



Pacific Immigration Directors' Conference

Members of PIDC



Memorandum of Understanding

Between

The Governments of American Samoa, Australia, Commonwealth of Northern Mariana Islands, Cook Islands, Federated States of Micronesia, Fiji Islands, French Polynesia, Guam, Kiribati, Marshall Islands, Nauru, New Caledonia, New Zealand, Niue, Norfolk Island, Palau, Papua New Guinea, Samoa, Solomon Islands, **Tokelau**, Tonga, Tuvalu, Vanuatu and Wallis and Futuna

In relation to

The formal recognition of the Pacific Immigration Directors' Conference, which as of 28 June 2018 shall be known as the Pacific Immigration Development Community, and the establishment of the PIDC Constitution

The Governments of: American Samoa, Australia, Commonwealth of Northern Mariana Islands, Cook Islands, Federated States of Micronesia, Fiji Islands, French Polynesia, Guam, Kiribati, Marshall Islands, Nauru, New Caledonia, New Zealand, Niue, Norfolk Island, Palau, Papua New Guinea, Samoa, Solomon Islands, **Tokelau**, Tonga, Tuvalu, Vanuatu and Wallis and Futuna,

Hereinafter referred to as "the Participants" and operating as the Pacific Immigration Development Community (PIDC)

Recognising the value of partnership and collaboration to better manage migration flows and strengthen border management across the region, thereby contributing to improved social and economic well-being and security in the Pacific, the PIDC will:

Improve the management of international people movements

Strengthen border management and security in the Pacific

Work together to build capacity to deliver immigration services

THE PARTICIPANTS HAVE REACHED THE FOLLOWING UNDERSTANDINGS:

Paragraph I

Purpose

The purpose of this Memorandum of Understanding is to formalise existing cooperative ties and arrangements between the Participants and establish a new PIDC Constitution and associated governance documents.

A copy of the new PIDC Constitution ("the Constitution") is attached as Annex 1.

Paragraph II

Status of Memorandum of Understanding

This Memorandum of Understanding is not intended to create legal relations between the Parties and is not enforceable in any way. This Memorandum of Understanding embodies the understanding of the Participants. It does not create legally binding obligations, nor create or confer any right, privilege or benefit on any person or Participant. It is not intended to modify or supersede any national law or international obligations.

The Parties will use their best endeavours to fulfil their respective responsibilities as set out in the Constitution.

Paragraph III

Areas of Cooperation

The Participants recognise the importance of their cooperation to ensure the success of the PIDC.

Therefore, where viable and legal, they agree to provide and/or deliver on all administrative and decision-making functions as outlined in the Constitution and associated governance documents.

Paragraph IV

Consultation

The Participants will meet and undertake consultations as outlined in the Constitution and associated governance documents.

Paragraph V

Implementing Agencies

The implementing agencies for this Memorandum of Understanding are:

- 1) For the Territory of American Samoa: the Department of Legal Affairs
- 2) For the Commonwealth of Australia: the Department of Immigration and Border Protection (DIBP);
- 3) For the United States Commonwealth of Northern Mariana Islands: U.S. Customs & Border Protection (CBP);
- 4) For the Cook Islands: the Ministry of Foreign Affairs and Immigration;
- 5) For the Federated States of Micronesia: Department of Justice, Division of Immigration and Labor;
- 6) For the Fiji Islands: the Department of Immigration;
- 7) For the Overseas Collectivity of French Polynesia: the Direction Central de la Police Aux Frontieres;
- 8) For the United States Territory of Guam: U.S. Customs & Border Protection (CBP);
- 9) For the Republic of Kiribati: the Ministry of Foreign Affairs and Immigration;
- 10) For the Republic of the Marshall Islands: the Ministry of Justice, Immigration Division;
- 11) For the Republic of Nauru: the Department of Justice and Border Control;
- 12) For the Special Collectivities of New Caledonia and Wallis and Futuna Islands: Police Aux Frontieres;
- 13) For New Zealand: Immigration New Zealand, a Division of the Ministry of Business, Innovation and Employment;
- 14) For Niue: the Niue Immigration Office;
- 15) For the Territory of Norfolk Island: the Norfolk Island Customs and Immigration Service;
- 16) For the Republic of Palau: the Palau Bureau of Immigration;
- 17) For the Government of the Independent State of Papua New Guinea: the Papua New Guinea Immigration and Citizenship Service Authority;
- 18) For the Independent State of Samoa: the Samoa Immigration, a Division of the Ministry of Prime Minister and Cabinet;
- 19) For the Solomon Islands: the Ministry of Commerce, Industries, Labour and Migration - Immigration Division;
- 20) For the Kingdom of Tonga: Immigration Division of the Ministry of Foreign Affairs and Trade;
- 21) For Tuvalu: Office of the Prime Minister – Immigration Department;

22) For the Republic of Vanuatu: Ministry of Internal Affairs;

23) For Tokelau: Department of Transport and Support Services

Paragraph VI

Funding Matters

The PIDC will be funded in accordance with the Constitution.

Paragraph VII

Amendment

This Memorandum of Understanding may be amended or revised at any time in writing by mutual consent of the Participants. Such amendment or revision will take effect on such a date as may be determined by the Participants and will form an integral part of this Memorandum of Understanding.

