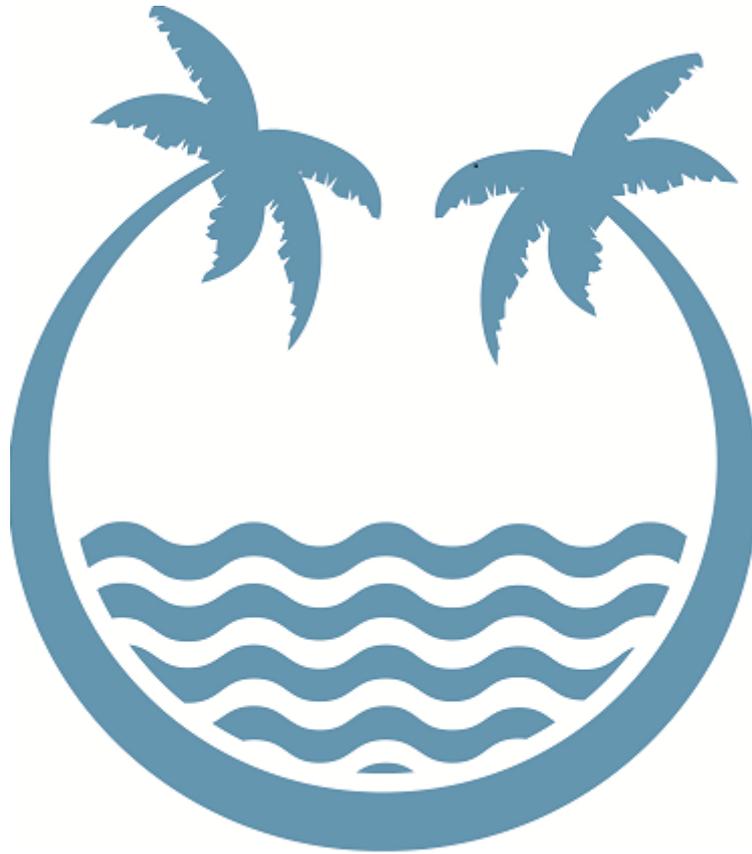


South Pacific Lawyers' Association



Pacific Islands Forum Secretariat
Regional Policy Consultation

28 February 2018

Executive Summary

The South Pacific Lawyers' Association (SPLA) is grateful for the opportunity to make this submission, which focusses on the benefits of enhancing the region's focus on developing the capability and capacity of the Pacific legal profession.

SPLA represents the legal profession from 16 Pacific island countries.¹ SPLA was established in 2007 by Pacific bar leaders, with support from the International Bar Association in partnership with the Law Council of Australia and the New Zealand Law Society. The organisation works closely with member associations to advocate the administration of justice and the development and improvement of law throughout the South Pacific region. SPLA also works to support the development of legal profession bodies in the South Pacific region and to promote the interests of the legal profession in the South Pacific.

SPLA is committed to the development of a strong, independent and capable legal profession. Its members act in the public interest to support the just and peaceful resolution of disputes and to improve rule of law outcomes across the Pacific.

SPLA understands that the legal profession is integral to the achievement of targets grouped under Sustainable Development Goal 16 and agrees with the proposition that “the rule of law and development have a significant interrelation and are mutually reinforcing, making it essential for sustainable development at the national and international level”²

SPLA supports the Small Islands Developing States Accelerated Modalities of Action (SAMOA) Pathway, which recognises:

the importance of supporting small island developing States in their ongoing efforts to ensure peaceful societies and safe communities, including through building responsive and accountable institutions and ensuring access to justice and respect for all human rights, taking into account their national priorities and legislations.³

Finally, SPLA also supports the Framework for Pacific Regionalism, which includes the following values:

We embrace good governance, the full observance of democratic values, the rule of law, the defence and promotion of all human rights, gender equality, and commitment to just societies.

¹ SPLA's Constituent Bodies are: American Samoa Law Society, Cook Islands Law Society, Fiji Law Society, Kiribati Law Society, Law Council of Australia, Law Society of New Zealand, Marshall Islands Law Society, Nauru Law Society, Norfolk Island Bar Association, Papua New Guinea Law Society, Samoa Law Society, Solomon Islands Bar Association, Timor Leste Bar Association, Tonga Law Society, Vanuatu Law Society. The practitioners of Niue and Tuvalu are represented by volunteer members of those professions and do not have a representative professional association.

