

National Immigration Strategic and Operational Framework



MODEL

TECHNICAL RESOURCES



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Disclaimer: While the information contained in this document was compiled at the request of the Pacific Immigration Development Community (PIDC), it does not necessarily reflect the views of the Organisation unless specifically stated in the text. The information provided is the result of research undertaken by technical immigration experts who have been provided the opportunity to engage with immigration agencies from across the PICT to learn their often-unique experiences.

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FOREWORD

This research was produced for the Pacific Immigration Development Community (PIDC). It is one of a series of research products developed by PIDC to support decision makers in immigration agencies from Pacific Island Countries and Territories. The research products provide information in key immigration areas that will allow PIDC Members to strengthen the management of international travel across their borders.

PIDC Research currently falls into two categories.

- The first category consists of a number of model technical documents representing international standards and regional best practices that Members can adapt as appropriate for domestic purposes. These model resources currently provide immigration specific technical advice on model legislation, model Standard Operating Procedures, and a model Code of Conduct.
- The second category provides information designed to support PIDC decision makers and leadership in key immigration areas. These products provide PICT immigration agencies with knowledge on specific immigration matters to guide national and regional initiatives and responses. To date PIDC research products have been developed on Pacific Island immigration policy drivers, labour mobility, migration trends, domestic immigration strategic and operational frameworks, and international border 'primary line' best practices.

All the research products developed by PIDC are living documents that will be constantly reviewed and updated to ensure they remain relevant to the needs of the membership. They will form the basis of PIDC's approach to technical matters and will often be the first step for Members when seeking to develop national evidence-based policy and operational reforms.

We wish you well in the use of these products.

PIDC Secretariat

Pacific Immigration Development Community

The Pacific Immigration Development Community was established in 1996 and collectively seeks to ensure the secure international movement of people in the region to maintain safe and prosperous Pacific Communities.

As a regional organisation made up of immigration agencies from 21 Pacific Island Countries and Territories, PIDC seeks to advance the Forum Leaders Pacific Vision for a region of peace, harmony, security, social inclusion and prosperity, so that all Pacific people can lead free, healthy, and productive lives. To this end, PIDC works collaboratively to:

- Improve the management of international people movement;
- Strengthen border management and security; and
- Work together to build capacity to deliver immigration services.



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ACRONYMS

API	ADVANCED PASSENGER INFORMATION
ASYCUDA	AUTOMATED SYSTEM FOR CUSTOMS DATA
BMC	BORDER MANAGEMENT COMMITTEE
BMS	BORDER MANAGEMENT SYSTEM
CAT	CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT
CCLEO	CODE OF CONDUCT FOR LAW ENFORCEMENT OFFICIALS
CEDAW	CONVENTION ON THE ELIMINATION OF RACIAL DISCRIMINATION AGAINST WOMEN
CERD	CONVENTION ON THE ELIMINATION OF RACIAL DISCRIMINATION
COI	CERTIFICATE OF IDENTITY
CPED	INTERNATIONAL CONVENTION FOR THE PROTECTION OF ALL PERSONS FROM ENFORCED DISAPPEARANCE
CRC	CONVENTION ON THE RIGHTS OF CHILDREN
CRPD	CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES
CSR	CONVENTION RELATING TO THE STATUS OF REFUGEES
CTIP	COMBATING TRAFFICKING IN PERSONS
CTOC	CONVENTION AGAINST TRANSNATIONAL ORGANISED CRIME
CUSTOMS	CUSTOMS DEPARTMENT/AGENCY
DHRI	DECLARATION ON THE HUMAN RIGHTS OF INDIVIDUALS
EEZ	EXCLUSIVE ECONOMIC ZONE
FAL	CONVENTION ON FACILITATION OF INTERNATIONAL MARITIME TRAFFIC
FFA	FORUM FISHERIES AGENCY
FIU	FINANCE INTELLIGENCE UNIT
GOMS	GOVERNMENT OF PIDC MEMBER STATE
ICAO	INTERNATIONAL CIVILIAN AVIATION ORGANIZATION
ICCPR	INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS
ICESCR	INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

ICMW	INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS
ICT	INFORMATION AND COMMUNICATIONS TECHNOLOGY
IOM	INTERNATIONAL ORGANIZATION FOR MIGRATION
IPA	INVESTMENT PROMOTION AUTHORITY
M&E	MONITORING & EVALUATION
MRV	MACHINE READABLE VISA
MRZ	MACHINE READABLE ZONE
NCC	NATIONAL COUNCIL OF CHIEFS
NPF	NATIONAL POLICE FORCE
OCO	OCEANIA CUSTOMS ORGANISATION
PIC	PACIFIC ISLAND COUNTRIES
PIDC	PACIFIC IMMIGRATION DEVELOPMENT COMMUNITY
PIF	PACIFIC ISLANDS FORUM
PRC	PEOPLE'S REPUBLIC OF CHINA
PSC	PUBLIC SERVICE COMMISSION
PTCCC	PACIFIC TRANSNATIONAL CRIME COORDINATION CENTRE
RSD	REFUGEE STATUS DETERMINATION
RSO	REGIONAL SUPPORT OFFICE OF THE BALI PROCESS
SOM	SMUGGLING OF MIGRANTS
SOP	STANDARD OPERATING PROCEDURES
TCU	TRANSNATIONAL CRIME UNIT
TIP	TRAFFICKING IN PERSONS
TOC	TRANSNATIONAL ORGANISED CRIME
UNCLOS	UNITED NATIONS CONVENTION ON THE LAW OF THE SEA
UNDESA	UNITED NATIONS DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS
UNHCR	UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES
UNODC	UNITED NATIONS OFFICE ON DRUGS AND CRIME



Executive Summary

Migration management continues to increase in importance for Pacific Immigration Development Community (PIDC) Member States as they seek to improve the security of their borders and at the same time contribute to national development through it. Their ability to manage the movement of people, conduct international trade and manage the cross-border movements of aircraft, vessels and goods depends on having a comprehensive and integrated border management approach. This is important in light of the increasing number of people movement in the region against the low capacity of many immigration agencies.¹ For their economic dependence Member States' attention will continue towards increasing tourism and foreign investments.

With the variety of new investments, certain occupational skills will be short in critical areas. Accordingly, business and trade bodies have requested their Governments to reduce the barriers and controls relating to the employment of foreign workers on the one hand. Authorities, on the other hand, are trying to cope with increasing levels of irregular migration and especially those that are linked directly to organised transnational crime networks. Numerous cases show criminal elements' exploitation of weaknesses in the migration system that enable activities like people trafficking, smuggling of migrants, money laundering and related transnational crime to take hold adding further weight on already stretched capacities. Detection and meaningful analysis of trends and patterns in irregular migration are restricted by the inability of agencies to track and report on related migration statistics; unreliable estimate of the number of overstayers and the inability of agencies to share information and in real time are examples.

As investment promotions gain success, they see increases in arrival numbers and also the consequential weight this placed on border capacity. However, these individuals, investors and groups are human beings first and economic agents later. They expect and are entitled to a level of decency and humanitarianism in the way they are handled at the application stage and at the border. Capacity limitations does not absolve discourtesies or low standards of processing. The demand for better standards at the border relates directly to all that Member States want to achieve be it border security, facilitating economic activities, revenue generation or international image. It is this mutual traveller-agency interest that demands the effort to improve performance and standard.

Operating locally by international standards is challenging for agencies. The need to raise standards and do more will less require clear but simple strategies, sensible policies, learning organisation, and work processes that promote cooperation and productivity.

While responsibility for border control is shared between a number of government agencies, primary responsibility for migration management rests with the immigration agency. However, many agencies have been in considerable difficulty over their functions for some years by a combination of low capacity and below-par performance. An indication of this difficulty can be seen in the management of primary line processing i.e. long passenger queues, vacant processing booths, processing delays, impolite officials, irregular and inconsistent checks of travellers. Less seen but equally serious concerns refer

¹ The term 'Agency' is used as a generic label as Member States have varying levels of resources to support immigration service thus the different sizes of their immigration organisation.

to perceptions held by some government agencies and the community at large of 'chronic weaknesses' within the agency; that there is unnecessary red tape in the processing of visa and entry permit, and incoherence between the agencies where different parts of the approval process are administered. The agency's desire to improve coordination to advance the development of policies and operational frameworks is apparent. The issue is in 'how' and 'with what'. The role therefore of framework, process and tools to guide decisions and operations is important in ensuring that officers work from a concise and clear platform; one that also embraces internationally recognised standards.

The report used the data from the PIDC policy survey 2019 together with historical data since 2003 and those from global reports to glean how trends, patterns and issues are impacting the region. The analysis of the operating environment has been incisive and noted similar strains that run through the global and regional trends on current and emerging issues. The region's population is generally growing with some in the depopulation category and remittances becoming prominent in the national economy. The Covid-19 pandemic has brought these economies to a dire territory, while reducing the number of travellers and affecting trade, prospects for recovery and how long this will take are unknown. This is not encouraging for agencies like immigration that had lacked capacity in the best of times. One area in their control is the internal system where organisational change and development from within must now be a priority.

The report noted the audacity of transnational crime networks that plough their trade and this will only increase during times of crises. Unethical work practices make agencies vulnerable. Increase in political influence, the respondents noted, exacerbate the challenges faced by border agencies.

The respondents to the survey highlighted the current state of capacity in policy, legislation and operations, and much needed to be fixed urgently. The report proposed 45 recommendations to address these challenges. Some looked at internal organisation developments to boost and sustain existing capacity. The majority of these can be applied by the Member States with less-to-no additional financial outlays.

While there is a severe lack of knowledge relating to policy and its formulation process, international standards exacerbated by the absence of operational guidelines, inadequate number of staffs and a general lack of capacity, the report noted the resilience and adaptability of the staffs and any changes required are within the ability of the agencies to implement. There is room for the alignment of policy, legislation and processes that could easily start from a change in organisation culture, work ethics and the gainful use of time. The presence of multi-agencies at the border signals the need for joint border agency grouping and coordination. These need to be expanded beyond national jurisdictions to the regional level in order to cope. The recognition by the Member States of the leadership and coordination role of the PIDC is an important starting point in the renewed effort to achieve open, but well controlled and secure borders. Some guidelines, practices and working tools are added to assist. The recommendations are measures that could be applied right away and also part of a medium to longer-term development programme for national agencies as well as for the region.



SUMMARY OF RECOMMENDATIONS

Forty-five (45) recommendations are being considered in the course of this research are summarised below. Suggestions for useful practices are included within the issues as they are discussed.



1.4 Migration and Border Management

Recommendation 1.1: Establish a Ministerial Committee on Border Management comprising Ministers of key border management agencies.

Recommendation 1.2: Establish a Joint Border Agency Group of Senior Officials comprising senior executives of the border management agencies, to meet regularly to manage and coordinate the implementation of Government policy and strategies regarding border management.

Recommendation 1.3: Establish a cooperative arrangement with the Departments of Fisheries, Quarantine and Customs to strengthen the sea border surveillance and inspection through the acquiring and sharing of information on vessels and their activities at the EEZ including transshipment activities.

Recommendation 1.4: Clearance of fishing vessels for fishing trips and at the high seas and trips to processing countries after the transshipment activities should also include clearance by the Immigration agency.

Recommendation 1.5: Consider the centralisation of border functions of Immigration and Customs into a single agency.

4.1 Lack of awareness of policy and its formulation process

Recommendation 4.1.1: Carry out a comprehensive process of consolidating policy and development, where the latter is required.

Recommendation 4.1.2: Establish a cyclic review process with a 'bring up system' where policies are considered based on current and emerging issues.

Recommendation 4.1.3: On the completion of the policy consolidation, establish a policy database, develop and distribute a set of processing and procedural instructions and guidelines to processing staff.

Recommendation 4.1.4: Educate officials:

- a) in the policy formulation process and in communicating policy issues to stakeholders and the public.
- b) on current and new policies to facilitate seamless implementation with the relevant legislations.

Recommendation 4.1.5: Establish a Joint Border Agency Group comprising senior executives of the border agencies, to meet regularly (during the implementation period) and share information, discuss issues and consult on potential solutions, coordinate the implementation of Government policies and strategies in migration and border management in conjunction with Recommendations 1.1 and 1.2.

4.2 Lack of Capacity Building

Recommendation 4.2.1: Take stock of existing capacities and record development steps made in the Capability Database.

Recommendation 4.2.2: Develop a capacity development programme to enhance the sustainability of existing capabilities towards organisation effectiveness.

Recommendation 4.2.3: Commit to a training effort through:

- a) The establishment of a training capacity within the Immigration agency, and that this training is to focus on operational and technical staff;
- b) The professional development of middle to senior-level staff to hone and enhance their core skills base, operationalisation of the immigration legislation, administration and management skills, and capacity to take the Agency through the required management improvements;
- c) The development of an Immigration induction training and core competency training programmes for new officers and existing officers, respectively, with the induction phase linking with the Public Service induction training;
- d) The development of a training programme for specialised tasks including refugee status determination, counter-trafficking and smuggling including victim identification, plan and conduct investigation, dealing with crime scene and evidence, interviewing and victim sensitive processing for appropriate treatment and including return, for immigration and law enforcement officials;
- e) Training on international standards / guidelines and code of conduct for immigration and law enforcement officers;
- f) Consider the inclusion in training programmes of officials at the public service secretariat and line ministries whose scope of responsibilities include immigration; and
- g) Consider the development of a 'BCamp' training model for immigration and law enforcement officers.

Recommendation 4.2.4: Undertake a comparative work value study that examines the scope of work, seriousness of border control decisions and activities that protect the national border and propose structural changes, staff numbers and work condition adjustments where necessary.

Recommendation 4.2.5: Facilitate a culture change together with more open, robust and systemic procedures to discourage unethical work practices through the (re)design of business processes that includes delegations, reporting requirements, routine auditing of decisions and auditing trails, staff rotation, mentoring, succession planning, accountability, transparency, and visionary leadership.

Recommendation 4.2.6: Include qualifications in core immigration courses to be a criterion for promotion and appointments in coordination with the PSC.

Recommendation 4.2.7: Establish a Migration Skills List / Expert Inventory.

Recommendation 4.2.8: Review the arrangement regarding the management of the 'security deposit' or 'bond' through the opening of a 'security bond account' by the Ministry of Finance, for capacity building purposes, with management responsibility by the Immigration agency, under the usual financial oversight arrangement.

Recommendation 4.2.9: Consider the use of a results-oriented appraisal and performance assessment in tracking work outputs for units and individual staffs, which is to be preceded by the appropriate training.

Recommendation 4.2.10: Agencies to submit training requirements and priorities to PIDC who will coordinate, mobilise funding support, oversee regional training and evaluate individual capacity against agreed targets.

4.3 Lack of Information sharing

Recommendation 4.3.1: Set up a migration information database with management and sharing guidelines that addresses issues such as 'ability to share', 'sharing relationship' and 'value of sharing'.

Recommendation 4.3.2: Set up information sharing point of contact with clear guidelines at agency and national levels.

Recommendation 4.3.3: Align legislations and process to facilitate transparent and accountable information sharing and processing.

Recommendation 4.3.4: Clean up and update the Watch List and Overstayer List.

Recommendation 4.3.5: Establish a joint border agency group for real-time consultations on policy and operational matters.

4.4 Rise in Transnational Organised Crime

Recommendation 4.4.1: Strengthen the cooperation with the Police, Transnational Crime Unit (TCU), Finance Intelligence Unit (FIU), Customs and relevant government services through the streamlining of information exchange arrangement to track and deal with trafficking and smuggling activities.

Recommendation 4.4.2: Identify risk countries and develop language interpretation capacity within the Immigration agency.

Recommendation 4.4.3: Carry out an annual review of the list of free visa/visa on arrival countries to ensure relevance.

Recommendation 4.4.4: Formulate specific policy to address the increase in risk country entries at the business and residence permit categories with explicit consideration of a risk mitigation strategy, workload implications and training in the risk country language to support permit processing and compliance.

Recommendation 4.4.5: Strengthen joint agency and regional cooperation on intelligence / information sharing and investigation in conjunction with Recommendations 1.2, 4.1.3 and 4.1.5.

Recommendation 4.4.6: Review and re-issue compliance and investigations procedures manuals and instructions. The manuals and instruction are to be reviewed periodically to consider lessons learnt, policy changes and emerging issues.

Recommendation 4.4.7: Training of counterpart agencies including consular officials, airline check-in staff and prosecutors on trafficking in people, smuggling of migrants and related transnational crime.

Recommendation 4.4.8: Training of border and law enforcement officials on agency and UN Code of Conduct.

Recommendation 4.4.9: Upgrade passport security by introducing a more robust system of recording the allocation of documents to processing officers through an automated stock control module and combining this with a refined allocation manual where issuing officers sign for receipt of the blank documents. This officer should be tasked with reconciling issued passports, spoilt-in-preparation passports and un-issued passports against those allocated each day.

Recommendation 4.4.10: Implement an information management process to assist the development of an analysis/intelligence capability.

4.5 BMS Not Fit for Purpose

Recommendation 4.5.1: Improve the border system to provide the above functions as baseline.

4.6 Lack of Awareness of International Standards and Guidelines

Recommendation 4.6.1: Qualification in relevant international conventions and guidelines to be part of border and law enforcement officials' induction, refresher trainings and operating certificate assessment.

Recommendation 4.6.2: Develop a strategy to improve staff values and conduct through the development of a Code of Conduct in conjunction with the UN Code of Conduct for Law Enforcement Officers with guidelines on how to deal with situations and/or issues Immigration officers face in the course of their duties. Awareness and refresher training to be conducted on a periodic basis (at least once a year).

Recommendation 4.6.3: Formulate a business continuity plan as addendum to the strategic plan and is to cover man-made and natural crises.

Recommendation 4.6.4: Develop a joint border agency operational coordination contingency plan.

4.7 Lack of Operational Guidelines

Recommendation 4.7.1: Set up an R&D capacity with clear terms of reference, targets and reporting guideline.

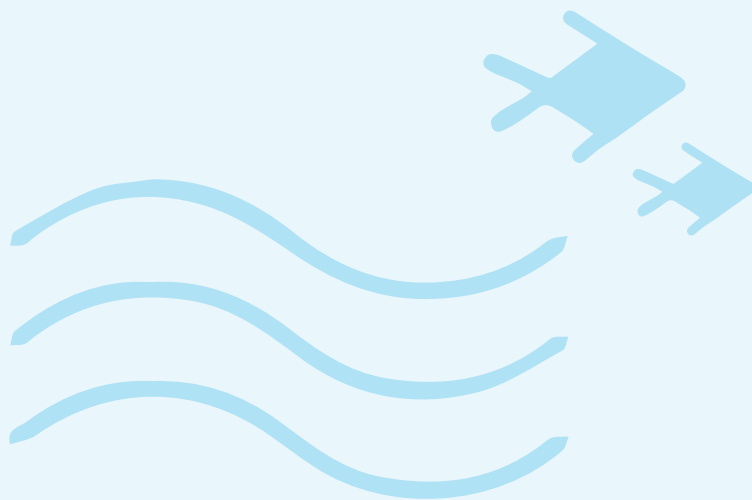
Recommendation 4.7.2: The Immigration agency with relevant border agencies work towards aligning relevant legislations and processes to resolve overlaps, gaps, or contradictions to ensure coherence, effectiveness and accountability.

Recommendation 4.7.3: Enhance the border process guideline as follow:

- a) Develop modules of the Curriculum on Standardized Induction Training for Frontline Border Officials.
- b) Training of officials on the Standardised Induction training for Frontline Border Officials.
- c) Adapt appropriate Standardised Induction training modules as quick reference guides for use in appropriate processes.
- d) Adopt available quick reference guides for use by border officials.

Recommendation 4.7.4: Develop a national migration referral mechanism to facilitate the processing of all categories of travellers/migrants.

Recommendation 4.7.5: Develop a migration and border management handbook for the PIDC region.





NEXT PAGE

Context of Research
and Background



1.

CONTEXT OF RESEARCH AND BACKGROUND



1.1 Regional Landscape

The PIDC Member States are of varying sizes of atolls, coral and volcanic islands located in the Pacific Ocean straddling the equator and two time zones covering a total land area of 526,724 square kilometers and ocean area of approximately 20,571,008 square kilometers. Many of the Member States are within 2,000 kilometers of each other or 2.5 – 3 hours by air except when undertaking flights from Brisbane or Cairns to Palau and those Member States in the northern Pacific. In some case the distance between islands are a mere 30 minutes by boat as between Bougainville and Solomon Islands, and between Solomon Islands and Vanuatu.