Paragraph VIII

Settlement of Disputes

Any disputes arising out of the interpretation or implementation of this Memorandum of Understanding will be amicably settled through consultation and negotiation between the Participants. Any dispute that cannot be resolved will be escalated to senior executive members of each of the Implementing Agencies for final resolution.

Paragraph IX

Entry Into Force, Duration, and Termination

This Memorandum of Understanding will take effect on the date of its signing by two-thirds of the eligible Participants. The Constitution will come into effect at the same time.

Members which do not sign the Memorandum of Understanding will have their membership of the PIDC suspended from the time that this MOU enters into force until such time as they sign it in the future.

This Memorandum of Understanding will remain in effect in perpetuity. The PIDC Secretariat will coordinate a formal review of the Memorandum of Understanding every five (5) years.

This Memorandum of Understanding may be terminated at any time if two thirds of the signatories give written notice to the PIDC Secretariat at least six (6) months prior to the proposed date of termination.

If an individual Participant withdraws from the Memorandum of Understanding, the notice of withdrawal will be taken as an amendment and be annexed to this Memorandum of Understanding. Any Participant giving such notice will cease to be a member of the PIDC.

Upon the termination of this Memorandum of Understanding, PIDC will cease to exist, however, interested Participants may collaborate to determine the future of PIDC and any further action in relation to ongoing projects and work.

Signed in duplicate in the English language, by the duly authorised representatives of the member Governments at [place] on [date]:

[Already signed by 19 PIDC Member Countries and Territories]

Signed for and on behalf of Tokelau
by

)
)
)
)
)

.....

Department of Transport and Support
Services

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(Signature)

_____/_____/____

(Date)

CONSTITUTION OF THE PACIFIC IMMIGRATION DEVELOPMENT COMMUNITY (PIDC)

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CONSTITUTION

PACIFIC IMMIGRATION DEVELOPMENT COMMUNITY

Interpretation

<i>Melanesia</i>	For the purposes of the PIDC it includes the Solomon Islands, Vanuatu, Papua New Guinea, Fiji and New Caledonia.
<i>Micronesia</i>	For the purposes of the PIDC it includes the Federated States of Micronesia (FSM), Palau, the Commonwealth of the Northern Mariana Islands (CNMI), Guam, Marshall Islands, Nauru and Kiribati.
<i>Polynesia</i>	Polynesia is a group of islands defined by their anthropological and cultural basis and lineage and includes Samoa, American Samoa, Tonga, French Polynesia, Cook Islands, Wallis and Futuna, Niue, New Zealand-Aotearoa, Tuvalu, and Tokelau.
<i>Small Island States</i>	Small Islands States (SIS) is a developmental categorisation based on the Pacific Islands Forum grouping of Smaller Island States and should not be used as if it is a new grouping of the Pacific Islands. Certain Pacific island states might fall under the SIS according to development needs and for PIDC purposes this includes Cook Islands, Federated States of Micronesia, Republic of Marshall Islands, Palau, Kiribati, Nauru, Niue, Tuvalu, and Tokelau.
<i>Principal Donors</i>	Those donors which provide substantial contributions based on the PIDC operating budget derived from the PIDC Annual work plan. A Principal Donor must be a member of the PIDC and includes Australia and New Zealand.
<i>Board</i>	For the purposes of the PIDC, the Board shall comprise the Chairperson, two Vice-Chairpersons, one representative from each of the Principal Donor countries and the Host Country, and one representative from each of Melanesia, Micronesia, Polynesia and the Small Island States.
<i>Consensus</i>	With reference to decision-making, where reference is made to 'agreement by consensus' it means that agreement is achieved in the absence of any formal objection made at the time the decision was taken.

Article 1

Name of the Organisation

- 1.1. The name of this organization shall be 'The Pacific Immigration Development Community', commonly known as 'PIDC'.

Article 2

Official Language

- 2.1. The official language for the conduct of all PIDC business shall be English.

Article 3

Purpose and Objective

- 3.1. PIDC is an organisation for official Pacific Immigration Agencies of the Pacific Region. It provides a forum for the Heads of Immigration Agencies to meet and discuss issues of mutual interest and to foster multilateral co-operation and mutual assistance aimed at strengthening participants' territorial borders and the integrity of their immigration systems.
- 3.2. The PIDC seeks to provide a focal point for communication, collaboration and cooperation amongst PIDC members, with the aim of better managing migration flows and strengthening border management across the region, thereby contributing to improved social and economic well-being and security in the Pacific.
- 3.3. It shall be the specific purpose of the PIDC to:
- Encourage greater co-operation, communication and liaison between participating agencies, including the development and maintenance of communications between annual conferences;
 - Foster a co-ordinated approach to the implementation of any policies of PIDC members having a regional focus;
 - Co-ordinate the exchange of technical assistance by and between participating member agencies;
 - Act as a focal point for collaboration with other regional and international bodies and organisations such as the Pacific Island Forum Secretariat (PIFS), Oceania Customs Organisation (OCO), the Pacific Islands Chiefs of Police Conference (PICP), Pacific Islands Law Officers Network (PILON), Interpol, PACRIM, IATA, the International Organisation for Migration (IOM) and relevant United Nations agencies; and

- Coordinate and deliver specialist services to members as required from time to time by members and approved by a PIDC regular annual meeting or special general meeting.