² United Nations Sustainable Development Goals, *Goal 16: Promote just, peaceful and inclusive societies*, United Nations, <http://www.un.org/sustainabledevelopment/peace-justice/>

³ *Third International Conference on Small Island Developing States*, UN Doc A/CONF.223/3 (17 July 2014) annex (*Small Island Developing States Accelerated Modalities of Action (Samoa Pathway)*) para 83.

We seek peaceful, safe, and stable communities and countries, ensuring full security and wellbeing for the peoples of the Pacific.⁴

This submission responds directly to these values.

1. *The Legal Profession and Rule of Law Outcomes*

Firstly – in response to the value of embracing good governance, democratic values and the rule of law – by making the case for improved support for the legal profession in the Pacific as an enabler of development outcomes. SPLA has suggested several areas where regional action may support broader rule of law outcomes. These include:

- an ongoing regional dialogue in support of an independent Pacific legal profession and judiciary.
- prioritisation of legal profession regulatory reform
- developing a regional approach to the establishment and operation of legal profession bodies which addresses the unique pressures faced by these organisations in the Pacific context, and
- support for the development of guidance of a general and regionally applicable nature on the use of mediation and alternative dispute resolution in the Pacific.

2. *Small Arms and Light Weapons*

Secondly – in response to the value of seeking peaceful, safe, and stable communities and countries, and cognisant of the importance of rule of law in delivering these outcomes – by discussing the issue of small arms and light weapons in the Pacific. SPLA is keenly aware of the impacts that the presence of small arms and light weapons have had on the rule of law and the existence of peaceful, safe and stable communities and countries in the Pacific.

In view of recent policy announcements, SPLA's view is that the Pacific Islands Forum should continue discussions on regional security, particularly in relation to small arms, with a view to concluding a regional position on the prospect of increased defence imports into the region and the impact this may have on ensuring the security, harmony and prosperity of our Pacific region. SPLA's comments on this topic may be relevant to a review of regional security cooperation ('Biketawa Plus').

⁴ Pacific Islands Forum Secretariat, *The Framework for Pacific Regionalism* (July 2014) 3.

1. The Legal Profession and Rule of Law Outcomes

Overseas development aid and support for the legal profession in the Pacific is closely focussed on supporting the courts, government lawyers and enforcement agencies, as important institutional elements of good governance. While SPLA does not suggest that this focus is unwelcome or unnecessary, it is observed that this focus does little to assist private clients who have need to resort to the courts. For every difficulty faced by Pacific island countries in providing access to justice, private clients and citizens face equivalent, or possibly even more severe, barriers to justice.

A broader focus, which includes a clear commitment to the importance of the private legal profession, is required to successfully “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, [and] accountable and inclusive institutions at all levels” as required by Sustainable Development Goal 16.

A consequence of this limited focus is that many clients confront court when this should have been avoided while others are not able to enforce their legal rights. The Honourable Chief Justice Lunabek of the Supreme Court of Vanuatu observed:

The Courts only become active when legal disputes require adjudication. This may be in a criminal context when the guilt of a person has to be determined. It may be in a civil context when civil rights, commonly about money or property, have to be resolved. It may be in a public context which engages not only the rights of the parties actually before the courts, but more importantly, the public interest as a whole.⁵

The private legal profession has an essential role in engaging the judiciary as an independent check and balance to implement and sometimes moderate the actions of the legislature and the executive in accordance with the rule of law. Especially in the case of civil and public interest matters, a strong, independent and capable private legal profession is an essential precondition for engaging the oversight of the Courts.

This is in turn supported by the development of legal profession bodies. This is recognised in Article 24 of the UN Basic Principles on the Role of Lawyers:

Lawyers shall be entitled to form and join self-governing professional associations to represent their interests, promote their continuing education and training and protect their professional integrity. The executive body of the professional associations shall be elected by its members and shall exercise its functions without external interference.⁶

⁵ Chief Justice Lunabek, ‘Official Opening of the Courts of Vanuatu, 2016’ (speech delivered at Port Vila, Vanuatu, 2016) <<http://www.paclii.org/vu/other/speeches/official-court-opening-speech-2016.pdf>>, 9.

⁶ United Nations Office of the Human Rights Commissioner, *Basic Principles on the Role of Lawyers*, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of

These measures are not for the benefit of practising lawyers. Instead, they serve clients who rely on the knowledge and professional integrity of their legal advisers. These bodies can also play an important role in advocating for improvements to the law and bringing legal issues to the attention of regulators. By providing these services to the profession, on behalf of clients, and to the wider public, independent bars and law societies play a critical role in supporting the rule of law.

