



Regional Parliamentary Workshop

26 – 27 April 2018

Apia, Samoa

Aldric Hipa

Crown Law Office – Government of Niue

Introduction

‘Regional Parliamentary Workshop on Improving Compliance with the UN Programme of Action Addressing The Illicit Trade in Small Arms and Light Weapons and Promoting Greater and more effective participation by Women MPs in Parliamentary Defence, Security and Interior Committees’

Introduction

1. Domestic Firearms in Niue and its regulatory framework
2. Niue & Disarmament
3. Promoting the Active Participation of Women Parliamentarians

1. Domestic firearms in Niue

* Managed, controlled and regulated by

Arms Act 1975

“An Act to make provision for the importation, acquisition and possession of firearms and ammunition”

Niue Arms Act 1975

ARMS ACT 1975

1975/4 – February 1975

- | | | | |
|-----|---|----|---|
| 1 | Short title | 14 | Obstruction of police |
| 2 | Interpretation | 15 | Arrest of offenders |
| 3 | Permits for import of firearms | 16 | Occupier of premises deemed to be in possession of arms |
| 4 | Permits for possession | 17 | Search of suspected persons |
| 5 | Sale to and possession by young persons | 18 | Search of land or building for arms |
| 6 | Registration of firearms | 19 | Application to Government |
| 7 | Registration may be refused or existing certificate revoked | 20 | Restoration of articles seized under this Act |
| 8 | Unregistered firearms to be surrendered | 21 | Forfeitures |
| 9 | Possession of unlawful weapon | 22 | Authorising disposal of firearms |
| 10 | Carriage or possession of arms | 23 | Persons acting under authority |
| 11 | Unlawful acquisition of firearms | 24 | Regulations |
| 12 | Presenting firearms at any person | 25 | [Spent] |
| 13 | Careless use of a firearm | | |
| 13A | Offence to discharge firearm near residence | | |

SCHEDULES

Niue Arms Act 1975 contd.

- * Administered by “Arms Officer”, by default is the Chief of Police.
- * “unlawful weapon” means any pistol, machine gun, rifle, air-gun, and any other class of firearm except a shot-gun

Firearms – National Context

- * Why?

- i. For hunting birds – pigeons and fruit bat (flying fox, *peka*)
- ii. For sports – clay shooting

- * What? 12 gauge shotguns

- * Result? Lawful civilian gun ownership is very high

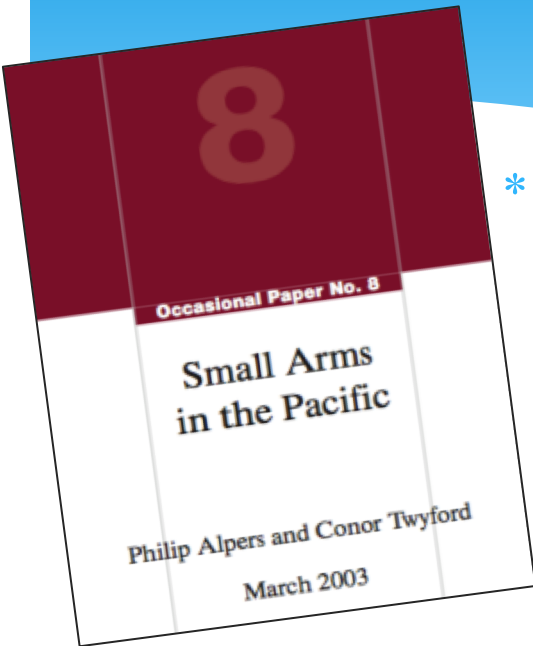
Statistics

- * Niue's population – **1,716** as at March 2017 census
- * Police confirm very high civil ownership of firearms through registration records
- * Average of **3 guns** per registered user, some people up to **6 guns** or more
- * 'Shooting Season' main contributor – authorised by Cabinet
- * Decrease of gun registration since imposition of shooting ban in 2015