Article 4

Operation of the PIDC

- 4.1. The PIDC shall endeavour to maintain legal personality and any such legal capacity as may be necessary to perform its functions and achieve its objectives by way of a formal Headquarters Arrangement with the member country which from time to time hosts the PIDC Secretariat (hereinafter referred to as the 'Host Country').
- 4.2. The privileges and immunities which the PIDC, officers, Secretariat staff, and representatives of members, shall enjoy in the territory of the Host Country shall be determined by agreement and expressed in the Headquarters Arrangement between the PIDC and the Host Country.
- 4.3. The member countries shall determine the location of the Secretariat of the PIDC and the Board shall appoint its Head of Secretariat.
- 4.4. The PIDC shall adopt, and amend as required, by consensus, rules of procedure for the conduct of its meetings, including meetings of its subsidiary bodies, and for the efficient exercise of its functions.
- 4.5. This Constitution is introduced and adopted in accordance with Paragraph One of the Memorandum of Understanding signed by members in 2014, and replaces the PIDC Charter.

Article 5

Membership

- 5.1. Membership of the PIDC is open to all official government Immigration agencies within Melanesia, Micronesia, Polynesia and includes Australia and New Zealand. The geographical area encompassed by these regions shall be referred to as the 'PIDC Area'. This encompasses the following countries and territories of which all are deemed foundation members at the implementation of this Constitution except Tokelau which joined PIDC in 2019:

American Samoa	New Zealand
Australia	Niue
Commonwealth of Northern Mariana Islands	Norfolk Island
Cook Islands	Palau
Federated States of Micronesia	Papua New Guinea
Fiji	Samoa

French Polynesia
Guam
Kiribati
Marshall Islands
Nauru
New Caledonia

Solomon Islands
Tokelau
Tonga
Tuvalu
Vanuatu
Wallis and Futuna

- 5.2. Where the member is a territory and not a sovereign country, membership and participation will be entered into with the appropriate authorisation of the sovereign country having responsibility for its international affairs, however, where the member is a territory whose immigration authority is managed independently by the territory, membership and participation will be entered into with the territory's immigration department.
- 5.3. Membership eligibility shall always be restricted to official government Immigration agencies but prospective new members from outside the PIDC Area which meet this criterion may express an interest in membership by submitting an application in writing to the Head of Secretariat. Such an application must provide detailed reasons for the interest and explain the benefits the proposed membership would deliver to the PIDC. The Head of Secretariat shall submit any such application to the next regular annual meeting of the PIDC where it will be subjected to a vote. The application will be deemed to have been accepted if seventy five percent of voting members support it. Any approved application must be reflected in this Constitution by way of an amendment passed at the same meeting. Any such amendment will be reflected as an Annex.
- 5.4. Membership of the PIDC may be suspended or revoked where seventy five percent of members at an annual or special meeting vote in favour of such a suspension or revocation.
- 5.5. A membership application shall be refused where more than twenty five percent of members voting on the application at an annual conference, reject the application.
- 5.6. A member may, by written notification addressed to the Head of Secretariat, withdraw from the PIDC and subsequently from the obligations of this Constitution. The withdrawal shall take effect once the notice period is completed. The notice period shall be at least six months or the end of the current financial year of the PIDC, whichever occurs later. Any financial obligations to the PIDC associated with the membership, shall be honoured up to the end of the notice period.
- 5.7. A past member of the PIDC may seek reinstatement as a member by following the process outlined in Article 5.3 of this Constitution.

Article 6

Representation

- 6.1. Each PIDC member shall have one vote on matters that require a vote at each regular annual meeting or special meeting of the PIDC.
- 6.2. The Head of Secretariat may, at the request of a member, fund one representative to attend a regular annual meeting, special meeting, Board meeting or Committee meeting. All such travel shall be economy class. The criteria by which the Head of Secretariat shall assess such applications shall be specified in the Financial Regulations.
- 6.3. Representation on and decision-making processes for the Board shall be in accordance with the provisions of Article 11 of this Constitution.
- 6.4. Representation on and decision-making processes for PIDC Committees shall be in accordance with the provisions of Article 12 of this Constitution.
- 6.5. Where a Board or Committee meeting is hosted by a member other than a member of the Board or Committee and where the hosting member is not representing the region or membership grouping of which it is a part, the hosting member may attend the meeting to observe. The member may participate in discussions but may not participate in decision-making processes.
- 6.6. Board membership imposes an obligation on nominated representatives to ensure that they work closely with the wider membership that they represent and that they reflect the views of that wider membership in Board discussions.
- 6.7. Board representatives for Melanesia, Micronesia, Polynesia and the Small Island States shall be elected by their respective groups as defined in the Constitutional Interpretation Provisions.

Article 7

Values

- 7.1. PIDC's approach and work are underpinned by the following values and Members will at all times uphold these values and inspire those they serve.

- **Commitment**

Members shall meet their obligations to the PIDC as set out in this Constitution and at all times act in good faith in their dealings with fellow members.

- **Openness**

Within the PIDC membership there shall be a sense of freedom engendered by the sharing of information and experiences.

- **Family and teamwork**

The PIDC membership shall have a sense of identity and loyalty to the group.