Challenges to the rule of law and broader development outcomes

While the development of a strong, independent and capable legal profession is essential to achieving rule of law outcomes, it is important to note that this role can also bring the legal profession into conflict with other actors, particularly those involved in governance and public institutions.

PIF members should engage in an ongoing regional dialogue in support of an independent Pacific legal profession and judiciary. The purpose of this dialogue should be to:

- build support for the independence of the legal profession and the judiciary and discourage action that undermines or threatens this independence
- recognise that an independent legal profession and judiciary are necessary components of good governance, and
- support the proposition that government actions affecting the legal profession and the judiciary should clearly demonstrate respect for, and adherence to, the rule of law.

Better support for the private legal profession will also facilitate development outcomes in other areas. For example, the Australian Government's Foreign Policy Whitepaper suggests that up to US\$46 billion in public and private investment is required to address the infrastructure shortfall in the Pacific and Timor-Leste.⁷

Access to quality professional legal services – including services that can make effective use of local laws, procedures and enforcement mechanisms, including the court system – is an essential enabling factor for the delivery of infrastructure to meet this shortfall. As long as it remains the case that this advice is not available, businesses will factor these risks into their investment decisions. This could result in missed opportunities to attract foreign investment. Alternatively, businesses may structure their legal arrangements to minimise exposure to investment risks, including local legal risks.

Research carried out by SPLA and published in 2017 on *Legal Profession Regulation in the South Pacific* found that:

In addition to impacts on clients, the undermining of trust in the legal system and erosion of the rule of law, ineffective legal profession regulation has several deleterious effects:

- Failure to effectively regulate lawyers (or any profession) contributes to an environment in which systemic corruption can thrive, particularly as lawyers

Offenders, Havana, Cuba (27 August – 7 September 1990), <<http://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfLawyers.aspx>>.

⁷ Department of Foreign Affairs and Trade (Cth of Australia), *Foreign Policy Whitepaper* (24 November 2017) <<https://www.fpwhitepaper.gov.au/>> 100.

necessarily draft laws, facilitate the transfer of property and are involved in the resolution of most commercial disputes.

- Lawyers are intrinsically involved in all domestic and international trade. Ineffective regulation creates uncertainty in the effectiveness of dispute resolution which negatively impacts domestic and international trade – particularly foreign direct investment. Corruption and rent seeking behaviour by officials adds to the cost of doing business in the particular country.⁸

The absence of a strong, independent and capable local legal profession can also provide fertile ground for the development of perverse rewards for jurisdictions not to invest in rule of law and good governance frameworks. For example, some investors may be attracted to jurisdictions where regulations are absent or inappropriate for contemporary needs, or where compliance with regulations can be avoided through lack of enforcement mechanisms, poor governance or corrupt or illegal practices.

A prevalent example in the Pacific is the level of court resourcing in comparison to the number of cases filed in the registry. Too often, there are insufficient resources – whether financial, procedural or staff resources – to ensure the length of time between filing, hearing and final determination of a matter in dispute is reasonable and supportive of good justice outcomes. In the absence of sufficient resourcing, effective management and reliable procedures, all stages of the court process become susceptible to delay and corruption.

In May 2016, the International Bar Association reported that:

“judges and prosecutors are said to be most at risk of undue political influence ... [while] lawyers and court personnel often serve as intermediaries for actors within the judicial system, as well as for third parties seeking to influence the outcome of a case.”⁹

In the long term these problems related to the rule of law will ensure that the benefits of economic activity are not retained in the jurisdiction where that activity takes place. In turn, this will constrain the capacity of governments to deliver essential services and undermine the achievement of development outcomes.

Supporting the development of a strong, independent and capable local legal profession is therefore an investment that supports broader development outcomes.