However, while the land area may be small in global terms, maritime space cover a wide area of ocean, as for example Kiribati (3.3 million square kilometers of ocean and 726 square kilometers of land), Cook Islands (1.8 million square kilometers of ocean and 240 square kilometers of land), Vanuatu (680,000 square kilometres of ocean and 12,190 square kilometres of land or about 2% of the total area), a story that resonates on all the Member States. Many of the islands are mountainous and of volcanic origin with several active volcanoes especially in Vanuatu, Solomon Islands and Papua New Guinea that lie along the 'rim of fire'.

There are international airports and maritime ports that receive international travellers and cargoes. Except for Fiji, Vanuatu and PNG which have more than one international airport and ports, the remaining Member States have only one. For some secondary airport and ports, immigration clearance may be delegated to police officers based on those islands.

1.2 Economy

The GoMS's economy are relatively small in global terms, yet it continues to dispose itself to taking full advantage of its unique features and resources. It has scope in the agriculture sector and with cattle/beef farming and fishing carving out a small but credible market position in the region.

Tourism is the biggest earner in almost all the Member States with a steady increase in arrivals during the past five years (2015-2019). The forecasted 100% increase in cruise liner arrivals from the final quarter of 2019 and through 2020² was projected to inject further impetus to current growth trend before the Covid-19 pandemic came into the picture.

Investment promotion is a key focus of national economic policy and promotions. Export is the desired target but import continues to outstrip transactions. The development of migration related products to acquire citizenship under tailored business programmes has gained traction since 2009 and, in view of the significant revenue stream the programmes are generating this is likely to continue with further programmes expected.³

In some Member States skills shortages in executive and managerial levels in some sectors require the import of foreign skilled workers, a point contested by the local workforce. Senior officials of key agencies noted that in the course of expediting investment and business growth, certain reserved

2 Briefing note, South Pacific Tourism Organisation, 01 December 2019.

3 E.g. Capital Immigration Investment Plan: Vanuatu Government-Vanuatu Registry Services Ltd 2012.

skills categories were overlooked and have been infiltrated by foreign workers, particularly in the retail sector.⁴ Further, the appointment of non-citizens to senior civil servant positions in some Member States has been noted with concern. This trend runs counter to the decades of investment dollars in education scholarship and skills development programmes in national human resource development plans.⁵ Additionally, the costs of foreigners, usually manifold more than local rates, has been singled out as an unnecessary drain on dollars that a fragile economy can ill afford.

The onset of the Covid-19 has thrown much of the economic plans and projections into question, economies that were hitherto fragile in the best of times. The inability of GoMS to support workers that lost their jobs as a result of the pandemic raises the concern that developments the agencies had planned will be abandoned. The recovery of these economies will be long and hard thus compounding the weight of existing and emerging demands on agencies.

With the contraction in economic activities, government revenue is likely to shrink and therefore agencies could see a reduction of operational budgets. This will likely incur unintended consequences and Member States will need to weigh carefully the intended outcomes of economic solutions and the negative impacts they eventually incur under current conditions. The Member States' approach therefore remains guarded. Furthermore, cost of doing business remains relatively high particularly with regards to utilities. Creative strategies and manoeuvres of shrewd business individuals and entities should be expected at such a time when local resource owners are seen as desperate vendors and therefore negotiating from a position of weakness. Land speculation and land sales remain a concern for the native population while sustainable resource exploitations remain a threat due to inadequate regulation and enforcement. Such a possible scenario provides the usual grounds for rogue individuals and groups to plough their trade in transnational criminal activities. While activities in the aviation space is limited during the pandemic, there is no real impediment to maritime movements and in effect, maritime trade continues seamlessly since the start of the pandemic.



4 Vanuatu has been continuously concerned about this trend (2011-2018). The MSG skills exchange programme attracted strong opposition from some member countries (Draft MSG Proposal on Skills Exchange Programme 2012).

5 Officials officiating at work permit meetings and those processing work permit applications have questioned this policy decision in face of the qualified locals whose education were either supported by their governments or where the students financed their own education.

1.3 Population

The combine population of the PIDC Member States has increased from around 7.8 million in 2011 to over 12 million about a decade later in 2020⁶ with Solomon Islands⁷ and Vanuatu demonstrating the highest population growth rate per annum at 2.27% and 2.27%, respectively, with PNG showing strong growth at 2.15% from 8 million in 2011 to 8.9 million (2020). However, Tonga has contracted by 0.28% from 101,991 (2006) to 99,780 (2020) while Samoa, which was stagnant during the decade up to 2011 at 188,000, has increased by 0.58% to 198,646 (2020). Apart from Tonga two other Member States continued to experience negative growth: Niue at -1.33% from 1,788 in 2011 to 1,562 in 2020; and Wallis & Futuna at -0.53% or 11,441 (2020). This demographic difference is a window to the rationale with which different approaches to emigration has been applied. The dominant role of remittance in national economies as seen at Attachment 1 adds clarity to the labour migration picture. Unlike Samoa and Tonga, Solomon Islands and Vanuatu have only recently re-engaged in labour migration since the early 2000s.⁸

Major population components comprise Pacific Islanders, Europeans, Asians and Australasians. The component of urban-rural ratio is mixed while the preponderance of growth is towards the urban drift. A feature of the island demographics is the pockets of Pacific island populations in each of the Member States, many of which started in the early history of these islands and some much later during the colonial period. Others like the French and Vietnamese populations which continued from their colonial background have integrated amicably into their respective societies and as part of the region. There continues to be a general concern about the increasing Chinese population whose strong presence in the commercial sector especially in retails, erupted into violence in recent years and still has the potential to continue growing in coming years if the present trend is not managed in ways that do not threaten local values and sensitivities. The Member States are multilingual with their indigenous tongues, tok pisin / pidgin / bislama, English and French. Integration through marriage is increasing among Pacific Islanders and while cross cultural marriage is still insignificant it has seen a modest increase in recent years as the texture of population continues to evolve.

Generally, the indigenous societies do not perceive themselves to be particularly multicultural. Views expressed during earlier engagements indicate that the society is acutely sensitive to shifting ethnic demographics that might arise from changing and increasing migration flows.

1.4 Regional Migration

During the past two decades migration has cemented itself as one of the top agenda items in international affairs and the Pacific region has had its shares of both opportunities and challenges. While the opportunities are embraced on the business side of things challenges however require the attention of all government agencies, regardless of the character of their past involvement in border control and migration management.

6 2019 figures, excluding Australia and New Zealand.

7 Solomon Island population is projected to surpass Fiji's population by 2050, SPC Population Unit.

8 Through the Pacific Seasonal Worker Scheme.

Sound migration management cannot be achieved through an isolationist and selective approach. Overarching and balanced policy mix and responses are required and these must take into account the need for:

- **Facilitated migration:** refers to the development of processes for orderly migration for labour, business, tourism and others;
- **Migration development:** that migration contributes to sustainable development and, in return, development policies contribute to effective migration management;
- **Migration control:** relates to measures for border management and to combat irregular migration, smuggling and trafficking; and
- **Forced migration:** about services to migrants forced to flee their homes or coping with the consequences of crises and environmental impacts.

Migration has increased for both economic and security reasons. The IOM Migration Report 2009 noted that migration in Tonga and Samoa during the period 2008-09 cemented its important place in the economy with about 87 out of every 100 persons relying on remittances. In Fiji remittance rose to second place after tourism since the early 2000s and the recent collapse of tourism from early 2020 has pushed up remittance further. The introduction of the Pacific Seasonal Worker Scheme since the early 2000s and other similar work programmes in Australia has seen a further increase in labour migration. On the safety and security side emigration from Fiji, while have been consistent throughout past decades has increased exponentially since 2000 for both Fijians and Indo-Fijians.

The irony is that while the Member States invested millions of dollars on education scholarships annually, work opportunities in the islands are limited and graduates are forced to look elsewhere. However, what most Member States desire is not emigration but circular migration, an area where Polynesian and Micronesian countries have advanced decades earlier than their neighbours. Circular migration opens new opportunities for the reinvestment of knowledge, skills and experience gained abroad either on return or from abroad. The latter benefits from the diaspora networks in the areas of medical and education who then extend this goodwill arrangements to community services that are not available locally. While circular migration might be the desired outcome, the capacity to administer and support the diaspora population and those returning need strengthening.

Mobility has also highlighted the link between migration and transnational crime, including people smuggling, trafficking in persons and travelling terrorists. From the 9/11 and the Bali bombings, the consequent wars in Iraq, Afghanistan, Syria and Yemen, and the ever growing concern on international terrorism, increase use of cyber to transact transnational crime of all sorts, more attention has been directed at the correlation between migration and security and the need for practical measures to address threats through effective border control. There is clearly an increased securitisation of migration and border management as seen in Europe, USA, Australia and the Asia region. From the changes in the approaches and systems it appears that increased security will become a permanent aspect of border management in the foreseeable future. The recent increased interest in fishery stock and sea lanes in the region places the PIDC region at the forefront of these movement nexus.

Pacific Islands are also at the forefront of forced displacements caused by climate variations and rising sea level. While the international forums on climate change continue to emphasise mitigation measures, some Pacific island atolls, low lying islands and coastal settlements are already feeling the impacts of climate change with some already past the mitigation and adaptation stages. The need for overarching policies and strategies, practical and humanitarian measures are already 'here and now'. Historically, the Pacific region is an area characterised by movements over the years and there are models that can be adapted to address immediate displacement concerns and related longer-term issues.

Strategic approaches to border control and management are now adopted by Governments and including the application of 'tiered' entry systems becoming more common. These systems have mechanisms for detailed passenger checks at points of embarkation. The extent to which this tiered system is applied is a matter of capacity an area that is uneven within the PIDC membership.

Improvements in the security of travel documents, the use of biometrics, and physical security measures at air and sea ports, are also applied to combat the threats from terrorism and transnational criminal activities. The current move by airlines through the International Airline and Travel Association (IATA) to increase traveller experience with the rationale of supporting economic activities sounds noble. This initiative, which was piloted from mid-2019, will move the responsibility for traveller data from airlines to individual travellers and countries on a single platform. It means that travellers that do not hold proper travel documents and/or credible story to their travel plans and who needs to be returned to their embarkation port will no longer be the responsibility of the airline. In its current arrangement immigration agencies are barely able to cope. When the new initiative is fully adopted it is likely to put a lot more pressure on already stretched capacities. Rogue individuals and groups will exploit this enlarging capacity gap. Border processes, agency capacities and work ethics will come under increased scrutiny.

Pacific countries are increasingly expected to participate in strategic reforms to facilitate and regulate migration processing. The ever-increasing range and complexity of issues emerging in the migration on both sides of the border underscore the point that no country can manage these on its own; a regional approach is both sensible and inevitable. In view of the interconnectedness in the Pacific region, the weakness of one national border control impacts on others. Countries like Kiribati and Tuvalu that receive flights coming from Fiji and Australia are somewhat shielded from the initial thrust of transnational crime networks, but not immune. A strong regional border therefore becomes a matter of both national and regional interests. The PIDC is an important regional organisation that provides leadership on border control and migration management among other key regional issues.

1.4.1 Emigration

The scale of emigration in Member States remain moderate but increasing. The growing emigration indicates that 'push' factors and international 'pull' factors affect Member States' nationals across all communities. The World Bank noted that outflow of labour impose huge costs to the economy, both in terms of the direct low investment in human capital and lost future earnings. Fitting the jobs with expatriate workers can cost anywhere from two to four times the cost of a local worker and further reduces the competitiveness of the economy. The moderate emigration rate indicates that Member States continue to retain the bulk of its skilled labour, an important factor in its growth strategy. However, substantial shortfall in skills exists at the managerial and technical levels and the relatively rapid growth trend of national economies indicates that the skills gap will remain for some time to come.

The majority of emigrants come from the skilled and educated sector which compounds the shortages existed hitherto. Consequently, much of the pressure now being applied on the Investment Promotion Authority (IPA), Labour and Immigration to expedite migration processing originates from businesses desperate for skilled labour resources. Given the impact of emigration, its labour market consequences and the shortages in certain skilled and managerial levels, the paper supports further research conducted to assist in Member State policy formulation, including on measures to reduce reliance on foreign workers.

Historically, only a handful of destinations have hosted the vast majority of emigrants: Australia, New Zealand, Canada, USA and United Kingdom received about 90 percent of all Member State emigrants. However, intra-region labour migration remains at a consistent level over the years. Remittance from Member State national living in other countries is acknowledged as an important contribution to national economies.

1.5 Migration and Border Management

Migration management and border control has been recognised as an important area of attention for the Pacific Island countries. The externally driven development noted earlier with the Pacific Islands' desire to maintain the unique autochthonal character of its society, the promotion of economic growth, development of tourism, creation of an environment that is friendly to investments, and in fostering that growth the facilitation of the migration of skilled foreign workers are all important areas that need to be managed. While all these are gathering momentum PIDC Member States are not oblivious to the increasing level of irregular migration that also ushers in transnational criminal elements.

A number of government agencies share responsibilities in border management: Immigration, Labour, Customs, Biosecurity, Fisheries, Maritime Authority, Civil Aviation, Health, Police and organisations like the IPA, Airports Limited and Postal Services. In some Member States, Customs is operating the primary line while Immigration continues to support from the secondary line. Apart from Immigration,

Customs and Biosecurity are the remaining agencies that operate behind the secondary line but whose work also inform considerations and decisions in the visa allotments, immigrants selection mechanisms, integration program, permits and border processes. The capacity of the agency to respond to issues about migrants from agencies behind the secondary line are at times put under question.

In some Member States three of the departments (Immigration, Labour and Police) that are engaged in border-related activities usually come under the responsibility of the same Ministry. Where these are separately located, coordination is key in maintaining coherence in the machinery of the border and national security usually through a Ministerial oversight structure.⁹

From the consultations with agencies and responses to the questionnaire some focus was placed on 'who' to do 'what'. An objective examination of roles and functions and where these should be located for effective and efficient delivery within the range of policy mix based on sound border management principles is prudent. Any discussions on roles and responsibilities of agencies at the border and the business approval process will involve IPA, Labour, Customs, Citizenship Commission, Foreign Affairs, Finance, Biosecurity and Fisheries as certain migration-related functions are now performed by these agencies. It is important that this examination is premised on the agencies' operating environment. For example, Customs focus on goods and Immigration on people, yet the two areas benefit from the same stock of information, similar activities and a merger of the division at the primary line will streamline the systems, policy and resourcing aspects. The revenue collection role, border processes, security and the compliance regime of Customs equates closely with those of Immigration while tax collection is a separate role that logically remains under the ambit of Finance. The research recognises the rationale that all immigration functions placed under one Department acknowledges the inherent and direct link between effective migration management, border control, cost-effectiveness and national security. Some current arrangements of shared responsibilities may have faced complexities, perhaps emanating from the two agencies' adamant of retaining their own systems and corresponding areas. The important issue is that efficiency, effectiveness and accountability are achieved within the limited resources available to them while border security and the migration system are maintained. Longer-term cost savings, coherence and new opportunities through centralisation compared to the two separate systems at present are evident.

The ever-increasing importance of border management requires a high-level oversight to express and drive government policy goals in this area. Furthermore, a strategic whole of government approach to planning, resource mobilisation and implementation will be of benefit as it will articulate clear objectives to drive its management.

The whole of government approach also raises the need to bring together the senior executives of border management agencies through a forum where they can determine agency responsibilities and how to implement government initiatives and directions. This senior executive group should also be responsible for driving the reform of the business processes and for building trust and professional competence among the border agencies, other government agencies, airlines and shipping. Moreover,

9 In some jurisdictions this is handled through the National Security Council.

this relationship is necessary for Advanced Passenger Information (API) to work when eventually introduced. While some Member States defer this to policy or activity level Samoa facilitates this cooperation through legislation compelling agencies to act cooperatively,¹⁰ a sensible move in view of its realities.

The sea and sea routes are an important area of economic activities. Cooperation in the management of the maritime border is critical and needs attention. Government agencies that have direct roles there are Customs, Quarantine, Immigration and the Maritime Authority. Apart from the international cargo vessels and cruise liners, fishing vessels from distant fishing nations operating out of the Member States has their catches taken to processing centres in the region. The Customs provides the clearance of fish cargoes for departure after transshipment activities. In many instances there is no clearance by the Immigration agency of the crews.

The research learnt of the operations of some commercial fishing vessels and including around Member States Exclusive Economic Zones (EEZ). The possibility of the presence of non-fish cargoes was not discounted by Fisheries and Customs.¹¹ There was no evidence to the contrary but observations made by these agencies indicated that tighter control is clearly required.

Managing the Member States' wide maritime border requires more accurate and timely information and this could be achieved through a cooperative arrangement of the above agencies and to be supported by information on vessel movements sourced from the Pacific Islands Forum Fisheries Agency (FFA) based in Solomon Islands. Existing fishery data and compliance units on the maritime front tend to focus only on fishery management¹² involving the Fisheries and Maritime Authority.

Recommendation 1.1: Establish a Ministerial Committee on Border Management comprising Ministers of key border management agencies.

Recommendation 1.2: Establish a Joint Border Agency Group of Senior Officials comprising senior executives of the border management agencies, to meet regularly to manage and coordinate the implementation of Government policy and strategies regarding border management.

Recommendation 1.3: Establish a cooperative arrangement with the Departments of Fisheries, Quarantine and Customs to strengthen the sea border surveillance and inspection through the acquiring and sharing of information on vessels and their activities at the EEZ and including transshipment activities.

Recommendation 1.4: Clearance of fishing vessels for fishing trips and at the high seas and trips to processing countries after the transshipment activities should also include clearance by the Immigration agency.

Recommendation 1.5: Consider the centralisation of border functions of Immigration and Customs into a single agency.

10 Section 48, Immigration Act 2004.

11 Border and migration management assessment in Vanuatu, December 2010 and joint border spot check exercises (Operation Gateway) 2013 and 2017.

12 Refer to national Fisheries Management Plans.



NEXT PAGE

*Background to
Research and Methodology*



2.

BACKGROUND TO RESEARCH AND METHODOLOGY



July	August	September 2021	October	November	December
1 Su	1 Su	1 Su	1 Su	1 Su	1 Su
2 Mo	2 Mo	2 Mo	2 Mo	2 Mo	2 Mo
3 Tu	3 Tu	3 Tu	3 Tu	3 Tu	3 Tu
4 We	4 We	4 We	4 We	4 We	4 We
5 Th	5 Th	5 Th	5 Th	5 Th	5 Th
6 Fr	6 Fr	6 Fr	6 Fr	6 Fr	6 Fr
7 Sa	7 Sa	7 Sa	7 Sa	7 Sa	7 Sa
8 Su	8 Su	8 Su	8 Su	8 Su	8 Su
9 Mo	9 Mo	9 Mo	9 Mo	9 Mo	9 Mo
10 Tu	10 Tu	10 Tu	10 Tu	10 Tu	10 Tu
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12 Th	12 Th	12 Th	12 Th	12 Th	12 Th
13 Fr	13 Fr	13 Fr	13 Fr	13 Fr	13 Fr
14 Sa	14 Sa	14 Sa	14 Sa	14 Sa	14 Sa
15 Su	15 Su	15 Su	15 Su	15 Su	15 Su
16 Mo	16 Mo	16 Mo	16 Mo	16 Mo	16 Mo
17 Tu	17 Tu	17 Tu	17 Tu	17 Tu	17 Tu
18 We	18 We	18 We	18 We	18 We	18 We
19 Th	19 Th	19 Th	19 Th	19 Th	19 Th
20 Fr	20 Fr	20 Fr	20 Fr	20 Fr	20 Fr
21 Sa	21 Sa	21 Sa	21 Sa	21 Sa	21 Sa
22 Su	22 Su	22 Su	22 Su	22 Su	22 Su
23 Mo	23 Mo	23 Mo	23 Mo	23 Mo	23 Mo
24 Tu	24 Tu	24 Tu	24 Tu	24 Tu	24 Tu
25 We	25 We	25 We	25 We	25 We	25 We
26 Th	26 Th	26 Th	26 Th	26 Th	26 Th
27 Fr	27 Fr	27 Fr	27 Fr	27 Fr	27 Fr
28 Sa	28 Sa	28 Sa	28 Sa	28 Sa	28 Sa
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2.1 Objectives

The research was undertaken within the broad PIDC capacity building framework as one of a number of capacity-strengthening activities under its Work Plan 2019-2020. The PIDC required the completed materials as model resources to:

- a) provide a set of key immigration activities and best practices that Member States can adapt according to domestic realities and priorities;
- b) be based on common challenges;
- c) used as a guideline of best practices to streamline and standardise common approaches among PIDC Members where appropriate; and
- d) be used to guide the provision of technical assistance by PIDC or partner organisations.

