th meeting, Members heard presentations regarding legal frameworks and initiatives for addressing corruption in the Pacific. This included discussion regarding the links between environmental crime and corruption. Members agreed to note these links, and the significant impact of corruption and environmental crime in the Pacific region, in particular as an impediment to economic growth. The PILON Secretariat was tasked to report back on best practices on regulation with respect to environmental and resource management.

The PILON Secretariat prepared a discussion paper on this issue, which has been distributed to PILON members in the papers for the 30th Meeting, for consideration out of session.

The paper discusses environmental crime and corruption with specific reference to three areas of relevance to the Pacific region: illegal, unregulated and unreported fishing; illegal logging; and illegal trade in protected flora and fauna. The paper focuses on the enforcement of laws relating to environmental regulation. Through this analysis, the paper recommends measures to build upon and utilise existing legal frameworks and enforcement approaches. This includes reform of penalty and sentencing options for environmental offences, targeting the enabling offences such as corruption and money-laundering, and facilitating and adopting a collaborative approach to enforcement through both inter-agency and regional cooperation.

Members are encouraged to send their comments on the discussion paper to the PILON Secretariat.

5. Extradition requirements

Extradition standards and procedures between Pacific Island countries has consistently been a key issue considered by PILON Members at previous Annual Meetings. Specific consideration of this issue at the 2007 and 2008 Annual Meetings resulted in a commitment by Members at the 2008 Meeting to:

“encourage their governments to consider ways in which the extradition process between their countries could be streamlined and expedited to:

- further harmonise evidential requirements to extradite a person, noting that most members prefer a move to a backing of warrants procedure or the no evidence standard
- harmonising grounds of objection to extradition applications, and
- exploring options to reduce or share the burden of extradition costs”.

At the 29th Meeting in 2010, the PILON Secretariat reported on progress in harmonising and streamlining extradition procedures between PILON members, since 2008. Members noted the
progress by some Pacific island countries in this regard, but also noted the lack of progress in most Pacific island countries.

The Secretariat was tasked to periodically remind Members of these commitments. This was carried out by including occasional reminders in the Secretariat’s monthly emails to Members, including in relation to the technical assistance available in this area.

It is recommended that, to maintain focus on this issue, the Secretariat work plan in 2012 again include periodically reminding Members of commitments to streamline and expedite extradition requirements between PILON member countries; and to work with Members to prepare an update for the 31st Meeting on efforts made in this regard.

6. PILON – Advanced Litigation Skills Programme

Members tasked the PILON Secretariat at the 29th Meeting to liaise with the organisers of the PILON Litigation Skills Programme - New Zealand Crown Law - and explore collaboration opportunities, and keep PILON members updated as to the status of the proposed Advanced Litigation Skills Programme.

New Zealand Crown Law confirmed in August 2011 that a dedicated pilot Advanced Litigation Skills Programme will be held in Auckland on 19th – 23rd March 2012. The Advanced Programme is limited to 16 participants, with a criterion of over six years of practical experience to qualify for participation. A positive response to the call for nominations from PILON members was received, and preparations for the March 2012 Programme are underway.

The Secretariat has liaised with New Zealand Crown Law in this regard and assisted with distribution of information to Members regarding the Advanced Litigation Skills Programme. The Secretariat will continue to do so, and keep PILON members updated regarding the Programme.

7. Legislative Responses – Gender based and domestic violence

At the 29th Meeting, following presentations and discussion regarding violence against women, Members noted that this remains a significant issue in the Pacific region. Members committed to continuing to support efforts to combat violence against women and improve access to justice for victims of sexual and family violence. Members agreed to encourage efforts to improve and update legal frameworks, and include a report on what progress has been made in regards to violence against women in country reports at future PILON meetings.

The PILON Secretariat was tasked with seeking periodical updates from PILON members on legislative responses to gender based and domestic violence.

Several PILON Members provided information in response to the Secretariat’s requests for updates, which was then circulated to other Members. Tonga, Australia, New Zealand and Samoa have each reported positive and ongoing progress in this area.
Further details regarding efforts to improve and update legal frameworks in relation to violence against women will be presented by Members in their country reports.