Regulation of the profession

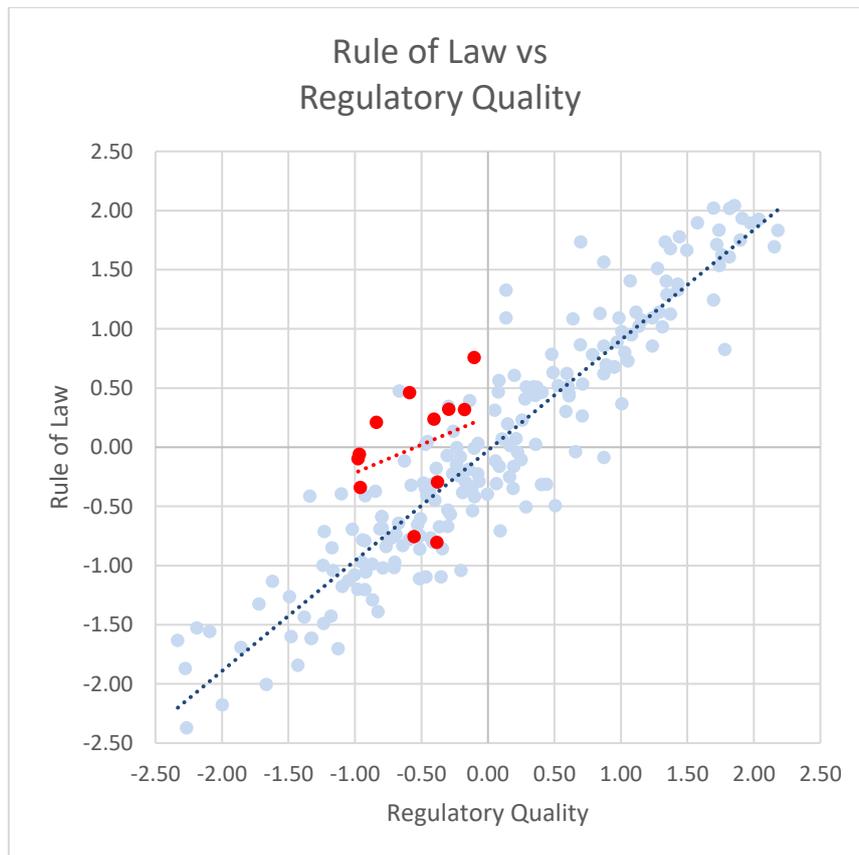
The World Bank Governance Index demonstrates that ‘Regulatory Quality’ in Pacific island countries lags behind the ‘Rule of Law’ dimension of governance.¹⁰ For the purposes of this survey, ‘Rule of Law’ means “perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence”.

⁸ South Pacific Lawyers Association, *Legal Profession Regulation in the South Pacific* (July 2017) <<https://www.southpacificlawyers.org/research>> para 38.

⁹ International Bar Association Judicial Integrity Initiative, *Judicial Systems and Corruption* (May 2016) 7.

¹⁰ World Bank, *Worldwide Governance Indicators* (2018), <http://info.worldbank.org/governance/wgi/index.aspx#doc>

'Regulatory Quality' refers to "perceptions of the ability of the government to formulate and implement sound policies and regulations that permit and promote private sector development".



While this data reflects a broad need to improve 'Regulatory Quality', SPLA suggests that reform of legal profession regulations should be prioritised. This is because a strong, independent and capable legal profession can support improved rule of law outcomes across a broad range of areas. While SPLA is centrally focussed on the practise of law by private legal practitioners, it should be noted that regulation of the legal profession would cover all legal practitioners, whether working as government lawyers, in-house counsel, as providers of community legal assistance services or in private legal practise.

The 2011 *Needs Evaluation Survey for South Pacific Lawyer Associations* recommended that "Governments in South Pacific countries should make it a priority to conduct a comprehensive review of legal profession legislation and regulation".¹¹

This finding is supported by the results of the International Bar Association's Judicial Integrity Initiative, which found that the absence and non-enforcement of professional standards for lawyers creates serious challenges for any legal system. For example, the IBA found evidence to suggest that where professional standards are not enforced, lawyers can become brokers for criminals rather than their advocates, or sometimes facilitate corrupt

¹¹ South Pacific Lawyers Association, *Needs Evaluation Survey for South Pacific Lawyer Associations* (18 October 2011) <<https://www.southpacificlawyers.org/research>> 9.

payments by, for example, providing false invoices for their legal work and then making corrupt payments to their clients.¹²

Although it is tempting to view this issue as being solely related to poor professional discipline, the report on *Legal Profession Regulation in the South Pacific* found a wide range of issues occurring across many individual jurisdictions:

- Absence of good character requirements to gain admission to the profession
- No disciplinary mechanism to enforce requirements to disclose matters affecting 'good character' and suitability to practise
- No mandatory requirement for professional indemnity insurance
- Where there is a fused profession, a lack of separate professional conduct rules for lawyers practising solely as barristers
- Inadequate regulation of trust accounts
- Inadequate regulation of disclosure obligations to prospective clients
- Inadequate regulation to ensure fees are reasonable, to manage contingency fees, setting aside or varying cost agreements and recovery of costs for clients
- Non-existent or inadequate professional conduct rules, and
- Lack of clear procedures for making complaints about the conduct of lawyers.¹³

The picture that emerges is that much of the regulatory foundation for good legal practice is missing in many Pacific jurisdictions. Starting the process of putting appropriate regulations in place is an essential task. This is both because of the important role of appropriate regulations in codifying the professional, fiduciary and other duties that inform the practice of law, and because of the broader importance of a strong, independent and capable legal profession to achieving rule of law and other development outcomes.

