



*PACIFIC ISLANDS FORUM SECRETARIAT*

**PRELIMINARY SUBMISSION**

**TO THE**

**NATIONAL PARLIAMENT OF SOLOMON ISLANDS**  
**FOREIGN RELATIONS COMMITTEE [FRC]**

**ON THE**

**REVIEW OF THE FACILITATION OF INTERNATIONAL ASSISTANCE NOTICE**

**Pacific Islands Forum Secretariat**

**Preliminary Submission**

**to the**

**National Parliament of Solomon Islands Foreign Relations Committee (FRC) on the Review of the Facilitation of  
International Assistance Notice**

**Opening Statement**

The Pacific Islands Forum Secretariat (PIFS) would like to thank the Solomon Islands Parliamentary Foreign Relations Committee for the invitation to make a submission to the Parliamentary Inquiry into the Facilitation of International Assistance (FIA) Notice. We would like to note that the Pacific Islands Forum Secretariat submission is based on consultations with members of the Pacific Islands Forum, and the 2007 RAMSI Review Task Force Report endorsed by Leaders at the 2007 Forum in Tonga.

As preliminary remarks PIFS notes that:

- the Regional Assistance Mission to Solomon Islands (RAMSI) was invited by the Solomon Islands as an Independent State and deployed as a Forum mission under the Biketawa Declaration to restore peace and stability in the country after the Tensions of the late 1990s and early 2000;
- the engagement of the region as a whole in RAMSI is vital, and RAMSI's strength lies in its regional nature;
- The outcomes of the 2007 Pacific Islands Forum Leaders' meeting in Tonga commended and confirmed the continuing support of all Forum members as contributing countries to RAMSI as an outstanding example of cooperative regionalism;
- At the 2008 Forum Leaders' meeting in Niue, Leaders noted the positive relationship which had developed between RAMSI and the Solomon Islands Government (SIG) since the 2007 Leaders' meeting in Tonga;
- RAMSI has undergone two Forum-led extensive external assessments, notably the 2005 Eminent Persons' Group Review of RAMSI and the 2007 RAMSI Review Task Force Report. The latter, which was adopted by the Solomon Islands Cabinet, noted RAMSI's "strong and widespread support throughout Solomon Islands". It underscored regional support for the maintenance of RAMSI's mandate in its current state, welcoming the SIG's decision to maintain RAMSI's mandate unchanged for a further year from July 2007 as provided for in the FIA Act; and;

- The Forum responded promptly to the recommendations of the 2007 RAMSI Review Task Force Report to strengthen mechanisms for dialogue with the SIG through the formation of the Forum Ministerial Standing Committee (FMSC) which has so far met twice with full participation by the SIG. The SIG-RAMSI Partnership Framework, endorsed by the FMSC, will provide a key tool for strengthening the partnership by aligning RAMSI's priorities with those of the SIG;
- RAMSI is here to assist the Government and people of Solomon Islands to rebuild the state, economy and society in order that the fundamentals for growth and prosperity can once again function to the benefit of all citizens.

### **Main Statement**

RAMSI is the first major multilateral intervention to be undertaken in the Pacific Region under the Biketawa Declaration. Although it incorporates features of other international interventions, the mission is unique in that it has been specifically designed to assist the Solomon Islands Government and its people, by employing various forms of assistance from the Pacific Islands Forum countries. As such it has created a sense of unity and pride amongst Forum Members.

Understandably enough, the creation and continuing adaptation of RAMSI has involved a steep learning curve for both contributing countries and for the receiving state. Where there has been misunderstanding and misinformation consultation mechanisms have been established to de-mystify and resolve them. Over the years RAMSI has become more knowledgeable about national priorities and is working closely with national authorities in the pursuit of these priorities. As one community representative put it to the Forum- RAMSI Review Task Force, it is now time to capitalise on the lessons learned and move forward to new challenges. Meanwhile, the Forum in consultation with the Solomon Islands Government and people continues to use the lessons learnt from RAMSI's five years experience in the Solomon Islands in reviewing and strengthening its operating systems, work programmes and work ethics. This means that RAMSI continues to adapt to on the ground realities and the emerging considerations of the host; an adaptation that is guided through consultation and comes as a result of jointly agreed targets and conditions.