The research was guided by the contract instruction that in view of obvious resource constraints faced by most PIDC Members, recommendations and proposed tools are to seek options that are not resource intensive or requiring new and significant funding outlay.

Materials from this activity will add to PIDC's pool of resources already developed as a regional Toolbox that will be available to Member States to guide their development of:

- a) **strategic and operational frameworks** for key immigration activities;
- b) immigration **indicators** for key immigration activities; and
- c) **diagnostic methodologies / research tools** to measure performance of immigration activities.

The objective of this research is to provide:

- a) A written report that provides:
 - i) An environmental scan identifying common operating challenges to PIDC PICTs;
 - ii) An analysis of existing regional and international migration standards, best practices and frameworks; and
 - iii) Model resources for Members to adapt as appropriate including:
 - 1) a national strategic and operational framework to guide immigration operations;
 - 2) immigration indicators to measure performance of immigration operations; and
 - 3) an accompanying diagnostic toolkit to assist measure indicators at 2).

The term 'diagnostic' connotes the toolkit has to perform two functions:

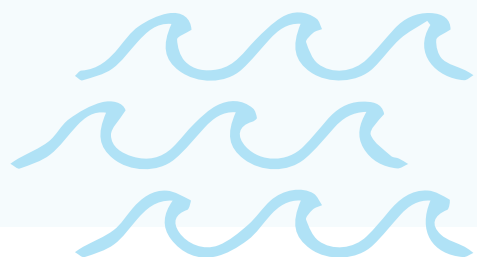
- i) To measure the performance indicators at 2) above; and
- ii) To identify failures, non-performance and deviations that may occur in the delivery of the work plan.

The resource constraints of agencies may not allow time for a full diagnosis of the delivery systems in the usual grind of their work. Moreover, engaging in corrective activities is costly and counter-productive to a positive working environment and particularly if the processes upon which the work is based is blurred and rudderless. In the interest of time and economy of effort therefore it is prudent to get this right at the planning and formulation stage. Correspondingly, the two prongs will be dealt with pro-actively in the drawing up of the indicators, and then in tracking in the implementation and monitoring matrix. Key to this is the involvement of all officers to be aware of the different parts of the process, its purpose, activities and expected results, roles of operators and how the whole process works. This is distributive leadership that involves all levels right from the start of the process. This is based on the strategic framework that sets out *what needs to be done*, as opposed to *what the capacity allows*, thereby raising standard to international level thus ensuring open, well controlled and secure borders.

- a) A two-page summary of the written report providing possible recommendations on future priority activities.

The research undertook the following activities:

- a) An analysis of existing international and regional migration, standards, best practices and frameworks;
- b) An examination of the operating environment of three Member States (selected by the Secretariat) to identify operating challenges considered common to PIDC PICTs;
- c) Development of a model national strategic framework to guide immigration operations;
- d) Development of indicators aligned to the model national strategic framework to measure performance of immigration operations; and
- e) Development of a diagnostic toolkit to assist Member States measure the model indicators.



2.2 Framework

Cephas Partners was contracted by the PIDC on 27 July 2020 to undertake this research and to complete the work within a period of 20 working days. A research plan was submitted to the PIDC (see Attachment 1 to this report) with the research conducted remotely.

The research was intended to be based on the feedbacks from a survey of three selected Member States facilitated by the PIDC Secretariat involving two other consultancies in a consolidated questionnaire. Feedbacks from an earlier survey conducted by the PIDC in April 2019 shared by PIDC was invaluable. There were two Zoom consultations with the PIDC to establish understandings on the scope of work and updates, conduct of the survey and desired results. The zoom meetings further noted the increasing requirements on Member States to meet their obligations regarding relevant international standards that impact on people movement and border control. The research brief noted that the research was to focus specifically on the Member States selected by PIDC. In the absence of this data, the research took advantage of the earlier survey results and based its work on the nine Member States that participated which generally represented the sub-regional groupings at 3.1 below.

A draft questionnaire was prepared and submitted to the PIDC for their compilation with the other two consultancies as a consolidated questionnaire for ease of coordination. On this basis, consultations through questionnaires and zoom interviews with selected PIDC Members were to be facilitated by the Secretariat.¹³ The slow/lack of engagement from appropriate Member States was regretted. Data from the second questionnaire would have updated those collected at the PIDC Survey 2019. Appreciation goes to the PIDC for its efforts in trying to mobilise the Member States' participation.

Data from the PIDC Survey in 2019 for nine Member States is valid and if there are changes during the past 12 months this would be a small increase in some areas but nevertheless minimal overall. Furthermore, the movement restrictions within the region caused by the Covid-19 pandemic would have impacted numbers. The impact is in the sense that it can only reduce the number of movements and its cascading effect on the other areas including visa, permits, passports, citizenship, arrival, departures, visa refused, turnaround and deportation. Moreover, taking on balance the trend in capacity building across the region indicated that, improvement, if any, would be minimal. Going forward the research looked beyond the pandemic period and, based on figures collated and recent trends, made the assumption that the numbers will increase after the pandemic. Data from the period 2003 and 2019 were used to show trends and patterns of movements and related issues as bases of analysis to glean possible scenarios and what it would mean for the immigration agency in particular and the region as a whole. Secondary sources, and the author's information, knowledge and first-hand experience gained from various engagements around the Pacific and Asia during the recent 17 years were brought to bear on this assignment.

¹³ This part was suspended due to the late/lack of response from the selected Members States despite the efforts of the Secretariat.

A desk-top research was conducted to gather information from secondary sources from around the PIDC region and beyond to establish trends and patterns of movements and where the issues impacting the region could be further examined. Information gathered were in the following areas:

- Priorities and functions;
- Member data, movement trends and patterns;
- Strategic outlook, strategies, operations and challenges;
- Organisational development, internal systems and issues;
- Policies and procedures;
- International conventions, standards and guidelines;
- Capacity and capacity improvement, resourcing and conditions; and
- Gaps, overlaps and linkages.

Drafts of the four Outputs were submitted to PIDC for their comments per the Research Plan to ensure the result meets the terms of the contract and is also fit-for-purpose.

Good practices are examined with the issues as they are discussed throughout the report as this gives them a sense of context hence their usability in the four categories of the Member States.

¹⁴The **recommended causes of actions** follow the discussion of each issues, many of which, following the natural continuation of the proposed activities, are potential programme development projects in the immediate to medium term with implications for the longer-term. The summary of recommendations is provided at the introduction part of the report for ease of reference.



14 Polynesia, Micronesia, Melanesia and Small Islands States.

2.3 Pacific Immigration Development Community Region

The PIDC region continues to experience growth in migration numbers and related activities during the recent decade. While many of the issues of ten years ago remain generally similar in the current environment, their complexity, intensity and frequency have increased exponentially that has, in some instances, overwhelmed national immigration capacities. The Member States recognise that regional cooperation is integral to keeping on top of these issues and maintain a semblance of security for their borders. However, more needs to be done at all levels to ensure better functionality of networks, processes and standards.

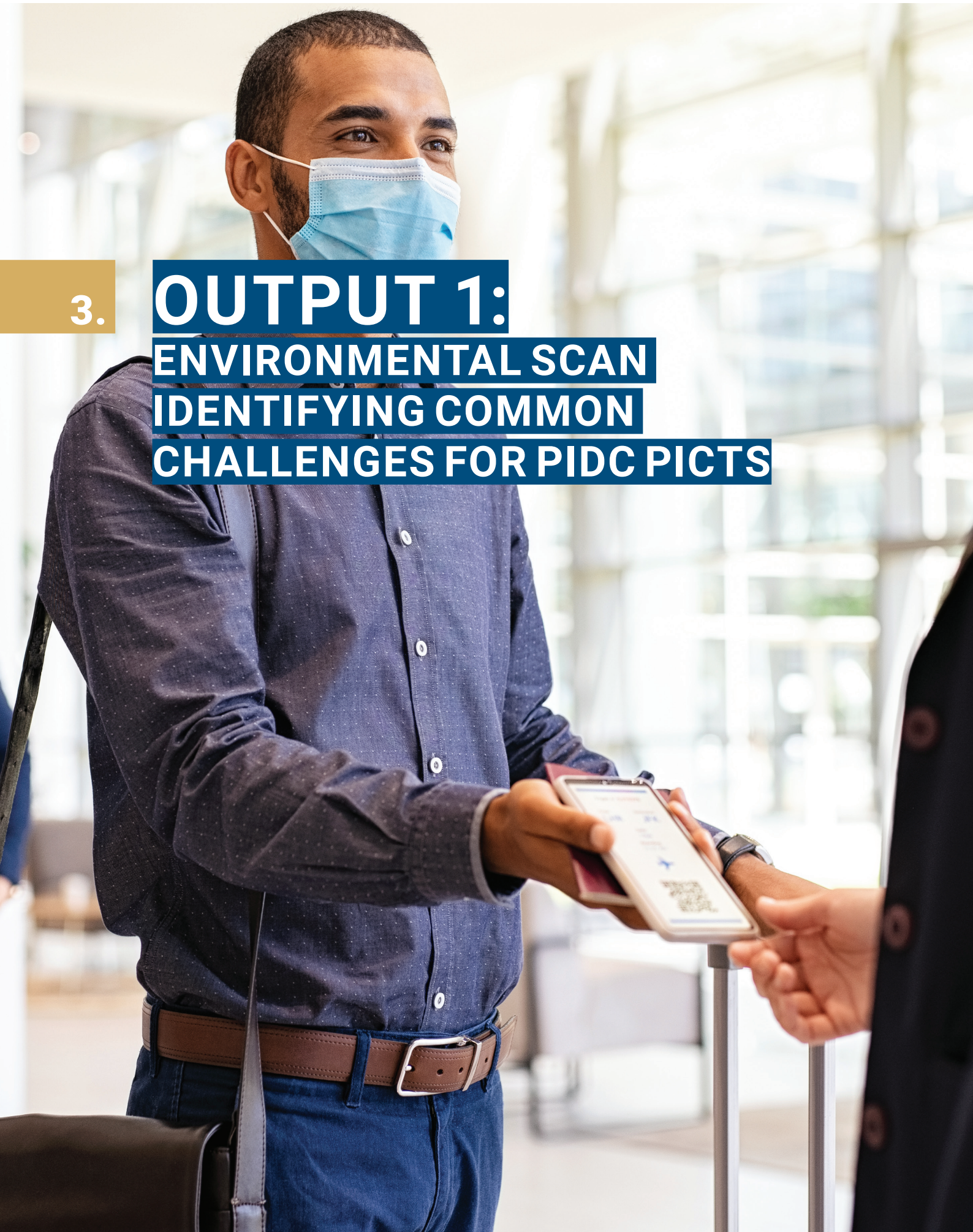
On its part the PIDC recognises the importance of migration policies and operational frameworks that are aligned with international standards and best practices to guide the delivery of immigration functions and yardstick in ascertaining that these global standards are consistently upheld. These are then incorporated into strategic direction and processes to ensure effective and accountable processes that improve decision making and activities, with appropriate methods to measure performance. While most Immigration agencies have developed operational plans that are aligned to their budgets, **many** of these plans have not been updated for several years and thus shy of current best practices. The research recognised that while global practices are tested outcomes and are helpful the key for Member States is what works for them in their realities i.e. 'what they should do', and 'what they're willing to do'.

Further, by aligning operation plans with budgets, deliveries are limited to available resources, not necessarily what is needed to be undertaken according to the mandate. These are issues that have been existing for some time but the current and emerging environment requires a realistic approach with new sets of lenses. The lenses are premised on the acknowledgement that internal systems and processes need to improve, supported by a matching work ethics and communication strategy within the agency, and with counterparts and clients, something that streams throughout the report.



3.

OUTPUT 1: ENVIRONMENTAL SCAN IDENTIFYING COMMON CHALLENGES FOR PIDC PICTS



3.1 Positioning the Scan

The overview of the PIDC region endeavours to examine key areas that impact the migration and border management of Member States based on the feedbacks from the PIDC Immigration Policy Framework Survey 2019 and complemented by the knowledge from the author's work in the border and migration space as indicated earlier. Other publicly available sources were also consulted to illuminate issues and trends beyond the PIDC region but impacting Member States and draw comparisons where these are efficacious¹⁵. The scan focuses on migration patterns and trends in policy, visa, arrivals and departures, transnational crime, internal systems, organisation management, border processes, standards and guidelines, externalities and capacity. In so doing, the overview of the operating environment is not oblivious to the uneven landscape i.e. from a border system standpoint, Member States fall into one of these capacity grouping:

- a) Small and manual system;
- b) Small with a combination of computerised and manual system; and
- c) Small and computerised.

The report is fully aware of the realities of Member States from their relative 'smallness' and its impact on how they approach issues, prioritising and sequencing in migration and border management. The fact sheet at Attachment 1 gives an overview of this reality which at the best of times is challenging. The current pandemic exacerbates this with the way forward lined with even more challenges, yet the easing of pandemic restrictions will see the resumption of travel; a combination of these is fertile ground for crime networks. In the foreseeable future, therefore, it cannot be business as usual for the immigration agencies. The apparent low resourcing ceiling means that new work structuring and ethics and organisation culture are needed. In the process the report also offers some suggestions in the areas discussed which can be adapted in any one of the above three groupings.

3.2 Developing a Strategy for Immigration Agencies

This section is not meant to be a prescription on strategy and strategic thinking but as a backdrop against which agencies can see where and how the issues confronting them at the operational level may be usefully located and applied within the agencies' strategic level direction and decisions.

Strategy is concerned with survival and success. Developing a strategy means taking steps to ensure the Immigration agency is in good shape to deliver on its mandate, cope with changes in its environment including emerging issues, taking advantage of opportunities that come its way, and surviving major shocks to its systems. As this is to do with organisation capability, it is very much to do with the operating system, people who make up the organisation and their potential contribution to

¹⁵ Including the International Migration 2019 (OECD), International Migration 2019 (UNDESA), border assessment reports et al.

survival and success. Capability does not come about by chance but rather by sensible forecasting, planning and action and this applies to all organisations. As strategy has to do with the longer term, it is frequently overlooked as organisations concern themselves with short-term tactics and reactions to day-to-day issues and events. But the lack of attention to strategy is a sure path to eventual decline, adhococracy and extinction.

3.3 NEED FOR MANAGEMENT COMMITMENT

Strategy has to come from the top – top management – be they heads of the agencies, directors, permanent secretary, chief executive officer, committee or migration board. They are appointed to ensure that organisation capability is adequate for survival and success, be it in policies, legislation, systems, processes, manpower and resources. On personnel, particular attention needs to be given to the calibre of management, the structure and culture of the organisation. For strategy to succeed there has to be a high level of commitment and involvement by employees; a lesson of the 1980s. Strategy is not secret plans and large quantities of paper, but about commitment and capability underlining the point that all practical decisions concerning the agency and the border should be taken with a prior organisational strategy be it in migration and cross border movement, frontline operations, resourcing or manpower. It endeavours to progress beyond the fire-fighting mentality that has permeated thinking in this area particularly during times of diminishing resources and rapid changes. In the process some may prefer to proceed directly to equipment and manpower planning on the grounds that planning follows logically on from strategy. It is the experience of many including the author however many prefer to study operational issues before returning to longer term issues.

Moreover, management commitment includes the responsibility of maintaining the link between operations with the policy and strategic levels, and *vice versa*. In the environment of meagre resources there are times when management come down to the operational level for short-term purposes, however, their place is in leading, a place they must not vacate. Doing other staff's work for short term gain does not help capacity building. Assisting the operations by allowing the system to work to a higher standard is the responsibility of management. This includes ensuring the alignment of national legislation and policy with international standards, and having these reflected in operating procedures. To leave the management level unattended creates a bigger problem for the agency in the longer term. The responsibility of upward reporting and downward accountability must work hand-in-hand.



3.4 Corporate Strategy and Capability

Corporate strategy has been described as ‘...the matching of the activities of an organisation to the environment in which it operates’ and ‘...the matching of the organisation’s activities to its resource capabilities’¹⁶. Developing strategies for resources including personnel is similarly a matching process, concerned with the manner and extent to which the stock of officials should be varied to match predicted changes in the environment and to matching demands of the strategic and annual work plans of the agency for personnel. Corporate strategy also examines whether the annual work plans of the agency have to be modified because of limitations and costs relevant to systems, processes and people sides of the immigration role. This requires analysis of the relevant aspects of the environment as well as the existing supply of manpower and the motivation and attitudes of key groups of officials. It further requires an evaluation of the options available, selection of an appropriate strategy, and a process of implementation. A model developed by Johnson and Scholes (Figure 1.1)¹⁷ illustrated this well.

3.5 Effects of Change on Strategy

Strategy is subject to changes. A study¹⁸ in the early 1990s identified seven trends in industry organisations that brought about changes and compelled organisations to create coherent strategies. These include (my elaborations in *italics*):

- a) Competitive restructuring. Firms are compelled to change their organisation structures in the face of new patterns of competition, *mode and trends of movements and diversity of players*.
- b) Decentralisation. Firms are trying to get closer to the customer by decentralising or *outsourcing* their activities and services.
- c) Internationalisation, including the globalisation of markets *and supplies*, and the diminution of local customer base.
- d) Acquisition and mergers.
- e) Quality improvement cause by market *and supply* pressures for higher quality products and services.
- f) Technological change.
- g) New concepts of service provision and distribution.

These trends are current and can equally apply to any organisation including immigration agencies.

16 Johnson G. and Scholes K., Exploring Corporate Strategy, 2nd edition, Prentice Hall, 1988.

17 Johnson and Scholes op cit.

18 Hendry C., Pettigrew A., and Sparrow P., ‘Changing Pattern of Human Resource Management’, Personnel Management, November 1988.

4.

COMMON OPERATING CHALLENGES



At the general level the greatest priorities for Member States would be in the following areas:

- a) Maintaining secure borders;
- b) Disrupt serious and organised crime including TIP, SOM, related crime and terrorism;
- c) Humane treatment of migrants; and
- d) Enhancing the integrity and efficiency of trade and travel systems.

Under these general areas the Member States responses focused on priority issues only that hinder their ability to fulfill the Immigration mandate. In approaching the challenges, it is important to see them as a bundle of inter-related issues that can either be mutually destructive if treated piecemeal or complementary when dealt with holistically.

Figure 1.1 A summary model of the elements of strategic management

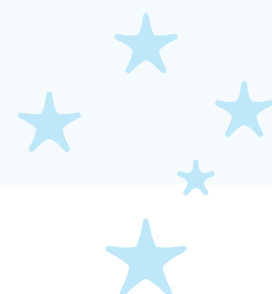


‘Lack of resources’ or ‘inadequate capacity’ was noted by all the responses as *the* biggest challenge. ‘Resource’ is a large area and encapsulates a number of things. The scan therefore will try to unpack some key ones with the aim of identifying aspects that might be holding back the agency while highlighting parts that has the potential of unlocking the agency’s soft capability as a way of boosting the hard capabilities in a mutually complementary way.

Respondents recognised the important place of resources in the Immigration’s capability, but they also placed some or equal emphasis on other areas such as outdated policy and lack of policy awareness, BMS not fit for purpose, lack of operational guideline, insufficient, tired and overworked staff. Even though one respondent put ‘political influence’ first while resources came last this is seen in the context of a list of all Priority 1 challenges and resources being the sum-total and end-all remedy to current woes. One respondent put ‘political influence’ together with other capacity-related issues by stating that ‘the government policy needs to address this’. While political influence and pressures applied on immigration officials are not uncommon, it is the push to undertake things outside the legal process that is of concern due to its impact on the official and credibility of the entire migration system. Where the role of the political level is inscribed in law this has to be approached through a legal pathway. The issue for officials is ‘how to respond’ from the bases of international and domestic laws, and to stand on these legal frameworks. Further, the respondents alluded to the multipronged character of political influence that caused officials to fear for the security of their jobs. It is therefore important that regulations, appropriate processes and procedures are spelt out clearly and formalised to avoid grey areas. In jurisdictions where visa, passports and citizenship are administered by an agency other than immigration, formal processes and procedures are crucial for cooperation, accountability and lawfulness of decisions and actions. The combination of **checklist and point systems** tend to limit negative influences on processing and decisions.

