



**Pacific Islands Law Officers' Network Annual Meeting
Outcomes Report
5-9 December 2008, Port Vila**

The Chair, the Crown Law Office of New Zealand, convened the 27th Pacific Islands Law Officers' Network (PILON) annual meeting from 5-9 December 2008. The meeting was co-hosted by New Zealand and Vanuatu with financial support from New Zealand's Pacific Security Fund.

Representatives were present from Australia; Cook Islands; Federated States of Micronesia; Fiji; Kiribati; Nauru; Niue; New Zealand; Palau; Papua New Guinea; Samoa; Solomon Islands; and Vanuatu. Apologies were received from the Marshall Islands, Tonga and Tuvalu. Gratitude was expressed for financial support AusAID provided to facilitate the attendance of seven delegates from Pacific island countries.

The following observer members also attended: the Commonwealth Secretariat; International Committee of the Red Cross; Pacific Islands Forum Secretariat; Pacific Islands Maritime Law Association; Pacific Legal Information Institute (PacLII); and Secretariat of the Pacific Community. The United Nations Office on Drugs and Crime (UNODC) observed the meeting.

This report summarises the outcomes of discussions at the meeting. It is the official record of meeting resolutions and a summary of key discussions. Documents relating to the meeting are available on PILON's website at www.pilonsec.org or otherwise from the Secretariat at pilon.secretariat@ag.gov.au.

A. Opening address

The Deputy Prime Minister and Minister for Justice of Vanuatu, the Hon Ham Lini Vanuaroroa, opened the meeting with an official address to PILON members.

B. PILON governance issues

The Chair provided an overview of the outcomes from the 26th annual meeting in Rarotonga in December 2007. The Secretariat provided an overview of PILON's Charter, Rules of Procedure, and progress with Work Plan items.

Secretariat activities

The Secretariat advised that it had attended the following meetings on behalf of PILON members: UNODC Counter-Terrorism Workshop (Suva, June 2008); Forum Regional Security Committee meeting (Suva, June 2008); 2008 Meeting of Chief Prosecutor Agencies (Sydney, June 2008); and Pacific Islands Chiefs of Police Conference (Samoa, September 2008).

Model legislation

The Secretariat encouraged members and observers to send the Secretariat model legislation they have developed to enable the Secretariat to establish a database of model legislation for members.

Secretariat Hosting

The Secretariat advised on its current arrangements as the interim host in the Australian Attorney-General's Department. The Secretariat advised that it had so far been unsuccessful in securing donor support for a permanent independent Secretariat.

Members thanked Australia for its support to the interim Secretariat and noted Australia's willingness to continue these arrangements for the next year. Members reaffirmed their commitment to the eventual establishment of a permanent Secretariat in the Pacific islands, but acknowledged this was contingent upon resolving the funding issues.

The Pacific Islands Forum Secretariat advised that it is investigating options for new donor funding in support of regional legal cooperation which may be able to extend to support for a permanent PILON Secretariat. With this in mind, members agreed that the PILON Secretariat work with the Forum Secretariat and other potential partners to develop an arrangement to transition to a permanent Secretariat by the 28th meeting. Members authorised the Executive Committee to approve such an arrangement out of session should funding become available to support it.

C. International Criminal Court – Pacific model law

Members noted the Secretariat's presentation on assistance available to accede to and implement the Rome Statute of the International Criminal Court (ICC).

The International Committee of the Red Cross presented on developments with the ICC and encouraged accession. Samoa and Cook Islands gave presentations on why those jurisdictions had become parties to the Rome Statute and discussed implementation issues.

Members discussed issues relating to ICC membership and Article 98 agreements. Members noted that the Pacific model law could be amended to facilitate a request for arrest and surrender of a person if an Article 98 agreement is in place in a country.

D. Extradition and mutual legal assistance

Members noted the Secretariat's presentation on extradition and mutual legal assistance. Members discussed:

- implementation of the Honiara Declaration and the importance of reciprocity if lowering evidential standards
- reasons for the low usage of extradition within the Pacific including the practice of deportation, and
- other barriers to extradition, including transfer costs requesting countries generally bear and the lack of extradition expertise.

Members agreed 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.

