



## Office of the Attorney General of Samoa LEGISLATIVE DRAFTING UPDATE

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### EDITOR'S NOTE

This period has been challenging for our team with one Parliamentary Counsel and former Legislative Drafting Advisor both leaving the public service for other work, the absence of one of our Senior Legislative Drafters on study leave in Malta for 8 months (September 2010-May 2011), and the attachment of our Principal Legislative Drafter in Australia for 3 months (September-December).

Despite being short staffed, we persevered with 13 additional Bills passed as Acts of Parliament, carried out the Consolidation of Laws 2010 Project in November, and on top of numerous advices (around this time of the year, mostly regarding elections) members of our team (including the Attorney General) attended meetings on behalf of Samoa, and other staff of our Office showed interest in taking part in regional workshops on legislative drafting. This Issue also reports on one of the Taskforces aiming to combat crime (particularly relating to deportees) and provides a short account of the newly admitted solicitors.

From the Attorney General and the Legislative Drafting Division, HAPPY READING.

*Lead Editor for this issue: Salote Wright (State Solicitor)*

### PACIFIC ISLANDS LEGISLATIVE DRAFTING TWINNING PROGRAM

- Canberra, Australia: 26 September-24 December 2010 -

(Loretta's report edited)

From a number of officers in Tuvalu, Tonga, Papua New Guinea, Kiribati and Solomon Islands, Samoa was the next to provide a candidate to undertake the 3 months placement at the Office of Legislative Drafting and Publishing (OLDP) of the Australian Attorney General's Department in Canberra, Australia. By way of background, this program is offered every year to only one candidate from one of the Pacific Islands mentioned earlier, following consideration of applications. This year, it was the first in 3 years for the Samoa Office of the Attorney General to send another nominee. The nominee was Principal Legislative Drafter, Loretta Teueli. The program was fully funded and began on 26<sup>th</sup> September 2010 and ended 24<sup>th</sup> December 2010.

The purpose of the placement was to improve the Pacific Island drafter's knowledge and capacity in drafting through practical drafting experience, training and mentoring over the 3 month period. Ms. Teueli, indeed, was fortunate to learn further about the technical skill of drafting and the extent to which the skill has developed. As language evolves over time, so does legislative drafting and one of the useful tools learnt during the attachment (and is a part of the drafting style in Samoa) is the use of plain English for drafting legislation. *Albeit* this seems revolutionary to the minds of many accomplished and well seasoned readers, interpreters and enforcers of legislation, it goes hand in hand with Legislative Drafting Directives the Samoa Office of the Attorney General has issued. Letting go of archaic terms for simpler practical terms is the direction legislative drafting is heading in Samoa. However, while we maintain pace with the rest of the world on the development of legislative drafting, we ensure we also preserve the distinctive manner that distinguishes Samoan legislative drafting from the rest.

## PARLIAMENTARY SITTINGS FOR OCTOBER AND DECEMBER 2010

MONTH	Monday (Week beginning)	Tuesday	Wednesday	Thursday	Friday
OCT	-	12	13	-	-
DEC	6	-	-	-	-