The report will now focus on the individual responses received in the PIDC Survey of April 2019 at Attachment 3 under these three survey questions (i.e. Question 18, 18.1 and 19). In the process ‘lack of capacity’ will be examined with an intention of outlaying current capacity, what needs to be done and then offer some recommendations as potential remedies:

- a) What are the three greatest challenges or threats faced by your agency?
- b) What are the key factors which might prevent success in addressing these?
- c) Describe any gaps you see between your agency’s current situation and these objectives.



4.1 Lack of Awareness of Policy and its Formulation Process

Of the nine Member States that responded all stated that there was a lack of awareness of the content and purpose of the policy including one that also highlighted total ignorance of international standards and guidelines. This was despite the fact that the respondents acknowledged that their agencies are responsible for many of the policies in the migration space. The implication of the responses is significant when put beside a recent definition that describes **migration policies** as a government's statements of what it intends to do or not do (including laws, regulations, decisions or orders) in regards to the selection, admission, settlement and deportation of foreign citizens residing in the country.

On the first part of the response - if officials are not aware of the contents and purpose of policy or the process of their formulation - the classic questions are: 'what then is guiding their decisions and the agency's work?', 'how is the agency mobilising and accounting for the resources it is allocated?'

The second part of the response admits total ignorance of international standards. This is against the reality that Immigration is in the business of cross-border movements of international travellers/migrants, their rights, safety and dignity, and what these mean to the Member State's border security, economy and international image as a tourism and investment destination. The international standards so required of the agency are therefore outside the agency's remit.

Two responses, while identifying another Department as the drafter, didn't mention Immigration or the role it might have played in the policy formulation process. Yet, all the responses listed the range of migration-related policies under its charge. Two other respondents focused on other agencies for their lack of cooperation at the implementation stage but only highlighted capacity building to represent the gap in Immigration's current situation and policy objectives that were meant to enhance Immigration deliveries.

The second part to this challenge lies on the respondent's concern for outdated policies. Two respondents noted that policies were only reviewed following receipts of complaints.

Some issues stood out:

- What internal mechanism is there to guide policy formulation and reviews? If another department drafts policies, where is Immigration located in this mechanism and what impact does Immigration inputs have on the outcome?
- What is the scope and depth of understanding of policy issues (national and international) in Immigration and how these should be presented to enlighten staffs, stakeholders and mobilise support?

- What counterpart agencies and clientele were consulted? How is consultation undertaken?
- Does the Immigration have a communication strategy to articulate policy issues within the agency and to Ministers, reach out to partner agencies, clients and the public?

The emphasis on 'lack of ...' highlights the need for training in policy formulation and its communication. The training, perhaps best through workshop modes, will benefit from a series of practical exercises to train middle to senior immigration officers to enhance their understanding, written and oral communication skills in crafting and articulating policy ideas, concepts, issues and implementation complexities succinctly, effectively and skilfully to key stakeholders including their peers, superiors and subordinates in the agency, department heads, Ministers, collaborating counterparts from other public service jurisdictions and importantly, to the general public. With five agencies not having a website communication of migration policy and issues remains difficult.

Recommendation 4.1.1: Carry out a comprehensive process of consolidating policy and development, where the latter is required.

Recommendation 4.1.2: Establish a cyclic review process with a 'bring up system' where policies are considered based on current and emerging issues.

Recommendation 4.1.3: On the completion of the policy consolidation, establish a policy database, develop and distribute a set of processing and procedural instructions and guidelines to processing staff.

Recommendation 4.1.4: Educate officials:

- a) In the policy formulation process and in communicating policy issues to stakeholders and the public.
- b) On current and new policies to facilitate seamless implementation with the relevant legislations.

Recommendation 4.1.5: Establish a Joint Border Agency Group comprising senior executives of the border agencies, to meet regularly (during the implementation period) and share information, discuss issues and consult on potential solutions, coordinate the implementation of Government policies and strategies in migration and border management in conjunction with Recommendations 1.1 and 1.2.



4.2 Lack of Capacity Building

All respondents highlighted the lack of resources and capacity building. Lack of capacity was presented in a number of forms that appeared under other questions from the policy to activity level: lack of/ outdated policy and legislation, skills shortage, staff shortage, lack of advanced tools and machines including BMS, insufficient budget allocated in comparison to tasks issued, pay and organisation structural misalignment. The responses point indirectly to the internal system, i.e. how it manages things like know-how, develop and track the delivery of objectives, build and manage the relationship between supervisors and subordinate staffs within the work structure, develop the necessary corporate culture, things that are essential in the overall attainment and coherence of the desired capacity. These challenges merit attention on their own for their impacts are severe if mismanaged.

What has not been mentioned by the responses is the capacity building programmes undertaken over the years. Looking at the organisation capability some stock taking is necessary as a start to determine current skills availability or requirement against needs. Pushing against the base of the organisation are changes in the operating environment which may be caused by many things including a change in the economic situation, crises (internal or external) that cause increased migration flows, (un)availability of other resources, technology, products and responses of other players (including non-state actors) to policies or lack thereof, all of which will inform what will be the eventual response capability.

On one side this situation is then conceptualised to develop organisational objectives, appraisals, measurements, career plan, training plan and skills inventory. This will lead to an understanding of current skills requirements or what is available in order to deliver. It will further inform individual capability that eventually becomes the organisation's resource capacity.

On the other side changes to the operating environment will require response by way of a business strategy, business plan (including business continuity plan) and business performance. This will appraise future skills requirements or its availability. The latter will be the end-state of the agency's total capability. If there is capacity shortage progression is then made to link up again with individual capability to improve the stock of resources. This process is summarised at Figure 1.2. This process has an additional purpose: it is an approach to solving staff and skills shortages at the floor / operational frontline level by a strategy which combined manpower planning, career structures, annual appraisal and objective setting.



4.2.1 Strengthen Existing Capacities: Training of Officials

As part of the stocktake questions that should be considered are ‘what happened to the capacity already built?’ ‘Is this an absence of capacity or rather the lack of strengthening and sustaining of existing capabilities?’ To take the former is to return to and remain at stage one - basic level - when the focus should be on continuing progression thus transitioning from capacity building to capacity strengthening (or development). For this to happen there needs to be a conscious decision and commitment to build on existing knowledge, expertise, equipment and assets guided by international standards. The latter part is important as it is wasteful to invest in resources that do not meet even the minimum of international standards.

Moreover, the tendency to look for ideal times and settings for dedicated training under existing conditions may not be possible. Under the economic reality of Member States where they are expected to ‘do more with less’ creative use of time and resources is needed. The way forward may lie in embracing multiple tasking and inbuilding programmes into the normal cadence of weekly work routines, as for example, conduct in-house training, refresher sessions, focus group meetings (FGM) and other capacity improvement activities on days with the least number of flights. Once the benchmarked stages of capability strengthening are reached duly qualified officials need to be formally recognised on their achievements and what it means for their career progression, a point that was alluded to by two respondents and underlined at Figure 1.2.

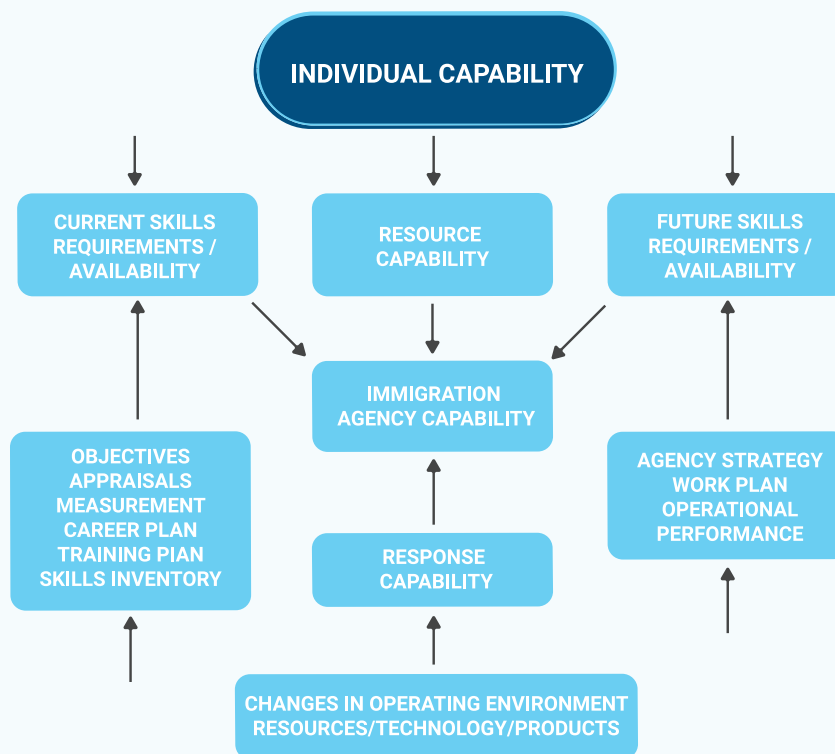
The Member States’ expectations (70% of respondents with the remaining 30% offering no response) that PIDC should provide training indicated the corresponding level of **commitment and ownership** of capacity improvements at the national level. The responses highlighted training and capacity building which includes things like training of officials, development of migration policies, legislation and operational procedures. Further, the Members’ expectation that PIDC should guide the drafting of policies and legislation, monitor their implementation and also ensure compliance with international guidelines is both an acknowledgement and a concern. Acknowledgement as it demonstrates the outstanding work PIDC has been undertaking over the years. Concerning because Immigration agencies do not see capacity building as a national responsibility even after having signed/ratified the conventions *et al* by transferring such mandate to PIDC, a non-Party to the conventions. Without a change in mindset one should not expect the agencies to embrace such international standards and guidelines in the short to medium term. Conversely, by its mandate the PIDC will hold up the international standards as a guide and measuring yardstick. The responsibility for compliance rests squarely on the immigration agency whose ownership of its own ‘signature’ and ‘ratification’ must be translated through policy and legislation, and ‘alive’ at the operation (delivery) level.

Furthermore, the general consensus for PIDC’s continuing role on capacity building then requires that donor funding support in this activity be directed to PIDC who will then coordinate training in the region. This might mean that, in coordination with the Members, PIDC will call for training priorities

and coordinate with donors and partners. It is clear that PIDC’s coordination and monitoring roles are integral to getting the Members to reach a common level of knowledge, skills and aspire to reach international standards.

Acquiring knowledge and skills is one thing, having a sense of ownership and value of such skills is another as both are important in the overall sustainability of capacity so developed. Names of qualified officials may be entered into a skills/expert inventory. Skills level however needs to be maintained thus the importance of retraining and practice as part of conditioning to remain effective at operation Level 3 and above. The levels include Level 1: on-training-conditions and on-training-standards; Level 2: on-training-conditions and on-the-job-standards; and Level 3: on-the-job-conditions and on-the-job-standards. The focus on standards goes to the heart and purpose of the international guidelines. The research acknowledges the substantial work already done by PIDC in the conduct of training needs analysis in 2018 and the training-of-trainer programme in 2019.

Figure 1.2 The operating scenario, organisation capability and the frontline operator



Moreover, training of immigration officials tends to focus on technical areas of border processes. Corporate management and planning are left to the routine grind of the public service system. This is an area that needs to be strengthened especially for mid-level managers and section heads

whose functions may lean more and more towards administration including budget preparation, objective setting, performance appraisal, implementation tracking and reporting, research and policy engagements. The preparation of business cases starts at this level and thus the articulation of issues, costings, evidence-based justification and their methodological presentation are key to mobilising support at relevant decision points to secure the required resources. Through this process there is better understanding and connectivity between the 'border engine room' (operations) and the migration policy level decisions, on the one hand, and an opportunity to bundle and present the type of information that can elevate immigration capability improvement programming at required levels in the longer term on the other. In bringing the two training components together into a unified programme, the Member States would benefit from an adapted version of the BCamp programme conducted for the Asian countries' border agencies and where officials of counterpart agencies could also attend.

While training and education has been focused inwardly there are those above the Immigration agency whose understanding of border and migration issues is critical to matters. First, it is not always the case that heads of immigration are appointed from within its ranks thus highlighting the first level of education on border and migration matters as soon as possible. Second, those responsible for immigration by the dictates of their roles above the head of the agency are not necessarily familiar with such matters. The responsibility to bring them up to the required level of understanding naturally falls on the head of the agency. The challenges agencies face in strengthening capacities and securing the required resources therefore do not necessarily come by the incompetence or non-performance of the agency but rather by the supervisors' lack of understanding. This point directly impacts the link between upward reporting and downward responsibility and accountability.

Agencies will benefit from firming a training target within a planned period of, say, up to five key areas (at Levels 1-3) between 2-5 years. Below are some areas:

- Training in passport/document examination
- Training in the comparison of faces and passport photographs
- Training in visa processing/issuance procedures
- Training in passport application processing/issuance procedures
- Training in interviewing skills and investigation
- Training in dealing with cases where entry is refused, and removals
- Intelligence training
- Training in traveller risk profiling (including pre-arrival risk assessment)
- Computer training (e.g. Microsoft Word, Excel, Outlook etc)

- Training in financial management
- Training in time management
- Training in leadership and management
- Information Technology (IT) training (e.g. disaster recovery, backup, maintenance and support etc)
- Training in building, maintaining and updating websites (e.g. to maintain the official agency website, if relevant)
- Training in cyber investigation (identification, collation, extraction, storage and presentation of evidence)
- Record management training
- Training in project design and management
- Training in procurement
- English or other language training

4.2.2 Budgetary Allocations

All respondents noted insufficient budgetary allocations for Immigration operations. Within the relative smallness of national economies, it would be unrealistic to expect an ideal budgetary allocation hence creative measures need to be explored. An evaluation of the budget preparation process is prudent. First, how is the immigration agency engaged in the preparation of annual budgets and how much effort is the agency giving this activity? How is the agency's revenue collection achievements on a budget-revenue ratio comparison against the impacts of a weak border narrative is considered in the budget policy? Second, what are possible avenues for savings and even revenue building within the existing financial system? As for example, travellers are usually required to pay a security bond to cover repatriation costs. This bond is kept either at Treasury or held under the traveller's name in a bank account, only to be released by the bank on the written approval of the head of Immigration. A quick calculation of the fees by the total number of arrivals (residence) will show a substantial figure over a period of time. The generated bank fees are gifts to the bank, paid by the traveller at the cost of the Immigration/Government who is administering these cases. If the Immigration agency or Treasury establishes an account for this purpose, interests accruing to those accounts can be directed to capacity building purposes. The fund is released through the endorsement of the head of the Ministry responsible for Immigration following the approval by the Treasury of a capacity building/development plan under which the fund will be utilised. The quality of the proposal including tracking and evaluation, and the accountability footprint of the Immigration agency in undertaking this initiative are important steps in reaching inter-agency cooperation on this matter.

4.2.3 Insufficient Number of Staff

Associated with capacity is the respondents' concern about insufficient numbers, tired and overworked staffs, a reality across the PIDC region. This combination can easily produce unintended consequences by way of inefficiency and unethical work practices. A review of the value of work and decisions taken by officials is a prudent starting point for the strengthening of work ethics, productivity, remuneration and increase in staff numbers. The capacity of the management to build and present the appropriate business case is a critical step. Clearly, decisions made by immigration officials to allow or deny entry at the border determines all that will happen downstream across relevant agencies and sectors. Conversely, understanding the value of border decisions against managing the opportunity costs of poorly resourced immigration agency need to be considered fully in terms of staff-to-task and man-hour numbers. While Treasury might be saving initially through reduced allocations to border agencies the cost of poorly resourced border agencies is picked up downstream by other authorities including police, health, education, social services, Courts and prisons. The difference however is that costs of services and compliance are manifold more than strengthening capacity at the gate: immigration.

Even after having undertaken the above measures numbers may not increase hence new approaches need to be considered. With the full impacts of the pandemic on the economy and resource bases still to come, it cannot be business as usual for the immigration agencies in the foreseeable future. The shallow resourcing base means that new work structuring, ethics and organisation culture are needed hence the prudence of adopting a minimum optimum organisation something military institutions have embraced for a long time. As for example, in adapting the philosophy of military special operations¹⁹, small teams are trained in a number of skills sets in a new operating culture thus the team, however small, is capable of performing multiple tasks within reduced time and resources as units double or triple its size. In other words, multi-skilling, multiple tasking, work ethics, organisational culture and the application of 'resource multipliers' to deepen capacity utility and reach need to be on the agenda. Without these resource multipliers the capacity so developed will not realise its full potential. Some issues will be contentious from an industrial relations standpoint but these are matters of dialogue if, in the unlikely event, that resourcing improves while mandate is maintained with demands continue growing, pressure on sustainability of jobs, work conditions to improve, migration facilitation and the security of the border at issue. Some of the elements of resource multipliers have been alluded to earlier and some follow below which the report will now address.

19 Brian S Petit, *Going Big by Getting Smaller: The Application of Operational Art by Special Operations*, Outskirts Press, 2013.

4.2.4 Culture and Organisational Change

The resourcing challenge facing Member States government agencies relative to the size of the economy does not provide for optimism in the immediate term. However, one area that is tucked under the capacity question is culture and organisational change; to adapt to the realities of their situations in a Pacific specific context, an issue that can change policy attitudes towards resourcing. Too frequently immigration has been characterised as bureaucratic, lack customer service courtesies, even though the management's devise and techniques were developed and operated, with security of the border at the forefront, to keep things running efficiently and smoothly on an even keel. Selection, training and pay were seen as the application of administrative procedures with which to reinforce the status quo, and this assisted in running 'a tight ship' on behalf of the public service.

Often traditional culture and attitudes interfere with the organisational work culture and ethics to the point that it becomes *the* organisational culture. Organisation effectiveness and survival may hang on this strand – the ability of agencies to adapt to its environment – when capacity is at issue. Here the **gainful use of time**, as in other resources, is critical. Sound leadership is required in these situations where there is a close connection between culture and work ethics, a point that is underlined at 3.2 and 3.3 above. Leadership and management are the very demonstration of the changes they require. It bears repeating that as this is to do with organisation capability, it is very much to do with the operating system, people who make up the organisation and their potential contribution to survival and success – work culture and ethics being high on the list.

Administrative procedures have their right and proper places but the agencies now face more complex and uncertain environment and the emphasis has to be on coping with change rather than maintaining stability. In cases where strategic planning indicates a need for implementing organisational change this will in turn require culture change as people attempt to move to new sets of values and attitudes to work, and new ways of behaving. This trend has been linked to increased internationalisation of work, a greater attention to customers and clients, quality of product and services and a pursuit of excellence. These themes and the approach to it are summarised in Figure 1.3.

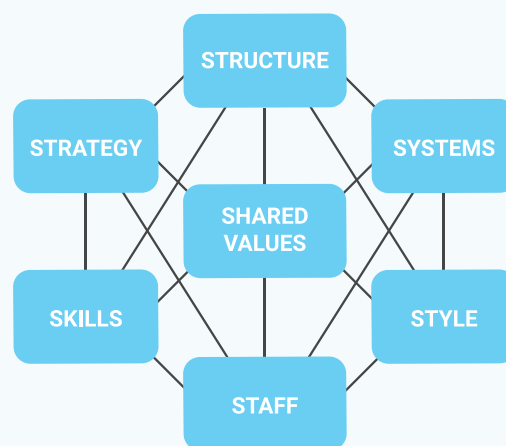
The quest for excellence led to the recognition of so-called soft Ss of – Skills, Staff, Style, and Shared Values – were just as important as the so-called hard Ss of Strategy, Structure and Systems. Shared values were seen as the essential key in moving to an organisation where all employees were devoted to the pursuit of excellence in relation to organisational goals.

It is one thing to recognise the significance of culture and values but quite another to change. Social psychology teaches us that attitudes are the hardest to change and also teaches us that attitudes are more easily changed through peer group pressures, as opposed to confrontation or overt attempts at manipulation. Usually values can be taken to refer to deep-seated beliefs about the moral order and right and wrong, it is probably more appropriate to refer to attitudes in the context of culture change at work. As for example, both to adopt the attitude that quality is important and to behave as if quality was

important. In one sense, management is primarily concerned with behaviour and is not concerned with cognitive processes that may or may not be taking place.