However, the 2017 Report warns that a one-size fits all model for legal profession regulation would not provide a suitable solution. Despite there being a large degree of consistency in regulatory gaps across the region, SPLA has suggested that the development of "general model rules, which can be tailored for individual jurisdictions, would be an appropriate way forward". SPLA has also recommended the need for a "positive regional dialogue on legal professional standards and the regulation of lawyers".¹⁴

The PIF should consider supporting these initiatives, which require regional action and coordination and will support improved outcomes across the region.

Supporting Pacific island legal profession bodies

Another critical problem for the legal profession in the South Pacific is that many law societies operate in very challenging and constrained financial circumstances.

The Pacific legal profession is small and tends to be concentrated in the major centres. There are generally far fewer private legal practitioners than public lawyers and the overall proportion of lawyers is much lower throughout the Pacific than in larger common law jurisdictions such as Australia or New Zealand. Individual clients generally do not have a

¹² *Judicial Systems and Corruption*, above n 9, p 7.

¹³ *Legal Profession Regulation in the South Pacific*, above n 8, 8-9.

¹⁴ *Ibid*, 30.

sophisticated understanding of the law and, even where legal services are available, may not take steps to obtain legal advice. For example, parties may form their own agreement or rely exclusively on the advice of a counterparty when entering into a business relationship.

In this environment, it is almost impossible for law societies in the South Pacific to financially support all of the functions that are typically performed by a law society or bar association in larger, more developed, jurisdictions.

For example, in 2011 SPLA carried out a 'Needs Evaluation Survey' which made the following general findings about the legal profession in the South Pacific:

The PNG Law Society and the Tonga Law Society are the only lawyer associations with a permanent or part-time office. All lawyer associations believe it would be beneficial to the association and the legal profession to have a permanent office – whether housed within a government body (such as a PSO or DPP's office), a court, or separate premises.

Legislative and regulatory frameworks do not currently provide an adequate basis for sustainable funding of legal professional and regulatory bodies.

Most legal professional associations believe that infrastructure could be improved by sharing resources (for example through a centrally administered secretariat). However, key barriers include issues with telecommunications, funding, the need to establish common templates and processes such as operational guidelines, and the need for many members to improve communications and resource-sharing domestically, particularly in remote areas.¹⁵

The desire to firmly establish the independence of the legal profession creates an expectation that these organisations will be financially independent. For example, the major source of income for Australian legal profession bodies is from individual members paying annual registration and practising certificate fees. However, there are often not enough private lawyers to financially support local law societies without the imposition of prohibitive registration fees.

In these circumstances, SPLA requests that PIFS consider supporting a regional approach to the establishment and operation of legal profession bodies. In order to ensure the financial viability of these organisations and noting the central importance of the legal profession achieving outcomes under SDG 16, this may need to include consideration of financial support for regional associations of lawyers, including but not necessarily limited to SPLA. Any such support would need to recognise and maintain the independence of the legal profession.

Financial support would also assist relatively well-established law societies in larger Pacific island jurisdictions, for example by supporting regular delivery of Continuing Legal Education (CLE).

¹⁵ *Needs Evaluation Survey for South Pacific Lawyer Associations*, above n 11, 6.

Continuing Legal Education (CLE)

Only two SPLA members, Vanuatu and Fiji, have made CLE a mandatory requirement for their members. While all SPLA members agree that there is a strong need or practitioners to attend CLE, only half of SPLA's members were able to offer this training at the time of the survey.¹⁶

Financial capacity, especially for smaller jurisdictions, is a factor however capacity to develop and deliver training and the ability of lawyers to travel to participate in training are also significant factors. Several SPLA members noted the importance of regional partners and forums as mechanisms for the delivery of CLE.¹⁷

The legal profession in the South Pacific requires training on a wide range of CLE topics. SPLA members have indicated a particular need for training in practise management, advocacy, ethics and trust accounting. It has also been suggested that mentoring would be beneficial for South Pacific lawyers.