### CURRENT LEGISLATION

BILLS PASSED IN OCTOBER AND DECEMBER 2010	BILLS BEFORE PARLIAMENT UP TO 31 DECEMBER 2010		
<p><b><u>Bills passed in October Parliament Session:</u></b></p> <ol style="list-style-type: none"> <li>1. Casino and Gambling Control Bill 2010</li> <li>2. Plebiscite Amendment Bill 2010</li> <li>3. Electricity Bill 2010</li> <li>4. Housing Corporation Bill 2010</li> <li>5. Survey Bill 2010</li> <li>6. Land Valuation Bill 2010</li> <li>7. Spatial Information Agency Bill 2010</li> <li>8. National University of Samoa Amendment Bill 2010</li> <li>9. Postal Services Bill 2010</li> <li>10. Chemical Weapons Bill 2010</li> </ol>	TITLE	STATUS	
		Public Records Bill 2010	2nd Reading completed and referred to Select Committee
		Forestry Management Bill 2010	2nd Reading completed and referred to Select Committee
		Land and Titles Amendment Bill 2010	Referred to Select Committee (since June 2010)
		Supplementary Appropriation Act (No.1) 2010/2011	1st and 2nd Readings completed and referred to Select Committee
<p><b><u>Bills passed in December Parliament Session:</u></b></p> <ol style="list-style-type: none"> <li>1. Ministerial and Departmental Arrangements Amendment Bill 2010</li> <li>2. Central Bank of Samoa Amendment Bill 2010</li> <li>3. Income Tax Amendment Bill 2010</li> </ol>	COMMENCED LEGISLATION AND SUBSIDIARY LEGISLATION		
	TITLE	COMMENCEMENT DATE	
		Chemical Weapons Act 2010	1 November 2010 (nominated date)
		Notice of Charge Base Tariff for the Supply of Electricity (No.11) 2010	1 November 2010
		Parliamentary Pension Scheme Regulations 2010	11 October 2010
		Housing Corporation Act 2010, Plebiscite Amendment Act 2010, National University of Samoa Amendment Act 2010	19 October 2010 (date of assent)
		Notice of Charge Base Tariff for the Supply of Electricity (No.12) 2010	1 December 2010
		Survey Act 2010, Land Valuation Act 2010, and Spatial Information Agency Act 2010	1 December 2010 (nominated date)
	Ministerial and Departmental Arrangements Amendment Act 2010, Postal Services Act 2010, Central Bank of Samoa Amendment Act 2010, and Income Tax Amendment Act 2010	9 December 2010 (date of assent)	

**Please note:** The commencement dates for the Electricity Act 2010 and Casino and Gambling Control Act 2010 have yet to be nominated, and will be notified in one of the next Issues.

## SUMMARIES

### CENTRAL BANK OF SAMOA AMENDMENT ACT 2010

The Central Bank of Samoa Amendment Act 2010 ('the Amendment') provides for certain amendments to the Central Bank of Samoa Act 1984 ('the Act') to take into account the Central Bank of Samoa's ('the Bank') extended functions in relation to other key stakeholders of the financial system.

Whilst banking remained the core part of Samoa's financial system, recent economic and financial developments as well as changes (both locally and abroad) that influenced Samoa's financial system have highlighted the important role being played by non-bank financial institutions. The increased number of new establishments of non-bank institutions such as insurance companies, money transfer operators, foreign exchange dealers operations as well as many small money lending businesses, have facilitated alternative financial services and products for the customers and the general public. In light of these new developments, the Bank considers it crucial to further improve its existing legislative framework in order to carry out its functions more effectively with the principle objective of promoting sustainable real economic growth whilst maintaining price stability, international reserves viability and a sound financial system.

The amendments provide more explicit powers and legal capacity for the Bank to intervene as deemed necessary, on special circumstances where it considers that interest rates, fees and charges of financial services of a particular institution are inappropriately excessive relative to market rates. Whilst the pricing of financial products and services is normally the prerogative of financial institutions, the Bank must be able to effectively intervene and make an independent determination to ensure that such practice is properly applied.

Another additional function relates to the Bank's commitment to help promote financial inclusion and financial literacy, targeting poor individuals who lack access to credit. The objective is to help them generate modest increase in income, set up small enterprises and generate employment, by providing them with the opportunity to do so.

Given the above changes and developments, the Bank recognised the crucial need to ensure that its financial position is firmly established to enable it to accommodate financially these

additional functions, in both the interim and long term basis. As such, the amendments enable the Bank to account in its profit and loss statement realized gains or losses sourced from the revaluation of foreign exchange at the end of each financial year. The Amendment also changes the existing accounting practice whereby all unrealized and realized gains and losses are transferred to the Revaluation Reserve Account.