International Reports

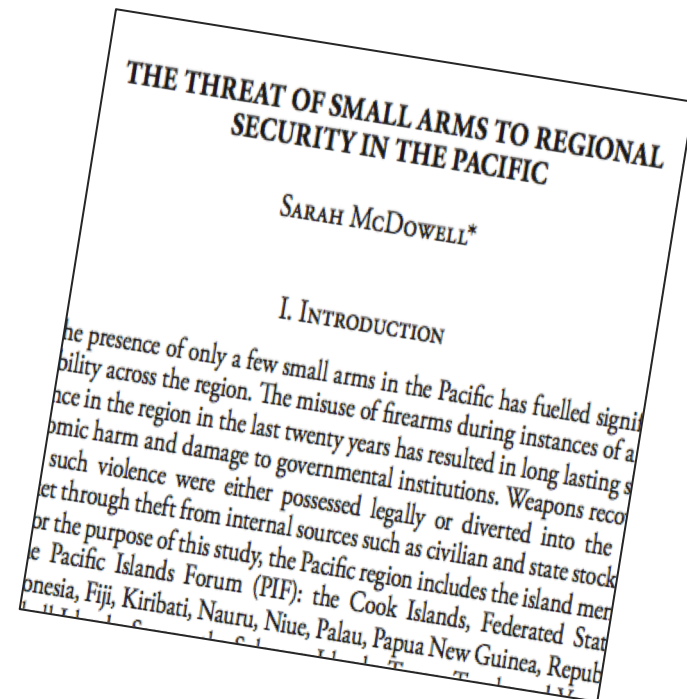
* *Alpers & Twyford 2003*

Niue has second highest gun ownership in Pacific countries, rate of 19.85 users per capita



* *McDowell 2012* “... in Niue it estimated to be as low one gun to every five people...”

“... with high levels of small arms in circulation, the Potential for diversion or misuse by the legal owner increases...”



Statistics

- * Gun related violence
 - Last murder 2002
 - Last report of gun related injury 2012
 - Presenting firearms at persons, often occurrence due to disputes
- * Very minimal 'illegal activity'
- * **ISSUE: ILLEGAL IMPORTATION**
 - Cabinet shooting ban since 2015
 - Prohibits sale of ammunition
 - Continued shooting over ban period
 - No cases, arrests
 - Highlights vulnerability to more serious offences – take for granted NZ border agencies



2. Niue & 'disarmament'

- * Niue Government actively considering 'Arms Trade Treaty'
 - drive towards & against 'weapons'
 - *Pacific Conference on Conventional Weapons Treaties*
 - model law of New Zealand, contextualized to Niue
- * Working on fundamental 'pillars' of work against **weapons of mass destruction**
 - *Chemical Weapons Convention Act 2007*
 - *Nuclear Test Ban Act 2014*

Works in Progress

- * Niue Government actively considering 'Arms Trade Treaty'
 - drive towards & against 'weapons'
- * Work on fundamental 'pillars' of work against **weapons of mass destruction**
 - *Chemical Weapons Convention Act 2007*
 - *Nuclear Test Ban Act 2014*
- * *Convention on Cluster Munitions*
- * *Anti-personnel Mines Convention*
 - '*Anti-personnel Mines and Cluster Munitions Bill*'
- * *Biological Weapons Convention Bill 2018*

Ratification Process

- Domestication of implementing legislation is a requirement prior to ratification/accession of Treaties/Conventions

1. Consideration of Treaty – by invitation or Political will
2. Ratification Proposal
3. Circulation for Government Ministries comments
4. Compilation of Cabinet Proposal
5. Draft of Implementing Legislation (usually model law)
6. Cabinet Submission twofold:
 - i) To ratify the Convention
 - ii) To pass legislation to implement Convention
7. Should Cabinet approve – prepare documentation for tabling draft legislation in Legislative Assembly, and ratification documentation
8. Subject to Legislative Assembly, enact legislation and deposit Instrument of Ratification

Ratification Proposals



NAME OF TREATY: BIOLOGICAL WEAPONS CONVENTION (BWC)