Members noted that:

- technical assistance to amend extradition legislation is available through the Australian Attorney-General's Department, Pacific Islands Forum Secretariat and UNODC, and
- assistance may be available for particular requests through early contact with the other country's extradition central authority.

Members agreed for the Secretariat to report to the 2009 Forum Regional Security Committee and the 28th meeting on progress members have made to harmonise evidential standards.

E. International transfer of sentenced persons

Members noted the discussion paper the Secretariat presented on the international transfer of sentenced persons. Members discussed the historically low demand for prisoner transfer in the Pacific, however noted the importance of having legislative frameworks in place.

Members agreed to consider the merits of participation in a multilateral scheme such as the Council of Europe's *Convention on the Transfer of Sentenced Persons* to which Australia and Tonga are parties. Australia will explore whether it is possible for the

Council of Europe to invite interested PILON member countries to join the Convention as a group and report back to the 28th meeting.

F. Traditional Knowledge

Members noted a presentation the Pacific Islands Forum Secretariat delivered on traditional knowledge issues, including progress on adoption of the Pacific Model Law for the Protection of Traditional Knowledge and Expressions of Culture (2002). The Forum Secretariat will continue to inform PILON of developments in this area.

G. Cluster munitions

Members noted a presentation New Zealand and the International Committee of the Red Cross delivered on the importance of the *Convention on Cluster Munitions*. Members noted that Australia, Cook Islands, Fiji, Nauru, New Zealand, Palau and Samoa signed the Convention at the signing ceremony on 3 December 2008.

H. Resources available to meet Pacific legal research needs

Members noted a presentation PacLII delivered on the services it provides to law officers in the Pacific. Members discussed the crucial role that PacLII's services play in enabling Pacific law officers to research cases and legislation in their everyday work, including the desirability of access to commercial legal databases through the Pacific Legal Gateway. Members also noted the funding constraints PacLII is required to work within in providing its services.

Members expressed their strong support for PacLII and endorsed an approach to development partners for PacLII to be able to provide more comprehensive and additional services to Pacific law offices. Members also:

- emphasised the importance of securing adequate resources to facilitate the expansion of the Pacific Legal Gateway to all Pacific island countries
- endorsed the concept of memoranda of understanding between PacLII and member governments to establish systems to provide PacLII with legal database content, and
- encouraged PacLII to deepen its engagement with the private sector.

I. Pacific legal training, capacity building, exchange and attachment opportunities

Members discussed opportunities for legal training, capacity building, exchange and attachment activities and needs in the region. Members noted that there is a range of such activities available in the region and internationally and potential for new programs to overlap with or duplicate existing activities.

Members requested the Secretariat to conduct a stock-take of current legal training, secondment, exchange and attachment activities relevant to Pacific island law officers. Members requested that the Secretariat use this material to develop a

proposal for it to become a coordination point in the region on professional development for Pacific island country law officers (including those who work in state funded law offices).

Members agreed to provide the Secretariat with information about their preferences for training, exchange and attachment activities to inform the thinking on a future proposal.

PILON Litigation Skills Programme

Members discussed the PILON Litigation Skills Programme (LSP) 2008 and the Past Participants' Survey, as well as opportunities for devolution and Pacific coordination.

Members:

- expressed strong support for the LSP as an important and effective component of continuing legal education for government law officers in the Pacific
- thanked the New Zealand Crown Law Office and NZAID for the support of LSP and encouraged them to continue to provide such training over the short to medium term
- requested that the Secretariat provide a coordination point to liaise with New Zealand and other potential donors which may be able to assist to support and/or further develop specialist legal subjects for LSP in the future, and
- noted that there was little support for devolution of the LSP to the region, but acknowledged a possible future role for the Secretariat in providing some measure of support for the LSP.

J. Proposed Pacific Prosecutors' Conference and Pacific Prosecutors' Forum for 2009

Members noted Australia's presentation on the Australian Commonwealth Director of Public Prosecutions' (CDPP) Pacific Prosecutors' Forum in 2009 for Pacific heads of prosecution agencies.

Members noted Samoa's proposal for an initial conference for prosecutors from Pacific island countries to consider issues of specific relevance to them in the region, and past activities to establish a Pacific prosecutors' network or association.

