



Agenda item 22: Changes to Legislation

Proposed Recommendations

The PIDC Regular Annual Meeting is invited to:

- a) **note** the panellist discussions and learnings regarding their legislation review project;
 - b) **welcome** the work undertaken as part of the PIDC Legislation Strengthening and Modernisation Programme;
 - c) **welcome** the experiences shared by Kiribati and Tuvalu to review and modernise their immigration legislation; and
 - d) **encourage** the Secretariat to continue providing support in advancing this important work noting the activities undertaken in the 2019/20 Work Plan.
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Purpose

To update Members on the activities of the PIDC Legislative Strengthening and Modernisation Programme and discuss the learnings (successes/challenges) based on key national experiences.

Background

2. PIDC recognises the importance of Members developing modern and streamlined national policies and legal frameworks aligned to international standards and best practices to support Members effectively execute their core business. Modern and streamlined policies and frameworks allow immigration agencies to: a) better manage their borders; b) improve service delivery; c) align organisational activities to national objectives; d) increase inter-operability, collaboration and where appropriate integration of border enforcement activities with partner agencies and stakeholders; e) strengthen compliance with the rule of law and respect for human rights; and f) improve support for labour and economic related initiatives.

PIDC Legislation Review Programme

3. To support Members strengthen and modernise their immigration legislation, PIDC in 2017 updated its PIDC Model Policy and Legislative Framework to provide a contemporary regional resource that provided provisions and concepts aligned to key international immigration related standards and best practices. Since 2017, PIDC as part of its annual work plan with the support and partnership of the Pacific Islands Forum Secretariat has provided technical assistance to a number of PIDC Members to support: a) the review of domestic immigration legislation to determine gaps and areas for improvement; and b) the drafting of amending immigration provisions based on areas identified as part of the initial review.

4. PIDC support is currently being provided to the Republic of the Marshall Islands, Samoa, Tuvalu, Tonga, Solomon Islands with Federated States of Micronesia and Fiji

scheduled for support. In a bilateral programme that is linked with PIDC activities, New Zealand is currently providing similar support to the Cook Island and Kiribati.

Activities

5. At the national level, PIDC's legislation modernisation support consists of three phases. Phase I sets out to develop a set of legislative drafting instructions based on a review of:

- a) the Host Agency's immigration legal framework to identify gaps with existing regional and international standards and best practices utilising inter alia the PIDC Policy and Legislative Framework document as a primary resource;
- b) current and upcoming national and international immigration policy drivers; and
- c) agreed recommendations on proposed reforms presented and discussed through national consultations.

6. Phase II involves the development of draft amending provisions based on the legislative drafting instructions. PIDC undertakes the development of these drafting provisions through a partnership approach where either Members may choose to utilise inhouse legislative drafting expertise or seek the support of the Pacific Islands Forum Secretariat (if available) or NZ Parliamentary Counsel legislative drafters.

7. Phase III involves the drafting of accompanying regulations to support the revised immigration legislation where, for the purposes of continuity, the drafting of regulations utilises the same legal drafter Members used in phase II.

8. In 2018/19, PIDC continued delivering its legislation review programme adopting the 3-phase methodology working with Tuvalu, Solomon Islands and Tonga. Cook Islands and Kiribati also undertook a review of their immigration legislation through institutional support provided by Immigration New Zealand. Tuvalu and Kiribati will discuss in the panellist session their experiences during their respective review programme especially on learnings and challenges that should assist Members in future legislative review programmes.

Policy Impacts

9. The discussion outcomes for this session is expected to support and guide the organisations work in Key Activity Area 2.2 of the PIDC Strategic Plan 2019-2021 to strengthen and modernise regulatory frameworks.

Resource Implications

10. The 2019/20 Annual Work Plan has budgeted another three legislative review activities to be undertaken for this financial period with Fiji confirmed for support in this new financial year while Members that have not received this support are encouraged to submit their requests prior to the regular annual meeting.