In essence, the proposed amendment will enhance the Bank's compliance status with current International Financial Reporting Standards (IFRS) as well as satisfying a number of conditions as stated in the Memorandum of Agreement (MoA) signed between the Ministry of Finance and the Bank in 2001. The MoA required, among other things, for the strengthening of the Bank in terms of its balance sheet, in order for the Bank to be more effective in the conduct of monetary policy.

All in all, the Amendment expands the statutory functions of the Bank to supervise and regulate credit institutions. This amendment provides for the inclusion of certain credit institutions to become account holders with the Bank so that they can be eligible for lending facilities offered by the Bank at concessional interest rates. The Amendment further redefines profit distribution rules to allow accumulation of revaluation reserves according to IFRS. The underlying objective is to further strengthen the Bank's balance sheet in order to effectively perform its functions in relation to the conduct of monetary policy. In addition, the Amendment empowers the Bank to regulate fees and charges of financial and credit institutions to ensure that they are not excessively and unreasonably high. The Amendment also promotes financial literacy. This is part of the Bank's current efforts to extend financial services, at affordable costs, to reach those that are classified as the "unbanked". These are the people who have little or no access to formal financial services generally, not only as a result of the lack of financial education, but also due to their rural and remote locations or low incomes.

### PLEBISCITE AMENDMENT ACT 2010

The Plebiscite Act 1990 (the Principal Act) applied specifically to the plebiscite which was held in 1990 to ascertain the wishes of the people on matters pertaining to Parliament and to the representation of the people in changes in Parliament. The Plebiscite Amendment Act 2010 amends the Principal Act to enable referendums to occur if desired by Cabinet without the need for a specific Act of Parliament. But such referendum can only occur if it involves a matter of national interest or Constitutional reform, or both.

### INCOME TAX AMENDMENT ACT 2010

This Act amends the Income Tax Act 1974 in relation to tourism investment tax credit and tax incentives for sponsorship to sporting bodies. This Act extends the period for tourism investment tax credit from 30 June 2008 to 30 June 2013. As a result, a person investing \$100,000 or more in an approved Tourism Development between 1 July 2008 and the date of commencement of this Act is allowed a credit against income tax at a rate of 100% of that investment.

The Act also provides for the deduction of income tax liability for companies. The deduction is a tax incentive for sponsorships to sporting bodies and sets out the eligibility requirements for companies to qualify for the deduction.

## SUMMARIES (continued)

### NATIONAL UNIVERSITY OF SAMOA AMENDMENT ACT 2010

The National University of Samoa Amendment Act 2010 ('the Amendment') amends the National University of Samoa Act 2006 ('Principal Act') to further integrate the various academic and teaching units of the National University of Samoa (NUS) in order to provide a more consolidated structure for NUS. Since the enforcement of the Principal Act which amalgamated the former NUS and Samoa Polytechnic, the Council of NUS has identified a need to revise its empowering legislation to provide for a more consolidated educational institution. The Principal Act currently requires 2 established bodies, being the Senate for the Institute of Higher Education and the Academic Board for the Institute of Technology to report to the Council on academic programmes and NUS regulations. The continuation of these 2 bodies is no longer required, instead, 1 body, being the Senate is provided to discuss academic programmes and regulations for all academic and teaching units of NUS and report to the Council on these matters. This process and practice will ensure that the same procedures are applied to all educational programmes in NUS and prompt greater pathways between various NUS programmes. Accordingly, the Amendment discontinues the Academic Board for the Institute of Technology and as establishes a Senate consisting of the Vice-Chancellor, any Deputy Vice-Chancellor and members of the staff and students as provided in the relevant statute

It further establishes the Institute of Higher Education and the Institute of Technology to allow integration of the academic units of NUS. The present division of institutes is cumbersome and is not necessary both educationally and administratively. Other amendments include: provision for NUS to be a public body; the functions of NUS to recognise prior learning or competency and flexibility of transition between NUS programmes, and for NUS to establish and maintain connections and associations with other institutions and bodies; the appointment of Deputy Vice-Chancellors; the appointment and constitution of the Council and its duties; the establishment of the Senate and its functions; and reporting requirements.