Attempting to change culture is a long and expensive undertaking with major implications on the future of the agency. Typical objectives of culture change programmes are increased productivity, timeliness, greater customer satisfaction, better quality, better sense of corporate identity, higher returns on investment, and enhanced competitiveness. Typical new culture patterns aimed for include greater customer orientation, participative management styles, open behaviours, greater participation, greater innovativeness, corporate loyalty and a learning culture.²⁰

Figure 1.3 Culture, Organisation Change Themes and Approach



Two popular definitions of culture indicate the dual simplicity and complexity of the concept. 'The way things are done around here' reflect the average manager's instinctive recognition of a new culture when s/he moves to a new organisation. An elaboration of the definition is that 'culture is that pattern of basic assumptions that a given group has invented, discovered or developed in learning to cope with its problems of external adaptation and internal integration, that has worked well enough to be considered valid and therefore to be taught to new members as the correct way to perceive, think and feel in relation to these problems'²¹. Others consider 'values' are the bedrock of any corporate culture²². Values express the philosophy of an organisation and provide guidelines for behaviour. Emphasis was placed on three aspects of culture critical to culture change:

- a) *Heroes* – are managers with vision, persistence and commitment who embody the new style values and motivate others.
- b) *Rites and rituals* – Rituals reinforce socially acceptable behaviour, and rites assist in socialising newcomers (a point long recognised in army regimental tradition).
- c) *Cultural network* – These are the communication networks, formal and informal, that pass messages and which reinforce a particular culture and set of value (seen in 'wantokism/kaivata', 'old student' or 'class' networks).

20 See also Dobson P., Walters M. and Williams A., 'Changing Organisational Culture', Paper Presented to IPM Annual Conference, October 1988.

21 Schein E., 'Suppose we took Culture Seriously', Academy of Management OD Newsletter, Summer 1984.

22 Deal R. E. and Kennedy A. A., Corporate Culture, Addison Wesley, 1982.

Experience in successful culture change in more prosaic and largely encompass traditional personnel practices. These include the use of selective redundancies, recruitment and selection of new types of employees, social events, financial rewards, new appraisal procedures and new budgetary systems. This process is facilitated by a strategy led approach, acceptance of the need to change, top level commitment, the impetus of a crisis, training and visionary leadership. These measures are well within the capability of the immigration agencies to undertake, achieve and sustain.

4.2.5 Open System and Effectiveness

Closely linked to organisational culture is the philosophy the agency system is based upon i.e. either closed or open. A system is an orderly grouping of different components for the purpose of achieving some given objectives. The essential difference in the thinking of an organisation as an open rather than closed system is that due emphasis is given to its dependence upon the environment for its continued existence. While 'existence' might not be taken in the literal sense, the existence of the function is central to this. Close system thinking tend to encourage the adoption of a problem-solving approach which focused attention on internal causes of stress, rather than those causes stemming from an organisation's relationship with its external environment.

The open system model highlights the need for the agency to adapt to changes in its environment, and therefore focusing on characteristics which are likely to increase capacity in order to adapt to environmental changes. The term organisational effectiveness as opposed to organisational efficiency is often used to denote the goal of enabling organisations to grow and survive over time, rather than achieving short-term efficiency or profitability.

Organisational development is very much concerned with organisation effectiveness and therefore with those properties which are conducive to learning or adaptability, flexibility and innovativeness. The system the agency adopts determines the outcomes thus an objective examination of itself assists even though the journey inward tends to be the longest and most painful.

4.2.6 Internal Management: Results-oriented Appraisal and Performance Assessment

Results-oriented appraisal schemes have for some years gained popularity among large organisations. They have been influenced by the popularity of Management by Objectives (MBO) schemes, a philosophy of management and is not simply an attempt to quantify management goals.

In MBO the process of setting objectives starts at the top of the organisation, usually with the board of directors, or management board. A corporate plan is drawn up which sets out objectives for the agency

and its major functions. Different levels of management are then required to make their contributions to the corporate objectives. Middle managers or section heads would typically be invited to set out Key Result Areas (KRA) for his unit and to discuss and agree with her/his supervisor. KRA must be limited in number, capable of measurement (i.e. quantified) and given dates for review and completion.

After agreeing objectives with the subordinates, a manager is under an obligation to assist the subordinate to achieve these objectives and ensure the necessary training and resources available. Progress in achieving objectives is subsequently reviewed at appropriate times throughout the year. This appraisal and management scheme based on target setting and joint review of performance include the following:

- Appraisal and appraisal interviews focus on work performance which most staff feel competent and willing to discuss rather than personal traits.
- Appraisal is not a once a year undertaking but a continuous process.
- Appraisal and management development can be effectively integrated because development plans are directly related to work performance.
- Managers can directly observe the benefits of appraisal and training.
- Subordinates feel involved in the process and are thereby motivated to improve their performance.

In spite of the potential benefits of result-orientated type schemes the outcome has not always lived up to the promise. Sometimes this has been due to poor management and administration, where it has been introduced in an autocratic way or where a general climate of mistrust has prevailed, or when too much emphasis on paperwork and form filling has buried the scheme. In cases where there is too little room for discretion and political interference is common, success can be hard to achieve. Further, where long-term objectives were too grandiose or vague, they were either ignored or sacrificed so that staffs can concentrate on easily identifiable short-term goals, where some of the targets reflect 'fire-fighting' situations. If MBO and formalised approaches to managing are to succeed, it is the philosophy which must predominate, not the paperwork.

As a caution, serious limitation to appraisal based solely on target-setting is that success in a job is no guarantee of success in a more senior position. A further warning on the potential dangers of basing appraisal too slavishly on MBO is that managers can 'fudge' their work unit objectives in favour of their supervisor's view when they know that the objectives will be used as a basis of their appraisal. Instead performance appraisal must restrict its focus to the effectiveness with which job incumbents have carried out the function that their jobs comprise, while MBO should focus on the work-unit objectives and restrict its role to planning. Performance appraisal and MBO as two useful activities must work in concert.

Recommendation 4.2.1: Take stock of existing capacities and record development steps made in the Capability Database.

Recommendation 4.2.2: Develop a capacity development programme to enhance the sustainability of existing capabilities towards organisation effectiveness.

Recommendation 4.2.3: Commit to a training effort through:

- a) The establishment of a training capacity within the Immigration agency, and that this training is to focus on operational and technical staff;
- b) The professional development of middle to senior-level staff to hone and enhance their core skills base, operationalisation of the immigration legislation, administration and management skills, and capacity to take the Agency through the required management improvements;
- c) The development of an Immigration induction training and core competency training programmes for new officers and existing officers, respectively, with the induction phase linking with the Public Service induction training;
- d) The development of a training programme for specialised tasks including refugee status determination, counter-trafficking and smuggling, including victim identification, plan and conduct investigation, dealing with crime scene and evidence, interviewing and victim sensitive processing for appropriate treatment and including return, for immigration and law enforcement officials; and
- e) Training on international standards / guidelines and code of conduct for immigration and law enforcement officers.
- f) Consider the inclusion in training programmes of officials at the public service secretariat and line ministries whose scope of responsibilities include immigration.
- g) Consider the development of a 'BCamp' training model for immigration and law enforcement officers.

Recommendation 4.2.4: Undertake a comparative work value study that examines the scope of work, seriousness of border control decisions and activities that protect the national border and propose structural changes, staff numbers and work condition adjustments where necessary.

Recommendation 4.2.5: Facilitate a culture change together with more open, robust and systemic procedures to discourage unethical work practices through the (re)design of business processes, that includes delegations, reporting requirements, routine auditing of decisions and auditing trails, staff rotation, mentoring, succession planning, accountability, transparency and visionary leadership.

Recommendation 4.2.6: Include qualifications in core immigration courses to be a criterion for promotion and appointments in coordination with the PSC.

Recommendation 4.2.7: Establish a Migration Skills List / Expert Inventory.

Recommendation 4.2.8: Review the arrangement regarding the management of the ‘security deposit’ or ‘bond’ through the opening of a ‘security bond account’ by the Ministry of Finance, for capacity building purposes, with management responsibility by the Immigration agency, under the usual financial oversight arrangement.

Recommendation 4.2.9: Consider the use of a results-oriented appraisal and performance assessment in tracking work outputs for units and individual staffs, which is to be preceded by the appropriate training.

Recommendation 4.2.10: Agency’s to submit training requirements and priorities to PIDC who will coordinate, mobilise funding support, oversee regional training and evaluate individual capacity against agreed targets.

4.3 Lack of Information Sharing

There continues to be a lack of information sharing, even though this is one issue that kept appearing as a priority over the years. Specific mention is made of ‘readily available data’ and this could mean a number of things one of which is ‘actionable information’. Taking this a step back would require a process of collation and analysis before information is actionable when needed. The migration information database would ensure data is available when needed and its guidelines address impediments to sharing among other things. Concerns about the ‘ability to share’ are fundamental questions when sharing information, with no easy answers without a set of easy to access rules (e.g. like an MOU or other agreement). Issues included in this area need to address the ‘authority to share, operational security, legal clearance to share and how to protect security.’

Concerns about the ‘sharing relationship’ usually reflect a lack of mutual understanding of each side of the sharing relationship, often about each other’s context (like access to information, ability to act on shared information). It’s also difficult to know how to grow and strengthen relationships if there is no mutual understanding of each other’s priorities or of the expectations each side has when sharing information. Issues included in this area need to address ‘don’t know who you’re sharing with, silence, reciprocity and what will the recipient do with the information.’

Concerns about the ‘value of sharing’ arise when the benefits have not been realized in the past and/or the burden of sharing far outweighs the possible value or the cost/risk to them if information is mishandled or gets into wrong hands. The question therefore is ‘if the benefits are unknown and the burdens are high – why would an agency want to spend time and resources sharing when it has so many

other things to attend to?’ There is therefore a need to grow people’s knowledge of how agency and regional cooperation can address migration issues including transnational crime and still ensure that the burdens to sharing are as low as possible. This takes time and effort, but having the model/process in place helps to nurture and sustain the kinds of relationship and trust that are needed for timely and meaningful sharing to occur. Issues included in this area need to address ‘time consumption, is it worth the risk, what is the return and uncertainty about the value of information.’

Further reasons for the lack of sharing could be attributed to the absence of a central migration database, of verified information and of what it means to be a custodian of information in a cultural sense. Even with the existence of a database still the inability to share may arise from policy and legislation silos that inhibit agencies from sharing. Even though there is a principal legislation, regulations are yet to be developed or not updated thus the absence of processes to facilitate cooperation, a point that is further elaborated under ‘lack of operational guidelines’ at 4.7 below.

One respondent noted ‘overstayers’, ‘tax evasion’ and ‘labour exploitation’ in that order. Apart from the obvious need for joint agency cooperation, the review and cleaning of the Watch List/Overstayer List is urgently needed. There is a disconnect between the Tax Office/Customs and Inland Revenue and the Immigration agency thus the latter is neither alerted nor able to put a ‘stop flight’ on those who are in the Tax Defaulter List. Further, the clarity of who has authority over the Watch List is important in ensuring that the List is kept updated and actionable.

There are a number of key points in the ‘labour exploitation’ issue. The use of indicators to identify potential victims of trafficking at the visa application stage, and at the border are logical starting points. Tracking of migrants once in the country is possible through spot checks, at the renewal of visa/permits/contracts, changing of jobs, and tracking of sponsors.

Recommendation 4.3.1: Set up a migration information database with management and sharing guidelines that addresses issues such as ‘ability to share’, ‘sharing relationship’ and ‘value of sharing’.

Recommendation 4.3.2: Set up information sharing point of contact with clear guidelines at agency and national levels.

Recommendation 4.3.3: Align legislations and process to facilitate transparent and accountable information sharing and processing.

Recommendation 4.3.4: Clean up and update the Watch List and Overstayer List.

Recommendation 4.3.5: Establish a joint border agency group for real-time consultations on policy and operational matters in conjunction with Recommendations 1.2 and 4.1.5.

4.4 Rise in Transnational Organised Crime

By its very nature, transnational crime crosses national borders. Effective border control through strengthening border management in the region, including cross-border collaboration is therefore one key element in tackling transnational organised crime.

In the coming decade, export-driven growth and major regional infrastructure upgrades in Southeast Asia, a known source region, including those associated with the ASEAN Connectivity Masterplan, will concentrate resources along “development corridors.”²³ Asia has a disproportionate share of the world’s young, working-age population—which represents the most mobile cohort—with resulting major immigration flows to other regions of the world, and increasing intraregional migration as aging and demographic transitions occur at different levels within Asia. While these trends will generally be positive in terms of lowering overall trade costs and boosting economic growth, they will also provide increased opportunities for organised criminal groups to traffic people and illicit goods and smuggle them across borders. PIDC Member States which have visa free and visa on arrival arrangements with countries in the Asian and African regions are natural target points in the Transnational Organised Crime (TNOC) routing network.

One respondent highlighted an increase in the number of gang affiliated persons travelling to the Member State during the three years up to 2019. As flights to this Member State originate from New Zealand the identity of gangs, membership and their activities are dealt with on a bilateral basis. Coordination between the two countries has seen an increase in refused uplifts and turnarounds since 2017, actions strengthened following an amendment to the Immigration legislation in the same year. Further, the Member State is seeing consistent numbers attempting to travel each year but the strengthening of compliance has resulted in visitors requesting exemptions to travel due to criminal convictions. Conversely, while the movement of gang-affiliated persons is kept under the spotlight, ‘visa runners’ or overstayers continue. Fiji figures show a decrease when comparing with those during 2017-2018 except for the Overstayers figures which saw a slight increase.

TNOC appeared across all the respondents with Trafficking in People (TIP) and Smuggling of Migrants (SOM) specifically highlighted. An understanding of TIP and SOM operations enables officials to identify key points in the process and apply appropriate responses including the treatment of victims of trafficking. Further, transnational crime networks target gaps in policy, legislation and processes, passport issuance and weakness in implementation including intelligence collation and investigation procedures, airline routing, visa on arrival/exempt arrangements and corrupt officials.

Transnational crime networks plough their trade in the dark net. Some effort, by immigration or in cooperation with another agency (say Police) in reaching into this space to identify, extract, store and present evidence in Court to secure successful prosecution will be needed. Training and agency cooperation in this area is necessary (also see training list at 4.2.1 above).

23 Deal R. E. and Kennedy A. A., Corporate Culture, Addison Wesley, 1982.

While numbers may be relatively small in the Pacific compared to larger and developed economies this needs to be considered with the rule of proportionality as the existence of one or two cases in a Member State could easily overwhelm existing capacity. Further, the impact of such a case(s) on the international image is likely to be significant. Nonetheless while the Global Compact on Migration attracted the signatures of about 60% of the UN membership, instruments protecting the rights of migrant workers had been ratified by fewer than 30%.²⁴ Twelve (12) PIDC Member States signed the Convention Against Transnational Organised Crime with only one signature on the Convention against Trafficking in Persons. However, only one Member State has signed the Convention on the Protection of the Rights of Migrant Workers and Members of their Families, something that can hinder the economic side of things, among others.

Generally, the Pacific island countries are not destination countries but stepping stones to other destinations, such as the US and Australasia. In response the US had instructed the Northern Mariana Government in 2009 to ban Chinese tourists from Rota Island, 87 km from Guam, because many have been using Rota Island as a jumping off point for Guam. Northern Mariana is a partly self-governing US territory that has become troubled by the attention of Chinese criminal organisations. Palau issued a Presidential Executive Order in 2009 to restrict nationals from People's Republic of China (PRC) and Bangladesh pass through Philippines to Palau, a move that was aimed at deterring potential asylum seekers and foreign workers.

About 2005, a change was starting to occur as an increasing frequency of irregular migration specifically targeting Pacific Island countries, as a final or at least medium term, destination²⁵. Deeper examination shows that these migrants are prepared to use the conduits provided by the Pacific Islands through the traditional adoption system, visa on arrival and citizenship pathways through business programmes to tip-toe to their next destination. This can be also seen where Chinese businesses operate in these islands but with their business proceeds evacuated to Australasia where they eventually aim to settle.

In view of the gradual but consistent increase in numbers involved, problems arising from the influx of PRC nationals into Pacific Island countries are visible. In some instances, entries of improperly documented arrivals were possible because of inadequate training, resources constraints, staffing, political interference and unethical practices within the immigration agencies. Reliance on foreign embassies is not an option. The Chinese Embassy in Vanuatu took the position that it is the responsibility of the immigration and police agencies to find out the PRC nationals' purposes.²⁶ As a start, knowledge of the PRC passport and other identification documents is critical as PRC laws allows for changes in name/identity and therefore the same person can bypass the Watch List and related checks.

24 International Migration Report 2019, UNDESA.

25 Vanuatu Border and Migration Management Assessment Report 2010.

26 *ibid*

Moreover, cases of secondary smuggling occur under the noses of authorities. Pregnant Asian women on irregular status giving birth may assume the names of adopting mothers when registering at hospitals²⁷. Babies born are therefore directly registered to their new parents thus legalising the newborn. The trend may also indicate a 'baby for sale' business as part of the adoption industry running within the people smuggling network in the transit/destination country.

The provision of visa on arrival status to PRC nationals by the first country of entry into the Pacific further exacerbates the challenge for immigration authorities. Flights into the South Pacific through Nadi from Incheon (Korean Air), Hong Kong (Air Pacific) and Philippines (Continental Air) increase the exposure of small Pacific Islands to larger numbers of improperly documented migrants. A summary of Asian and African countries accorded visa on arrival/visa free status by PIDC Member States is at Attachment 2. Other countries are added to give the broader picture of possible routing networks.

Numerous articles reporting on and questioning the increasing numbers of PRC nationals infiltrating the business sectors in PIDC Member States were reinforced by the concerns raised by border agencies²⁸. There is evidence of Chinese businesses operating from the same location / premises or in the same shop and on the same business licence but operating under separate invoicing and receipting systems to manage their co-located business operations.²⁹ There was no evidence to deny the observation that some women might be working in the sex trade. Officials need to be aware of the potential for these women to end up being trafficked, in view of the link between the international sex trade and organized crime. In this situation, immigration and law enforcement agencies need to further strengthen cooperation in tracking and dealing with traffickers and smugglers to collate and develop a robust system of information exchange and the officials provided with specific training on counter-trafficking, including victim identification, interviewing and victim sensitive processing for returns. Part of dealing with traffickers and smugglers includes the establishment of an intelligence system, identification of risk countries and development of a language interpretation capacity within the Immigration Department.

In the nature of the PIDC region, GoMS are fully aware of the potential risks of illegal maritime movement of people, many of which are strengthening community policing to enhance reporting schemes³⁰. Many had undertaken consultations with customs chiefs, communities and stakeholders on the scope of risks and the likely community policing arrangements including reporting procedures that can be applied in the various circumstances that are likely to be confronted by the outer islands. In some cases the church network, which have been active in supporting victims, has also been approached to assist in information sharing.

27 E.g. 'Foreign workers in the garment industry: Investigation and lessons', Fiji Immigration Department, 2006

28 Vanuatu Border Report *op cit*.

29 Vanuatu Immigration Service led joint agency 'Operation Gateway' 2013 and 2017.

30 Briefing notes with the Vanuatu Police Force, 15 December 2010 and 2017, and the MSG Community Policing Initiative 2017.

Intelligence also indicate that some PRC nationals arriving in Member States by air are departing on fishing vessels to other Pacific island countries.³¹ Others who arrive by fishing vessels either remain in-country or depart to other Pacific Island Countries (PICs) by fishing vessels. Immigration clearance of fishing vessels together with clearance by the Customs is needed as has been indicated earlier in the report.

The situation is further complicated by the inability of Immigration agencies to report on trends of movement as for example, on the numbers of overstayers, change of visa status, entry refusals and removals data. There is very limited reliable estimate of the number of persons living in a situation of irregular migration.

The PIDC estimate of border refusals and overstayers during the seven-year period since 2003 is equivalent to 19,843. The year 2005 recorded the highest at 3,342 with figures generally decreasing over the years with 2,914 refusals in 2009. With the exclusion of Australia and New Zealand there were 507 refusals among the other Pacific island countries³². Asia was the most commonly cited region from where most travelers were refused entry into the Pacific. Chinese nationals were the most commonly cited travelers refused entry into the Pacific at the national level with Fijians the most common Pacific Islanders refused entry within the region.

