



**Pacific Islands Law Officers' Network 30th Annual Meeting
Outcomes Report
4 – 6 December 2011, Auckland, New Zealand**

The Chair, Solicitor-General of New Zealand, Dr David Collins QC, in conjunction with Professor Paul Rishworth of the University of Auckland, convened the 30th Pacific Islands Law Officers' Network (PILON) Annual Meeting from 4 to 6 December 2011 in Auckland, New Zealand.

PILON member countries represented at the meeting included Australia, Cook Islands, Fiji, Kiribati, Nauru, New Zealand, Niue, Papua New Guinea, Palau, the Republic of the Marshall Islands, Samoa, Solomon Islands, Tonga, and Vanuatu. Apologies were received from Tuvalu.

Gratitude was expressed for financial support from AusAID who provided funding to facilitate the attendance of six delegates from Pacific Island countries.

The following observer members also attended: International Committee of the Red Cross (ICRC); Pacific Islands Forum Secretariat (PIFS); Pacific International Maritime Law Association (PIMLA); Secretariat of the Pacific Community (Regional Rights Resources Team (RRRT)); Secretariat of the Pacific Regional Environment Program (SPREP); United Nations Office on Drugs and Crime (UNODC) and the University of the South Pacific (USP).

Representatives from the Pitcairn Islands, the Pacific Islands Chiefs of Police Secretariat, Pacific Immigration Directors' Conference Secretariat, the South Pacific Lawyers' Association (SPLA), the Australian Federal Police (AFP), AusAID, the New Zealand Ministry for Foreign Affairs and Trade, the New Zealand Ministry of Agriculture, the SPC/SOPAC Deep Sea Mining project, and the Pacific Aviation Safety Office 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 pilonsecretariat@gmail.com.

A. Outgoing PILON Chair's address

The outgoing PILON Chair, Mr David Fredericks, Deputy Secretary of the Australian Attorney-General's Department (on behalf of Mr Roger Wilkins AO, Secretary, Australian Attorney-General's Department) commenced the meeting with an official address to PILON members. Mr Fredericks conveyed Mr Wilkins apologies and expressed the Australian Attorney-General's Department support for PILON. The outgoing Chair thanked Dr Collins and New Zealand Crown Law, Auckland University, and the PILON Secretariat for their work in preparing the 30th PILON Annual Meeting. The outgoing chair reported that 2011 had been a big year for PILON. The outgoing chair thanked the Samoan Office of the Attorney-General for hosting the PILON Secretariat and their support during the transition of the Secretariat office.

The outgoing Chair thanked members for their ongoing support and introduced the theme for the 30th Annual Meeting, 'Legal Challenges and Strategies to Enhance Pacific Sustainable Economic Development'.

B. Incoming PILON Chair's address

The Chair, Dr David Collins QC, Solicitor-General, New Zealand, provided an opening address, welcoming members to Auckland. Dr Collins thanked the Australian Attorney General's Department for their support of the PILON Secretariat and the PILON Secretariat staff and their contribution to the PILON meeting. Dr Collins introduced and thanked representatives from the New Zealand Crown Law Office for their hard work in organising the 30th PILON Meeting.

Dr Collins highlighted the links between sustainable economic development and the rule of law, and encouraged members to use this opportunity to share ideas and experiences related to the theme.

C. Opening address

The Hon. Dr Wayne Mapp, Minister of Defence, provided an official opening address to PILON members and welcomed delegates to Auckland on behalf of the New Zealand government. The Minister provided comments on the importance of working with Pacific neighbours to build capacity in the region to develop sustainable legal frameworks, as an integral part of economic development.

D. Presentations: Legal Challenges and Strategies to Enhance Pacific Sustainable Economic Development

(i) Climate Change

A presentation was provided by Simon Watt and Kate Redgewell of Bell Gully.

The presentation discussed the role of lawyers in relation to climate change issues in the Pacific Islands, on an international, regional and domestic basis. An overview of the climate change funding schemes available to Pacific Island countries for assistance in climate change adaption and

mitigation was provided. The importance of lawyers in accessing funding and the implementation of projects was emphasised.

Members discussed their experiences in this area and opportunities and limitations that exist.

(ii) Commercialisation of State Assets

A presentation was provided by Denis McNamara of Lowndes Associates.

The presentation discussed the identification of government assets for commercialisation, issues experienced by investors, and corporate governance requirements with reference to a Niue tourism example.

