

Agreement establishing the Pacific Islands Forum

Introduction

- 6.1 The *Agreement establishing the Pacific Islands Forum* (the Agreement) will terminate and replace the *Agreement establishing the Pacific Islands Forum Secretariat*, done at Tarawa on 30 October 2000 (the 2000 Agreement).¹
- 6.2 The Agreement restructures the Forum Secretariat, increases its focus on the agreed upon areas of governance, security, economic growth and sustainable development, and will also provide the Forum with status as an international organisation.²

1 National Interest Analysis (NIA), para. 5.

2 Mr Peter Hooton, *Transcript of Evidence*, 8 May 2006, p. 8; National Interest Analysis (NIA), para. 11.

Background

- 6.3 The Pacific Islands Forum comprises 16 independent and self-governing States in the Pacific.³ It is regarded as the Pacific region's premier political and economic policy organisation.⁴

The Forum has no formal rules governing its operations or the conduct of its meetings. The agenda is based on reports from the Secretariat and related regional organisations and committees, as well as other issues that members may wish to raise. Decisions by the Leaders are reached by consensus and are outlined in a Forum Communiqué, from which policies are developed and a work programme is prepared. The annual Forum meetings are chaired by the Head of Government of the Host Country, who remains as Forum Chair until the next meeting.⁵

- 6.4 Australia has been a member of the Forum since 1971, making it one of the seven founding members.⁶ Since then, Forum Leaders have met annually, providing an opportunity to discuss a range of issues at the highest level.⁷ Traditionally, Forum meetings have focused heavily on regional trade and economic issues.⁸
- 6.5 In 2004, Leaders agreed to reform the Forum and its Secretariat. The Forum would focus on issues of good governance, security, economic growth and sustainable development and Leaders committed to identifying sectors where the region could gain the most from sharing

3 Member countries of the Pacific Islands Forum: Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, New Zealand, Niue, Palau, Papua New Guinea, the Republic of the Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. Pacific Islands Forum Secretariat website, accessed 11 May 2006
<<http://www.forumsec.org.fj/>>

4 Department of Foreign Affairs and Trade website, accessed 11 May 2006:
<http://www.dfat.gov.au/geo/spacific/regional_orgs/spf.html>; Mr Peter Hooton, *Transcript of Evidence*, 8 May 2006, p. 8.

5 Pacific Islands Forum Secretariat website, 'About Us', accessed 11 May 2006
<<http://www.forumsec.org.fj/>>

6 Australia, Cook Islands, Fiji, Nauru, New Zealand, Tonga and Western Samoa (now Samoa) were the seven founding members.

7 Mr Peter Hooton, *Transcript of Evidence*, 8 May 2006, p. 8.

8 Department of Foreign Affairs and Trade website, accessed 11 May 2006:
<http://www.dfat.gov.au/geo/spacific/regional_orgs/spf.html>

resources of governance and aligning policies.⁹ The Agreement is the result of these reforms.

The Agreement

6.6 The key purpose of the Agreement is detailed in Article II:

The purpose of the Forum is to strengthen regional cooperation and integration, including through the pooling of regional resources of good governance and the alignment of policies in order to further Forum members' shared goals of economic growth, sustainable development, good governance and security.¹⁰

6.7 In addition to its new priorities, the Committee was informed that the Pacific Plan, which was endorsed by Forum Leaders at the 2005 Forum held in Papua New Guinea, provides a framework for regional cooperation:

The plan is intended to enhance regional cooperation and, to the extent possible, to allow Pacific island countries to take advantage of synergies and opportunities to do things together and thereby save resources. Some very small states find it difficult to do everything for themselves and would find it is easier to do some things regionally. The Pacific Plan provides a framework, or a basis, for some of that activity to be taken forward.¹¹

6.8 The Agreement establishes the Forum as an international organisation.¹² To give the Forum legal capacity within the jurisdiction of its members, Australia and other member countries are obliged to confer any privileges or immunities, in accordance with domestic legislation, upon the Forum as might be necessary to fulfil its purpose and carry out its functions.¹³

To give effect to the new agreement, it will only be necessary to make some minor amendments to nomenclature in existing

9 Department of Foreign Affairs and Trade website, accessed 11 May 2006: <http://www.dfat.gov.au/geo/spacific/regional_orgs/spf.html>