SPLA has previously held biennial conferences which provided a forum for lawyers from across the Pacific to network and establish mentoring relationships with senior practitioners from across the region, discuss topical legal issues and participate in targeted and relevant CLE. The last such conference was held in 2015. Ongoing reductions in the Australian aid budget and changes in the way that aid funds are allocated, evidenced for example by a shift from regional programs to an almost exclusive preference for bilateral aid projects, has severely reduced opportunities for SPLA to hold further events of this kind.

SPLA is currently working with its members and counterpart legal profession organisations in Australia and New Zealand, to identify options for CLE delivery in the Pacific.

Mediation and Alternative Dispute Resolution

SPLA members have also reported that their members need training in mediation and other forms of alternative dispute resolution (ADR). Bathurst CJ, formerly of the New South Wales Supreme Court, has written that in the context of increasing pressures on affordability and access to the courts in New South Wales, ADR mechanisms have served an increasingly important role in facilitating access to dispute resolution services for all citizens.¹⁸

While affordability and access are also central issues in the Pacific, increased demand for mediation and ADR may also be linked to client demand for conflict resolution that is compatible with customary law approaches. For example, by providing a mechanism for resolving disputes that builds consensus and supports a normalisation of relations between parties to the dispute.

The growing demand for ADR should be supported by the development of regional guidance on this topic. For example, this could include guidance of a general and regionally applicable nature about:

- Basic procedures, including documentation of outcomes

¹⁶ Ibid, 21.

¹⁷ Ibid, 21-24.

¹⁸ The Hon TF Bathurst CJ, 'The Role of the Courts in the Changing Dispute Resolution Landscape' (2012) 35 *UNSW Law Journal* 870.

- Independence and impartiality of mediators and ADR practitioners
- What matters should and should not be resolved through mediation and ADR
- What kinds of awards can be handed down (and what cannot)
- Relationship between mediation and ADR processes and the courts, including for example, mechanisms for recognition and enforcement by the courts and guidance on appealability of mediated or ADR outcomes
- The relationship between mediation and ADR processes and customary dispute resolution, including the need for parties to agree whether claims for compensation in custom should be considered in the course of mediation or by an ADR decision maker.

2. Small Arms and Light Weapons

SPLA is keenly aware of the impacts that the presence of small arms and light weapons have had on the rule of law and the existence of peaceful, safe and stable communities and countries in the Pacific.

On 29 January 2018, the Government of Australia launched its Defence Export Strategy, which it describes as a “policy and strategy to make Australia one of the top ten global defence exporters within the next decade.”¹⁹ The Strategy specifically mentions the Indo-Pacific region as one of several global defence “priority markets” for increased defence exports.²⁰

The 2016 Australian Defence Force Whitepaper states that “Australia is committed to further strengthening the capabilities of Pacific Island Countries so they can act in support of shared interests” and specifically lists Papua New Guinea, Fiji, Tonga and Timor-Leste as important countries for bilateral defence force cooperation with Australia.²¹

In this context, SPLA recalls the Communiqué released following the 40th Pacific Islands Forum Summit (Cairns, 2009), where:

Leaders noted with extreme concern the availability throughout the Pacific of guns and small arms and light weapons (both legal and illegal), which more often than not have been used in tribal fights and criminal activities, and in furthering political power. Small arms and light weapons are used to fuel and exacerbate violence and conflict. They are widely used in armed conflict, terrorism, and crime and there are significant costs and impacts, including financial (healthcare) and loss of life. They can be easily produced, concealed and transferred and more often than not, threaten peace, security, development and human rights.

In an effort to support activities in the region to address the threat of SALW, Leaders:

- (a) endorsed activities relating to the control of small arms and light weapons (SALW) and implementation of the global Programme of Action;
- (b) supported the proposed Control of Ammunition Project of the Forum Secretariat Law Enforcement Unit; and
- (c) encouraged all efforts to build national and regional capacity for the effective and successful implementation of the Programme of Action on SALW.²²

¹⁹ Department of Defence (Cth of Australia), ‘Launch of job-creating Defence Export Strategy’ (media release, 29 January 2018) <<https://www.minister.defence.gov.au/minister/christopher-pyne/media-releases/launch-job-creating-defence-export-strategy>>.

²⁰ Strategic Policy and Intelligence Group, *Global Defence Markets*, Department of Defence (Cth of Australia) <<http://www.defence.gov.au/SPI/Industry/ExportStrategy/GlobalMarkets.asp>>.

