FORTY-SIXTH MEETING OF THE
COMMITTEE OF REPRESENTATIVES OF GOVERNMENTS AND ADMINISTRATIONS
(Noumea, New Caledonia, 28–30 June 2016)

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AGENDA ITEM 4: GOVERNANCE REVIEW – IMPLEMENTATION OF RECOMMENDATIONS

(Paper presented by the secretariat)

Summary

1.   This paper provides an update to CRGA on the implementation of the recommendations of the Governance Review conducted in 2014.

2.   The secretariat has fully implemented seven of the nine recommendations. The two remaining recommendations have been partially implemented, with work in progress, though there are constraints to their full implementation.

3.   Draft terms of reference (TOR) for CRGA were developed and shared with Pacific Community members, who provided comments. There are issues relating to the consistency of governance processes over time and it has not been possible to finalise the TOR. CRGA is therefore asked to consider establishing a small CRGA reference group to work with the secretariat to finalise the TOR for presentation to CRGA 47 in June 2017.

4.   CRGA is invited to:

    i.   acknowledge progress in implementing the recommendations of the Governance Review and the constraints to full implementation of two recommendations;

    ii.   note the secretariat has secured legal support to analyse past documents and distinguish between legal governance arrangements and those based on policy and practice;

    iii.   request that the working group, which previously examined the legal status of the 1983 Saipan Resolution, continues to work with the secretariat to finalise the TOR for CRGA and other SPC governance mechanisms as necessary;

    iv.   agree that these finalised TOR and any other recommendations will be presented by the secretariat to CRGA 47 and the 10th Conference of the Pacific Community in June 2017;

> v.   advise the secretariat on how members would like to encourage consistency with the agreed principle of continuity of representation and indicate whether the secretariat can assist in this regard.

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GOVERNANCE REVIEW – IMPLEMENTATION OF RECOMMENDATIONS

Purpose

5.   This paper provides a further update to members on implementation of the decisions made by CRGA 44 following the 2014 review of the governance of the Pacific Community. It also notes some of the constraints to full implementation.

Background

6.   Following their discussion of how SPC's governance processes could be strengthened, CRGA 43 and the 8th Conference (2013) mandated the secretariat to 'commission a review of these processes in 2014 with the findings and recommendations of the review to be presented to CRGA 44'. The review was funded by Australia.

7.   The review was steered by a Governance Working Group comprising representatives from 10 members – Australia, Fiji, Federated States of Micronesia, France, French Polynesia, New Caledonia, New Zealand, Niue, Solomon Islands and the United States of America – and senior staff of the secretariat.

8.   At CRGA 44 in 2014, Pacific Community members agreed to nine overarching recommendations resulting from this review. The secretariat was mandated to implement the recommendations, noting that one recommendation required action by members.

9.   At CRGA 45 in 2015, members acknowledged progress on the secretariat's implementation of the review, noting that one recommendation, on TORs for CRGA, was outstanding.

Update

10.   Since November 2014, the secretariat has fully implemented seven of the nine recommendations, with work in progress on the other two, as shown in the table below.

Full implementation	Work in progress
2. Adjust time and location of CRGA meetings	1. Improve effectiveness of CRGA
3. Provide support to the Chair of CRGA and Director-General	9. Initiate a more substantive debate on streamlining regional meetings and regional mechanisms
11. Clarify the role of the Conference of the Pacific Community	
12. Increase member engagement through limited time-bound working groups or subcommittees	
13. Increase scope of Audit and Risk Committee (ARC) to include budget and major assets acquisitions	
. Establish subcommittee for SPC Strategic Plan	
. Continue SPC Governance Review Subcommittee	

11.   Developing TOR for CRGA has been more challenging than expected. Initial analysis of the establishment documents for SPC and records of meetings has revealed a lack of clarity in determining the legal status of previous governance-related decisions of CRGA and Conference. It has also underscored the need to ensure consistency of interpretation and understanding of governance provisions included in the Canberra Agreement and those included in policy decisions taken by CRGA and Conference. With both the 70th anniversary and 10th Conference of the Pacific Community to take place next year, the secretariat suggests it is an opportune time to address these issues and normalise the status and authority of SPC governance mechanisms in line with the spirit of the governance review in 2014.