The research noted that government authorities recognise the potential for existing laws, policies and procedures to be undermined by criminal groups promoting irregular migration. Concerns are raised by the government agencies consulted during the research over the ease with which PRC nationals are able to enter and gain access into areas of business and employment understood to be reserved for locals. These agencies continue to call for investigations into these situations and including the use of student visa to work and then use this to gain entry into other countries in Australasia.

Moreover, experiences from other regions as Asia and elsewhere recognise that no one country can tackle TNOC on its own. Transnational crime networks can only be brought under some measure of control through the cooperation and collective efforts of national and international agencies and organisations including countries (origin, transit and destination), airlines and maritime authorities. Further, the transnational character of TNOC brings individuals of different nationalities and their documents where language interpretation is critical to the effectiveness of border processes.

Recommendation 4.4.1: Strengthen the cooperation with the Police, Transnational Crime Unit (TCU), Finance Intelligence Unit (FIU), Customs and relevant government services through the streamlining of information exchange arrangement to track and deal with trafficking and smuggling activities.

Recommendation 4.4.2: Identify risk countries and develop language interpretation capacity within the Immigration agency.

31 Cooperation between the Vanuatu border capability programme (IOM) and the Solomon Islands Anti-Trafficking and Smuggling of People Programme, 2012-2015 (IOM)

32 PIDC Figures 2009

Recommendation 4.4.3: Carry out an annual review of the list of free visa/visa on arrival countries to ensure relevance.

Recommendation 4.4.4: Formulate specific policy to address the increase in risk country entries at the business and residence permit categories with explicit consideration of a risk mitigation strategy, workload implications and training in the risk country language to support permit processing and compliance.

Recommendation 4.4.5: Strengthen joint agency and regional cooperation on intelligence / information sharing and investigation.

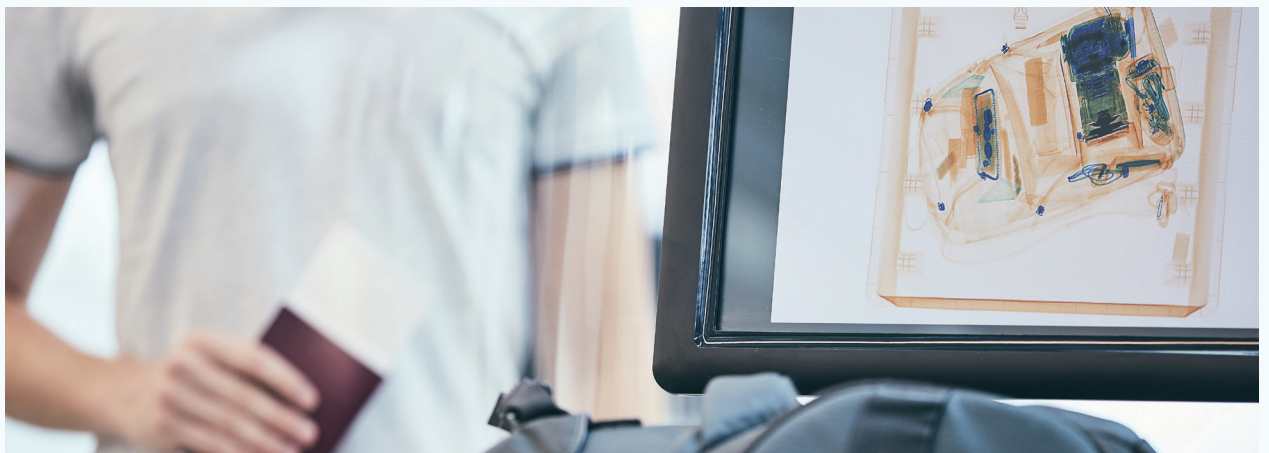
Recommendation 4.4.6: Review and re-issue compliance and investigations procedures manuals and instructions. The manuals and instruction are to be reviewed periodically to consider lessons learnt, policy changes and emerging issues.

Recommendation 4.4.7: Training of counterpart agencies including consular officials, airline check-in staff and prosecutors on trafficking in people, smuggling of migrants and related transnational crime.

Recommendation 4.4.8: Training of border and law enforcement officials on agency and UN Code of Conduct.

Recommendation 4.4.9: Upgrade passport security by introducing a more robust system of recording the allocation of documents to processing officers through an automated stock control module and combining this with a refined allocation manual where issuing officers sign for receipt of the blank documents. This officer should be tasked with reconciling issued passports, spoilt-in-preparation passports and un-issued passports against those allocated each day.

Recommendation 4.4.10: Implement an information management process to assist the development of an analysis/intelligence capability.



4.5 BMS Not Fit for Purpose

Having a border management system that is fit for purpose is helpful. The foregoing challenge – transnational crime - may be a reflection of a ‘border management system that is not fit for purpose’ as indicated by one respondent. Across the region only two Members had the same model therefore information sharing at real time remains a challenge across the PIDC membership. Where Customs has assumed responsibility of the primary line a link between the Immigration border system and Custom’s ASYCUDA will assist in the timeliness of information sharing and *ad hoc* reporting. A functional BMS would be able to provide the following functions:

- a) Receive Advance Passenger Information in accordance with the *WCO API PAXLST*
- b) Message Implementation Guide 2014.
- c) Interface with passport readers to extract biodata from passports in accordance
- d) with the *ICAO Document 9303 Machine Readable Travel Document*.
- e) Record and store arriving and departure details for passengers.
- f) Create an alert facility for identified travellers.
- g) Cross reference data to create profiles of travellers.
- h) Provide reports against data sets.
- i) Link all stations and that the required information from other stations can be
- j) accessed from the head office.
- k) Make the Watch List available during the primary and secondary lines, visa
- l) and citizenship processing.
- m) Can work with other systems including within the region.
- n) Can grow with the immigration agency.
- o) Can function effectively under the harshness of the operating conditions.
- p) Owned and managed by the immigration agency.

Recommendation 4.5.1: Improve the border system to provide the above functions as baseline.

4.6 Lack of Awareness of International Standards and Guidelines

The fact that 'lack of awareness of international standards and guidelines' did not appear under the 'Challenges' questions but only on specific questions relating to international conventions and compacts is of interest. Not only that there is a critical lack of awareness but, more seriously, that by not seeing this as a challenge could imply that international requirements are not important in domestic laws, policies and operations. The ignorance that international law takes precedence over domestic law needs to be understood and addressed as a matter of priority.³³

The summary of core international human rights conventions including those pertinent to migration and border management at Attachments 12 and 13 show a general below average level of ratification by PIDC Member States. However, in spite of this, even if the handful of signed and ratified conventions are understood and applied there would be a substantial raise in the overall standard.

The lack of awareness especially in global migration trend and international standards raised humanitarian concerns for a particular respondent as the number of trafficked people were more than the immigration establishment. This created a humanitarian crisis that the immigration agency was neither aware of nor prepared to handle. The agency was put on international spotlight with an expectation that it should have known and applied the guidelines. In a situation where immigration capacity is overwhelmed a **business continuity plan** will assist, stabilise and manage the situation.

The management of migration matters that fall into humanitarian crisis proportion also raised another issue: **joint border agency cooperation**. How border and law enforcement agencies should cooperate on migration related crisis happening at the border or even behind the secondary line. Wherever this occur, border agencies with Immigration leading, are directly impacted. The question of lead agency in managing the case is critical in arriving at amicable outcomes including collation of information, investigation, translation, holding, cost sharing, welfare matters of the migrants, court process and removal. The knowledge therefore of relevant international conventions and codes come into play chief of which are those concerning Core Human Rights, Transnational Organised Crime, Trafficking of People and Smuggling of Migrants, Refugees, and Rights of all Migrant Workers and Their Families. Behind the border secondary line law enforcement agencies are involved and therefore, as with Immigration, the UN Code of Conduct of Law Enforcement Officials is critical to ensuring across the broad application of lawful and humane actions on the part of the officials, dignified treatments of the migrants and appropriate handling of traffickers or smugglers (if known). The precedence of international law over domestic law therefore requires that the understanding of international standards and guidelines is mandatory as there is no defence for ignorance.

33 See precedents of the Nuremburg and Tokyo trials. See also Blackett, J. 'Superior Orders – The Military Dilemma' in RUSI Journal, Vol 139, No 1, Feb 1994, p.12

Recommendation 4.6.1: Qualification in relevant international conventions and guidelines to be part of border and law enforcement officials' induction and refresher trainings, and operating certificate.

Recommendation 4.6.2: Develop a strategy to improve staff values and conduct through the development of a Code of Conduct in conjunction with the UN Code of Conduct for Law Enforcement Officers with guidelines on how to deal with situations and/or issues Immigration officers face in the course of their duties. Awareness and refresher training to be conducted on a periodic basis (at least once a year).

Recommendation 4.6.3: Formulate a business continuity plan as addendum to the strategic plan and is to cover man-made and natural crises.

Recommendation 4.6.4: Develop a joint border agency operational coordination contingency plan.

4.7 Lack of Operational Guidelines

The reference to policy including outdated policy has been addressed earlier. In connection to outdated policy one respondent highlighted the lack of guides and procedures to aid operational decision making and actions particularly in areas such as eligibility for a visa, entry and exit requirement, passport processing, compliance and enforcement, citizenship processing, refusal of entry and removals.

These concerns further highlight a number of issues:

- a) The need for an institutionalised system of policy formulation and review with a cyclic review process to keep up with operational realities.
- b) A clear strategic direction with an annual work plan to guide work rather than operating directly from legislation or policy.
- c) A migration research capability to illuminate issues.
- d) Frequent changes at all levels and fronts require a longer-term reference document that provide stability in planning and operations at agency level.

Further, the possibility that **policy and legislation impacting the border may not be aligned** hinder operational coherence, effectiveness and accountability. This may arise from a situation where different parts of the permit approval process at different departments, as for example visa at Immigration, work permit at Labour, investment licence at the Investment Promotion Authority and Citizenship at another with all requiring Immigration clearance before they should decide. It was meant that before permit is granted by those departments Immigration should have time to carry out its due diligence process including character check. In some jurisdictions this intention is not supported by the

operational process. As for example, if following the Immigration's determination, the residence visa is granted, the residence visa serial number will then be shared with the agency responsible for the permit which is then reflected on the permit certificate thus validating the work permit. On many occasions the agency responsible for work permit went ahead and granted the permit and the person concerned arrived at the border with the work / business permit without a visa.

Moreover, the existence of legislations that make decisions on cross-border entries outside the ambit of Immigration³⁴ is counter-productive on at least two scores. First, the entry process and decision-making target short term work engagements based on politico-economic reasons but without the usual immigration character checks and due diligence. The head of Immigration is instructed to facilitate the entry of the person so appointed. This legislation has effectively opened a second gate, taken over the issuance of permits and accorded extensive authority to do whatever it wants. Further, the legislation has compounded the issues caused by non-aligned legislation and processes.

In the existence of **policy and legislation silos**, agencies switched to a temporary remedy, where they operate on a parallel path, outside of the legislation, and therefore official, verified information cannot be shared transparently and accountably when needed. Consequently, this 'alternative channel' aid personal influence that usually produce unlawful decisions which are open to interference, manipulation and inconsistency. The alignment of legislations and policies in the approval process is also key to cooperation and lawful outcomes.

Issues in people movement are varied and complex, and clearance of passengers at the primary line with the minimum of time is critical on many fronts, so staying ahead is key. In the current state of affairs migration issues are addressed on an *ad hoc* basis due to inadequate resources thus serious issues are shelved in a fire-fighting mode. Operational guidelines need to be informed by a consistent mode of update and reviews. However, teasing out issues, establishing migration trends and patterns require time, concerted and continuous research and analysis. Five respondents noted that their agencies do not undertake 'threat intelligence development, reporting and analysis' a concern if issues require real time attention and lessons to be learnt for capacity improvement. Two agencies do not conduct investigations indicating that by default this activity falls on the police if reported. As police are focused on criminal activities it is probable that many migration and border issues are given secondary treatment and so lessons may not be learnt.

Some agencies have attempted to establish a **research and development (R&D) initiative**. The added absence of a clear terms of reference with competent researchers or lack of capacity in other areas have caused their redirection to doing other tasks including administration and compliance work. Whether it is R&D, policy / regulation unit or another label is secondary, migration research work is important. This capacity will enable the Immigration agency to learn lessons, look through and beyond itself be it by way legal or policy lenses, explore approaches, methodologies, processes and partnership arrangements in other jurisdictions, juxtapose and extrapolate these to consider concepts, crystallise

34 E.g. Fiji's Registration of Skilled Professionals Act 2016. The Act penalises the Director for non-compliance.

issues and design functional measures that strengthen the agency to deliver its mandate according to international standards. Through this work there is improved clarity in the overall border picture, what needs to be done, the desired end result and costs. In other words, the Immigration agency will be in a **learning organisation** status, alert to emerging issues and developments, reskilling, adapting and repurposing capacities where needed to meet demands and realise return on investments.

After having adopted policies and legislation the **test** for the Immigration agency is to ensure that the person on the travel documents is the same person that is approaching the border. The border agency must know the person crossing the border and the conditions under which s/he enters. This part of the immigration function points directly at guidelines and border processes where the traveller's documents, story and the person are ascertained before the decision to accept or denial is made.

The key to efficiency of the border process is in the availability of guides and **pre-arrival preparation** where advance passenger information, PNR data and/or other sources of information are consulted before the flight arrival. Pre-arrival risk assessment is a critical element and is time-bound and needs to be completed before the flights touches down. Pre-arrival check enables officials to ensure that bona fide travellers and passengers of interests are handled efficiently with the minimum of disruptions. A consistent process of receiving the passenger manifest from the airline no more than 15 minutes after departure from the port of embarkation should be emphasised. The frontline officials' decision-making, values and actions are the focus. The frontline process is summarised at Figure 1.4

A number of **guides** are available through international agencies are in use and have proven useful. These guides function as a checklist and include:

- a) guide for frontline border officials
- b) guide for checking of travel documents
- c) guide for facial recognition
- d) guide for identification of victims of trafficking
- e) guide for interview of victims of trafficking
- f) guide for identification of people in need of international protection

Other guides can be developed through training modules which are adapted to agency specific capacities and operating realities.

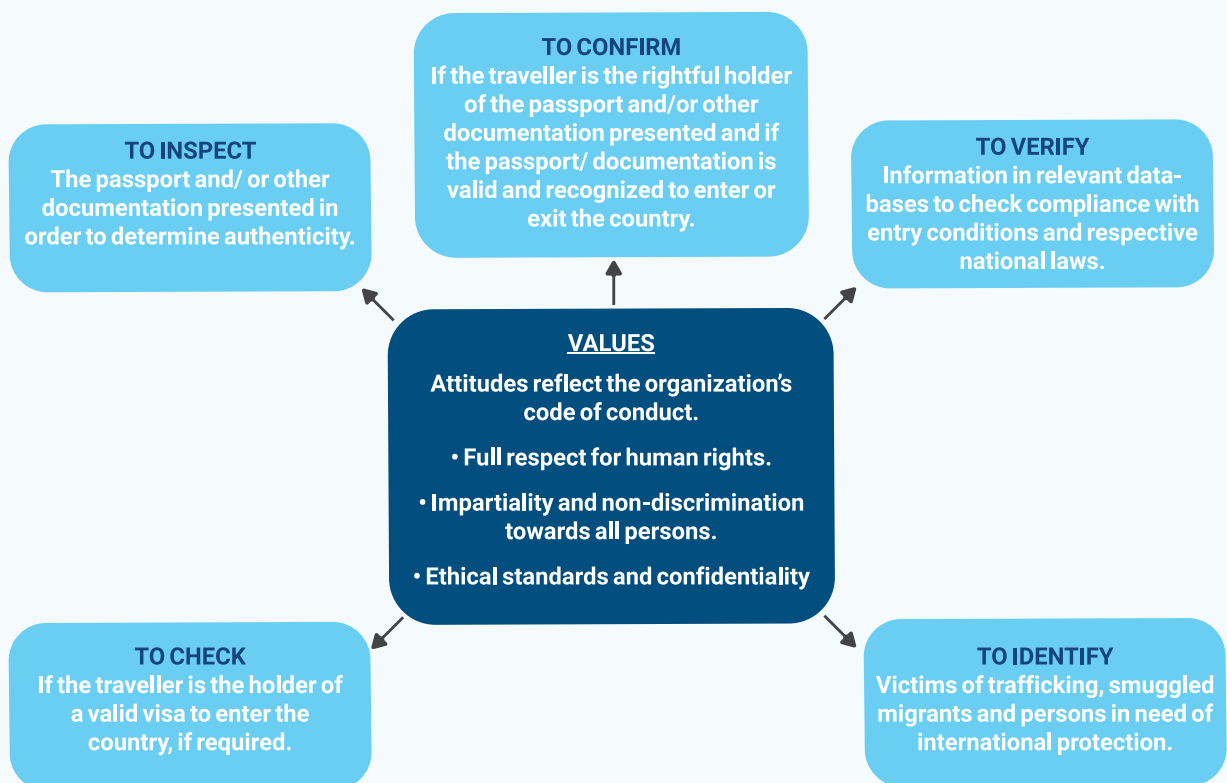
Lacking in awareness of international guidelines equates to ignorance of the humanitarian purpose of the conventions and how these should be applied in the border process. When a traveller at the primary line have issues requiring further consideration s/he is referred to secondary processing including to

check travel documents, permits and identification, reasons for travel, possible victim of trafficking, or a person in need of protection. A **referral mechanism** is required to facilitate this process without which there is no step-by-step procedural pathway to guide officials thus ensuring that the traveller/migrant is fully assessed and treated in line with domestic and international guidelines. Where this is not in existence there is a high risk that the traveller can be processed in/out on irrelevant grounds or where the solution may be worse than the initial problem it tries to resolve.

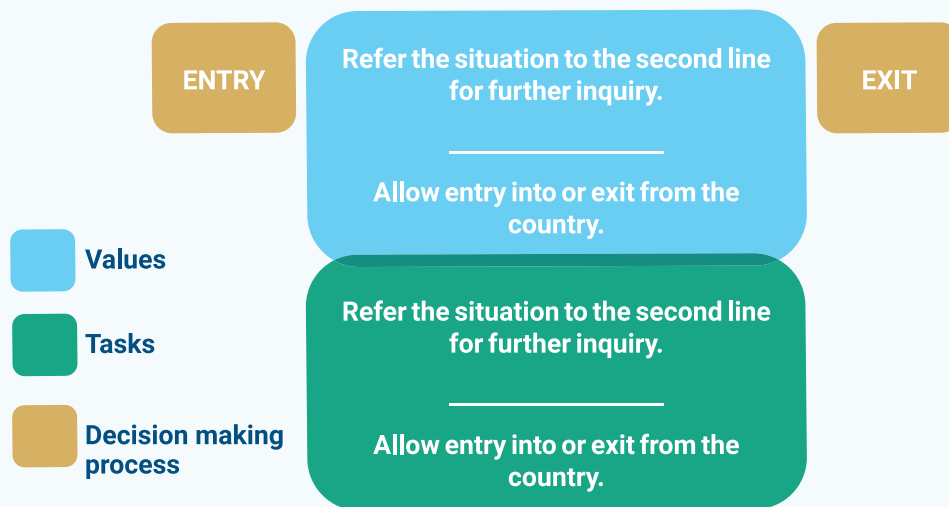
4.7.1 Migration and Border Management Handbook

The issues and challenges in migration and border management impacts Member States in different ways and degrees depending on a number of reasons including disparity in size (economy and organisation), capacity and resourcing level, frequency and intensity of issues, scope and exposure to outside challenges/threats, weight of numbers (arrivals, departures, visa, permits applications), the evolving nature of issues and players in the migration space.

Figure 1.4 Frontline border officials’ tasks, values and decision-making³⁵



35 Also refer Standardized Induction Training for Frontline Border Officials



The role of the Secretariat is to hold up the international standards and practices as a guide and benchmark that Member States aspire to and also measure themselves. In this role a more durable and comprehensive reference that is premised on international standards and guidelines beyond the specific time-bound frameworks, instructions and operating procedures is needed for a holistic approach to border management in the PIDC region. While some Member States would have prepared some instructions or guidelines for their border agencies in the conduct of operations there is a need for a general Migration and Border Management Handbook (Handbook) that would enable any Member State to prepare its own instructions and procedures for its agency. The Handbook is also intended to provide ready reference for the planning and conduct of border frontline operations, border and business processes, operational handling and techniques, compliance, legal guidance, international standards and practices, policy components, visa allotments, immigration selection mechanism for migrants, integration programming, cooperation and agreements, intelligence, information and data management, manpower, code of conduct, strategies, leadership and management, organisation development, performance and evaluation, resource mobilisation, administration, divisions and their roles, training and business continuity. The preparation of the Handbook will benefit from a dedicated workshop or a series of focus-group meetings and then reviewed periodically to maintain utility. The Handbook will be a living document, purposed to guide the agency through its work, in navigating issues amid expected changes in the operating environment and adjustments handed down through the government system.

