



EXECUTIVE COMMITTEE ZOOM MEETING

MINUTES

Friday, 9 September 2022

2.00pm Samoan time

A. WELCOME- Su'a Hellene Wallwork – Chair PILON Executive Committee and Attorney General, Samoa

B. PRESENT:

- i. Karen Moore – Assistant Secretary, AGD, Australia
- ii. Linda Folaumoetu'i – Attorney General, Tonga
- iii. Graham Leung – Solicitor General, Cook Islands
- iv. Rachel Olutimayin – Director Public Prosecution, Solomon Islands
- v. Jo Mildenhall – Senior Crown Law Officer – NZ
- vi. Ronald Talasasa – Director Public Prosecution, Nauru
- vii. Lucy Sargeson – Principal Legal Officer / Director, Pacific Section AGD, Australia
- viii. Sarah Kossatz – Program and Logistics Manager, Australia
- ix. Sasae Walter – Coordinator, PILON
- x. ~~Rosy Fogatia~~ Rosarino K – Assistant Coordinator, PILON

C. MATTERS FOR CONSIDERATION:

i. Confirmation of Minutes 17 June 2022;

Decision: Minutes confirmed, motion moved by Karen Moore of Australia and seconded by Jo Mildenhall of New Zealand.

ii. Updates to the PILON Travel Policy

The Chair informed members that the PILON Secretariat with support from AGD, submitted a proposal on amendments to the PILON travel policy. These amendments were considered necessary because the current policy was developed in a pre-COVID era and does not take into account or address risks associated with travel in a COVID-19 environment. Under the current travel policy, PILON could be open to a range of costs associated with any participant contracting COVID-19 before or during their travel associated with and participation in a PILON event. As a small informal network, PILON is unable to obtain its own insurance nor bear the significant costs that may be associated with maintaining the policy in its current form.

A solution to these issues was to consider whether to narrow the scope of the policy to exclude PILON's responsibility for participants' costs associated with COVID-19 and to ensure that PILON Members and participants are clear on the PILON Secretariat's role as the arrangers of travel as well as their responsibilities when engaging in PILON events and activities in a COVID-19 setting. In this instance, PILON was working to arrange hybrid-events to maximize participation in our events and

provide meaningful options for people precluded from travelling. To address these issues, the proposed amendments to the policy provide clarity for participants regarding the policy's definitions and travel logistics, i.e. flights and accommodation, when arranged by the PILON Secretariat.

The proposed amendments make clear the responsibilities of participants when travelling to attend in-person PILON activities and events in a COVID-19 environment.

On Section 2, it is now been re-titled to read as '**Definitions and Interpretation**' rather than just 'Definitions'. This is because section 2(iii) on page 2 of the policy, regarding funding of participant attendance by specific donors and that their travel policy applies rather than that of PILON. This is not a 'definition' as such, but rather an 'interpretation' that advises participants that the donor's travel policy will apply rather than the PILON travel policy in these circumstances.

Section 2(i) definition of '**Exceptional Circumstances**' has been defined on page 1 of the proposed policy given the current policy included the concept of exceptional circumstances such as 'unexpected illness' but did not define this further. The '**Exceptional Circumstances**' definition has been detailed to include 'illness' and 'injury' to provide a better understanding about what this includes and excludes.

'**Appropriate evidence**' has also been included here as well given that the current policy only stipulated that participants had to provide appropriate evidence where travel itineraries had to be changed. As a result, the proposed policy now stipulates that the provision of 'appropriate evidence' to the PILON Secretariat must also be provided where participants are suddenly unable to attend a PILON event. It also makes clear that the evidence provided needs to satisfy the PILON Secretariat, rather than being to the satisfaction of the traveler.