12.   Draft TOR for CRGA were circulated to members in February 2016 and comments were received. An intern, who is completing her supervised legal practice requirements, will work with the DDG Noumea to examine the Canberra Agreement and other relevant SPC documents and make a legally informed recommendation to CRGA on normalising the governance arrangements. To support this process, the secretariat recommends that the working group that previously examined the legal status of the 1983 Saipan Resolution continues to work with the secretariat to finalise the TOR for CRGA and other SPC governance mechanisms as necessary.

13.   The secretariat draws members' specific attention to the agreed recommendation 1(C) of the Governance Review on improving the effectiveness of CRGA: Members agreed to *'adopt a principle of continuity of representation. Members will seek to retain the same representatives over a period of time (recommended three years) to allow continuity of perspectives and experience. Each member will also seek to ensure there are at least two representatives involved. These representatives are to be determined by each member.'* The secretariat seeks advice from members on how they would like to encourage observance of the principle of continuity and whether the secretariat can assist in this regard.

Recommendations

14.   CRGA is invited to:

   i.   acknowledge progress in implementing the recommendations of the Governance Review and the constraints to full implementation of two recommendations;

   ii.   note the secretariat has secured legal support to analyse past documents and distinguish between legal governance arrangements and those based on policy and practice;

   iii.   request that the working group, which previously examined the legal status of the 1983 Saipan Resolution, continues to work with the secretariat to finalise the TOR for CRGA and other SPC governance mechanisms as necessary;

   iv.   agree that these finalised TOR and any other recommendations will be presented by the secretariat to CRGA 47 and the 10th Conference of the Pacific Community in June 2017;

   v.   advise the secretariat on how members would like to encourage consistency with the agreed principle of continuity of representation and indicate whether the secretariat can assist in this regard.

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Annex A: ACTION ON RECOMMENDATIONS OF GOVERNANCE REVIEW

Context	CRGA 44 Decisions	Implementation status as at 20 April 2016
CRGA 43 and the 8th Conference directed the secretariat to commission a review of its governance processes in 2014, with the findings and recommendations of the review to be presented to CRGA 44. The review was steered by a Governance Working Group comprising representatives from the secretariat and 11 member countries and territories: Australia, Fiji, Federated States of Micronesia (FSM), France, French Polynesia, New Caledonia, New Zealand, Niue, Republic of the Marshall Islands (RMI), Solomon Islands and the United States of America. The outcome of the review was discussed with the whole membership at a Special Session of CRGA on 4 November 2014, which acknowledged the dedicated efforts of the Working Group, and presented the following recommendations for improved governance of SPC for CRGA approval.	**CRGA (44) agreed to:** **A. REFORMS TO CURRENT GOVERNANCE ARRANGEMENTS** 1. **Improve the effectiveness of CRGA**	

	a. Develop clear terms of reference (TOR) for CRGA including level of authority, standing orders, meeting processes, and structure of recommendations and to also include:
	
	    i. TOR for the Chair of CRGA; and
	
	    ii. guidance for members in selection of representatives.
		Draft presented to members out of session with substantial comment provided by members. Further work is required, including analysis of the draft in relation to SPC's establishment document, the Canberra Agreement, and subsequent documents such as the Tahiti Nui Declaration.

	b. Institute induction for members, to be facilitated by an external consultant, expected before the November 2015 CRGA meeting (to avoid additional travel costs), to be repeated on an 'as needed' basis for new members.	This is scheduled for 27 June 2016. All member representatives are expected to participate in this training, with only new representatives to participate in subsequent training sessions.
	c. Adopt a principle of continuity of representation. Members will seek to retain the same representatives over a period of time (recommended three years) to allow continuity of perspectives and experience. Each member will also seek to ensure there are at least two representatives involved. These representatives are to be determined by each member. SPC will cover the costs for one representative from each Pacific Island member country or territory to attend CRGA/Conference.	