- **Trust and respect**

All PIDC business shall be conducted in a context of trust and mutual respect engendering complete confidence in members sense of unity and dignity.

- **Integrity**

Members shall be committed to honesty, transparency and ethical behaviour.

- **Innovation and flexibility**

Members shall be open to new ideas and improvements and encourage the broadening of knowledge and skills.

- **Good governance**

Members shall be committed to enhancing and maintaining the rule of law in an environment of transparency and accountable decision-making.

- **Rule of law**

To the extent mandated by their Government, Members shall ensure the highest standards in border management and security, thus ensuring the legitimate rule of law.

- **Leadership**

Leaders in immigration influence others into action by doing what is right first time and all the time through all the above values.

Article 8

Functions of the PIDC

8.1. Without prejudice to the sovereign rights of member territories and countries, those participating members will collaborate to achieve the objectives of the PIDC by:

- Using their best endeavours to accommodate requests for technical and training assistance from other participating member agencies;
- Responding positively, to the extent permitted under domestic legislation and administrative procedures, to enquiries or requests for assistance from

participating agencies subject to national guidelines or bilateral or multilateral arrangements;

- Holding an annual meeting in the territory of one of the participating members, the timing and venue to be decided at the preceding annual meeting, and to assist, wherever possible, the host administration with the costs associated with hosting the meeting;
- Promoting cooperation and coordination between members of the PIDC to support and develop high quality immigration standards and services across the region;
- Adopting and implementing standards for collection, verification and for the timely exchange and reporting of immigration data as required from time to time through agreed initiatives;
- Establishing appropriate cooperative mechanisms (including the effective exchange of information, to the extent permitted under Members' domestic legislation and administrative procedures) to contribute to the effective management of irregular migration and serious immigration-related organised crime issues including people smuggling and human trafficking across the region;
- Adopting its Rules of Procedure, Financial Regulations, Staff Regulations and such other internal administrative regulations as may be necessary to carry out its functions;
- Actively pursuing appropriate funding sources to ensure the continuity and further development of the PIDC and its activities;
- Considering and approving the proposed Strategic Plan, annual work plans and associated budgets of the PIDC;
- Promoting the peaceful settlement of disputes; and
- Discussing any question or matter within the competence of the PIDC and adopt any measures or recommendations necessary for achieving the objectives set out in this Constitution.

8.2. The PIDC may, where appropriate, enter into contractual arrangements with relevant institutions to provide expert services necessary for the efficient functioning of the PIDC and to enable it to carry out effectively its responsibilities under this Constitution.

Article 9

Powers

- 9.1. The PIDC, operating as a conference of members, comprising representatives of each member country, shall have the ultimate decision-making power in all matters to do with the policy and operation of the Organization.
- 9.2. The Board is responsible for setting the PIDC's strategic direction and ensuring the PIDC's programme of work and other objectives are delivered and are adding value to members. It is also responsible for ensuring that the PIDC has a sustainable financial future; that reputational, financial and non-financial risks are identified and effectively mitigated and that policies are in place to ensure resources are used responsibly and with accountability.
- 9.3. The Chair of the PIDC, is also the Chair of the Board. In the exercise of their functions, the Chair remains under the authority of the PIDC. The Chair is empowered to act on behalf of the PIDC in procedural matters relating to decision-making and conduct of meetings, and on behalf of the Board in certain matters as outlined in PIDC's regulations and policies.
- 9.4. The Head of Secretariat, as the principal administrative officer of the PIDC, shall have the powers necessary to execute the ordinary business of the PIDC in order to further the objectives (but not for any other purpose) as authorised in this Constitution.

Article 10

Subsidiary Bodies of the PIDC

- 10.1. The PIDC may establish from time to time, such subsidiary bodies as are necessary for its effective operation or to provide advice and recommendations to the PIDC on matters within their respective areas of competence.
- 10.2. One such subsidiary body to the PIDC shall be the Board which shall provide governance oversight to the PIDC Secretariat in the day-to-day running of the PIDC.
- 10.3. The Board may establish such Committees as are deemed necessary from time to time, to assist in the conduct of PIDC business. These Committees shall comprise nominated members of the Board and report to the PIDC through the Board. The Chairperson shall have Ex Officio membership to all Committees established under this Article. Three such permanent Committees shall be:
 - The *Human Resources Committee* which provides support to the Chair and the Board on any HR-related issues, and on any aspects on overseeing the role of the Head of Secretariat as designated by the Chair; and
 - The *Governance Committee* which will develop and maintain key governance documents, and provide advice and support on governance issues to the PIDC and the Head of Secretariat.

- The *Audit and Risk Committee* which manages any financial or non-financial risks to the PIDC including reputational, or risks to the financial viability of the PIDC; monitoring trends; organisation performance; and, audit.