Recommendation 4.7.1: Set up an R&D capacity with clear terms of reference, targets and reporting guideline.

Recommendation 4.7.2: The Immigration agency with relevant border agencies work towards aligning relevant legislations and processes to resolve overlaps, gaps, or contradictions to ensure coherence, effectiveness and accountability.

Recommendation 4.7.3: Enhance the border process guideline as follow:

- a) Develop modules of the Curriculum on Standardized Induction Training for Frontline Border Officials.
- b) Training of officials on the Standardised Induction training for Frontline Border Officials.
- c) Adapt appropriate Standardised Induction training modules as quick reference guides for use in appropriate processes.
- d) Adopt available quick reference guides for use by border officials.

Recommendation 4.7.4: Develop a national migration referral mechanism to facilitate the processing of all categories of travellers/migrants.

Recommendation 4.7.5: Develop a migration and border management handbook for the PIDC region.





NEXT PAGE

*Output 2: An Analysis of Existing Regional
and International Migration Standards,
Best Practices and Frameworks*



5.

OUTPUT 2: AN ANALYSIS OF EXISTING REGIONAL AND INTERNATIONAL MIGRATION STANDARDS, BEST PRACTICES AND FRAMEWORKS



5.1 International Migration Standards, Best Practices and Frameworks

At the international level, migration standards and practices are gauged from international conventions, covenants and declaration that is the benchmark for all States. For clarity these standards are presented in three bundles: (a) core human rights conventions; (b) migration related conventions; and (c) migration related compacts.

5.1.1 Core Human Rights Conventions

There are nine (9) Core Human Rights conventions that apply to all situations and in all countries. The PIDC Member States' signature of these Core Human Rights conventions is summarised at Table 1. Only two conventions - CRC and CEDAW - reached double digits with CERD at five (5) while the rights of migrants - ICMW - only one signature.

5.1.2 Migration-related Conventions

The PIDC Member States' signature of migration-related conventions is summarised at Table 2. It bears repeating that a core human right convention regarding migrants (above) has only been signed by one Member State while many may not be even aware of its existence. The higher signature for crime-related conventions indicate an enforcement attitude that focuses on criminalising acts as opposed to a rights-based approach to managing migration and the border.



Table 1. Member State Signatures of Core Human Rights Conventions

1	CERD: 1966 Convention on the Elimination of Racial Discrimination	5
2	CRC: 1989 Convention on the Rights of Children	14
3	CEDAW: 1979 Convention on the Elimination of Racial Discrimination Against Women	10
4	CAT: 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	4
5	ICCPR: 1966 International Covenant on Civil and Political Rights	3
6	ICESCR: 1966 International Covenant on Economic, Social and Cultural Rights (1): ICCPR – Optional Protocol (2): CRC – Optional Protocol on the involvement of children in armed conflict (3): CRC – Optional Protocol on the sale of children, child prostitution and child pornography (4): CEDAW – Optional Protocol	1
7	ICMW: International Convention on the Protection of the Rights of All Migrant Workers and Their Families	1
8	CPED: International Convention for the Protection of All Persons from Enforced Disappearance	0
9	CRPD: Convention on the Rights of Persons with Disabilities (CRPD)	0

As a start the responses to the questionnaire gave a general ‘No knowledge of international objectives.’ This is against the backdrop that the respondents’ Member States have signed some of the conventions even though many of which are dated. Officials will benefit from the 360 degree awareness that migration is about cross-border movements and the Immigration’s handling of travellers create first and lasting impressions. As experienced by many worldwide the experiences of travellers impact their international image, tourism and investment potentials. Considering the advantages to be gained international guidelines need to be applied to policies, legislation and guide operations. For economies that rely on tourism as its economic lifeblood, this should be a matter of priority.



Table 2. Member State signatures of migration-related conventions *et al*

1	CSR 1951 Convention relating to the Status of Refugees (CSR); 1967 Protocol relating to the Status of Refugees (1967 PSR)	4
2	1954 Convention Convention relating to the Status of Stateless Persons	2
3	1961 Convention Convention on the Reduction of Statelessness	1
4	Hague Adoption Convention Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption	1
5	The Chicago Convention Convention on International Civil Aviation	12
6	FAL 65 Convention on Facilitation of International Maritime Traffic (FAL 65)	0
7	CTOC United Nations Convention against Transnational Organized Crime	11
8	UNCLOS United Nations Convention on the Law of the Sea	6
9	CTIP Convention on the Suppression of Trafficking in Persons & Exploitation of the Prostitution of Others (+Protocols) (1): Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (O/TIP) (2): Protocol Against the Smuggling of Migrants by Land, Sea and Air (O/SOM)	1
10	DHRI Declaration on the Human Rights of Individuals who are not nationals of country they live in	0
11	CCLEO Code of Conduct for Law Enforcement Officials	0

The United Nations Convention on the Law of the Sea (UNCLOS), Chicago (ICAO) Convention and the Convention Against Transnational Organised Crime (CTOC) received the highest signatures at 14, 12 and 11, respectively. As maritime states the higher number of signatures for the sea and aviation conventions is a direct reflection of where they are and their priority.

The **CSR** received four signatures, the last in 1995, 25 years ago, while two signed the related conventions on statelessness. Among the signatories three have incorporated the CSR provisions in their legislation. As an example, Vanuatu is not a signatory to the CSR but has incorporated its provisions in its Immigration Act 2010 and initiated training for its staffs. Three separate cases were managed during 2008-17 and concluded with resettlements. Solomon Islands received asylum seekers during 2011-13 while an Refugee Status Determination (RSD) capacity was still non-existent. Cooperation with the United Nations High Commissioner for Refugees (UNHCR) enable the due process to take its course. Tonga and Palau allowed for asylum seekers to remain in their territories during 2009-2011 while the RSD and resettlement processes were under way. One way of handling CSR is to allow for a familiarisation of its provisions as a start on the understanding that UNHCR will support its implementation in the RSD process, welfare of the asylum seekers and search for a durable solution (resettlement). The Member States' concern in these latter aspects is understandable due to capacity issues.

The **Hague Adoption Convention** received one signature. The report had earlier referred to secondary smuggling at birth beds in hospitals, a matter requiring collaboration between Immigration and agencies responsible for health, social welfare, civil registration and others. While migrant or naturalised citizens have a right to adoption, the method of adoption must comply fully with local laws that is guided by the Hague Convention.

There are other trends. Adoption is an old practice that the region is familiar with. Foreigners are known to 'adopt' children from communities for the purpose of providing them a better future. While the majority are people of integrity a minority, but growing, are not. It is known from other jurisdictions that children are taken and 'groomed' for other motives and many ended up as business commodity, even in slave like conditions including the sex industry. The Member States' concern that 'we must look after our own' starts by understanding this menace and its perils, supported by regional cooperation through sharing of information, practices and arrangements that prevent and criminalise such acts. This is an issue that require further in-depth study and where data can support a proposal through the Pacific Islands Forum to strengthen the regional effort.

Further, it is known also that migrants court traditional and community leaders for the purpose of securing favour by way of the traditional adoption system as an expedited route to citizenship. Citizenship through traditional adoption draws Immigration to an uneven space where political influence from internal players can be complex. A clear process, particularly through a checklist system in the citizenship application (and appeal) process keeps the issue in perspective and within lawful parameters. Jurisdictions where the citizenship function is not in the Immigration agency requires clear advice on the usual background check and information about the applicant. A migrant that bypasses legal requirements at the gate has no interest of adhering to local laws and societal norms once he gets inside i.e. after citizenship is granted. Immigration is duty-bound to detect such characters.

The **CTOC** received the third highest number of signatures. Ordinarily, crime of any character is traditionally seen as a police responsibility and legislations against transnational organised crime including counter terrorism are usually bundled under the same legislation (e.g. Vanuatu, Cap 313 and others). In so doing an important step in the fight against transnational crime is overlooked. Smuggled individuals are from other countries and the agency responsible for cross border movements are not recognised under such legislation hence a significant handicap in the overall counter-action. Further, the incongruence of penalties between these legislations can be significant. Efforts to include Immigration in the transnational organised crime legislation administered by the police is a challenge on its own, a gap that crime syndicates exploit.

As a region, Member States have come to fully acknowledge the presence of this menace in their domain and their role in the fight against it from 2011³⁶ even though there were those that incorporated CTOC provisions in their legislation much earlier (Fiji [2003], Vanuatu [2005]). Nonetheless, translating these intentions to concrete action came much later through the recently developed National Action Plan Against Trafficking in People and Smuggling of Migrants (**TIP/SOM**, Fiji [2011]) and

36 PIDC Annual Report 2012, Annual Collection Plan and People Smuggling, Human Trafficking and Irregular Migration Report 2012

further supported by the Bali Process Task Force on Preparation and Preparedness (TFPP). From an enforcement standpoint the tendency to put Counter Terrorism and Transnational Organised Crime together under the same legislation has the effect of responsible agencies prioritising the two based on impacts thus the former takes precedence. The inclusion therefore of Immigration as ‘authorised officers’ in the same legislation, if under a different agency, addresses this issue.

Effective action against this menace need to be reflected in the legislation and for effective legislation to criminalize trafficking in persons these actions are needed³⁷:

- a) Establish a broad definition for trafficking in persons offence, including offences for forced labour, servitude and other slavery-like practices.
- b) Consider establishing a standalone offence for exploitative conduct.
- c) Ensure that laws provide for the assistance and protection of trafficked persons, and do not punish them for offences committed under duress or as a direct result of their being trafficked.
- d) Ensure that witnesses are protected in trafficking in persons cases.
- e) Establish separate offence provisions for trafficking in persons and migrant smuggling as the elements of the offences are different.
- f) Establish extraterritorial jurisdiction so that organizers of transnational trafficking in persons ventures cannot exploit gaps in the laws of different countries.
- g) Establish trafficking in persons offences that apply in both transnational and domestic trafficking contexts.
- h) Be aware that the Trafficking in Persons Protocol provides for minimum standards to strengthen domestic law – this could include in relation to aggravating circumstances.
- i) Include an explicit provision in anti-money laundering legislation that a conviction for a predicate offence (e.g. trafficking in persons offence) is not required in order to take action for the money laundering offence.
- j) Ensure that extradition legislation applies to trafficking in persons offences.
- k) Ensure that domestic mutual legal assistance measures support trafficking in persons offences.

It is difficult for crime syndicates to succeed without the facilitation of officials. Criminalizing corruption is a key complementary CTOC obligation that may assist in preventing acts or offences related to trafficking in persons, such as crimes related to forgery of travel documents by way of bribing border officials, or collusion in trafficking crimes. The CTOC provides the necessary legal framework for

37 Bali Process Policy Guide on Criminalizing Trafficking in Person, 2014.

international cooperation to combat corruption.³⁸ Article 8 requires States to criminalize corruption. For further guidance, the United Nations Convention against Corruption (UNCAC)³⁹ provides a comprehensive international legal framework to combat corruption and notes the links between corruption and organized crime and economic crimes including money laundering.⁴⁰

Member States may use the CTOC as a direct legal basis for requesting and granting extradition. However, where they have not accepted to use the CTOC for this purpose and rather require separate legal bases for extradition (e.g. national legislation or a specific extradition treaty), they should ensure that trafficking of persons is included as an extraditable offence. For example, if a Member State has a 'list' of extradition offences in its extradition legislation, it needs to make sure that the trafficking in persons offences are included in that list. This will ensure compliance with the international crime cooperation obligations in the CTOC, which apply to the offences in the Trafficking in Persons Protocol.

Standard migration laws are not enough. Standard migration laws, which deal only with illegal entry into or exit from a country, are not enough to criminalize migrant smuggling. Countries also need to create a separate, comprehensive migrant smuggling offence that targets activity occurring outside of the country. A comprehensive migrant smuggling offence would allow prosecution of the organizer. An organizer of a migrant smuggling operation arranges for migrants to legally leave Country A, transit legally through Country B, in order to illegally enter Country C. Note this scenario involves the exercise of jurisdiction permissible under the CTOC.

For effective legislation criminalizing **SOM** the following are suggested⁴¹:

- Establish a comprehensive migrant smuggling offence as international obligations require more than standard migration laws that focus only on illegal entry.
- Ensure that migrants are not criminalized for the fact of having been smuggled. Be aware that the Smuggling of Migrants Protocol provides for the protection of the rights of the smuggled migrants consistent with State Parties' obligations under international law. (In contrast, the Protocol provides for the punishment of organizers of migrant smuggling ventures). State Parties shall take into account the special needs of women and children.
- Ensure that witnesses are protected in migrant smuggling cases.
- Ensure that migrant smuggling involving aggravating circumstances attracts higher penalties.
- Establish separate offence provisions for migrant smuggling and human trafficking as the elements of the offences are different.
- Establish extraterritorial jurisdiction so that organizers of migrant smuggling ventures cannot exploit gaps in the laws of different countries.
- Be aware that the Smuggling of Migrants Protocol provides for minimum standards, which can be strengthened in domestic law.

38 General Assembly Resolution 55/25 of 15 November 2000 Organized Crime Convention.

39 The UNCAC itself expands on the CTOC and provides a comprehensive international framework to address corruption.

40 Preamble, UNCAC.

41 Policy Guide on Criminalizing Migrant Smuggling, Bali Process 2014.

- Include an explicit provision in anti-money laundering legislation that a conviction for a predicate offence (e.g. migrant smuggling offence) is not required in order to take action for the money laundering offence.
- Ensure that extradition legislation applies to migrant smuggling offences.
- Ensure that domestic mutual legal assistance measures support migrant smuggling offences.

Further, agencies should ensure domestic extradition legislation supports migrant smuggling legislation. Member States may use the CTOC as a direct legal basis for requesting and granting extradition. However, where Member States have not accepted to use the CTOC for this purpose and rather require separate legal bases for extradition (e.g. national legislation or a specific extradition treaty), they should ensure that migrant smuggling is included as an extraditable offence. For example, if a Member State has a 'list' of extradition offences in its extradition legislation, it needs to make sure that the migrant smuggling offences are included in that list. This will ensure compliance with the international crime cooperation obligations in the CTOC, which apply to the offences in the Smuggling of Migrants Protocol.

Money is at the root of transnational organised crime including TIP/SOM and its tracking is key to immigration's role. The Financial Action Task Force (FATF) is a 37-member inter-governmental body with responsibility for setting international standards on money laundering, and assessing how countries perform in implementing them.⁴² There are also a range of UN conventions that include obligations for States in relation to money laundering and the proceeds of crime. The key obligations for States outlined in these standards include the need to enact comprehensive money laundering offences, and to establish an effective regime providing for the freezing, seizing and confiscation of the proceeds of crime.⁴³



42 See FATF Recommendations 2012 and 2013 FATF Methodology for assessing technical compliance with the FATF Recommendations and the effectiveness of AML/CFT systems.

43 These include: the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988 (Vienna Convention), the UN Convention Against Transnational Organized Crime 2000 (UNTOC or Palermo Convention), and the UN Convention against Corruption 2003 (UNCAC).

To comply with international standards, comprehensive money laundering legislation should⁴⁴:

- a) criminalise all of the stages of the money laundering process;
- b) apply to the widest possible range of predicate offences⁴⁵, including trafficking in persons;
- c) provide capacity to investigate money laundering as both a standalone offence, and in addition to predicate offending;
- d) ensure that it is not necessary to have a conviction of the predicate offence when proving that property is the proceeds of crime;
- e) apply criminal liability to legal persons (for example, companies);
- f) apply to any type of property, regardless of its value, that directly or indirectly represents the proceeds of crime;
- g) extend to conduct that occurred in another country, if that conduct is an offence in the foreign country and would be a predicate offence in the home country; and
- h) ensure that the intent and knowledge required to prove the offence of money laundering may be understood from objective facts.

To demonstrate money laundering, key elements to establish are that a person who dealt with the money knew or ought to have suspected it was generated from a crime, or was intended to be used in the commission of a crime. Ensure that money laundering and the predicate offences can be prosecuted separately. In cases where a conviction cannot be secured for a predicate offence (e.g. trafficking in persons), but where there is evidence of money laundering, this will enable law enforcement officials to target the money laundering offence separately to the predicate offence.

Furthermore, due to its frequency and publicity, issues at the airport appear to take precedence while maritime movements left in the back room. Where suspected trafficking and smuggling of people is present the clarity of which agency has the lead helps cooperation. As for example, where vessels are treated as a place of work Labour's clearance is required before immigration does its part hence the need for agency cooperation.

Awareness of international convention and guidelines either on human rights in general or on migration in particular is low. Even though one respondent answered in the affirmative, the fact that the relevant country has neither signed nor ratified any of the migration related conventions apart from one other core human rights convention gives a clear message. The existence of ICMW, a core human rights convention adopted 20 years ago (1990), still remain in the shadow.

The Immigration's perception of itself as a border agency with the mandate to enforce its laws, secure the border, facilitate people movement and generate revenue in the process within a state of equilibrium is important to its performance and image. This can occur within deliberate and coordinated plans of

44 Policy Guide on Following the Money in Trafficking in Persons Cases, Bali Process 2014.

45 A predicate offence is an action that provides the underlying resources for another criminal act. For example, trafficking in persons and people smuggling may be predicate offences that provide funds for money laundering or financing of terrorism.

action established within the Immigration legislation and partnership arrangements, that is guided by the relevant international standards. Existing arrangements in the areas of goods and supply chains that involve agencies like Customs, Biosecurity, Maritime and airlines always have a human element which is the realm of Immigration hence the need to reach out to other similar cross-border arrangements as these are mutually complementary. The recent move by the US Homeland Security Investigation (HSI) exploring Deoxyribonucleic Acid (DNA) attributes of timber products in the logging sector is a potential area for joint cooperation that can identify people traffickers and migrant smugglers in the PIDC region.⁴⁶ Nonetheless, the formulation of mechanisms of delivery that jointly involves supervisors and subordinates/staffs, and communicated clearly to partners and clients are critical.

5.1.3 Migration-related Compacts

There are two migration-related compacts: (a) Global Compact on Refugees; and (b) Global Compact on Migration. The primary purpose of the global compacts is to place humanitarian considerations at the heart of migration management. These compacts are intended to 'provide the opportunity to move ahead in strengthening the norms, principles, rules and decision-making processes that will allow for more effective international cooperation in responding to what is a defining issue'. On the Global Compact for Refugees no record of PIDC Member State signatures could be gathered while the Global Compact for Migration was signed by nine Member States, nine did not and one abstained. Reasons for the overall low signature and ratification level can be deduced from some local perspectives including:

- a) Pacific Islands' relative geographical isolation from the mainstream population centres and migration routes.
- b) Migrants requiring international protection and assistance will be handed over to the relevant international organisations to manage so there is no urgency to ratify.
- c) Capacity constraints hinders their ability to fulfill the humanitarian purposes of the conventions thus rendering ratification void.
- d) Global expectations on small developing States' to meet these global standards based on c. above is low and therefore non-ratification is understandable from a desperate-vendor self-image.
- e) Non-ratification absolves non application.

Cross-border movements deal predominantly with foreigners whose impacts to national economies is significant thus their treatment is critical. As seen in many cases worldwide the treatment of nationals in foreign countries is of grave concerns to the countries of origin. In an interconnected economic system, there is therefore less-to-no-tolerance for ignorance of international standards and guidelines. The welfare of nationals/migrants can no longer be treated in isolation.

46 HSI-RSO (Bali Process) exploratory consultation, Bangkok, 20 May 2018.

The international migration landscape showed varying patterns and trends of movements as highlighted by The UNDESA Report 2013:

- a) A growing number of Governments have shown an openness to regular immigration in the two decades since the 1980s. The percentage of governments with policies to lower immigration declined from 40 per cent in 1996 to 16 per cent in 2011.
- b) In 2011, 62 per cent of governments had policies in place to promote the integration of non-nationals compared with 44 per cent in 1996.
- c) Among 58 countries with data in 2011, 40 had programmes to facilitate the return of migrants to their home countries.
- d) 1 in 4 Governments worldwide had policies to lower the level of emigration in 2011.
- e) 62% of countries are trying to promote the return of their citizens, compared with 43% in 1996, 114 countries have diaspora units.
- f) Three out of four Governments viewed irregular migration in their countries as a major concern.