In defining 'Exceptional Circumstances' further, EC Members are presented with **4 options** and we need to decide the best option for PILON participants who travel to attend PILON events, while also minimizing PILON's liability; particularly in light of COVID-19:

Option 1: we define 'exceptional circumstances' to exclude all local and global outbreaks – with the result that PILON is not liable for travel-related expenses in such circumstances, such as costs incurred for participants who contract COVID-19 or,

Option 2: we define 'exceptional circumstances' to exclude global outbreaks ONLY; with the result that PILON is not liable for travel-related expenses in such circumstances, such as costs incurred for participants who contract COVID-19, or

Option 3: we define 'exceptional circumstances' by only including COVID-19 as an 'Exceptional Circumstance'; with the result that PILON is not liable for travel-related expenses incurred for participants who contract COVID-19, or

Option 4: we can keep the travel policy as it stands so that all costs associated with someone contracting COVID 19 during travel for a PILON event fall under the definition of 'exceptional circumstances' such that PILON is liable for all associated travel costs.

Chair reminded EC Members, that PILON funding was provided under an MoU, the current MoU as it stands, would not be able to sustain the substantial costs incurred should participants contract COVID-19.

The most practical solution here may be to define 'Exceptional Circumstances' to exclude all local and global outbreaks to ensure that PILON is not liable for travel-related expenses incurred for outbreaks such as chickenpox (example of a local outbreak) or COVID-19 (example of global outbreak). If we

broaden this definition to exclude local and global outbreaks, then it will negate the need to revisit this policy again, should we experience another outbreak in the future.

Section 2 (ii) definition of ‘Meeting’ – this proposed change would include local bookings to support hybrid activities and virtual attendance. For example, in the upcoming Cybercrime Workshop in Nadi, Fiji, a law enforcement officer in PNG wanted to attend this virtually, but their home internet connection is not stable. The purpose here, is PILON Secretariat can arrange for the officer to travel to a venue that facilitates virtual attendance and stable internet connectivity.

Section 3a(v) and (vi) have been moved and included in a new section heading of the policy at Section 3c **‘Delays and changes in travel plans’**, to group together the clauses on changing plans and avoids the need to repeat clauses elsewhere in the policy.

Section 3b(ii) has been amended to ensure that where a participant has nominated to stay elsewhere other than the accommodation booked by the PILON Secretariat, then it is the participants’ responsibility to book and pay for that nominated accommodation.

Section 3c ‘Delays and changes in travel plans’ – this proposed change would ensure that PILON Secretariat is not responsible for changes to travel should participants not be able to meet the ‘Exceptional Circumstances’ clause.

Section 3d (i) “Travel allowances” – this would expand the definition of travel allowance to include medical testing requirements (such as RATs/PCR tests) to meet a country’s entry requirements for the purposes of participating in a PILON event.

Section 3e (iv) ‘Responsibilities of Participants’ – this change is designed to strongly encourage participants to obtain travel insurance inclusive of risks associated with COVID-19 wherever possible.

Decision: Members were requested to peruse the Policy and send in their approval in an email to the Secretariat by Tuesday 1st November 2022.

iii. PILON Executive Committee Membership for 2023

Chair informed members that as per Article 5.3 of the PILON Charter, ‘PILON may only appoint a member of the Executive Committee, by consensus, during an annual meeting, or in accordance with Article 7.14’. and given that this years’ PILON Annual Meeting is another virtual event, she proposed that the current membership of the PILON Executive Committee be retained until the next PILON Annual Meeting scheduled in Nauru 2023.

Decision: Members agreed that the current PILON Executive Committee membership be retained and be included in the Annual Meeting agenda for the 2023.

iv. PILON’s role and Principles of Engagement

Sarah Kossatz of Australia shared with members that the PILON Secretariat sought approval from the PILON EC to update the PILON website under the Purpose and Governance page. This update will make clear to viewers that PILON is not a legal entity and does not provide general legal advising services to other bodies nor can PILON speak for or on behalf of any of its member countries or territories.

Decision: Members agreed that the PILON website be updated to reflect this.

v. Updates from Working Group Chairs

Sexual and Gender Based Violence (SGBV)

The Chair of the SGBV Working Group (WG) Su'a Wallwork shared with members the Special Measures four-part webinar series the WG delivered with expert speakers from across the Pacific. The webinar series supported jurisdictions to use the PILON Model Provisions for supporting vulnerable witnesses in SGBV cases, including by building capacity to amend laws and policies to incorporate special measures.

She informed members that for their third webinar held in August, they heard from Samoan Supreme Court Justice Leilani Tuala-Warren and Tuvaluan Senior Magistrate Corinna Ituaso Laafai.