Article 11

Operation of the Board

- 11.1. The Members of the Board shall be elected at each PIDC annual meeting for a term of one year and shall comprise of the Chairperson, Two Vice-Chairpersons of the PIDC (incoming Chairperson and outgoing Chairperson) as well as one representative from each of Melanesia, Micronesia, Polynesia, Small Island States, Host Country and one representative from each of the Principal Donors.
- 11.2. Representatives shall be responsible for ensuring that other PIDC members within the respective regional groupings are fully informed on PIDC business and that their collective views are accurately represented in Board discussions and decisions.
- 11.3. Each member on the Board shall appoint a representative to act on its behalf in the exercise of Board functions and that representative shall be empowered to fully participate in Board functions and decision-making processes.
- 11.4. The Board shall meet on at least three occasions throughout the year and more often if required for the efficient and effective exercise of its functions. The meetings shall be held at such venues and in accordance with such procedures as the Board may from time to time determine. In keeping with the prudent use of PIDC resources, these meetings could also happen by teleconference or other electronic means as appropriate.
- 11.5. The Board shall record all decisions and resolutions and shall provide a written report to all members along with a meeting summary from the Chairperson. These documents shall be compiled by the Head of Secretariat in conjunction with Board Members and shall be made available to all members as soon as possible following the meeting.
- 11.6. The Board shall provide an annual report of its activities, decisions, recommendations and emerging issues to each PIDC annual meeting. In particular, this report will cover governance, financial management, legal compliance, projects and activities of the PIDC during the year. The financial reporting component shall be in the form prescribed.
- 11.7. In the exercise of its functions, the Board shall make every effort to make its decisions and recommendations by consensus. If every effort to achieve consensus has failed, decisions may be made by way of a majority vote and minority or dissenting views can be recorded in the record, at the request of the

dissenting member, for the information of all members. Each Board Member shall cast one vote unless they have been provided an additional proxy vote by another Board Member that is unable to attend the Board Meeting.

- 11.8. In the exercise of its functions, the Board may, where appropriate, consult any other immigration related or technical organisations with competence in the subject matter of such consultation and may seek expert advice as required on an ad hoc basis.
- 11.9. In the event that a Board Member indicates that it is unable to continue in the role, the region for which it provides representation shall immediately consult and provide a new nomination for the position. The Head of Secretariat shall coordinate this activity and ensure that a replacement is appointed as soon as possible.
- 11.10. The Secretariat shall provide administrative and logistical support to the Board.

Article 12

Operation of the Committees

- 12.1. The Committees shall operate under the direction of the Board and members of the Committees shall be elected by the Board.
- 12.2. Each Committee shall have a chairperson and vice-chairperson appointed by the Board.
- 12.3. Representatives shall be responsible for consulting as widely as necessary with PIDC members on matters under discussion and will ensure that their collective views are accurately represented in the Committee discussions and recommendations.
- 12.4. Each Committee shall meet as often as is necessary for the efficient exercise of its functions and shall report its deliberations and recommendations to the next meeting of the Board. In keeping with the prudent use of PIDC resources, these meetings could also happen by teleconference or other electronic means as appropriate.
- 12.5. The Committees have no decision-making authority but rather should make recommendations for the consideration of the Board. Every effort shall be made to make its recommendations by consensus. If every effort to achieve consensus has failed, recommendations may be made by way of a majority vote and minority or dissenting views can be recorded in the record for the information of the Board.

- 12.6. Each Committee shall provide an annual report of its activities, recommendations and emerging issues to the Board prior to the PIDC annual meeting. The report will be presented to the PIDC annual meeting by the Head of Secretariat.
- 12.7. The Secretariat shall provide administrative and logistical support to the Committees if required.

Article 13

Officers

- 13.1. At each regular annual meeting, the PIDC shall, in accordance with the voting procedure stipulated in Article 20, nominate, and if necessary elect, a member country as Vice-chair for the coming year. That country will then nominate a senior representative to execute the functions of the Vice-chair on its behalf.
- 13.2. The Vice-chair shall be appointed to the role for a period of one year, after which the Vice-chair shall automatically assume the role of Chair of the PIDC for the following year. The country holding the position of Chair shall nominate a senior representative to execute the functions of the Chair on its behalf.
- 13.3. It shall be the responsibility of the incoming Chair to host the regular annual meeting of the PIDC as a prelude to its role as Chair.
- 13.4. Those senior representatives nominated to hold these positions shall serve at the pleasure of their respective administrations and may be replaced at any time by their national administration. The Head of Secretariat shall be notified immediately if a change in personnel in these positions is anticipated.
- 13.5. Subject to the provisions of the previous clause, the Chairperson and Vice-chairperson shall remain in office until the election of their successors.

Article 14

The Secretariat

- 14.1. The PIDC shall establish a permanent Secretariat consisting of a Head of Secretariat and such other staff as the PIDC may require.
- 14.2. The Head of Secretariat shall be appointed for a term of up to three years and may be re-appointed for a further term of up to three years. The appointment of the Head of Secretariat shall be made on the basis of merit by the Chairperson in consultation with the Human Resources Committee and with the approval of the Board.
- 14.3. The Head of Secretariat is responsible for enabling the Board to deliver its annual work programme within the approved budget. This includes following

Board policies and procedures; regular and timely reporting and the highest levels of integrity in providing services and advice to member countries. In this capacity, the Head of Secretariat shall also be responsible for the public profile of the PIDC and as the primary representative of the PIDC shall maintain constructive and collaborative relationships with both member countries and external stakeholders.