### CASINO AND GAMBLING CONTROL ACT

The Casino and Gambling Control Act 2010 provides for a Gambling Control Authority (the Authority) to licence casinos and control their operation. Both the number of available licences and the patrons who can participate in casino gaming are limited as these new establishments are to be attached to hotel-complexes and are predominately intended for tourism development. Only holders of foreign passports can play casino. The Act further restricts the number of casino licences to 2 for the first 10 years of the Act's operation.

### CHEMICAL WEAPONS ACT 2010

The Chemical Weapons Act 2010 was enacted to give effect to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction. The main purpose of the Act is to implement Samoa's obligations under the Convention by prohibiting the development, production, stockpiling, and use of chemical weapons and for the verification of their non-production in Samoa. As required under the Convention, the Act designates the National Authority for the Prohibition of Chemical Weapons ("National Authority") for Samoa which will be the focal point for liaison between Samoa and the Organisation for the Prohibition of Chemical Weapons (OPCW) and other States Parties. The National Authority is the Ministry of Foreign Affairs and Trade and a person or body designated by the Ministry as such. The National Authority will also be responsible for gathering all data and information needed for submission to the OPCW in order to meet Samoa's obligations under the Convention. It also authorises national and OPCW inspectors to conduct certain inspections required under the Convention.

### SURVEY ACT 2010

The Survey Act 2010 continues the regulation of the practice of land surveys in Samoa.

The Act sets out the role of the Ministry responsible for lands in relation to land surveys. A Land Professional Registration Committee (Survey) (the Committee) is proposed to be established to deal with matters pertaining to registration as a land surveyor in Samoa, disciplinary matters, the promotion and maintenance of standards of professionalism in the profession of surveying in Samoa and other matters relating to the surveying of land.

The Act also establishes a Samoan Institute of Land Professionals which is generally responsible for the protection and promotion of interests of the land professions in Samoa, and the interests of the public in relation to the land professionals' activities.

The Act also sets out the requirements for the preparation and approval of subdivision plans and definition plans. The conduct of a cadastral survey and entry onto any land to conduct these surveys are also provided for in the Bill. Relevant offences and penalties are also proposed in the Bill.

### MINISTERIAL AND DEPARTMENTAL ARRANGEMENTS AMENDMENT ACT 2010

This Act gives effect to Cabinet Directive F.K. (09)34 regarding the usage of the title "Director General Health" by the Chief Executive Officer of the Ministry of Health ('CEO of MOH'). In that regard, the Act amends section 5 of the Ministerial and Departmental Arrangements Act 2003 to enable the CEO of MOH to use the title "Director General of Health".

## SUMMARIES (continued)

### POSTAL SERVICE ACT 2010

The Government of Samoa aims to provide a regulatory framework for the postal sector in line with World Trade Organisation requirements and in line with its integrated Universal Access Policy, enabling the designated public postal operator Samoa Post Ltd to undertake new commercial activities additional to the imposed provision of universal postal services according to the Universal Postal Union Convention, to which Samoa is a signatory.

It has taken into account that postal operators may provide many different services, which are in the liberalised sector, such as financial services, logistic services and courier and express mail services.

The overall mission of the Act is to establish an effective policy, legal and regulatory framework to ensure that the postal industry operates in a competitive, accessible, efficient and affordable environment for the inhabitants of Samoa.

### SPATIAL INFORMATION AGENCY ACT 2010

The Spatial Information Agency Act ('the Act') establishes a Spatial Information Agency to implement ready access to spatial data, to promote the use of spatial data to support effective planning, management and protection of natural resources for Samoa.

A Spatial Information Agency is proposed to be established as a division in the Ministry responsible for lands. All officers of the Agency are appointed in accordance with the Public Service Act 2004. The composition of the Agency consists of the Chief Executive Officer of the Ministry responsible for lands, the administrative head of the Agency, its officers and employees, and the Geographic Names Board, which is established as part of the Agency.