Members noted the need to balance the interests of foreign investors and the protection of local industries, and resource issues relating to corporate governance requirements.

(iii) Drafting of Commercial and Investment Legislation

A presentation was provided by David Cochrane from Simpson Grierson.

The presentation encouraged members to ensure that desired outcomes and the purpose of the legislation are considered when drafting commercial and investment legislation. Mr Cochrane provided an overview of issues to consider and matters which may be included in developing effective legislation in this area.

Members discussed related policy matters, in particular the role of industry regulators.

(iv) Fisheries Projects

A presentation was provided by Frank McLaughlin and Maree Newson from Chapman Tripp.

The presentation identified some key elements of fisheries development proposals, identified risks and steps to mitigate risks, and detailed resources available through the Forum Fisheries Agency (FFA).

Members' discussion in relation to joint ventures highlighted the need for caution and the obligation of senior law officers to advise member governments on implications of such ventures.

(v) Fisheries management issues

A presentation was provided by Theresa Potoi of the New Zealand Ministry of Agriculture and Forestry.

The presentation discussed the economic potential of fisheries in the Pacific region, through regional cooperation in combating illegal unregulated and unreported fishing (IUU). An overview of the

situation in New Zealand was provided and recent international agreements providing for collaboration with respect to enforcement were highlighted. The importance of a coordinated regional approach to fisheries management to effectively address IUU fishing in the Pacific region was emphasised.

Members' discussion highlighted the value of the IUU fishing register as an enforcement tool.

E. Presentation on the Rule of Law in the Pacific by the Right Honourable Chief Justice Dame Sian Elias GNZM

The Right Honourable Chief Justice Dame Sian Elias GNZM discussed the role of government lawyers in upholding the rule of law and the importance of the recognition of human rights and custom in legal systems around the Pacific Region. The Chair thanked Chief Justice Elias for her presentation.

F. Member country reports

Member countries provided reports on key law and justice activities and initiatives during 2011.

Members agreed:

1. to note the Country Reports presented by PILON member countries, and
2. that where consent has been given, for Country Reports to be uploaded to the PILON website.

G. PILON Secretariat Report – 2011

The Secretariat presented a summary of its activities in 2011 and the work which has been performed under the 2011 Work Plan. A written report was also provided to delegates providing additional detail on the activities of the Secretariat, and identifying a number of items for further attention and/or action by members. A copy of the report will be placed on the PILON website following the meeting.

The Secretariat thanked delegates for travelling to attend the meeting in Auckland and for their ongoing support of PILON, and noted the continuing support of donors such as AusAID.

The Secretariat discussed the record it has compiled of technical legal assistance programs and initiatives available to PILON members. The Secretariat also provided an overview of progress made with transition to an independent Secretariat office in Samoa during 2011, and the update provided to PILON by the Drafting Group for the Niue Treaty Subsidiary Agreement. The Secretariat's proposal for development of a Strategic Plan during 2012 was also mentioned.

At the conclusion of the presentation, PILON members agreed to:

1. note the report given by the PILON Secretariat on its activities in 2011. In particular:
 - (a) the written report prepared by the PILON Secretariat that will be uploaded to the PILON website;

- (b) the progress made in completing the transition to an independent Secretariat, and the contribution of the Samoan Office of the Attorney General and Australian Attorney-General's Department in facilitating that transition;
 - (c) the database of technical legal assistance programs and initiatives available to PILON member countries and record of model legislation prepared by the Secretariat, and agree that PILON member countries and observers will keep the Secretariat informed of programs to be included in the database;
 - (d) that PILON was represented at a number of forum, meetings, conferences and working groups during the course of 2011 and the Secretariat will continue to represent PILON at such events, when appropriate, or arrange for PILON to be represented by other means;
 - (e) the proposal for development of a Strategic Plan for PILON, and to task the Secretariat to prepare a draft Strategic Plan, in consultation with members throughout 2012, for consideration at the 31st Annual Meeting;
2. note the update report provided for PILON by the Niue Treaty Subsidiary Agreement Drafting Group and acknowledge the progress made by the Drafting Group towards establishment of a new agreement; and agree that the Secretariat will liaise with the Drafting Group to coordinate PILON's involvement in this process, where required;
 3. note the paper, 'Best Practices – Environmental Regulation', that was provided to members for consideration out of session, and:
 - (a) note the view that environmental crime is a key factor in consideration of regulation with respect to environmental or resource management;
 - (b) note the links between transnational environmental crime and associated crimes such as corruption and money-laundering, demonstrated in particular for the Pacific region in the areas of illegal, unregulated and unreported fishing, illegal logging and the timber trade, and illegal trade in protected flora and fauna;
 - (c) note that the recommendations identified by commentators as ways in which existing legal frameworks and enforcement approaches can be built upon to address transnational environmental crime, including review of penalty and sentencing options, use of anti-money laundering tools including non-conviction based asset forfeiture, and adopting a collaborative approach to enforcement through both inter-agency and regional cooperation.

