PIDC NEWS

Immigration News for the Pacific Region

Edition 2: September 2002







































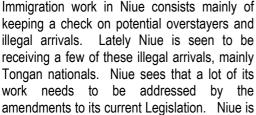
- NIUE IMMIGRATION -



Niue and its Immigration staff welcome the PIDC Conference delegates to its warm and natural island for the 6th PIDC Annual Conference in September 2002. There have been some difficulties experienced along the way, however the Niue Immigration staff and the PIDC Secretariat have worked towards trying to accommodate and make this conference as fruitful as it should be.

Our Chief of Police Mr John Tohovaka, heads Niue Immigration, since its transfer from Customs in August 2000. There are only two members of staff below John, both female, Patricia Rex Kulatea and Ana Nelisi. Our little island is probably well known for maintaining its natural beauty as well as the warm hospitality given by our people. That is what we hope to

offer everyone upon his or her arrival. If you are a nature person and prefer the quiet existence, then you will enjoy Niue. We have so many caves and beautiful clear water pools worth swimming and seeing. You will probably get to see dolphins and whales off the Matavai There is not much in terms of Resort. shopping: all we can offer is the wonderful handicraft work of the women in Niue.





Niue's Chief of Police and head of Niue Immigration, Mr John Tohovaka

also aware that it is now seen to be a safe haven and possibly a means as a stepping-stone to New Zealand by all foreigners, with the sudden interest from the Asian community. We are fortunate though, that we only have three flights per week, 20 seater that is manageable by the number of staff on board. We are also fortunate that most of our queries received via net can be screened with the assistance of NZIS (Kevin Third).

We are excited to host this coming conference as it introduces Niue to a lot of our neighbouring countries who have not visited us in the past. It also poses an opportunity for our assisting departments to observe the many issues of importance to each and everyone's line of duty. These departments are Customs, Legal and Police.

By Patricia Kulatea.

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- FRSC MEETING -

Nadi 12 – 14 June,

The Forum Regional Security Committee Meeting took place in Nadi from 12 to 14 June 2002. The meeting was opened by the Secretary General of the Pacific Islands Forum Secretariat, Mr Noel Levi CBE and chaired by Australia. FRSC is an annual meeting to address security issues within the Pacific region.

Topics discussed at the meeting included:

- □ Implementation of the Honiara Declaration;
- □ Cooperation with CSCAP and the United Nations;
- Outcomes from the Pre- FRSC Meeting;
- □ People Smuggling;
- □ Drug Issues:
- □ Terrorism; and
- Financial Intelligence Units.

During the meeting PIDC had the opportunity to present their report on Migrant Smuggling in the Pacific Region, which will be circulated to members and presented at the Annual Conference in September.



In the outcomes paper from the meeting the Committee made particular reference to the positive role played by the regional law enforcement agencies and the Forum Secretariat in assisting members with capacity building and with combating transnational organised crime including terrorism, people smuggling, illicit drug trafficking and weapons control.

PIDC was represented at the meeting by Sue Bodell from the PIDC Secretariat and a number of other PIDC members participating in the meeting as part of their country's delegations including the Chair of PIDC, Mr Edwin Pittman (The Cook Islands), Mr Philip Dale (Australia), Mr Emori Tudia (Fiji), Ms Lynn Williams (New Zealand) and Mr Suka Mangisi (Tonga).

- BALI MINISTERIAL CONFERENCE WORKING GROUPS -

The Bali Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime was held over 26 – 28 February 2002. Representatives from 38 countries within the Asia-Pacific region attended the Conference, as well as 15 extra-regional observing countries, making it the largest meeting of its kind.

The Meeting's follow-up activities are now being spearheaded by two Working Groups, one chaired by John Hayes, Director, UN and Commonwealth Division, New Zealand Ministry of Foreign Affairs and Trade and the other chaired by Police Major General Krerkphong Pukprayura of the Immigration Bureau, Royal Thai Government.

Working Group I

Working Group I has been liaising with member countries about future initiatives and is in the process of setting up its first meeting to take these initial ideas forward.