²¹ Department of Defence (Cth of Australia), *2016 Defence Whitepaper* (25 February 2016) <<http://www.defence.gov.au/WhitePaper/Docs/2016-Defence-White-Paper.pdf>>, [2.70, 5.41-44]

²² Pacific Islands Forum Secretariat, *Forum Communiqué*, Fortieth Pacific Islands Forum (Cairns, Australia, 5-6 August 2009)

The United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (Programme of Action) is described as an agreement to improve national small arms laws, import/export controls, and stockpile management and to engage in cooperation and assistance. The aim of achieving global improvements to weapons tracing capabilities under the Programme of Action is included in the 2030 Agenda for Sustainable Development.²³

All of the PIF countries (excluding Australia and New Zealand) that have lodged National Reports on the Programme of Action indicate a range of current issues that weigh in favour of taking a cautious approach to the issue of increased defence imports into the region.²⁴

The Solomon Islands' 2003 Report extensively quoted remarks by H.E. Mr. Vinci Niel Clodumar, Permanent Representative of the Republic of Nauru to the United Nations, to the United Nations *Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects*. On 10 July 2001, speaking on behalf of the member countries of the Pacific Islands Forum Group, Mr Clodumar said:

“The large-scale transfer of automatic military-style weapons is not a problem in the Pacific. Rather, the problems in the region relate to:

- the availability of old stocks of weapons in the civilian community. Often these weapons are quite basic, reconstructed from World War II leftovers;
- insufficient infrastructure for effective weapons accountancy and effective stockpile management procedures; and
- inadequate legislation to establish effective licensing and registration procedures governing ownership and use of small arms and other non-firearms [and] insufficient facilities for enforcement of this legislation.

...in many Pacific Island countries, the possession or transfer of even a handful of basic weapons into the wrong hands can have a serious impact on security and safety. Indeed, there are recent regional examples where access to or the ready availability of small arms has destabilised regional security, threatened democratic institutions and even contributed to changes in leadership and Government.”²⁵

In 2016, Fiji, Samoa and Vanuatu all lodged National Reports on the Programme of Action.

Fiji reported that it “requires further assistance in implementing the provisions of the UNPoA. This includes drafting legislation on brokering, developing a national database system,

<<http://www.forumsec.org/resources/uploads/attachments/documents/2009%20Forum%20Communique,%20Cairns,%20Australia%205-6%20Aug.pdf>>, paras 62-63.

²³ United Nations Office for Disarmament Affairs, *Programme of Action on small arms and its International Tracing Instrument*, <<https://www.un.org/disarmament/convarms/salw/programme-of-action/>>.

²⁴ A complete list of all national reports submitted under the Programme of Action are available from <http://www.poa-iss.org/poa/nationalreportlist.aspx>

²⁵ Government of the Solomon Islands, *National Report on The Implementation of the United Nations Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects* (1 November 2014), <<http://www.poa-iss.org/CASACountryProfile/PoANationalReports/2004@175@solomonislands.pdf>> 7.

training on the ISACS software, technical training on identifying weapons for Customs officers, and X-ray machines at port for better detection of illicit arms imports.”²⁶

Samoa reported that it “requires assistance in developing national firearms policies, laws, regulations and formal procedures that adhere to international standards and best practices to manage the brokering of firearms to regulate possible future activities.”²⁷

Vanuatu reported a need to “Upgrade and strengthen existing laws and regulations on brokering or dealers” and “Develop and upgrade existing stock pile management procedures.”²⁸

In 2014, the Marshall Islands Report on the Programme of Action noted that it requires technical assistance to “[reinforce] the legislative framework dealing with SALW”, “[develop] SOP for handling and ensuring the destructions of SALW that have been confiscated [sic] or retrieved”, “Training on confiscation [sic] and seizure” and “[develop] standard operating procedures that should also incorporate all existing policies and procedure of the investigation process, tracing and movement once seized of SALWs”²⁹

In 2012, Papua New Guinea noted a need for “assistance to conduct a Gap analysis of all its existing firearms/SALW related legislations” as well as assistance to ensure international obligations are properly implemented, including those under the United Nations Convention Against Corruption. Papua New Guinea also noted that it faced “challenges...with record keeping and data management, storage and retrieval”, requested assistance to conduct “a Small Arms Survey [to inform responses to] specific issues related to the use of SALWs particularly, the commission of armed violence/crimes, violent tribal conflicts. The Report also observed that “in a country like PNG, data collection, collation, reporting and management significantly needs to be improved posing real challenges.”³⁰

²⁶ Republic of Fiji, *National Report on The Implementation of the United Nations Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects* (2016) <<http://www.poa-iss.org/CASACountryProfile/PoANationalReports/2016@65@2016-PoA-Fiji-E.pdf>> 17.