The Agency will have the exclusive power to make, direct and authorize the making of and development of maps and charts of Samoa. The Agency will also produce and maintain national coverage of topographic maps, marine charts and other remote sensed imagery needed for the sustainable management of land, sea and other natural resources.

The objectives of the Board are to eliminate ambiguity and uncertainty in the geographic names in Samoa, to ensure there is appropriate recognition of Samoan heritage and culture in the selection of geographic names and to provide the institutional and administrative framework that facilitates the widest practicable community consultation on matters covered by the Act.

### HOUSING CORPORATION ACT 2010

This Act is a review of the Housing Corporation Act 1989 ('former Act'). It continues the Housing Corporation established under the former Act. It also provides for functions, powers, and duties of the Corporation under modern and reformed arrangements.

### LAND VALUATION ACT 2010

The Land Valuation Act 2010 ('the Act') regulates the practice of land valuation in Samoa. The Act establishes a registration and licensing system for qualified land valuers in Samoa. A Land Professionals Registration Committee for Land Valuation (the Committee) is proposed to be established to determine the prescribed qualifications for land valuers, receive and consider applications for registration from qualified land valuers and to promote and maintain the standards of professionalism in the practice of land valuing in Samoa. The Committee also deals with disciplinary matters for the profession of land valuing and other matters relating to the valuation of land.

A system for the registration and licencing of land valuers is set out in the Act. All practicing valuers are required to hold a current annual practicing certificate in any year of practice.

The Act further requires all registered valuers to use and undertake land valuation in accordance with a Formula Valuation System which is determined by the Ministry responsible for lands as a guide for the current land market value in Samoa.

### ELECTRICITY ACT 2010

This Act establishes the Office of the Electricity Regulator ('the Regulator'). As such it endeavours to lay out the powers and duties of the Regulator. In particular, the Act details the powers of the Regulator to attend to matters such as the establishment of tariffs for electricity, and to monitor the standards of electricity network service providers and generators. Two (2) types of licences are issued, namely the generation licence and the network service licence. Both licences are issued by the Regulator provided that an applicant for such licence meets the prescribed criteria. The Act also proposes to impose duties and requirements upon the Regulator to consult with public stakeholders when the Regulator is in the process of setting tariffs.

The Electricity Tribunal is also established under the Act and is designed to hear all appeals relating to a decision of the Regulator. The Act also provides the Regulator with the power to handle consumer complaints against licensees.

Amendments to the Electric Power Corporation Act 1980 are also required for the Regulator to hold certain functions previously held by the Electric Power Corporation (EPC), such as the power to establish tariffs and will be responsible for establishing proper standards for the provision of services relating to electricity. The Act further provides for consequential amendments to the Fair Trading Act 1998 and transitional matters such as the automatic holding of a generating and network service licence to be held by EPC for 10 years effective from the commencement of the Act.

## EVENTS OF OCT-DEC 2010

### COMMONWEALTH MEETING ON THE INTERNATIONAL CRIMINAL COURT (ICC)

- London, United Kingdom: 5-7 October 2010 -

The Commonwealth Secretariat nominated Papalii Malietau Malietoa (Parliamentary Counsel) to attend the Meeting on the International Criminal Court (ICC). The Meeting took place at the Marlborough House, London, United Kingdom from 5-7 October 2010. It was organized and funded by the Commonwealth Secretariat.

The meeting considered the following areas:

- (a) whether the Commonwealth model law and related practical guide requires updating or revising and how best to take this forward;
- (b) the desirability and feasibility of the Commonwealth Secretariat developing and "Accession kit to the Rome Statute" for Commonwealth States; and
- (c) developing effective strategies through shared experiences to promote ratification and implementing legislation of the Rome Statute.