Working Group II

On 13 - 14th June 2002, the Working Group II held a Planning Meeting in Bangkok, Thailand. It was agreed at the planning meeting that member countries would work together to define a set of operational standards relating to effective law enforcement and legislative development. Further work on this is underway, which will culminate in two additional meetings within the next few months, in order to reach final agreements about these base standards. More information about the Post Bali processes as well as other information can be found on the website www.bmw-2.com (stands for Bali Ministerial Working Group).

The BMW site contains the following:

- An introduction to the Bali Conference and it outcomes (including the full text of the Co-Chairs' Statement;
- Contact details for Working Groups I and II:
- > Publicly available information about the activities of both groups:
- Links to relevant treaties and pieces of domestic legislation;
- A calendar of regional events to do with the study of migration, refugee issues and the prevention of trafficking and smuggling;
- A summary of regional processes dealing with migration management and the issue of trafficking;
- A news page which highlights regional, global, UNHCR and IOM stories from the previous week as well as editorial-style articles on relevant issues; and
- > A page of links to other relevant websites.

In addition, it has a Member-Access Only Page. It is here that information specifically for members is available. Included is an updated list of contact points from all countries for the two working groups and all documentation relating to the WG II June Meeting.

Basia Passl

- IMMIGRATION AMENDMENT ACT 2002 (NZIS) -



The Immigration Amendment Act received Royal Assent on 17 June 2002. It is one of several acts that implement New Zealand's obligations under the United Nations Convention on Transnational Organised Crime, and the associated protocols against people trafficking and migrant smuggling.

United Nations Convention on Transnational Organised Crime

Work on the Convention and Protocols began in 1998. The Ministry of Foreign Affairs and Trade represented New Zealand in the drafting of the Convention and Protocols, consulting with the NZIS and other departments. The Convention's purpose is "to promote co-operation to prevent and combat transnational organised crime more effectively" [more effectively than in the past, presumably]. One protocol aims to suppress people trafficking, which means the recruitment and transportation of people through coercion or deception for the purpose of exploitation. Migrant smuggling, on other hand, is arranging illegal entry into a country for financial or material benefit. Organised criminal groups engage in both trafficking and smuggling. The protocols aim to prevent and combat trafficking and smuggling, to promote international co-operation, to assist the victims of trafficking and protect the rights of smuggled migrants. The New Zealand Government signed the Convention in December 2000.

Transnational Organised Crime (TOC) Bill

Amendments to six statutes, including the 1A 1987, were needed for New Zealand to implement its obligations under the Convention and Protocols. (The TOC Bill was split into six acts at the end of the process.) Most importantly, migrant smuggling and people trafficking were made criminal offences under the Crimes Act, with sentences of up to 20 years' imprisonment and/or a fine of up to \$500,000. These very heavy penalties are designed to have a deterrent effect. Important changes to the Immigration Act were also included in the bill and come into force as the Immigration Amendment Act 2002

Immigration Act changes

<u>Section 39: Employer Provisions</u> - the maximum fine for the current offence of knowingly employing a person not legally entitled to work has been increased to \$50,000. A new offence, punishable by a maximum fine of \$10,000, has been created for employers who, without reasonable excuse, employ a person not legally entitled to work. A "reasonable excuse" for an employer includes keeping an IR 330 tax code declaration signed by the employee concerned stating that they are lawfully entitled to undertake the employment to which the tax code declaration relates.

Section 39A: Exploitation of Employees Not Lawfully Entitled to Work – this is a new offence with a fine of up to \$100,000 and up to 7 years' imprisonment, for an employer who, while knowingly employing a person not legally entitled to work, exploits that person. Exploitation means a "serious" failure to meet minimum employment code requirements, or preventing employees from leaving employment, leaving New Zealand, or ascertaining their legal entitlements. Employers who are convicted of this offence could also be deported if they are residents (sections 91 and 92 have been amended to allow this).

Section 126: Responsibility of Persons Arriving in New Zealand – this change closes a loophole in immigration border powers. People who arrive at other than designated Customs port must now report "forthwith" to an immigration officer. Previously they had 72 hours to report. Where there is good cause to suspect that a person will not or has not reported "forthwith", a police officer may now arrest the person and bring them to an immigration officer.

<u>Section 128</u> – several changes were made to section 128. The 72-hour period during which a person arriving in New Zealand may be refused entry, detained and turned around now begins when the person first reports to an immigration officer, not from the time of their arrival.