8. Hague Family Conventions

At the 29th Meeting, the Secretariat was tasked to continue to offer a coordination point for those PILON members interested in becoming a party to one or more of the Hague Family Conventions, and to liaise with the New Zealand Ministry of Justice where appropriate.

The Secretariat has not received any expressions of interest this year, however proposes that this coordination role can continue to be offered in 2012.

9. PILON and Pacific Law Ministers’ Forums

The Secretariat was tasked at the 29th Meeting to coordinate with Australia and New Zealand to investigate options for developing the relationship between PILON and Pacific Law Ministers’ forums, and work in consultation with PILON member countries and the Pacific Islands Forum Secretariat (PIFS) to do so.

The Secretariat has liaised with the Australian Attorney General’s Department and PIFS throughout the year in relation to this proposal. Progress has been made in compiling an options paper. The Secretariat will continue to work with Australia and New Zealand, in consultation with PILON member countries, in relation to this proposal.

10. Pacific Prosecutors’ Association and the Pacific Legislative Drafters Forum

At the 29th Meeting, Members were provided an update on the activities of the Pacific Prosecutors’ Association (PPA) and the Pacific Legislative Drafters Forum (“Forum”). The PILON Secretariat was tasked to provide secretariat support to the PPA and the Forum for an initial period of one year in collaboration with these two organisations.

The PILON Secretariat attended the Pacific Prosecutors’ Conference in Vanuatu in May 2011. A summary of the Conference is provided below. The Secretariat was not actively involved in the organisation of the Conference.

Arrangements have commenced for the 2012 Pacific Prosecutors’ Conference, with the PPA Executive Committee recently confirming that the Solomon Islands’ Office of the Director of Public Prosecutions (ODPP) will host the meeting. The PILON Secretariat has been in contact with the ODPP in relation to preliminary arrangements for the Conference.

The offer of secretariat support has not been called upon by the Pacific Legislative Drafters Forum.

The Secretariat remains willing to provide secretariat support to either organisation, should there be interest from the organisations or PILON Members in the Secretariat continuing to be tasked to do so in 2012.
11. Other matters

Other Issues – 29th PILON Meeting

Several issues discussed by Members at the 29th Meeting were the subject of specific recognition in the meeting communiqué or outcomes report as issues which Members noted or agreed to support; however were not ‘actionable’ as such through a specific follow-up activity in the 2011 Secretariat Work Plan. These issues included the negotiation of an international Arms Trade Treaty, the Pacific Transnational Crime Assessment and negotiation of the Niue Treaty Subsidiary Agreement in relation to the exchange of fisheries law enforcement data.

The PILON Secretariat has attempted to follow through on these issues given particular recognition, by providing updates or reporting back through email or website news items. The PILON website now contains an update summary on each of the above issues. The Secretariat therefore wishes to highlight the potential for this website function to be used as a further information-sharing tool and resource for Members in relation to areas of interest or importance for PILON.

Niue Treaty

The Chair of the Niue Treaty Subsidiary Agreement (NTSA) Drafting Group has provided a report of progress made towards development of a draft Agreement. The report has been provided as the Drafting Group’s program of work includes a plan for the Chair to engage with and update organisations including PILON on the progress of this work, as part of efforts to ensure adequate consultation and coordination. As a representative from the Forum Fisheries’ Agency (FFA) Secretariat was unable to attend this year’s PILON Meeting, the Chair’s report on the NTSA Drafting Group is included for consideration and discussion as an attachment to the PILON Secretariat Report.

The Chair’s report outlines that significant progress has been made, and notes that the participation of legal officers from a variety of government agencies has contributed significantly to the work of the Drafting Group. A first draft of the text of the Agreement, based on agreed drafting instructions, is being prepared by the FFA and the Chair of the Drafting Group, to present at the next meeting in 2012.

The Drafting Group invites PILON to note the update; and also indicates that feedback from PILON or the attendance of a PILON representative at its meetings is welcomed, noting in particular the key role that will be played by legal officers in establishing effective domestic legal frameworks to give effect to many aspects of the NTSA.