The meeting brought together Commonwealth States that have ratified and implemented the Rome Statute and other States which have not ratified or implemented the Rome Statute but are keen to learn more about this process through shared experiences. The outcomes of the meeting is to form part of a final report to be presented by the Secretariat to the Commonwealth Law Ministers meeting scheduled for July 2011 in Australia in support of work done by the Secretariat in furtherance of its Ministerial mandate in this area.

### 29th PACIFIC ISLANDS LEGAL OFFICERS NETWORK (PILON) MEETING

### 8TH REGIONAL MEETING OF NATIONAL AUTHORITIES OF STATES PARTIES

- Kuwait City, Kuwait: 1-3 November 2010 -

Parliamentary Counsel, Papalii Malietau Malietoa was nominated by the Organisation for the Prohibition of Chemical Weapons (OPCW) to attend the 'Eighth Regional Meeting of National Authorities of States Parties in Asia' which took place in Kuwait City, Kuwait from 1-3 November 2010. The Meeting was organized and funded by OPCW.

The Meeting served as a forum in which State Parties in the region presented their needs for assistance in relation to Article VII OF THE Chemical Weapons Conventions ('the Convention') and indicate what assistance can be offered to other State Parties in this regard. In addition, this helped the Secretariat to determine how it could enhance the assistance offered to State Parties in the region in the light of the aforementioned Conference decisions. The meeting also allowed representatives of National Authorities to confer with each other and with Secretariat staff in order to identify what further steps, if any, each participating State Party needed to take in order to implement its obligations under the Convention.

Samoa has been a party to the Convention since 1993 and was expected to present its achievements thus far in formalizing its obligations under the Convention. Recently, Samoa passed the Chemical Weapons Act 2010 making Samoa one of the few Pacific Countries to have passed enabling legislation for the purposes of the Convention.

Samoa was also given the opportunity to present its need analysis for technical assistance required at the national level from OPCW in areas of enforcement and other infrastructural support.

- Brisbane, Australia: 6-11 December 2010 -

The Attorney General, Ming C. Leung Wai, and Precious Chang (Assistant Attorney General, Criminal Division) attended the 29th PILON Meeting in Brisbane, Australia from 6-11 December 2010. PILON member countries who were able to be represented at the meeting included Australia, Cook Islands, Fiji, Kiribati, Nauru, New Zealand, Niue, Papua New Guinea, Samoa, Solomon Islands, Tonga and Vanuatu. The meeting also consisted of several observer members.

Discussions at the meeting focused mainly on law and justice issues. Some of the issues affecting Samoa included the need for overseas countries to provide information to countries (like Samoa) where people are deported to assist with re-integration into Samoan society; requesting the PILON Secretariat to provide administrative assistance and support to the Pacific Prosecutors Association for a year before the Association is able to have its own secretariat; advising Pacific Island Countries (PICs) to report on illegal fishing and ways to prevent such; the need to review the law to provide better protection for witnesses and victims of domestic violence; the work by PILON and its transition to an independent Secretariat. Other interesting aspects of the meeting included the announcement of the appointment of the new Secretariat Coordinator, continuing support to be provided by the Samoan Office of the Attorney General and the Australian Attorney General's Department (AAGD) during the transition and on an ongoing basis, the attendance of the New Zealand Solicitor General at the PILON meeting, and further consideration of other issues (corruption, transitional and organized crime, extradition, gender-based violence, environmental crime, climate change, criminal deportees and ongoing transition of the PILON Secretariat to Samoa), and legal information sharing and awareness of assistance available from different Governments (e.g. New Zealand and Australia), the Pacific Islands Forum and other organisations in combating law and justice issues). Final discussions were presentation of country reports on law and justice activities and initiatives in 2010, upcoming Commonwealth Law Ministers Meeting, and arrangements for the 30th PILON Meeting 2011 and PILON Executive Committee and work plan for 2011.