14.4. The Head of Secretariat shall be responsible for maintaining the staffing of the Secretariat at agreed levels and shall ensure the effective management of both recruitment and performance processes as set out in the PIDC Staff Regulations. Agreed staffing levels means a Secretariat composition that reflects the approvals provided at regular annual meetings of the PIDC.

14.5. The Head of Secretariat shall also be responsible for the administration of all PIDC finances and resources and shall ensure the effective management of all related processes in accordance with this Constitution and the PIDC Financial Regulations.

14.6. The Secretariat functions shall include the following:

- Providing comprehensive administrative support to the PIDC, the Board and any Committees;
- Managing the conduct of all PIDC meetings, including logistics, preparation, secretarial support and reporting;
- Developing detailed work-plans and financial reports for the consideration of the Board and the PIDC;
- Providing services which ensure that the requirements of the agreed PIDC work-plan are met, including support in the form of capacity development and policy and legislative advice to member countries;
- Maintaining key relationships with all stakeholders on behalf of the PIDC to ensure that interests, aims and objectives of the PIDC are met;
- Receiving and transmitting the PIDC's official communications;
- Facilitating the compilation and dissemination of data necessary to inform collaborative and individual member progress towards region wide excellence in the delivery of immigration services which enhance economic growth and regional security;
- Administering agreed arrangements for coordinating the delivery of support services in the PIDC Area;
- Maintaining the PIDC website and publishing the decisions of and promoting the activities of the PIDC and its subsidiary bodies; and

- Delivering professional treasury, personnel and other administrative functions.

Article 15

The Staff of the PIDC

- 15.1. The staff of the PIDC Secretariat shall possess the technical competencies, knowledge and experience necessary to fulfil the functions of the PIDC, implement the PIDC work-plan and achieve the PIDC's objectives.
- 15.2. The staff shall be appointed and their performance managed by the Head of Secretariat.
- 15.3. The paramount consideration in the recruitment and employment of the staff shall be the necessity of securing the highest standards of efficiency, competence and integrity. Subject to this consideration, due regard shall be paid to the importance of recruiting the staff on an equitable basis between the members of the PIDC with a view to ensuring a broad-based Secretariat.
- 15.4. The Head of Secretariat shall be responsible for ensuring that any recruitment process is transparent, accountable (to the PIDC membership) and merit based.

Article 16

Meetings

- 16.1. The PIDC shall hold a regular annual meeting at which the election of officers, and the Board, shall occur.
- 16.2. The PIDC shall hold such other meetings as may be necessary to carry out its functions under this Constitution.
- 16.3. The Board shall meet in accordance with the provisions of Article 11 of this Constitution.
- 16.4. Other Subsidiary Bodies of the PIDC shall meet as often as is necessary to carry out their functions but shall meet at least once a year.
- 16.5. Each Committee shall meet as often as is necessary for the efficient exercise of its functions, in accordance with Article 12 of this Constitution.
- 16.6. All subsidiary bodies, including Committees, shall provide a detailed report of their activities and achievements to the PIDC annual meeting. All such reports shall be submitted through the Board.
- 16.7. The principle of cost-effectiveness shall apply to the frequency, duration and scheduling of meetings of the PIDC and its subsidiary bodies.

Article 17

Funds of the PIDC

- 17.1. As a general principle, all monies raised will go towards furthering the aims and objectives of the PIDC.
- 17.2. The funds of the PIDC shall include:
- annual contributions provided by Principal Donors;
 - annual member contributions as defined in the PIDC Financial Regulations;
 - voluntary contributions; and
 - any other funds which the PIDC may receive and accept.
- 17.3. Annual contributions from Principal Donors, from members and any other funds, including voluntary contributions, which the PIDC may receive and accept shall be deposited in the PIDC's bank account.
- 17.4. The various and different revenue streams will be recorded in PIDC's accounting system so that PIDC's regular financial reporting includes actual revenue received against forecast for each of the income streams listed in 17.3 and any other income streams that may arise.
- 17.5. All funds provided to and accepted by the PIDC will be used for PIDC purposes whether in the year those funds are provided or in a following financial year.
- 17.6. Once all outstanding liabilities properly incurred against the General Fund are settled, unused Principal Donor funds in any given year will be returned to Principal Donors in line with the respective country's funding rules. Unused member contributions will be retained by the PIDC Secretariat in the Member Contribution Fund for use in subsequent years.
- 17.7. The PIDC shall adopt Financial Regulations that enable the PIDC to operate efficiently, to maintain its reputation and to achieve its mission. Recommendations for enhancements and clarifications to existing Financial Regulations can be considered by the Board and reported to members, while recommendations of substantive change will be considered by the members and any decisions for change reached by consensus.

Article 18

Budget of the PIDC

- 18.1. The Head of Secretariat shall draft the proposed budget of the PIDC based on confirmed funding sources and submit it to the PIDC annual meeting. The proposed budget shall not exceed the confirmed available funds. The proposed

budget shall also indicate which of the administrative expenses of the PIDC are to be financed from the contributions provided by Principal Donors and which are to be financed from other sources, particularly from annual member contributions.