Members agreed to:

- an initial conference for prosecutors from Pacific island countries to meet to discuss issues relevant to them, including the establishment of a Pacific prosecutors' network or association

- Samoa developing an agenda for the initial conference in consultation with the Secretariat, and
- the Secretariat working with Australia, Samoa and other donors to determine the best opportunities to support an initial conference.

Members requested that the outcomes of the initial conference be discussed, if possible, at the Pacific Prosecutors' Forum in 2009, and for further consideration of the direction of the conference and/or network at the 28th meeting.

K. Proceeds of crime issues

Members noted Australia's presentations on proceeds of crime management and discussed relevant Pacific cases and challenges in taking proceeds of crime action. Members also noted the importance of sharing Pacific jurisprudence on proceeds of crime matters.

L. Country reports

Members provided country reports to the Secretariat for publication on the PILON website. Members endorsed the importance of country reports for information sharing and identification of common themes and challenges in the region.

M. Samoa Law and Justice Plan

Members welcomed Samoa's presentation on its Law and Justice Sector Plan.

N. Developing a regional legal policy agenda for PILON

Members discussed the relevance of legal issues relating to climate change in the Pacific and expressed an interest in that issue being a long term priority and a potential topic for discussion at future meetings.

The Secretariat will assess country reports presented at this meeting to identify further medium to long term issues for discussion at the 28th meeting. The development of the regional legal policy agenda will feed in to a future strategic plan.

O. Technical assistance presentations

Members noted presentations the Australian Attorney-General's Department and the UNODC gave on the assistance programs available to Pacific island law offices.

P. Observer presentations

Members noted observer member presentations involving activities of the Pacific Islands Forum Secretariat, Secretariat of the Pacific Community, Pacific International Maritime Law Association and Commonwealth Secretariat.

Members welcomed UNODC as an observer member.

Q. Model legal professional conduct rules for the Pacific

Members noted the Secretariat's presentation on behalf of the South Pacific Bar Secretariat proposing a feasibility study into developing model legal professional conduct rules for Pacific island countries. Members endorsed in principle the South Pacific Bar Secretariat undertaking the study.

R. South Pacific Precursor Control Forum

Members noted a presentation Australia delivered on the South Pacific Precursor Control Forum (SPPCF), noting in particular the SPPCF Legal Workshop in Samoa in September 2008.

Members agreed to:

- support the work and future activities of the SPPCF, and
- note the importance of the United Nations Drug Conventions and encouraged member governments not party to consider accession.

Members note that assistance is available from the Pacific Islands Forum Secretariat, UNODC, and the Australian Attorney-General's Department to support reforms to drug control policies or legislation.

S. Model Law Relating to International Assistance in the Event of Terrorist Emergencies

Members noted New Zealand's presentation on the regional framework and Model Law Relating to International Assistance in the Event of Terrorist Emergencies and acknowledged that the Working Group on Counter-Terrorism will be reviewing implementation of the framework at its 2009 meeting.

T. Executive Committee

Members agreed that the Executive Committee comprise representatives from New Zealand, Samoa, Kiribati and Fiji.

U. Twenty-eighth meeting hosting

Members gratefully accepted Samoa's offer to host the 28th PILON annual meeting. The Secretariat will work with Samoa to identify suitable dates to hold the meeting and seek to provide members with early advice on when it will be held.

V. Other business

- Members noted a request from the Pacific Islands Chiefs of Police (PICP) Secretariat to the Secretariats of PILON, Pacific Islands Forum and the Pacific Community to consider the legislative implications of the Pacific Patrol Boat Project for Pacific island countries.

- Members recognised that the negotiation of maritime boundaries is important to Pacific island countries. Members tasked the Secretariat to contact SOPAC to ascertain assistance available for capacity building in relation to the legal aspects of such negotiations. Members requested the Secretariat to report back by the 28th meeting or earlier if possible.
- Members noted New Zealand's suggestion that private international law issues, in particular the Hague Conventions on Child Adoption and Inter-country Child Abduction be considered for discussion at the 28th meeting.
- Members noted the Secretariat's suggestion that consideration be given to measures to promote greater awareness of Pacific issues and PILON's role in relation to those issues within international forums.