H. Application for PILON Membership - Pitcairn Islands

An application by the Pitcairn Islands received by the PILON Secretariat to become a member country of PILON was considered by Members. The PILON Secretariat also provided a draft Membership Application Form for use in future applications to become a PILON member or observer member.

New Zealand, Nauru, Tonga and Samoa spoke in support of the application from the Pitcairn Islands.

Members unanimously approved the Pitcairn Islands application to become a PILON member country and warmly welcomed the Pitcairn Islands to PILON.

Members also approved the Membership Application Form for future use and publication on the PILON website.

I. “To tatou Basileia” - Presentation by Catherine Evans (Deputy Solicitor-General, Cook Islands)

Catherine Evans presented an overview of social and economic issues in the Cook Islands, including in relation to the law and justice sector. The Chair thanked Ms Evans for her informative presentation.

J. Future directions for the PILON Secretariat

The PILON Secretariat, New Zealand, Samoa and Australia discussed the feedback paper prepared in relation to:

- future funding sources for the PILON Secretariat post-2012
- options for the future legal status of the PILON Secretariat and whether current arrangements are sustainable, and
- the future roles and functions of the PILON Secretariat.

Members indicated their preferences in relation to the options outlined for each of the above matters. Support for the continuation of the PILON Secretariat, and the need for Members to commit to financial contributions, on a proportionate basis, was expressed.

Members reached in principle agreement in relation to three propositions:

1. That in relation to the future legal status and structure of the PILON Secretariat, establishment of the Secretariat as a legal entity in a PILON Member country was the preferred option;
2. That in relation to the ongoing funding arrangements for the Secretariat, Members support compulsory Member contributions, on a proportionate basis; and
3. That the existing functions of the Secretariat are supported and should continue into the future.

Members resolved to task the Executive Committee and the PILON Secretariat to work together to:

- Develop the details of the above three propositions (including issues of legal structure, location, the scale and amount of contributions);
- Report back to Member countries out-of-session to further progress implementation of these arrangements; and
- Prepare amendments to the PILON Charter to reflect these proposals, for consideration and adoption by Members at the 31st Annual Meeting.

K. Reports from PILON Observer Members

Presentations were provided by:

- Ms Lorraine Kershaw of the Pacific Islands Forum Secretariat
- Ms Monica Silverwood of the International Committee of the Red Cross
- Ms Carolyn Penfold of the University of the South Pacific

- Mr Sainivalati Navoti of UNODC.

Presenters provided reports and updates on the activities of regional groups and other initiatives in the region.

L. Reports and updates on regional initiatives

Presentations were provided by:

- Ms Hannah Lily of SPC/SOPAC Deep Sea Minerals Project
- Mr John Marshall of South Pacific Lawyers Association
- Mr Russel Kun of Pacific Island Lawyers Human Rights Network
- Mr Kim Murray, consultant for the Pacific Aviation Safety Office.

Presenters provided reports and updates on the activities of regional groups and other initiatives in the region.

M. Arrangements for the 2012 PILON Annual Meeting

Papua New Guinea confirmed their nomination to host the 2012 PILON Annual Meeting. Members supported the application of Papua New Guinea and they will host the 2012 Annual Meeting.

The Republic of the Marshall Islands indicated that it will consider an application to host the 2013 meeting.

N. PILON Executive Committee

Under the PILON Charter, the Executive Committee is comprised of the Chair, the incoming Chair, and at least two other PILON member country representatives. It was agreed by members that the Executive Committee would be comprised of New Zealand, Papua New Guinea, Australia, Nauru and Samoa.

O. PILON Work Plan for 2012

Members discussed next year's PILON Work Plan. The 2012 Work Plan is at Attachment A.

P. Special thanks

Members thanked Meredith Connell for their hospitality in hosting the official welcome function on Sunday, 4 December 2011 and the official closing dinner on Tuesday, 6 December 2011. Members also thanked Bell Gully for the official dinner on Monday, 5 December 2011.