### THIRD UNIVERSAL MEETING OF NATIONAL COMMITTEES ON INTERNATIONAL HUMANITARIAN LAW

- Geneva, Switzerland: 27-29 October 2010 -

Due to unforeseen circumstances and the unavailability of a member of the Legislative Drafting Division to attend the above meeting, Peter Bednall (Principal State Solicitor, Civil Division) was nominated as a replacement to attend the meeting with Rapture Pagaialii of the Ministry of Foreign Affairs and Trade. The Meeting took place in Geneva, Switzerland, from 27th to 29th October 2010. It was organized and funded by the International Committee of the Red Cross (ICRC).

The Meeting aimed at developing methods of incorporation, challenges to incorporation and sharing views on the subject from different jurisdictions.

In addition to developing and discussing methods of incorporation, the Meeting also provided participants with an understanding of legal obligations under various International Humanitarian Law (IHL) treaties, resources issues and other constitutional considerations.

For Samoa, IHL is important as it is an avenue for Samoa to express its support and adherence to IHL principles and the domestic implementation of the treaties obligations. Another reason why IHL is important for Samoa is that Samoan nationals have and will serve as peace keepers and as private security contractors in armed conflicts around the world and is important that these individuals are bound by domestic laws implementing IHL and that they are aware of IHL principles. It is also important that Samoa adheres to IHL principles so that when there are potential risks (e.g. war criminals or suspects of war crimes present in Samoa) they can be easily dealt with.

Aside from other significant aspects of the Meeting, it indicated that Samoa is far advanced than any country in the Pacific, in implementing its IHL obligations, through the establishment of a national IHL Committee and the passing of the Chemical Weapons Act 2010.

### MARITIME POLICY & LEGISLATIVE DRAFTING WORKSHOP

- Fiji: 1-4 November 2010 -

While being attached to the Legislative Drafting Division for some time, Rexona Titi (State Prosecutor) was fortunate to have attended the Maritime policy and Legislative Drafting Workshop. The Workshop took place from 1-4 November 2010 at the Nambua Police Station, Suva, Fiji.

Presenters at the Workshop were Tufuga Tagalao (Maritime Legal Advisor at SPC, Fiji), Teleiai Lalotoa S. Mulitalo (Legislative Drafting Consultant) and Clarke Peteru (Environment Legal Advisor).

Some of the topics discussed included: overview of international maritime legal framework (focusing on the importance of having Maritime Policy); analysis of Conventions in priority (looking mainly at issues relating to implementation); legal pluralism and legislative drafting literature; implementation of international conventions; Pacific Islands Maritime Laws Generic Working Drafts; amendment of legislation; drafting stages; and current drafting trends in the region (from an environmental perspective).

Representatives of different Pacific Island countries discussed the status of national laws and international conventions which have been domesticated. Representatives also shared their respective views on the different approaches and procedure to domestication of international laws. These discussions were implemented by means of lectures, exercises, group tasks and presentations.

Overall, the workshop emphasized on how Pacific Island countries can effectively draft and domesticate maritime international laws. It is also worth noting that Samoa was one of the main case studies in relation to its development in legislative drafting, as well as, the domestication of International Maritime treaties.

### PROFESSIONAL DIPLOMA IN LEGISLATIVE DRAFTING (PDL) WORKSHOP

- Suva, Fiji: 3-4 November 2010 -

Following the commencement of the PDL program in April 2010, 6 members from the Attorney General's Office, namely Phaedra Valoia, Kalameli Seuseu, Elemesi Schmidt, Arthur Lesa, Cecily Faasau and Sine Lafaialii, completed the course in November 2010 and graduated in December 2010. The course is a 30 week course designed for beginners as well as experienced drafters. It is delivered through CD-ROM materials developed by the Commonwealth of Learning, face-to-face tutorials and video conferencing (usually through USP), and a workshop assessment (to be held in Suva, Fiji on a date determined by the Course Coordinator).

In previous years the workshop in Suva was held for one day only, however, this year the workshop was conducted in two days (from 3<sup>rd</sup>-4<sup>th</sup> November 2010). The course is offered mainly to enable participants to acquire knowledge of legislative drafting. It continues to teach practical skills in translating government policies into clear and effective laws that can be understood and applied by different people, particularly relevant stakeholders. It also provides emphasis on grammar and sentence structure, as well as the language to be used. The course consists of seven modules including drafting Bills and subsidiary legislation, which is hoped to assist our participants in becoming well-equipped drafters for Samoa.