	d. Ensure all papers are provided a minimum of 10 working days before CRGA. Papers provided by the secretariat should clearly request decisions rather than simply ask for agreement or noting of recommendations.	Work in progress
	e. Introduce a decision tracking system to monitor implementation of CRGA decisions; this will also enable the secretariat to regularly report to members.	There is an established system for tracking and reporting implementation of CRGA decisions, with status also presented regularly at meetings of the Senior Leadership Team
	f. During CRGA, allow time for delegates to assess and rate CRGA's performance and suggest improvements.	Standing agenda item for CRGA meetings
	g. Support CRGA via a dedicated (part-time) staff member allocated to the purpose.	This is a Key Result Area for the Chief Adviser in the Director General's Office
	2. Adjust times and location of CRGA meetings a. Continue annual CRGA meetings but align meeting times with SPC's financial year so reports are more relevant and timely. As the financial year ends 31 December, move CRGA meetings to May or June (at times that suit members and the timing of other regional meetings), commencing 2016. Given the new timing for CRGA, CRGA will approve a revised budget for the current year as well as a budget outlook for the following two years (e.g. CRGA 46, to be held in May/June 2016, will approve a revised budget for 2016, as well as a budget outlook for 2017–2018).	CRGA 46 is being held in June 2016
	b. Shorten CRGA meetings to two days commencing November 2015	In place – please see agenda for CRGA 46
	c. Adjust the location of CRGA meetings. ii) In years where the Conference is also held, countries have the opportunity to host the meeting provided they cover the additional costs to SPC, including the costs of hosting CRGA.	Decision taken

	If no member offers to host the Conference, it will take place in either Noumea at the headquarters of the organisation, or in Suva.	
	3. Provide specific support to the Chair of CRGA and the Director-General a. Arrange specific induction and training for the Chair. b. Establish a troika of Chairs (past, present and future) with clear TOR to have quarterly meetings with the Director-General (teleconference), engage with the broader membership on SPC developments and promote the work of SPC through media, launches, etc. The positions of past, present and future Chair will continue to be held for periods of one year rotating in alphabetical order through all CRGA members.	Ongoing Resource constraints, although regular consultation is held with troika members
	4. Clarify the role of the Conference of the Pacific Community a. Clarify the TOR of the Conference: i. To appoint the Director-General. ii. To consider major regional policy issues and SPC's strategy for addressing them iii. To approve changes to Financial and Staff Regulations approved by CRGA.	As per the agenda of the 9th Conference of the Pacific Community
	USE OF SUBCOMMITTEES **5. Increase member engagement through a limited number of time-bound working groups and subcommittees:** a) For the purpose of this paper, *subcommittee* refers to a group established by CRGA to focus on governance issues. A subcommittee may have external representatives if this is acceptable to CRGA. It is envisaged subcommittees will analyse and interrogate issues on behalf of CRGA and will report back to CRGA with recommendations on any significant decisions	A CRGA Subcommittee was established to advise on the new SPC Strategic Plan and was engaged in its development throughout 2015. A CRGA Subcommittee was established to monitor implementation of the SPC Strategic Plan, with its first meeting scheduled for May 2016.

required. As such, subcommittees will not have executive authority (i.e. they won't be able to make any significant decisions on behalf of CRGA).

Working group refers to a group established by the Director-General to advise on strategic governance issues or other specific issues.

b) While recognising other organisations use subcommittees, the Governance Working Group was cautious not to recommend a suite of subcommittees, principally due to concerns relating to cost and effectiveness. Instead the following is proposed:
-    A CRGA Subcommittee was established to advise on the new SPC Strategic Plan and has been active throughout 2014.
-    Following the adoption of the Strategic Plan, the Director-General may convene other time-bound working groups to assist with specific strategic governance issues.