While RAMSI's presence in Solomon Islands is designed to strengthen Solomon Islands as a sovereign state through support to key institutions, questions of sovereignty and sustainability have emerged as key issues. The Forum understands that successive Solomon Islands Governments, particularly at the political level, felt they were not sufficiently in control because RAMSI's activities were not closely enough aligned with Solomon Islands Government policies. Also, the Forum understands that there is a view among some parliamentarians and among some members of the community that the application of the FIA Act was impinging on Solomon Islands' sovereignty. The Forum fully appreciates these concerns and is pleased to offer the following views on these:

*The FIA Act*

The FIA Act was, of necessity, drafted and passed into law as a matter of high urgency by relevant Solomon Islands agencies. This may offer some explanation as to why some aspects of the FIA Act, including those provisions concerning immigration, sit awkwardly with other pieces of Solomon Islands legislation. Moreover, the Act is largely silent on how some of its provisions should actually be implemented. We acknowledge that there may be benefits in the formulation of regulations to the Act to assist in the implementation of its provisions. Nevertheless, when read in conjunction with other documents such as the RAMSI Treaty, the 2003 Forum Foreign Ministers Outcomes Statement and the Framework for Strengthened Assistance to Solomon Islands, the Forum Secretariat believes that the FIA Act still provides an adequate and workable legal basis for RAMSI's activities. The 2007 RAMSI Review Taskforce Report concluded that any "unilateral amendments to the FIA Act would inevitably have serious implications for the willingness of participating nations to continue contributing to RAMSI. They would also damage the greater sense of partnership that is now emerging in Honiara". The Pacific Islands Forum would like to reiterate that the FIA Act is but one element of the legal framework governing RAMSI's presence in Solomon Islands, and that a change to any one element of that Framework will necessarily have a bearing on the other elements; which is to say that the Forum feels that the Committee will need to consider the political, safety, economic, social and developmental aspects of RAMSI's presence in Solomon Islands as those elements are affected by its legal standing.

Given the sensitivity of the question of immunities, the 2007 RAMSI Review Task Force enquired into the nature of the immunities covering RAMSI. It heard that the purpose of immunities is not to benefit individuals but rather to ensure the effective performance of the functions of RAMSI. The provisions of the FIA Act are subject to the Solomon Islands Constitution – the Act does not provide immunity in respect of actions that might infringe fundamental rights and freedoms set out in the constitution. Furthermore, the Task Force was assured that RAMSI does not tolerate misconduct by its personnel.

The immunities provided in the FIA only apply to actions done in the course of, or incidental to, official duties. RAMSI personnel, including civilians, are working in a wide range of sensitive areas. Without immunities, RAMSI's activities could be undermined, delayed or impeded by vexatious or spurious legal claims. It is important to note that RAMSI's immunities are not unusual. The granting of such immunities under the FIA Act reflects standard international practice; international peacekeeping missions around the world are provided the same basic legal cover for contingents, as are the staff of regional and international organisations, including the Forum Secretariat. Moreover, a sending government can choose to waive immunities granted to its personnel, enabling these personnel to participate in legal proceedings in Solomon Islands Courts and tribunal, where appropriate.

In addition to, and different from, the provisions regarding immunities, the FIA also includes provisions that govern the choice of jurisdiction. RAMSI personnel do not get immunity from legal action for things done outside the scope of their official duties – rather, the provisions in the Treaty and the Act are to prevent them being prosecuted in two places, and to allow that where

possible, they are prosecuted in their home country as the first preference. If the home country can not or does not wish to take appropriate legal action, then the Solomon Island Government can assert jurisdiction.