## CRIMINAL DEPORTEES TASKFORCE - April-November 2010 -

Nola Petelō Faasau (Senior Legislative Drafter) has been assisting with the Attorney General and the Law and Justice Steering Committee with the establishment and work of the Criminal Deportees Taskforce.

This is an initiative of Law and Justice Sector since Samoa is keen to proactively address the issues relating to deportees.

This Taskforce was set up in April 2010 as a counter measure to problems caused by the number of criminal deportees entering Samoa (e.g. the first Westpac Bank robbery in Samoa, which involved 2 criminal deportees in April 2010) and to address other related issues. The Taskforce includes the Attorney General (Chairman), Chief Executive Officers (of Prime Minister and Cabinet, Foreign Affairs and Trade, Police and Prison Services, and Women, Community and Social Development), representatives from the United States Veterans of Samoa, Samoa Council of Churches, SUNGO, Law and Justice Secretariat, and 2 deportees. Observer members of the Taskforce include the UNESCO and the Pacific Islands Forum Secretariat. With its findings, the Taskforce set up a Samoa Returnees Charitable Trust by way of a Trust Deed (endorsed by the Law and Justice Sector Steering Committee and approved by Cabinet), to carry out the relevant programs for Samoa returnees/deportees. The execution of the Deed was held on 11 November 2010. The purposes of the Trust includes undertaking, promoting, advancing and carrying out in Samoa rehabilitation and reintegration programs for criminal deportees, provide counselling services, facilitating resettlement through income generating activities and all other acts as directed by the Trustees.

## MEMBERS OF THE LEGISLATIVE DRAFTING DIVISION

*Ming C. Leung Wai*, Attorney General  
*Papalii Malietau Malietoa*, Parliamentary Counsel  
*Loretta Teueli*, Principal Legislative Drafter  
*Constance Tafua-Rivers*, Senior Legislative Drafter  
*Nola Petelō Faasau*, Senior State Solicitor  
*Salote Wright*, State Solicitor  
*Losa Kelekolio*, Senior Legal Secretary  
*Tasha Sagapolutele*, Senior Bills Officer

## CONSOLIDATION OF LAWS PROJECT 2010 - Office of the Attorney General: November

The Legislative Drafting Division commenced its Annual Consolidation of Laws for 2010 during the first week of November 2010. Legal officers authorised to carry out the Consolidation included Papalii Malietau Malietoa (Parliamentary Counsel), Nola Petelō Faasau (Senior Legislative Drafter), Salote Wright (State Solicitor), Fetogi Vaai (State Solicitor) and Rexona Titi (State Prosecutor). Administrative work and other duties were carried out by Losa Kelekolio (Senior Legal Secretary) and Tasha Sagapolutele (Senior Bills Officer). The Consolidation Project is yet to be completed and is hoped to be released in early 2011.

## ADMISSION TO THE BAR - Mulinuu, Apia: 29 October 2010 -

Avila Terisita Ah Leong-Oldehaver (Civil Division) and Faaniniva Edelma Niumata (Criminal Division) were sworn in on 29 October 2010 by His Honor Chief Justice Patu F. M. Sapolu. The Attorney General moved the admissions, both of which were supported by the Secretary of the Law Society.

*Have a Blessed &  
Happy  
2011*

## UPCOMING EVENTS

1. New addition to the Legislative Drafting Division
2. Annual Judiciary Prayer Service in January 2011
3. Completion of Consolidation of Laws Project 2010
4. Parliament session and dissolution of Parliament in January 2011
5. Commonwealth Trip to India, in February 2011
6. General Elections in March 2011

## DISCLAIMER

Please note that the information contained in this Newsletter is not intended to be taken as legal advice and therefore should not to be relied upon as such.