



Agenda item 10: Legislation Review Update

Recommendation

The PIDC Regular Annual Meeting is invited to:

- a) **welcome** the work being undertaken to review and update the PIDC Model Legislative Framework;
 - b) **thank** New Zealand for supporting the Model Legislative Framework Workshop in December 2016; and
 - c) **endorse** the ongoing work being undertaken by Members and the Secretariat to modernise Members' policy and legislative frameworks.
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Purpose

1. To update Members on the PIDC Legislation Review and report on the activities of the Model Policy and Legislative Framework workshop held in Samoa from 5 to 8 December 2016 as part of efforts to support Members modernise immigration legislation and processes.

Background

2. Robust and modern policies and legislation are a fundamental prerequisite for effective, transparent and fair immigration agencies. As such, a key part of PIDC activities focuses on providing support to Members to modernise domestic legislation aligning provisions to relevant international standards and best practices. In undertaking this work, the PIDC approach has been for the Secretariat to support Members in reviewing their immigration policies and legislation and then seeking support from New Zealand's Parliamentary Counsel for technical assistance to undertake the legislative drafting of proposed amendments.

3. To support this approach, PIDC in 2010 developed a Regional Framework for Developing Immigration Legislation (the Framework) to act as a regional resource for Members to identify gaps in domestic legislation. This Framework was used to support a review of the legislation of four PIDC Members in 2011. Divided into two parts, the Framework: (a) detailed issues and approaches that should be taken into account when developing new or revised immigration laws; and (b) provided a practical document setting out relevant sections and key provisions to help Members assess existing policies and legislation and provide a basis for the development of updated legislation.

4. To update the Framework to ensure compliance with relevant international standards and best practices, in December 2016, in the Secretariat hosted a PIDC Model Policy and Legislative Framework workshop in Samoa. The Workshop was facilitated by legal and policy

experts from Immigration New Zealand and was attended by representatives of the Heads of Immigration from Polynesia (Cook Islands), Micronesia (FSM), Small Island states (Tuvalu); legal and policy experts from Samoa; and the PIDC Secretariat. Unfortunately Vanuatu, the representative for the Melanesian sub-region was forced to withdraw at the last minute and a replacement could not be identified in time.

5. The weeklong discussions reviewed existing provisions of the Model Framework providing participants the opportunity to identify a range of priority legislative provisions that needed to be revised in the changing migration landscape. Some key areas revisited included the need to develop more policy guidance especially in areas for managing labour mobility as well as discussions on development of provisions for managing threats caused by returning foreign terrorist fighters, cruise ships and criminal deportees ensuring these activities were coordinated with partner regional bodies.

Way forward

6. The revised draft of the Framework was completed and disseminated to workshop participants to review. In addition, the Secretariat also sought further input from partner international organisations such as UNHCR, (UNODC provisions had already been incorporated for the relevant transnational crime areas) and an immigration experts for further guidance on key areas.

7. The revised Framework will be presented to the Board and then to Members for their consideration and endorsement. It is envisaged that once endorsed, the framework will be used to support Members in reviewing existing legislative provisions to identify gaps. The Secretariat proposes to lead small teams to undertake this review work upon the request of Members with a key product being the development of draft Legislative Drafting Instructions to support the legislative drafting services offered by the Parliamentary Counsel of New Zealand. Once the drafting instructions have been developed the Secretariat will liaise with New Zealand to organise the delivery of the actual legislative drafting technical assistance.

8. Cook Islands, Tuvalu and the Republic of the Marshall Islands have requested that the Secretariat support their national efforts to review their existing frameworks using the Revised Model Legislative Framework. Although this work was initially scheduled for the fourth quarter of 2016/17 Financial Year, competing demands on the Secretariat has resulted in the reviews being rescheduled for the first quarter of the 2017/ 18 financial year.

Strategic Implications

9. The proposed recommendations support the implementation of the strategic objectives contained in the PIDC Constitution, Key Activity Area One of the PIDC Strategic Plan 2016-2018 and Output One of the Results Management Suite.

Financial Implications

10. Support for three in-country review missions and three legislative drafting activities have been included in the 2017/ 2018 budget.