	6. Direct the Audit and Risk Committee (ARC) to include a particular focus on advising CRGA on the SPC budget and major asset acquisitions. The ARC was established in 2013 and is an example of CRGA delegating work to independent external expert representatives. a. In addition to designated current activities, this would include: i. Budget: Offering a brief assessment and an opinion for CRGA on the budget papers prepared for CRGA (and any interim budget papers), and if required making specific recommendations. ii. Assets: Providing advice, guidance and recommendations to CRGA, as appropriate, regarding the financial impact of operating costs resulting from major new acquisitions. b. This would reinforce the provision of expert and informed advice to CRGA on key financial issues for which it has responsibility, including financial risk, budget, and major assets. c. This request falls into the current remit of ARC, has no implications for its present composition or meeting arrangements, and is consistent with the ARC Charter.	The scope of ARC's work has been extended to consider the budget, assets and financial risk matters. A report from the Chair of ARC will be presented to CRGA

	7. Establish a subcommittee to focus on the new Corporate Strategic Plan (to be endorsed by CRGA and approved by Conference in November 2015). This subcommittee will be based on constituency representation where possible, and be open to voluntary participation and limited external stakeholders, if required. a. This subcommittee will be established by CRGA 44 in 2014 and initially operate for 12 months. It is envisaged it will meet once face-to-face and up to three times via teleconference. Based on the TOR to be developed, its focus will be to provide oversight, direction, analysis, contestability and advice regarding the secretariat's development of the new Corporate Strategic Plan (CSP). This will include SPC's role and approach to development effectiveness. b. This subcommittee (ideally comprising around eight members) and CRGA will determine which constituencies these members will be drawn from and whether external stakeholders (e.g. the European Union) or independent experts may participate. It will also be open to voluntary participation by members. c. CRGA could evaluate whether there may be a longer-term role for such a subcommittee in monitoring the ongoing relevance of the Corporate Strategic Plan or whether this can be done by CRGA itself.	The Strategic Plan Subcommittee was established to assist CRGA's governance role in overseeing the implementation of the Strategic Plan and to provide regular opinions and advice to CRGA.

	8. Continue the SPC Governance Review Subcommittee to monitor and evaluate the implementation of the CRGA governance reforms and make recommendations to CRGA and Conference in 2015.	
	a. It is envisaged the Governance Review Subcommittee will meet by teleconference twice during the year, once in May 2015 and again prior to CRGA in 2015.	Unfortunately due to resource issues and heavy commitments, the secretariat was unable to convene these meetings, although the use of teleconference allowed for some discussion
	b. The Governance Review Subcommittee will look at the extent to which these recommendations have been implemented.	
	c. It will also determine which recommendations should be approved by Conference in 2015.	
	d. It may advise, based on early experience, whether further reforms are necessary.	
	PLACING SPC WITHIN A PACIFIC-WIDE ORGANISATIONAL GOVERNANCE CONTEXT **9**. Initiate a more substantive debate about streamlining regional meetings and regional mechanisms (including CRGA and Conference) and further enhancing the complementarities, efficiency and effectiveness of the CROP (Council of Regional Organisations in the Pacific) system as a whole. This could include:	This is ongoing and, where possible, the secretariat has participated fully in joint CROP work such as the Review of CROP Working Groups; finalisation of the TOR for the review of regional governance and finance; and finalisation of the draft Strategy for Climate and Disaster Resilient Development in the Pacific (SRDP)
	a. Exploring opportunities for efficiency gains in hosting joint/concurrent regional meetings, recognising some adjustments may be necessary to reflect differing memberships. This work should take into account and complement similar initiatives in the Pacific.	
	b. Directing SPC's Director-General to liaise with the Secretary General of the Pacific Islands Forum Secretariat, as CROP Chair, to explore the feasibility of commissioning a joint study on how regional complementarities could be enhanced and regional mechanisms and meetings improved.	As above