- 18.2. The proposed budget shall be presented in a format that provides sufficient detail for transparent scrutiny and shall conform to any requirements specified in the PIDC Financial Regulations.
- 18.3. The PIDC, at its annual meeting, shall adopt the budget by consensus. If the PIDC is unable to reach such a consensus, expenditure shall be limited to essential spending only until such time as a new budget can be adopted by consensus. No new programmes will be commenced and those in place shall be suspended until new funding is allocated. Non-essential travel shall also be suspended.
 - Essential spending can be defined as core expenditure such as salaries and other fixed costs relating to the operation of the Secretariat such as building rent. All other expenditure should be considered non-essential and should be suspended.
 - Non-essential travel means all travel other than that deemed necessary to advancing the adoption of a new budget.
- 18.4. The annual contributions of members shall be deposited into the Member Contribution Fund and the amount of the contribution by each member to the Member Contribution Fund shall be determined in accordance with a scheme which the PIDC shall adopt, and amend as required, by consensus of contributing members. The scheme shall be defined in the PIDC Financial Regulations.
- 18.5. The Head of Secretariat shall maintain accurate, up-to-date financial records and shall provide a detailed and up-to-date statement of financial position to each Board meeting.
- 18.6. Appropriate bank accounts shall be maintained in the name of the PIDC by the Head of Secretariat who shall have authority to execute payments from those accounts to the extent authorised from time-to-time in the PIDC Financial Rules. It may be that for certain payments or for payments above a specified limit, the signature of the Chairperson of the PIDC and/or the formal approval of the Board is required.

Article 19

Annual Audit

- 19.1. The records, books and accounts of the PIDC, including its annual financial statement, shall be audited annually by an independent auditor appointed by the PIDC in consultation with the Principal Donors.

Article 20

Decision-making

- 20.1. As a general principle, the PIDC shall always use transparent and democratic decision-making processes and as a general rule, decisions shall be achieved by consensus.
- 20.2. As set out in Article 26, amendments to this Constitution shall only be made by consensus.
- 20.3. For decisions other than those made pursuant to Article 26, if all efforts to reach consensus have been exhausted, decisions by voting on questions of procedure shall be taken by a majority of those present and voting. The time for the vote shall be stipulated by the Chairperson. Decisions on questions of substance shall be taken by a three-fourths majority of the member countries present and voting. If the issue arises whether a question is one of substance or not, that question shall be treated as one of substance. Voting shall be by standing or show of hands.
- 20.4. Any elections may be conducted by secret ballot at the discretion of the Chairperson. Where an election concerns electing an individual but no candidate obtains a majority in the first ballot, then a second ballot shall be undertaken which is restricted to the two candidates who obtained the largest number of votes.
- 20.5. If necessary, a member may propose that a matter may be decided during the period between annual conferences or Board meetings on matters that require a decision before the PIDC convenes. In such cases, voting shall be undertaken electronically (via email or secure website) or other means of communication.
- 20.6. The Chairperson, in consultation with the Vice-chairperson, determines whether a matter should be decided inter-sessionally rather than deferring it to the next annual meeting or Board meeting. If the Chairperson agrees a vote is necessary, the Head of Secretariat must administer the vote as soon as possible and request that voters respond within 30 days. If the Chairperson considers that the matter should be deferred to the next annual meeting or Board meeting, then the Chairperson must immediately advise the proposing

member of this decision and the reasons for the decision. The member may request an inter-sessional vote on the Chairperson's determination.

- 20.7. Members shall promptly acknowledge receipt of a request for an inter-sessional vote and complete voting within 30 days.
- 20.8. A matter that has been rejected as a result of an inter-sessional vote may not be reconsidered under an inter-sessional vote until it has been discussed at an annual meeting or Board meeting.
- 20.9. A quorum for a regular annual meeting or special general meeting of the PIDC shall be seventy five (75) percent of the elected members.
- 20.10. A quorum for a Board or Committee meeting or inter-sessional decision-making shall be seventy (70) percent of the elected members.

Article 21

Transparency

- 21.1. The PIDC shall promote transparency in its decision-making processes and other activities. In accordance with Article 22 of this Constitution, representatives from inter-governmental organizations and non-governmental organizations concerned with matters relevant to the implementation of this Constitution shall be afforded the opportunity to participate in the meetings of the PIDC and its subsidiary bodies as observers or otherwise as appropriate.
- 21.2. The rules of procedure of the PIDC shall provide for such participation. The procedures shall not be unduly restrictive in this respect. Such inter-governmental organizations and non-governmental organizations shall be given timely access to pertinent information subject to the rules and procedures which the PIDC may adopt.

Article 22

Co-operation with other Organisations

- 22.1. The PIDC shall cooperate, as appropriate, with the Pacific Island Forum Secretariat on matters of mutual interest.
- 22.2. The PIDC shall make suitable arrangements for consultation, cooperation and collaboration with other relevant intergovernmental organizations, particularly those which have related objectives and which can contribute to the attainment of the objective of this Constitution, such as the Oceania Customs Organisation (OCO), the Secretariat of the Pacific Community (SPC), the International Organisation for Migration (IOM), and the United Nations Office on Drugs and Crime (UNODC).

- 22.3. The PIDC may enter into relationship agreements with the organizations referred to in this article and with other organizations as may be appropriate, with a view to obtaining the best available advice, information and collaboration to further the attainment of the objective of this Constitution and to minimize duplication with respect to their work.
- 22.4. Any organization with which the PIDC has entered into an arrangement or agreement under this Article may designate representatives to attend meetings of the PIDC as observers in accordance with the rules of procedure of the PIDC. Procedures shall be established for obtaining the views of such organizations in appropriate cases.