<u>Sections 128AA-AD: Release on Conditions</u> – this is a new option for dealing with people who have been refused entry to New Zealand but who have not yet departed, usually because their refugee status claims have not yet been determined. A person released on conditions will be subject to reporting and residential requirements specified in the release order made by a District Court Judge. People released on conditions have not been granted a permit and are still in New Zealand unlawfully, but they have a degree of freedom. If they breach their conditions they can be taken back into custody.

Sections 141AA-AB: Disclosure of Information Overseas - these new sections provide for and regulate the disclosure of information to certain overseas agencies, bodies or persons. The Privacy Act does not currently expressly permit such disclosures. The new provisions are designed to correct this, and will assist New Zealand's participation in global intelligence networks. There are two systems for information disclosure. One is for disclosures under agreements. The Privacy Commissioner must be consulted when such an agreement is set up. Agreements specify what the information may be used for and whether and to whom the information may be further disclosed. The other system establishes one-off disclosures without an agreement to an overseas agency, body or persons whose functions include law enforcement. The disclosure must be in relation to a suspected violation of New Zealand or overseas law. A record of the disclosure must be kept.

<u>Sections 142 and 144: Offences and Penalties</u> – the scope of a number of Immigration Act offences has been broadened, with increased penalties. While the Immigration Act offences are less serious than the new Crimes Act offences of smuggling and trafficking, they all form part of a hierarchy of offences designed to deter and prevent trafficking and smuggling. Many of the Immigration Act offences would be committed as part of a smuggling or trafficking operation.

The following offences all have penalties of fines of up to \$100,000 and/or up to 7 years' imprisonment. The offences of knowingly producing, surrendering or passing off a forged passport or immigration document {section 142(d)} and disposing of a passport or immigration document for illicit purposes { section 142(e)} have been changed to capture such activity either within or outside New Zealand. **Cont. page 4**

- CHANGES TO VISA REQUIREMENTS: TONGA-



VISITORS TO THE KINGDOM SHALL REQUIRE A PERMIT PRIOR TO ENTRY INTO THE KINGDOM AS OF 1 AUGUST, 2002

As of 1 August 2002, any country, which is NOT included in the attached list below, SHALL require a visa for TONGA, PRIOR to entry into the Kingdom.

To acquire the application form for a visitor's visa, please contact:

The Visa Section

Immigration Division Ministry of Foreign Affairs P O Box 352 Salote Road Nuku'alofa Tel: (676) 26 970

Fax: (676) 26 971 / 23 360

The fee for applying for a visitor's visa is TOP\$40:00 per person.

...Continued from page 3

A new section 142(ea) makes it a separate offence to knowingly assisting a person to remain in New Zealand for material benefit. New sections 142(eb) and 142(ec) replace the current section 142(fa) and makes it an offence to assist a person to enter New Zealand unlawfully or to assist in the false completion of an arrival card. The scope of these offences has also been extended to actions outside New Zealand.

New section 142(2) provides that it is an offence for any person to alter an immigration form or attach further information to it after it has been signed by the applicant unless the person making the alteration or addition states on the form what information has been altered or attached, why, and by whom.

Tony Moss Policy, Research and Development Group **NZ Immigration Service**

Citizens from countries listed at Annex 1 below do NOT require a visa prior to entry into the Kingdom and may on their arrival at the relevant port of entry in Tonga, apply for a one month's visitor's visa. Such non citizens are subject to the following conditions:-

- (a) That the said person holds a valid return ticket out of the Kingdom to a country which HE SHALL BE ABLE TO ENTER. This means that a person's return ticket must be to the place where the Non Tongan Passport holder has citizenship (evidenced by the nationality of the passport the person holds) OR, where the Non Tongan Passport holder has a valid endorsement in his passport giving him residency in another country.
- (b) Citizens of countries listed on Annex 1 shall ensure that their passports are valid for at least 6 months when entering the Kingdom;
- (c) Citizens of countries listed on Annex 1 are also required to have enough financial means to maintain themselves whilst in the Kingdom. (This is assessed by an Immigration officer in Tonga on the persons arrival).

Please note that a visitor's visa PROHIBITS employment, business and formal studies. There are stiff penalty fees levied against any person in breach of the visitor's visa rules.