The Secretariat requests that PILON Members consider the update provided and the Drafting Group’s interest in PILON involvement. The Secretariat proposes that PILON confirm its’ support of and interest in the work of the Drafting Group, and consider two options for PILON involvement in this process. Firstly, by the Secretariat coordinating PILON’s involvement through circulating reports provided by the Group, and providing specific responses or feedback on behalf of PILON where this is requested; or alternatively or additionally, through attendance at Drafting Group meetings.
In addition to other items which are identified through the course of the Meeting for inclusion in the PILON Secretariat Work Plan for 2012, the Secretariat proposes the development of a Strategic Plan as a particular task Members may wish to consider including in the Work Plan.

This is an initiative which has been considered by and endorsed by Members in the past. Reference was included in the PILON Charter - Article 6 requires the Secretariat to facilitate the implementation of resolutions passed by PILON in accordance with the PILON Strategic Plan and annual Work Plan. Development of a Strategic Plan was endorsed at the 26th PILON Meeting in 2007, including the following areas:

- law and justice sector capacity building, training, mentoring and continuing education
- good governance measures in coordination with the work of regional organisations and member countries, including legislative developments
- implementation of commitments of Pacific Islands Forum Leaders’ Meetings, including the Honiara Declaration and the Nasonini Declaration
- identification of short, medium and longer term priorities for PILON
- a focus on the particular vulnerabilities of Small Island States in the Pacific, including legal issues relating to climate change, and
- improving information sharing among member countries.

The 27th Meeting Outcomes Report sets out that ‘developing a regional legal policy agenda for PILON’ was discussed, to feed into a future strategic plan.

Following completion of the transition process and an increase in capacity of the Secretariat office, it is proposed that in 2012 the Secretariat is tasked with the development of a draft Strategic Plan for PILON, to be considered and finalised by Members at the 31st PILON Meeting. Should Members support this proposal, feedback is also welcomed regarding the recommended process for development of the draft Plan – for example, through a specific Working Group facilitated by the Secretariat, a general survey of Members, or in conjunction with the Executive Committee.

Representation of PILON at Regional Meetings

The Secretariat’s work plan in 2011 also required representation of PILON at key regional forums, meetings and workshops. A description of some of those meetings and workshops is given below. The Secretariat is able to provide additional details on request. Additionally, the Secretariat has commenced including a summary of the main outcomes of the meetings and workshops attended on behalf of PILON in the ‘news’ section of the PILON website, and will continue this practice during 2012.

1. Forum Regional Security Committee

The PILON Secretariat attended the Forum Regional Security Committee (FRSC) at the Pacific Islands Forum Secretariat (PIFS) in June 2011. The Secretariat Coordinator provided an update on PILON
activities at the meeting, and outlined progress made in the transition to an independent Secretariat office. An overview of outcomes from the 2010 PILON Meeting and the Secretariat’s proposed work plan in 2011 was provided. The Secretariat highlighted areas of common interest to the FRSC and PILON – including implementation of the Honiara and Nasonini Declarations, initiatives for strengthening the regional fisheries legal framework, harmonisation of extradition legislation, and sexual and gender based violence - arising in particular through the focus on, and Members’ resolutions in relation to, regional security and governance issues at the 2010 PILON Meeting. The Secretariat expressed appreciation on behalf of PILON for the opportunity to engage with the FRSC to continue to identify and promote legislative responses to regional security issues.

The Secretariat Coordinator also represented PILON at a pre-FRSC meeting held in March, 2011. The purpose of the pre-FRSC meeting was for the organisations contributing to the 2011 Pacific Transnational Crime Assessment (PTCA) to provide an update regarding their recent activities and initiatives forming the basis of their report to be included in the PTCA. Although PILON does not contribute text to the PTCA, through meeting participation the Secretariat contributed to discussion and identification of priority areas to be highlighted for the FRSC in the PTCA.