Article 23

Obligations of Members of the PIDC

- 23.1. The conduct of PIDC members shall be characterised by mutual respect, be based on the values and principles laid down in Articles 7 and 8 of this Constitution, respect the dignity of PIDC, and not compromise the efficient conduct of PIDC business.
- 23.2. PIDC members shall commit to engage in PIDC meetings, discussions and decision-making processes in a timely manner and in a way that achieves the objectives of the PIDC as set out in Articles 3 and 8 of this Constitution.
- 23.3. Every PIDC member shall respect and appropriately handle any confidential information made available to them in the course of PIDC business.
- 23.4. Every PIDC member undertakes to provide detailed and accurate reports and other data required by the Secretariat in a timely manner.
- 23.5. PIDC members who are represented on the Board or other subsidiary bodies or Committees of the PIDC shall commit to engage fully in the business and decision-making processes of those subsidiary bodies or Committees.
- 23.6. Every PIDC member shall maintain effective working relationships with other Border and Law Enforcement Agencies in their country or territory to ensure policy and operational cohesion in all Border and Immigration related matters.

Article 24

Good Faith and Abuse of Rights

- 24.1. The obligations assumed under this Constitution shall be fulfilled in good faith and the rights recognised in this Constitution shall be exercised in a manner which would not constitute an abuse of rights.

Article 25

Acceptance

- 25.1. This Constitution shall be accepted by member countries which sign the Memorandum of Understanding introducing it. Membership of the PIDC shall be afforded to those countries which complete this formality.

Article 26

Alterations to the Constitution

- 26.1. Any member of the PIDC may propose amendments to this Constitution to be considered by the PIDC. Any such proposal shall be made by written communication addressed to the Head of Secretariat at least 60 days before the annual or special meeting of the PIDC at which it is to be considered. The Head of Secretariat shall promptly circulate such communication to all members of the PIDC.
- 26.2. Amendments to this Constitution shall be considered at the annual meeting of the PIDC unless a majority of the members request a special meeting to consider the proposed amendment. A special meeting may be convened by the Head of Secretariat on not less than 60 days' notice.
- 26.3. Amendments to this Constitution shall be adopted by consensus. If a consensus cannot be achieved, the proposed amendment will be defeated.
- 26.4. The text of any amendment adopted by the PIDC shall be transmitted promptly by the Head of Secretariat to all members of the PIDC.
- 26.5. Amendments to this Constitution shall enter into force for all members 30 days after the date on which the amendment is agreed to.

Article 27

Annexes

- 27.1. Any annexes which may in future form part of this Constitution shall form an integral part of this Constitution and, unless expressly provided otherwise, a reference to this Constitution includes a reference to the Annexes related thereto.

Article 28

Dissolution

- 28.1. The PIDC can be dissolved if a motion put by a member proposing dissolution is supported by at least seventy five percent of the membership at a meeting specifically called for this purpose.
- 28.2. Any member wishing to advance such a motion must advise the Head of Secretariat at least three months in advance of the proposed meeting and the Head of Secretariat must supply members with the full details of the motion and the proposed date of the special meeting at least two months prior to the date of that meeting. The notice of motion must include reasons.
- 28.3. If the motion to dissolve the PIDC is successful, its affairs shall be wound up within three months of the motion being passed. The following actions will occur:
 - All assets will be liquidated.
 - All outstanding liabilities and commercial obligations will be recorded and to the extent possible paid out of available cash reserves.
 - Should there be a surplus of cash at the end of that process it will be divided proportionately to donor and member countries based on the last full financial year's contributions.
- 28.4. In the event that the PIDC is dissolved or wound up and there is insufficient cash in reserve to meet all outstanding liabilities, the order in which creditors will be paid will be determined by applying the applicable law of the Host Country.

CONSTITUTION OF THE PACIFIC IMMIGRATION DEVELOPMENT COMMUNITY (PIDC)

ANNEX ONE

Constitution of the Pacific Immigration Development Community (PIDC)

Annex One

Membership of Tokelau in the Pacific Immigration Development Community

1. Pursuant to Article 5 of the Pacific Immigration Development Community (PIDC) Constitution, PIDC Members at their Regular Annual Meeting held on 4 – 6 June 2019 in Rarotonga, Cook Islands have endorsed the application of Tokelau to be a member of the Pacific Immigration Development Community.
2. As such, Tokelau from the agreed date and upon formal signature of the PIDC Memorandum of Understanding shall have full membership in the PIDC and shall enjoy all privileges and be subject to all responsibilities as provided by the PIDC Constitution and PIDC Regulations.
3. To give effect to this Annex, the PIDC Constitution will be amended as provided below.
 - (a) The Interpretations Section will be amended by inserting the name of Tokelau into the paragraphs defining the membership of Polynesia and Small Island States.
 - (b) Article 5.1 will be amended by: (i) inserting a reference to Tokelau joining PIDC in 2019; and (ii) inserting the name of Tokelau into the list of PIDC members; and
 - (c) Annex One will be inserted into the PIDC Constitution pursuant to Article 5.3 and Article 27.