The fourth webinar was a panel event to finalise the series. The panellists from PNG, Solomon Islands and Vanuatu included three Witness Support Officers, two Senior Prosecutors and an inhouse lawyer from NGO Femili PNG.

There is also an established WG Advisory Panel to develop the Regional Guidelines to assist prosecutors and witness support officers to support vulnerable witnesses through the prosecution process and are working to finalise a consultation draft of the Regional Guidelines in October 2022. They will commence consulting regional partners on the draft Regional Guidelines in November ahead of an-person workshop in early 2023 to finalise the Guidelines.

Corruption

The Chair of the WG Ronald Talasasa informed members that their most recent meeting dated 12 August, members discussed anti-corruption cases, issues and legislative developments in their respective countries. He shared that members shared about the challenges that Pacific Island countries face when identifying the line between cultural practices and criminal offences, particularly the intersection of gift giving and bribery. The WG was keen to do some work in this space, and is exploring what form that could take.

The upcoming activities for the WG include identifying further areas of interest for members with a plan to endorse our 2023 activities. A webinar on mutual assistance, scheduled for 21 October will cover the importance of sharing evidence between jurisdictions to enhance criminal investigations.

Cybercrime

Chair of the Cybercrime WG, Attorney General Linda Folaumoetu'i advised the Committee that the Cybercrime Working Group has delivered a number of successful activities in 2022.

The Zyber Intermediate Digital Forensics course ran from May to July 2022. Seven people completed the online course and it featured presenters from the New Zealand Department of Internal Affairs, the Fiji Police, and Tongan authorities.

On 5 August 2022, the Working Group held a Cybercrime Legislation webinar, which was co-badged with the Council of Europe. We were fortunate to have presenters from Kiribati and Tonga present on the current legislative framework in their jurisdiction.

In August 2022 new Zyber Fundamentals of Digital Forensics courses were launched, following a successful pilot in 2022. The participants are being supported by a workbook which summarises the course and provides additional readings from contributors such as the Solomon Islands Office of the Director of Public Prosecutions, and the Commonwealth Director of Public Prosecutions.

On 16 September 2022, the Working Group adopted a preliminary 2023 work plan which will be discussed further and finalised at the upcoming Cybercrime Workshop. The Workshop is being held from 29 November to 2 December 2022 in Nadi, Fiji.

In early 2023, the Working Group will circulate a questionnaire to seek feedback from members about their training needs and priorities around cybercrime. This will build on feedback from the

Workshop discussions and the post-Workshop survey, and may be conducted in collaboration with the Council of Europe.

A range of digital evidence guidance materials will then be developed to reflect those priorities. The materials will be shaped by an active process of consultation with Working Group members.

Separately, the Working Group will explore the possibility of collaborating with the Pacific Islands Forum Secretariat (PIFS) on a webinar in the first quarter of 2023, to build upon recent work by PIFS on cybercrime legislation in the Pacific.

Finally, the Working Group has chosen to run the Zyber Intermediate digital forensics scholarship course again in 2023, with dates to be confirmed.

vi. Update on Annual Meeting Preparations

SW informed members that 13 PILON Member Countries have sent in their registration forms. They are in alphabetical order, these Countries include American Samoa, Australia, Cook Islands, Fiji, Nauru, New Zealand, Niue, Palau, Republic of Marshall Islands, Papua New Guinea, Samoa, Tokelau and Tonga.

6 Countries have advised that will present their Country Report at the PILON Annual Meeting. They are Australia, Nauru, New Zealand, Niue, Papua New Guinea and Tonga. They are expecting 6 oral updates, as per previous Annual Meetings, and noted that more Countries are likely to present on the day, once Members engage in dialogue and discussion.

vii. Updated PILON Financial Forecasts for 2022-2023 (Attachment D)

RF informed members that the PILON Secretariat, with support from AGD, have revised the 2022/23 PILON budgets. And she referred to Attachment D. There's a note that they have re-introduced costs relating to travel in anticipation of borders re-opening over the coming year and working groups have many activities planned.

D. MEETING ENDS: 2.49pm Samoan time.