An issue of specific note in the 2011 PTCA presented at the FRSC meeting is “Legislation”. This is highlighted as a problematic area consistently identified by regional law enforcement secretariats, with gaps in specific jurisdictions reported in areas such as money laundering, organized crime groups, counterfeit goods/ IP rights and human trafficking and people smuggling. The 2011 PTCA report identifies that improved coordination by national law enforcement agencies to identify legislative areas of concern; commitment by PICs to introduce, provide training and implement new legislation; and donor support in this area (such as that offered through PIFS and the Australian AGD Pacific Section) continues to be required.

2. Working Group on Strengthening Information Management

The PILON Secretariat Coordinator attended the Working Group for Strengthening Information Management (WGSIM) meeting in March 2011. PILON is a member of the WGSIM, which is chaired by PIFS. The meeting was attended by representatives of organisations including the Pacific Immigration Directors’ Conference Secretariat, Oceania Customs Organisation, Pacific Islands Chiefs of Police Secretariat, Forum Fisheries Agency, New Zealand Police and Customs, and Australian Federal Police. The meeting was an important step in advancing the work of WGSIM, to prepare to report back to the FRSC outlining the Working Group’s activities and proposed initiatives. The PILON Secretariat provided an update of PILON’s activities and the progress of the PILON transition.

At the subsequent FRSC Meeting, the Chair of the WGSIM presented:

- a preliminary stocktake document of current Information Management and Intelligence Structures operating in the region;
- a proposed Programme of Work endorsed by the Working Group;
- National Best Practice Guidelines for Information Management and Sharing; and
- a background fisheries paper, on the law enforcement aspects related to the Niue Treaty Subsidiary Agreement Negotiation.
The WGSIM programme of work endorsed by the FRSC leading up to the 2012 meeting includes activities building upon the above best practice guidelines, further development of regional law enforcement information sharing resources, and activities building domestic capacity and understanding of information management. In relation to fisheries, the WGSIM will continue its work focusing on the integration of fisheries data for wider law enforcement activities.

3. Pacific Prosecutors’ Conference

The Vanuatu Public Prosecutors’ Office hosted the 2011 Pacific Prosecutors’ Conference in Port Vila on 30th May - 1st June 2011. The theme of this years’ conference was “An inclusive criminal justice system: giving due recognition to our cultural processes”.

The conference was attended by prosecutors from the Cook Islands, Kiribati, Samoa, Solomon Islands, Tonga and Vanuatu. Presentations on the conference theme – including those given by representatives of USP, the Public Prosecutors’ Office of Vanuatu, NZ Crown Law, the Victorian Koori Court, and French Polynesia’s Public Prosecutors’ Office – led to open discussion regarding attendees’ experiences, shared issues or constraints, and opportunities. The PILON Secretariat also provided an update regarding recent activities of significance to the Pacific Prosecutors’ Association.

4. Pacific Islands Chiefs of Police Conference (PICP)

The PILON Secretariat attended the 40th Annual Meeting of the Pacific Islands Chiefs of Police (PICP), held in Pohnpei, Federated States of Micronesia on 23 - 25 August 2011. The theme of the conference was “Urban Drift – Policing moving populations”.

The Conference was attended by Police Chiefs from around the Pacific. In addition to representatives of the PICP Secretariat, representatives from the Australian Federal Police, New Zealand Police, Pacific Islands Forum Secretariat, Pacific Police Domestic Violence Programme, Oceania Customs Organisation, and the Pacific Immigration Directors Conference Secretariat were also in attendance.

The PICP Secretariat provided briefings on activities conducted by and involving the Secretariat over the past year. Project updates discussed included:

- **Pacific Patrol Boat Project**: The Secretariat reported that the PICP’s Intelligence and Exhibit Handling workshop has now been delivered to all Police-led Pacific Patrol Boats. A PICP Investigator Aide pocket booklet has also been produced and will now be distributed to Pacific Patrol Boat operators. The booklet will provide a practical field reference on conducting investigations at sea, covering statement taking, evidence handling and intelligence.