10 Article II of the Agreement; NIA, para. 15.

11 Mr Peter Hooton, *Transcript of Evidence*, 8 May 2006, p. 11.

12 Article I(1) of the Agreement; NIA, para. 16.

13 Article X of the Agreement; NIA, para. 16.

domestic regulations. It is possible that further down the track we may need to negotiate with the forum secretariat a separate arrangement on privileges and immunities, in large part to cover the operations of the Pacific Islands Trade and Investment Commission office in Sydney. Of course, any future agreement that necessitated changes to the International Organisations (Privileges and Immunities) Act would have to undergo the usual treaty-making processes, including tabling in parliament. But at this stage there is really nothing to do apart from those minor changes to the nomenclature.¹⁴

- 6.9 Membership of the Pacific Islands Forum is limited to States that are independent or self-governing. However, the Agreement will allow non-sovereign Pacific territories whose constitutional arrangements would not permit full membership or associate membership to the Forum.¹⁵ Requests for associate membership, and the nature and extent of the rights and obligations of such members, will be determined by the Forum Leaders from time to time.¹⁶ At present, it is intended that associate members would be able to attend and speak at the plenary session of the Forum but would not have voting rights or attend the Forum Leaders' retreat.¹⁷
- 6.10 Similarly, Forum Observers may be invited by the Forum Leaders to participate in the Pacific Islands Forum. Forum Observers might include other territories and intergovernmental organisations – but not non-governmental organisations – whose membership includes a significant number of Forum Members. The entitlements of Forum Observers will be determined by the Forum Leaders from time to time.¹⁸

14 Mr Peter Hooton, *Transcript of Evidence*, 8 May 2006, p. 9.

15 NIA, para. 12.

16 Article I(3) of the Agreement.

17 NIA, para. 12.

18 Article I(4); NIA, para. 12.

Costs

- 6.11 Australia's contribution to the Pacific Islands Forum Secretariat is A\$3 million per annum for the current and next two calendar years.¹⁹
- 6.12 The Committee was informed that in March 2005, the Pacific Islands Forum Secretariat requested additional Australian funding for activities associated with implementation of specific Pacific Plan related initiatives not identified or budgeted for at the time the 2005/2006 work plan was completed.²⁰ The Committee was further informed that AusAID has considered this request and has indicated that Australia will support up to A\$1.8 million over the period 2005/2006 – 2007/2008.²¹
- 6.13 The Committee was informed that the amount member countries contribute to the Forum is decided by consensus from time to time, subject to review by Forum Leaders at their discretion. Furthermore, it is likely that while these cost sharing arrangements continue, Australia's proportion of those costs would remain approximately the same.²²

Consultation and entry into force

- 6.14 The Standing Committee on Treaties was kept informed throughout the negotiation process and raised no objections.²³ No other consultation was undertaken.²⁴
- 6.15 The Agreement will only enter into force on the day on which the last Member Country of the Forum lodges its instrument of ratification with the depository, the Government of the Republic of the Fiji Island.²⁵ If the Agreement is not ratified by the time of the next Forum meeting, expected to be held on 23-28 October in Tonga, the Forum will continue to operate under the existing Agreement.²⁶

19 Department of Foreign Affairs and Trade, *Submission 4.1*, p. 2.

20 Department of Foreign Affairs and Trade, *Submission 4.1*, p. 2. AusAID is the Australian Agency for International Development.

21 Department of Foreign Affairs and Trade, *Submission 4.1*, p. 2.

22 Mr Peter Hooton, *Transcript of Evidence*, 8 May 2006, p. 12.

23 NIA 'Consultation'.

24 NIA 'Consultation'.

25 NIA, para. 2; Mr Claus Dirnberger, *Transcript of Evidence*, 8 May 2006, p. 10.

26 Mr Peter Hooton, *Transcript of Evidence*, 8 May 2006, p. 15.

Implementation

- 6.16 Minor amendments need to be made to the *South Pacific Forum Secretariat (Privileges and Immunities) Regulations 1992 (Cth) (the Regulations)* to give effect to the Agreement.²⁷
- 6.17 If Australia enters into a bilateral agreement of privileges and immunities then further changes to the Regulations would be required.²⁸

Conclusion and recommendation

- 6.18 The Committee recognises the importance of the Pacific Islands Forum as the key political and economic policy organisation in the region and supports the directional changes in policy realised in the Agreement.

Recommendation 5

The Committee supports the *Agreement establishing the Pacific Islands Forum*, done at Port Moresby on 27 October 2005, and recommends that binding treaty action be taken.

27 NIA, para. 20.

28 NIA, para. 21.