In its International Migration 2019⁴⁷ report six years later UNDESA showed the continuing changes in the international migration landscape. The *International Migration 2019* report also examined the latest migration levels and trends by geographic, development and income grouping, based on the 2019 revision of the *International Migrant Stock*, which noted an increase of 51 million since 2010 bringing the number of international migrants globally to an estimated 272 million in 2019. This equates international migrants to comprising 3.5 per cent of the global population, compared to 2.8 per cent in the year 2000. In 2019, regionally, Europe hosts the largest number of international migrants (82 million), followed by Northern America (59 million) and Northern Africa and Western Asia (49 million).

Concerning their place of birth, one-third of all international migrants originate from only ten countries, with India as the lead country of origin, accounting for about 18 million persons living abroad. Migrants from Mexico constituted the second largest “diaspora” (12 million), followed by China (11 million), the Russian Federation (10 million) and the Syrian Arab Republic (8 million).

At the country level, about half of all international migrants reside in just 10 countries, with the US hosting the largest number (51 million), equal to about 19 per cent of the world’s total. Germany and Saudi Arabia host the second and third largest numbers of migrants (13 million each), followed by the Russian Federation (12 million), the United Kingdom (10 million), the United Arab Emirates (UAE, 9 million), France, Canada and Australia (around 8 million each) and Italy (6 million)⁴⁸. Some of those aiming for Australia (NZ and US) use the PIDC Member States as transit.

47 Due to the size of the report, the document will be shared in request or refer to link at https://www.un.org/en/development/desa/population/migration/publications/migrationreport/docs/InternationalMigration2019_Report.pdf

48 *ibid*

The International Migration 2019 report examines the contribution of migration to total population change and its effect on the population age structure, based on the 2019 revision of the [World Population Prospects](#). It also provides an overview of views and policies of Governments on levels of immigration and emigration, on migrant integration, and on diaspora investments, using data from the 2019 revision of the [World Population Policies Database](#). Key findings of the report include:

1. In 2019, the number of international migrants worldwide reached nearly 272 million, up from 153 million in 1990. Europe hosts the largest number of international migrants (82 million), followed by Northern America (59 million) and Northern Africa and Western Asia (49 million). The regional distribution of international migrants is changing, with migrant populations growing faster in Northern Africa and Western Asia and in sub-Saharan Africa than in other regions⁴⁹.

2. Forced displacements across international borders have continued to rise. The global number of refugees and asylum seekers has increased by about 13 million between 2010 and 2017⁵⁰, accounting for close to a quarter of the increase in the number of all international migrants. Northern Africa and Western Asia host around 46 per cent of the global number of refugees and asylum seekers, followed by sub-Saharan Africa (close to 21%).

3. Most of the world's migrants live in a relatively small number of countries. In 2019, two thirds of all international migrants were living in just 20 countries. The largest number of international migrants (51 million) resided in the United States of America, equal to about 19 per cent of the world's total. Germany and Saudi Arabia hosted the second and third largest numbers of international migrants worldwide (around 13 million each), followed by the Russian Federation (12 million) and the United Kingdom (10 million).

4. One-third of all international migrants originated in only ten countries. In 2019, India was the leading country of origin of international migrants, with 17.5 million persons living abroad. Migrants from Mexico constituted the second largest "diaspora" (11.8 million), followed by China (10.7 million), the Russian Federation (10.5 million) and the Syrian Arab Republic (8.2 million).

5. Women and girls comprise slightly less than half (48 per cent) of all international migrants. Globally, the share of women and girls in the total number of international migrants fell slightly, from 49.3 per cent in 2000 to 47.9 per cent in 2019. The share of female migrants was highest in Northern America (51.8%) and Europe (51.4%), and lowest in sub-Saharan Africa (47.5%), and Northern Africa and Western Asia (35.5%).

6. Although migration in today's world is having a significant impact on population size in regions of destination, its impact is much less significant in regions of origin. Projection scenarios show that the size of the population of Northern America would be almost 21 per cent smaller by 2070 with zero net migration, whereas Oceania would be 17 per cent smaller, and Europe about 9 per cent smaller. By contrast, the population in regions of origin would be only between 0.1 and just over 3 per cent larger by

49 Countries or areas are grouped into geographic regions based on the classification being used to track progress towards the Sustainable Development Goals of the United Nations (see: <https://unstats.un.org/sdgs/indicators/regional-groups/>). The region Europe and Northern America has been further divided into Europe and Northern America.

50 The latest data on refugees and asylum seekers available when preparing the 2019 revision of the estimates of the international migrant stock refer to 2017.

2070 under the zero-net-migration scenario. 1 Countries or areas are grouped into geographic regions based on the classification being used to track progress towards the Sustainable Development Goals of the United Nations (see: <https://unstats.un.org/sdgs/indicators/regional-groups/>). The region Europe and Northern America has been further divided into Europe and Northern America. 2 The latest data on refugees and asylum seekers available when preparing the 2019 revision of the estimates of the international migrant stock refer to 2017. International Migration 2019: Report United Nations Department of Economic and Social Affairs | Population Division.

7. Few Governments are seeking to lower the number of immigrants arriving through regular, or legal, channels. In 2019, most of the 111 countries for which data were available reported either having policies to raise levels of immigration through regular channels (37%) or policies to maintain current levels (26%). Only three per cent of Governments had policies to lower the current level of regular immigration.

8. Promoting orderly, safe, regular and responsible migration is a priority for most Governments. Globally, 84 per cent of Governments reported having provisions for the arrival of unaccompanied or separated minors; 80 per cent reported having information and awareness-raising campaigns for prospective migrants; 76 per cent had pre-arrival authorization controls for those seeking to immigrate; and 75 per cent indicated having a system to monitor international migrants who overstayed their visas.

9. Legal instruments related to international migration have been ratified in varying degrees by Member States of the United Nations. By October 2019, instruments designed to protect refugees or to combat migrant smuggling and human trafficking had been ratified by more than three quarters of all Member States, whereas instruments protecting the rights of migrant workers had been ratified by fewer than 30 per cent.

10. In December 2018, two global compacts, one concerning international migration and one on refugees, were endorsed by a large majority of the United Nations Member States Countries that voted in favour of the Global Compact for Safe, Orderly and Regular Migration collectively hosted around 181 million international migrants in 2019, representing 67 per cent of the total worldwide. Meanwhile, countries that voted in favour of the Global Compact on Refugees hosted around 25 million refugees, or 89 per cent of the global refugee population.



In sum, migration continues on an upward trajectory and the PIDC region will continue to be a transit and becoming a destination region as well. Simultaneously, nationals of the region are also heading to metropolitan centres in Australasia, Arabia, US and Europe. A combination of push and pull factors including limited job opportunities against a growing number of skilled nationals, visa arrangements in developed economies of the EU countries, job markets in UAE and similar countries are opportunities for Pacific Islanders to venture out and exploit their skills. Correspondingly, those same visa gateways are used by others outside the lawful system. Labour migration policies, recruitment and contract verification mechanisms would reduce manipulation of Pacific migrant workers and protect their dignity.

5.2 EXISTING REGIONAL MIGRATION STANDARDS, BEST PRACTICES AND FRAMEWORKS

5.2.1 Regional Landscape

A summary of PIDC Member States' observations of the Pacific region's migration landscape highlighted some persistent trends. The issues recorded here were almost identical to those highlighted by the Member States in the PIDC Strategic Review of 2008⁵¹:

- a) Movement within the region is increasing and the Member States' information of this phenomenon remain inadequate;
- b) Increasing movement into the region also brings increased transnational crimes against capacities that are struggling to cope;
- c) There has been growing labour mobility post-cold war and the trend is increasing exponentially;
- d) Member States are transit points and stepping stones to developed societies like Australia, New Zealand and USA;
- e) There is the utility of value-based approach in respect of identity and sovereignty issues;
- f) Migration policies and legislations need to keep up with global trends including the same rights for those affected i.e. those on the move;
- g) There is need to work together to promote family issues and look after 'our own';
- h) There is need for firm and smarter response by the immigration agencies;
- i) There is need to focus on practical outcomes and proactive responses through the building of longer-term sustainable models, structures and capabilities;

51 PIDC Strategic Plan Review Workshop, Brisbane, 8-10 July 2008.

- j) Understanding of international law and guidelines pertaining to migration and border management needs substantial improvement;
- k) The importance of information management and information sharing cannot be overemphasised;
- l) The dire need of economic growth further raises the importance of managing risks while balancing with facilitation;
- m) The emphasis of the economy in migration and border management may correspond to the politicisation of the border;
- n) Member States need to prioritise their efforts as what is important to one is important to all;
- o) Member States need to develop national and regional synergies through inter-agency cooperation, shared borders, shared responsibilities and shared sovereignty;
- p) Member States need to find spaces for IOM, UNHCR, Bali Process and UNODC, key partners of PIDC;
- q) Capacities of immigration agencies to deliver the migration mandate are so under-resourced that many are at breaking point;
- r) Member States need PIDC support to benchmark international standards and provide guidance;
- s) PIDC continue to progress over the years and is a good example of regional cooperation, that is the coordination point for international standards and good practices.

What is new is the frequency, intensity and magnitude of the issues. As economic and security considerations are playing an ever-increasing part in the migration space the need for adherence to accepted international practices and standards with efficient and accountable processes can no longer be treated as optional. The increased leaning towards the securitisation of the border, as seen in Europe, US and Australasia in the recent five years, further emphasise the importance of standards and practices in the conduct of immigration and law enforcement officials⁵².

The total number of immigrants to the region during the period 2005-09 were 17 million where 10 million were international travelers⁵³. Travelers to the region are largely from the Americas, Europe and Asia. In five years the number of visitors travelling through the region has almost increased three-fold. Excluding Australia and New Zealand, there were 2.3 million arrivals of which one million were visitors. Of the total arrivals about 40% were processed out. This trend is likely to continue and the burden of responsibility on immigration authorities will increase correspondingly. This burden will accrue against marginal improvements to capacities of immigration agencies and on small Member State economies. In 2018 alone the total for nine countries is 1.3 million, of these 1.2 million were processed out.

52 'Maritime Activities', Frontex presentation; 'US Maritime Migration Mission Overview', TFPP, Bangkok, February 2019; Frontex Newsletter March 2019;

53 PIDC figures, 2010.

The PIDC regional estimate of border refusals over a seven-year period since 2003 is equivalent to 19,843. Year 2005 recorded the highest at 3,342 with figures generally decreasing over the years with 2,914 refusals in 2009. With the exclusion of Australia and New Zealand there were 507 refusals among the other Pacific Island countries⁵⁴. About a decade later in 2018, for nine countries, the cumulative figure for visa refusals and cancellation, overstayer, and deportation more than tripled to 1,738. Asia was the most commonly cited region from where most travelers were refused entry into the Pacific. Chinese nationals were the most commonly cited travelers refused entry into the Pacific at the national level with Fijians the most common Pacific Islander refused entry within the region.

Figures on overstayers were not available from Member immigration authorities but the estimated size of the unlawful population in the region in 2009 was 66,765 and 2,496⁵⁵ after excluding Australia and New Zealand. Responses in 2019 noted overstayers as a concern with a total of 533 for two Member States who provided figures. The low and/or lack of figures from the Immigration agencies is, in a sense, a reflection of low capacities.

The estimated arrival and departure numbers of five Member States who provided figures in PIDC's 2019 survey is shown at Table 3.

Table 3. Arrival and Departures in selected Member States

Arrival and Departure							
Country	2005	2006	2007	2008	2009	2018	
Region	6,634,000	10,910,462	15,182,391	16,000,000	17,000,000	Arrival	Departure
Cook Islands						168,760	168,883
Fiji						870,309	831,639
Kiribati						5,000	6,000
Samoa						238,431	241,294
Vanuatu ⁵⁶						27,789	12,206
Total						1,310,289	1,246,242

The departure figures of three Member States were slightly more than the arrival numbers thus indicating a continuous emigration flow; numbers that are joining the diaspora populations. Included in the Vanuatu arrival figures were 17,000 travellers from cruise ships which when taken off the total also show a higher level of departures to arrivals. In the absence of other figures such as birth and death rates it is not possible to calculate net annual migration which would go some way to assisting the development of broader migration policies. This is an important contribution to national population management with impacts on education, business, employment, skills development and infrastructural improvements, key inputs into the national economy and security considerations in the longer term.

54 *ibid*

55 *ibid*

56 Statistics Update: International Arrival Statistics, December 2018, Highlights Overview, 26th April 2019.

A global population scenario projection showed interesting trends i.e. the size of the population of Northern America will be almost 21 per cent smaller by 2070 with zero net migration, whereas **Oceania would be 17 per cent smaller**, and Europe about 9 per cent smaller. By contrast, the population in regions of origin would be only between 0.1 and just over 3 per cent larger by 2070 under the zero-net-migration scenario.⁵⁷ Evidence of the rescinding Pacific population has been seen for more than a decade⁵⁸. Samoa's population census for the decade to 2009⁵⁹ showed a stagnant growth rate thus indicating a consistent emigration rate. While Samoa recorded an increase in the last census, Tonga had rescinded and Fiji is slowing down. Niue, Tokelau and Wallis and Futuna are experiencing depopulation and the impacts of climate change will further spur emigration from across the region. Many Pacific Islands are benefiting from remittances, however there is less indication of circular migration. These trends would require a rethink of strategies, policy approach and conditions-based actions.

Responses to the survey gave an indication of the standards, practices and frameworks existing within Member States immigration agencies (at Attachment 3) with elements reflected in their implementing legislations. On the other side and with the increasing number of tourists there is also growing pressure on Member States to meet their obligations regarding a range of international standards that impact on the dignity of people on the move. The border is an easy pick for political and other reasons. Aside from the queries by countries of origin which usually follow official channels the media plays a vital role in holding agencies accountable to rules-based processing for all travellers and migrants. The respondents further noted that the increase in people movement also increased the profile of Member States who are then targeted by organised transnational crime networks. This is expected hence the importance of cooperation and international guidelines. Nonetheless, the bigger attractions for criminal networks are the weaknesses in border agencies and the opportunities presented by visa free arrangements.

The earlier concern that policies and legislation suffered from neglect remains valid. One **exception** though is **Nauru** which has conducted a combined total of 14 reviews and amendments of its immigration, citizenship, passport and refugee legislation between 1999 and 2018. Such practice augers well for the region thereby demonstrating the commitment to keep the systems updated in line with contemporary approaches and standards on border issues and migrant welfare. On migration policy **Marshall Islands** legislated (Immigration Act 2006 Part V) the need for an immigration policy, the issues to be covered and then went on to stipulate the Cabinet's expectations for regular updating. This is a good initiative that opens the way for the head of immigration to keep the policy updated as regularly as is necessary thus bypassing a number of bureaucratic steps.

The measurement⁶⁰ of standards, practices and frameworks needs to be made against a clear, legitimate and lawful baseline that applies equally to all countries regardless of size, capacity or location hence the use of international guidelines. These guidelines provide a measure of standard and what Member States need to aspire to. In this way, border control and the integrity of travellers and migrants are upheld consistently. The impacts of these standards on national image, integrity,

57 International Migration Report 2019, UNDESA.

58 For comparison see Pacific Fact Sheet 2010 and Attachment 1.

59 SPC figures

60 This part can be updated on receipt of responses from later surveys.

economy and security are manifold. It is one thing to sign/ratify the convention, it is quite another to have its provisions reflected in the implementing legislation (see Attachment 6). Only this will give it the authority of domestic law that enforces its implementation in a real sense. Where the power in the Act is vested is a domestic decision, but its impact on the immigration officials' space to implement without unnecessary interferences can be defining, a point that was raised by four respondents. Of the 19 Member State legislations only three placed the authority of the Immigration Acts on the Head of the immigration agency. This reality is a matter of management as operational exigencies still need to be balanced with governance and accountability checks. Issues discussed earlier in organisation and management development are invaluable.

The absence of key activities in the operational frame that make the Conventional requirements a reality call out for some urgent attention. Not only that these are important in meeting international standards and best practices but, equally, they are essential components to improving and sustaining the agency's capacities. For ease of reference some of these activities are added in the table. Together, the core human rights and the migration-related conventions, and key activities in the work structure that should be part of the operational framework provide an indicative picture of where the agencies are and what further work is required.



6.

OUTPUT 3: A MODEL RESOURCE FOR MEMBERS TO ADAPT AS APPROPRIATE



6.1 Model Strategic Framework

The model national strategic framework aims to provide a higher-level direction of the agency's focus on its mandate while positioning it within the scope of international guidelines that together guide the agency's activities. At the centre of the framework, at Attachment 8, is the agency's core mandate that also took into consideration the issues discussed in this report. In the development of the framework foremost in mind is the agency's limited capacity and that any tool developed must be incorporated into one document for ease of reference, understanding and application.

6.2 Model Performance Measurement Indicators

A model indicator to measure the performance of immigration operations is provided within the operational framework at Attachment 8. Included in the framework is a:

- a) Generic and Specific Key Result Areas; and
- b) Performance measurement indicators within the Implementation, Monitoring & Evaluation Matrix (M&E).

The dates and timelines used in the matrix are only indicative and agencies can insert dates/time according to targets in their policies and legislations. The Strategic and Operational Framework including the M&E are consolidated into one document. This is for ease of reference that enable the staff to see the full picture from the strategic to activity level on the same page.

It is important to bear in mind that any measurement tool is as good as how it is applied and managed hence a programmed monitoring and tracking process is vital. Many organisations, large and small, institute periodic meetings i.e. weekly, fortnightly or monthly not only to receive updates of achievements but, importantly, to share work planned for the coming week, fortnight or month as the case may be. This is not to be a meeting to look back at what has been done or problems encountered. Completed work must follow the prescribed reporting channel and challenges discussed as soon as they arise or foreseen during that week. This enables supervisors and staffs to keep track of referrals, impending work, foreseen hurdles and measures to address them. In other words, it keeps the individual units in particular and the agency as a whole moving forward so that work progresses together across the entire mandate. Moreover, the process enables the units/agency to track and account for the resources used/committed to each task.

There will be work that are larger than normal taskings and require separate planning, re-deployment of resources and implementation. These are best addressed through a projectisation scheme where dedicated attention, partners, reporting lines and resources should be considered. Knowledge

and skills in project design and management is indicated at subsection 4.2.1 (Strengthen existing capacities: training of officials).

To assist agencies, a draft M&E training powerpoint is at Attachment 9 and a training evaluation guide at Attachment 10. The guides can be adapted to focus on any aspect of the KRA and monitoring stage.

6.3 An Accompanying Diagnostic Toolkit to Assist Members Measure Model National Indicators.

First, the agency will benefit from an implementation and M&E jointly prepared by the supervisor and subordinates. This established understanding is critical. Second, for the purpose of this research the list of materials in this toolkit is to be read in conjunction with the draft model strategic framework and the operational framework that forms the Regional Toolbox. However, in the interest of utility the tools can be read and applied separately to guide variations of policy and operation realities.

The tools include:

- a) Core human rights conventions (Attachment 12);
- b) Migration-related conventions and declarations (Attachment 13); and
- c) Guides and references (Attachment 14) include:
 - i) QRG for Frontline Officials
 - ii) QRG for Interviewing Child Victims of Trafficking
 - iii) QRG for Interviewing Victims of Trafficking
 - iv) Policy Guide for Protecting Victims of Trafficking
 - v) Basic Principles in Use of Force / Firearms by Law Enforcement Officials
 - vi) UN Code of Conduct for Law Enforcement Officials
 - vii) UNODC Toolkit to combat TIP

* Tools are drawn from open source and publicly available materials including those for Members in other regional arrangements including the Bali Process.



NEXT PAGE

Output 4: Two-page Summary of the Written Report Providing Possible Recommendations on Future Priority Activities.



7.

OUTPUT 4: TWO-PAGE SUMMARY OF THE WRITTEN REPORT PROVIDING POSSIBLE RECOMMENDATIONS ON FUTURE PRIORITY ACTIVITIES.

To assist in its readability and ease of reference the report is summarised at the Executive Summary followed by 45 proposed actions in the Summary of Recommendations.