Australia Austria Barbados Belgium Brazil Brunei Darussalam Canada	Cyprus Denmark Dominica Federated States of Micronesia Republic of Fiji Finland France French Polynesian	Germany Greece Ireland Italy Japan Kiribati Luxembourg Malaysia	Republic of the Marshall Islands Monaco Nauru Netherlands New Zealand Niue Norway	Papua New Guinea Portugal Russian Federation Samoa Seychelles Singapore Solomon Islands	St Kitts & Nevis St Lucia St Vincent & The Grenadines Sweden Switzerland The Bahamas	Ukraine United Kingdom, Great Britain and Northern Ireland United States of America Vanuatu
Canada Cook Islands	French Polynesian Territories (New Caledonia, Tahiti, Wallis & Futuna)	Malaysia Malta	Norway Palau	Spain	Turkey Tuvalu	Valladia

If you have any queries relating to the aforementioned please do not hesitate to contact the Immigration Division, Ministry of Foreign Affairs. Our contact details are as follows:

Visa & Naturalization Section Tel: (676) 26 970 Immigration Division Ministry of Foreign Affairs P O Box 352 Nuku'alofa Tonga

Fax: (676) 26 971/23 600. Or email a visa officer on the address below: **EMAIL:** lol domain@msn.com



- BORDER CONTROL TRAINING COURSE -

Photos from the recent border control training courses held at the Pacific Islands Forum in Suva during May and June 2002



Border control training course Group A



Border Control Training Course - Group B





Patricia Rex (Niue), Ernest Stephen (Nauru), Rutita Tonana (Kiribati)

- NZ: TRANSIT VISA REQUIREMENTS EXTENDED TO ALL VISA REQUIRED NATIONALS -



Changes were introduced on 29 April 2002 requiring that all nationals must obtain a transit visa who intend to transit New Zealand either on the way to, or coming from Cook Islands, Fiji, Marshall Islands, New Caledonia, Niue, Samoa, Solomon Islands, Tahiti, Tokelau, Tonga, Vanuatu **unless** they are:

- exempt from the requirement to obtain a temporary visa for travel to New Zealand; or
- a person whose intermediate or final destination after transiting New Zealand is Australia and who holds a current visa issued by the Government of Australia to enter Australia; or
- the holder of another current visa to enter New Zealand.

What is the NZ Immigration Service trying to achieve with this extension to transit visa required nationalities?

Transit visa policy aims to ensure that the stated intention to pass through New Zealand on the way to another destination is genuine, with the aim of managing risks of people claiming asylum or swapping travel documentation while transiting. Transit visas also allow security and identity checks to be completed before travel where necessary.

In addition to risk management benefits, the extension of transit visas to all non-visa-free travellers simplifies New Zealand's immigration requirements. Temporary entry and transit visa requirements are now based on a single list of countries - the visitor's visa waiver countries. Nationals of all other countries are required to hold temporary or transit visas (with a few exceptions).

Why does the transit visa policy only apply to certain destinations, ie specified Pacific Islands, and not say at risk nationals travelling on to LA or Singapore?

While the transit visa destinations have not changed, legislation does allow new destinations to be added by the Minister of Immigration for three months, pending confirmation by a change to regulations. This option would be investigated if the risks from a particular route increased.

How will it be policed by border agencies (ie checks made that people hold the required transit visa)? The airlines have noted that departing and arriving passengers currently all mix together at Auckland International Airport and the area has been particularly congested recently.

There will be no immediate change to the current approach to checking transit visas.

It is not uncommon for Pacific Island flights to be unexpectedly diverted to Auckland, and accordingly people may not hold the required transit visa. What happens then?

Many passengers on such flights are nationals of visa-required countries. In these situations, the NZ Immigration Service has the discretion to give temporary visa waivers on a case by case basis where this is justified. The new transit visa requirement does not necessitate any change to this approach.

New Zealand Immigration Service

- FUTURE OCO HEAD OF SECRETARIAT VISITS BRISBANE -

Marc Jannier, who will take over from John Marks when the OCO Secretariat moves to Noumea, New Caledonia in November, was in Brisbane in late July to acquaint himself with the work of the Secretariat.