On these accounts, the FIA Act serves a specific purpose and is not intended to impinge on sovereignty neither preclude the application of the due process of law beyond the confines of its provisions.

#### *RAMSI's work*

The 2007 RAMSI Review Task Force found that there was an almost unanimous view among Solomon Islanders that the Regional Assistance Mission had to remain in place for some time yet. The Forum understands that this view is still held by the vast majority of Solomon Islanders. The second RAMSI Annual Performance Report shows that gains are being maintained and progress is being made across all the areas of its mandate. The quality and quantity of performance information from Solomon Islands sources and from within RAMSI's constituent programs has improved markedly since the first efforts were made in 2005 to measure progress. The running of the second People's Survey, based on a fully representative sample, gives a rich picture of the way that institutions which RAMSI is supporting are impacting (or not), on the lives of ordinary Solomon Islanders.

The Forum also notes that the Solomon Islands Government faces a number of important national challenges concerning devolution and decentralisation, reconciliation, and addressing the causes of the ethnic tensions. Many of these issues were addressed in the 2005 Forum Eminent Persons Group Report. The 2007 RAMSI Review Task Force Report reiterated the importance of these issues, whilst recognising that these issues are the responsibility and prerogative of the Solomon Islands Government. As such, these matters fall outside RAMSI's direct mandate. At the same time, there are linkages between RAMSI's capacity building and institution strengthening work and the addressing of some of these challenges, and efforts currently undertaken by SIG to address these challenges can impact upon the work of RAMSI. Therefore, the Partnership Framework currently being developed could benefit from regularly integrated independent peace and conflict impact assessments, to ensure that the activities of RAMSI contribute positively to SIG efforts to address these national challenges.

#### *Relationship between RAMSI, assisting countries and the Solomon Islands Government*

The Forum is pleased to note that one of the key recommendations of the 2007 RAMSI Review Task Force, which was endorsed by Leaders in Tonga in 2007, to establish a Forum Ministerial Standing Committee, has occurred and that this forum has provided a mechanism to deliberate, and resolve many of the issues that will be brought before this Committee in coming months. The Pacific Islands Forum members would like to table before the Committee the Outcomes Statements from the first and second Forum Ministerial Standing Committee meetings, and the summary of the presentation by the 2007 RAMSI Review

Task Force that was presented to the first FMSC meeting, as it illustrates the inclusive approach taken in that review to take on board the Solomon Islands Government Six Point Plan in its terms of reference for further consideration and discussion.

RAMSI is working in close consultation with the SIG to ensure that the Partnership Framework provides a highly effective mechanism for constructive dialogue and genuine partnership. During their 2008 meeting in Niue Forum, Leaders welcomed the development of the Partnership Framework. Members have also observed that the vastly improved bilateral relationship between the new Solomon Islands Government and the new Australian Government has had a positive effect on RAMSI's ability to achieve its mission.

### **Closing Statement**

In conclusion, while the Pacific Islands Forum is of the view that some amendments to the FIA Act may enable the Solomon Islands Government to better discharge its functions, which is consistent with the RAMSI mission of self sustainability, those changes should not include amendments to the immunities provisions of the FIA Act. Furthermore, to uphold the spirit of cooperation among the contributing countries, and as agreed to by the Solomon Islands Government, any proposed changes to the Act should only occur after extensive consultations with all participating countries. To this end, the Pacific Islands Forum welcomes the initiative of the Solomon Islands Parliamentary Foreign Relations Committee to undertake these consultations with as many stakeholders as possible. While the Pacific Islands Forum's preference is for a continuation of the status quo, RAMSI is a living entity and will, in consultation with stakeholders, remain responsive to adapt to new Government priorities in the interests of the long term sustainability of Solomon Islands institutions, however they may be structured in the future. The Forum has put in place a number of multilevel oversight mechanisms for consultation about the mission, which will assist the Solomon Islands Government and RAMSI to continue to make such adaptations, including the development of the Partnership Framework.