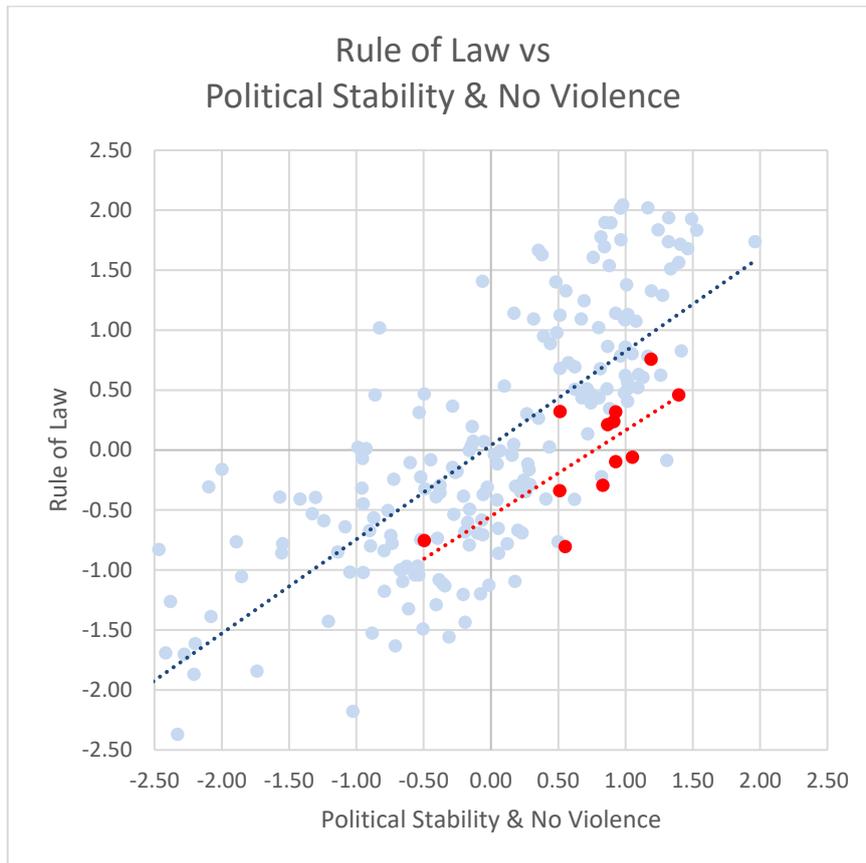
²⁷ Government of Samoa, *National Report on The Implementation of the United Nations Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects* (2016) <<http://www.poa-iss.org/CASACountryProfile/PoANationalReports/2016@165@UN%20PoA%20Report%20for%20Samoa.pdf>> 11.

²⁸ Government of Vanuatu, *National Report on The Implementation of the United Nations Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects* (13 September 2016) <<http://www.poa-iss.org/CASACountryProfile/PoANationalReports/2016@209@2016%20-%20PoA%20-Vanuatu%20-%20E.pdf>> 3-4.

²⁹ Government of Marshall Islands, *National Report on The Implementation of the United Nations Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects* (2014) <<http://www.poa-iss.org/CASACountryProfile/PoANationalReports/2014@124@2014-PoA-ISS%20Marshall%20Islands-E.pdf>> 9, 13, 16, 20-21.

³⁰ Government of Papua New Guinea, *National Report on The Implementation of the United Nations Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects* (2012) <<http://www.poa-iss.org/CASACountryProfile/PoANationalReports/2012@153@Papua%20New%20Guinea-PoA-2012-E.pdf>> 7.

SPLA also observes that, in 2016, Pacific island countries performed reasonably well in terms of the “Political Stability and Absence of Violence/Terrorism” dimension of governance, as measured by the World Bank’s Worldwide Governance Indicators Project. This indicator “measures perceptions of the likelihood of political instability and/or politically motivated violence, including terrorism.”³¹ For example, Pacific island countries performed better on this dimension of governance compared to the “Rule of Law” dimension of governance.³²



In response to these issues, SPLA recommends that the Pacific Islands Forum should continue discussions on regional security, particularly in relation to small arms, with a view to concluding a regional position on the prospect of increased defence imports into the region and the impact this may have on ensuring the security, harmony and prosperity of our Pacific region.

It is important to consider these issues now, when the prevalence of small arms and light weapons in the Pacific is relatively low. Essential frameworks, procedures and skills should be in place early, with a view to averting potential negative impacts of increased trade in weapons in the region.

³¹ *Worldwide Governance Indicators*, above n 10.

³² *Ibid.*