During his visit, Marc spent time with John Marks and the two Research Officers, Shashi Prasad and Tau Malietoa. Having only been in the Pacific region for ten months, Marc finds the work of the OCO Secretariat to be challenging and looks forward to building upon the organisation's achievements to date.



Marc will be assisted in the new Secretariat in Noumea by Tau Malietoa who, with the very welcome support of the Samoa Customs Department, has chosen to continue with the OCO for another eighteen months. Marc will also be assisted by Joselito Filimoehala of the New Caledonia Customs Service. John Marks will be returning to the Australian Customs Service and Shashi Prasad will return to the Fiji Islands Customs Service.

While in Brisbane, Marc was invited for morning tea by the Regional Director of Queensland Customs Jenny Eutick and also had the opportunity to meet with Sue Bodell of the Pacific Immigration Directors' Conference (PIDC).

The New Secretariat will officially open on 25 November 2002. The new address will be published closer to that date.

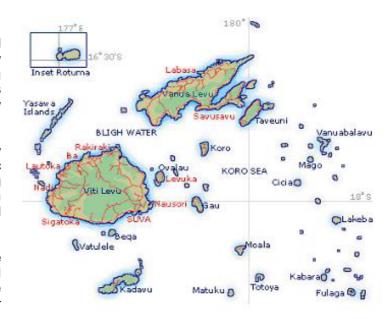
- COMBINED LAW AGENCY GROUP (CLAG) MOU SIGNING SUVA, FIJI -

The 31st July 2002 was an historic day for law enforcement in Fiji.

The momentous occasion in Fijian law enforcement coordination and cooperation came about through the signing of the Fiji Combined Law Agency Group (CLAG), Memorandum of Understanding (MOU), joining together 26 ministries, departments, agencies and organisations in what is a positive and pro-active effort in combating criminal activities currently facing Fiji and the region.

It has been recognised that today, organised transnational criminal activity poses a real threat to the people and communities of Fiji and the Pacific Region, and that transnational organised crime is a global issue affecting communities all over the world. The CLAG mechanism has been developed to facilitate cooperation, with the aim of ensuring coordinated and effective responses to such crimes.

The signing ceremony sends a strong message and indication to the communities of Fiji and criminal elements both within Fiji and those that will use Fiji as a base or transhipment point for their criminal activities, that the enforcement community and all arms of Government will maximise their efficiency through shared use of our resources and we will fight back.



The strategic focus of the CLAG is based not only on international practice and convention, but also on government direction.

The signing of the MOU by Fiji has placed inter-agency cooperation on a more formal footing. There are clearer guidelines as to the sharing of information, intelligence and resources, and that is a major step towards combating organised crime.

Transnational organised crime is increasingly better organised, has more resources and is developing a wider intelligence base than some law enforcement agencies.

The value of creating CLAGs is supported by key specialist regional law enforcement organisations, the Oceania Customs Organisation (OCO), the Pacific Immigration Directors Conference (PIDC) and the South Pacific Chiefs of Police Conference (SPCPC).

The CLAG concept has been endorsed by the Forum Regional Security Committee (FRSC) and the Forum Economic Ministers Meeting. The 16-member Pacific Islands Forum, at their meeting in Kiribati in 2000, highlighted the need for national law enforcement agencies to work together through CLAGs, in order to better combat criminal elements.

To further enhance regional cooperation, it is essential that national enforcement cooperation is strengthened. All agencies represented at the MOU signing were to some degree or other fighting the same battle, to make our communities a safer place. The signing of the CLAG MOU is a significant step in that direction.

The New Zealand CLAG has given support and assistance in sharing their CLAG model and guidelines, which Fiji has adapted to meet its needs. The sharing of resources and concepts is at the heart of what a CLAG is all about and with Fiji sharing and providing assistance to their neighbours, the region is providing a consistent approach in the development of CLAGs, which is another major step in the development of a Regional CLAG concept and approach.