- **Criminal Deportees Project**: The PICP Secretariat continues to work with Pacific Island Countries and PIFS to develop a regional approach to this issue. The Secretariat also reported progress made by individual countries to identify ways to improve capability to deal with criminal deportees; including agreement being reached to improve criminal deportee legislation in Tuvalu, Kiribati and FSM, and guidelines and policies on deportees from Samoa being adapted for use in these countries.
• Pacific Forensic Working Group (PFWG): The PICP is involved in this Working Group, which has overall responsibility for forensics in Police services in PICs. The needs identified by the Working Group form the basis of the activities of the AFP’s Pacific Police Development Program (PPDP). In 2010 - 2011 the PPDP activities have included the refurbishment of forensic laboratories in Samoa and Tonga, with upcoming laboratory training to be delivered; fingerprint training in PNG and the Solomon Islands, and a crime scene introduction course in Palau.

The PILON Secretariat provided an update (together with other meeting observers) regarding PILON activities over the past year of relevance to the PICP.

A representative from the PICP will also attend the 30th PILON meeting as an invited observer.

5. Commonwealth Law Ministers’ Meeting

The PILON Secretariat was fortunate to receive an invitation to attend the 2011 Commonwealth Law Ministers’ Meeting (CLMM) as a meeting observer. The CLMM was hosted by the Australian Attorney-General’s Department and held in Sydney from 12-14 July 2011. Law Ministers and Attorneys-General from 44 countries attended the meeting. A Senior Officials of Law Ministries meeting was held prior on Monday, 11 July 2011, the results of which fed into the CLMM.

The theme of the meeting was ‘Fostering a just and secure Commonwealth’. A formal communiqué was concluded, providing a summary of issues discussed and outcomes of the meeting.

Mr Akbar Khan, Director of the Legal and Constitutional Affairs Division of the Commonwealth Secretariat, will attend the 30th PILON Meeting and provide an update on Day 2 as part of the Observer Members’ update regarding the legal work of the Commonwealth Secretariat over the past year.

6. Legal Preparedness for International Disaster – Proposed Model Law

The International Federation of Red Cross and Red Crescent Societies (IFRC) presented at the 28th PILON Meeting in 2009 on its Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and International Recovery Assistance (“the Guidelines”). The guidelines provide recommendations for governments on how to prepare disaster plans for the common regulatory problems in international disaster relief operations. PILON member countries were encouraged to contact the IFRC if their governments were interested in reviewing their existing frameworks, discussing gaps in their legislation and identifying potential priorities in disaster relief legislation.

The IFRC contacted the PILON Secretariat in 2011 in relation to a proposed model law designed to assist states to integrate the recommendations of the Guidelines into their national laws. An invitation was extended to an experts’ meeting to review the draft Model Act for the Facilitation and Regulation of International Disaster Assistance, prior to presentation to the Red Cross International Conference in late November 2011. As the PILON Secretariat was unavailable to attend, a representative from the Executive Committee was sought. New Zealand attended the experts’ meeting on behalf of PILON.
Links to the draft Model Act and the report from the expert meeting are provided on the PILON Website. The PILON Secretariat will keep Members’ updated in relation to the progress of the model legislation.

Financial Statement

Under the established financial arrangements, the Secretariat is required to provide an audited annual financial statement, detailing all expenditure, in the PILON Secretariat Report.

The Samoan Ministry of Finance has advised that as the PILON account has been established for less than 12 months, it is unable to conduct an audit. Instead, a financial statement, detailing all expenditure and signed by the Ministry of Finance has been provided. This material is attached.

Thank you

The PILON Secretariat would like to thank the PILON Executive Committee for their support and guidance during 2011.

Particular thanks are due to the Australian Attorney-Generals’ Department for their generous assistance with the transition of the Secretariat office and considerable support throughout the year.

Thank you also to the Samoan Office of the Attorney General, for assuming the additional responsibilities in hosting the Secretariat in a generous, welcoming and patient manner.

The Secretariat would also like to acknowledge and thank AusAID for enabling those delegates who required funding assistance to attend this year’s meeting in Auckland. This support is greatly appreciated by PILON.

Thank you also to the New Zealand Crown Law Office and its staff for organizing and hosting the 30th Meeting. The Secretariat appreciates the considerable time and effort you have put into this meeting and recognises the crucial role played by host countries in organising these meetings each year.

Finally, thanks go to PILON Members for their involvement and encouragement throughout 2011. We look forward to continuing to work with you in 2012.