Fiji is setting the benchmark in the formalising of the workings of a CLAG through the development of the MOU and a CLAG Guideline Manual, which will be shared with other countries in the region. To further develop CLAGs in the region, the Pacific Islands Forum Secretariat is to provide assistance for two Fiji CLAG members to travel to the Kingdom of Tonga to assist them in establishing their CLAG based on the Fijian experience. CLAGs have been established in Kiribati and Samoa with guiding assistance from New Zealand Police and Customs Officers, the Cook Islands, and with assistance from the Australian Federal Police Liaison officers in the Solomon Islands and Vanuatu. However, Fiji is the first to formalise the CLAGs through an MOU and has also developed a Guidelines Manual for the operation of the group.

Transnational Crime knows no boundaries and in saying that cooperation and collaboration should also know no boundaries.

LAW ENFORCEMENT AGENCIES MUST THINK GLOBALLY BUT NEEDS TO ACT NATIONALLY.

Shaun Evans Forum Law Enforcement Advisor

- 8TH PACIFIC RIM IMMIGRATION INTELLIGENCE CONFERENCE -

Wellington 26-29 August,

The 8th Pacific Rim (PACRIM) Immigration Intelligence Conference took place in Wellington from 26 to 29 September 2002. The meeting was opened and chaired by Arron Baker, New Zealand Immigration Service Market Manager for Asia and the Middle East.

PACRIM is an annual meeting of senior immigration officials involved in the collection, collation, analysis and dissemination of immigration intelligence and information. The membership of PACRIM currently consists of Pacific Rim countries, including Australia and New Zealand who are also members of PIDC.



This years Annual Conference was attended by immigration representatives from Australia, Canada, Hong Kong, Japan, Macao SAR, Malaysia (Observer), the Republic of Korea, Singapore, Thailand (observer) and the USA. Local and regional observer organisation included the New Zealand Customs Service, the New Zealand Ministry of Foreign Affairs and Trade, the New Zealand Police, the Pacific Islands Forum Secretariat (Forum Law Enforcement Advisor) and the Pacific Immigration Directors' Conference Secretariat.

Each of the country delegations made detailed presentations on the intelligence and information exchange challenges facing their agencies and how they have dealt with and adapted to these challenges. Special presentations on building co-operation and intelligence capacity/ capabilities within their own countries and the Pacific Region were made by Australia, Canada, Hong Kong, the NZ Police, NZ Customs and the Forums Law Enforcement Advisor.

- BORDER CONTROL TRAINING COURSE - AN OUTSTANDING SUCCESS -

The outstanding success of the recent Border Control Training Course held in Suva, in May-June, was ensured by the enthusiastic participation from members of Pacific law enforcement agencies notably immigration, customs and police.

Participants included American Samoa, the Cook Islands, the Federated States of Micronesia, Fiji, Kiribati, Nauru, New Caledonia, Niue, Norfolk Island, Palau, Papua New Guinea, Samoa, the Solomon Islands, Tonga, Tuvalu and Vanuatu.

The Border Control Training Course, presented by the Australian Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) and the Australian Federal Police (AFP), was held at the Pacific Islands Forum Secretariat in Suva, Fiji.

The course, which ran in two groups, from 20 May to 31 May and another from 27 May to 7 June, was funded by the AFP's Law Enforcement Cooperation Program (LECP) and DIMIA.

Country reports presented by participants added considerably to the exchange of information amongst course members. The reports covered border management and illegal immigration issues at home.

External presentations included the United Nations High Commissioner for Refugees (UNHCR), International Organisation of Migration (IOM), Qantas and Air New Zealand.

Representatives of Fiji-based diplomatic missions including Papua New Guinea, Japan, New Zealand, France and the USA, and Citizenship and Immigration Canada (CIC), Canberra and Indonesian immigration, Jakarta also discussed their passports and regional people smuggling concerns.

Participants undertook to train their colleagues at home, which was encouraged by the Forum Regional Security Committee (FRSC) meeting in June.

Supporting this commitment, DIMIA's Document Examination Unit, Canberra has undertaken to send copies of their training modules to Shaun Evans (Pacific Islands Forum Secretariat, Suva) in September, who will distribute the packages to course members. The materials will include a CD and a hardcopy of the presentations and instructor's notes.

Leisa Bradley

PIDC News is produced by the Pacific Immigration Directors' Conference Secretariat.

The next edition of PIDC News is due for publication in January 2003.

Comments and articles (preferably with pictures) for inclusion should be sent by the end of December 2002 to the PIDC Secretariat at:

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