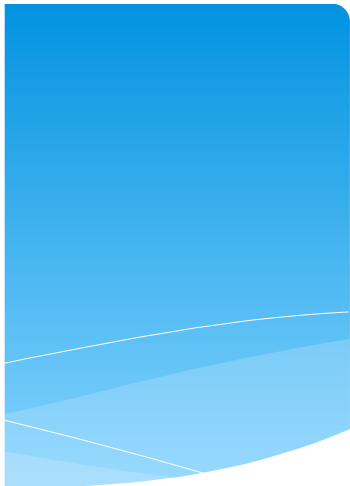
Date	January 2018
1 TREATY/AGREEMENT	BIOLOGICAL WEAPONS CONVENTION ("the Treaty" or "BWC")
2 OBJECTIVES (Purpose of Treaty/ Agreement):	<p>The Biological Weapons Convention (BWC) effectively prohibits the development, production, acquisition, transfer, stockpiling and use of biological and toxin weapons.</p> <p>Formally known as "The Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction" the BWC was the first multilateral disarmament treaty banning an entire category of weapons of mass destruction (WMD).</p> <p>The objective of the BWC is to ensure that the international community would rid the world of biological and toxin weapons. The BWC is a key element in the international community's efforts to address WMD proliferation and it has established a strong norm against biological weapons. The BWC has almost reached universal membership with 11 States not yet Party, including 4 from the Pacific Region – Federated States of Micronesia, Kiribati, Tuvalu and Niue.</p> <p>The Treaty The BWC was opened for signature on 10 December 1972 and entered into force on 26 March 1975. Key provisions of the BWC include:</p> <p>Article 1 Never under any circumstances to develop, produce, stockpile, acquire or retain biological weapons.</p> <p>Article 2 To destroy or divert to peaceful purposes biological agents, toxins, weapons, equipment and means of delivery prior to joining.</p> <p>Article 3 Not to transfer, or in any way assist, encourage or induce anyone else to acquire or retain biological weapons.</p> <p>Article 4 To take any national measures necessary to implement the provisions of the BWC domestically.</p>

	<p><i>Article 5</i> To consult bilaterally and multilaterally and cooperate in solving any problem with the implementation of the BWC.</p> <p><i>Article 6</i> To request the UN Security Council to investigate alleged breaches of the BWC and to comply with its subsequent decisions.</p> <p><i>Article 7</i> To assist States which have been exposed to a danger as a result of a violation of the BWC.</p> <p><i>Article 10</i> To facilitate the fullest possible exchange of equipment, materials and information for peaceful purposes.</p>
<p>3 RESPONSIBLE DEPARTMENT</p>	<p>Secretary to Government – Office for External Affairs</p>
<p>4 REASONS FOR TREATY / AGREEMENT</p> <p>A) National Interest:</p>	<p>In order to fully implement the BWC, States Parties are obliged to translate the commitments in the Convention into effective national action.</p> <p>Niue is one of the remaining 11 States in the world who are not Party to the BWC, 4 of which are Pacific Island countries. At the national level, Niue currently does not have any legislation that provides (or prohibits) the development, production, acquisition, transfer, stockpiling and use of biological weapons. A draft Bill to implement the BWC into national law is currently being considered.</p> <p>However Niue has made other progress in international law regarding the prohibition of WMD such as the accession of the Nuclear Test Ban Treaty and similarly, the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (Chemical Weapons Convention CWC). Niue has enacted legislation to implement into national law the Nuclear Test Ban Treaty and the Chemical Weapons Treaty, namely the <i>Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction Act 2007</i> and the <i>Nuclear Test Ban Act 2014</i>.</p> <p>The BWC is one of the three fundamental pillars of the international community's effort against weapons of</p>

	<p>mass destruction. Niue has already implemented the first two, being the abovementioned treaties implemented into national law and the BWC is the final of the three.</p>
<p>B) Issues at national level (What issues arise in law, strategic plans and/or private sector):</p> <p>(i) Legal</p> <p>(ii) National Strategic Plan</p> <p>(iii) Department Corporate Plan</p> <p>(iv) Private Sector</p>	<p>(i) Legislation - In order to implement the Treaty, legislation is required. The <i>Biological Weapons Convention Bill 2018</i> is currently under consideration, to implement the BWC into Niue law. Once enacted Niue can accede to the Convention.</p> <p>Ratification – Once the BWC Bill becomes law, Crown Law will commence process for accession to the Convention.</p> <p>(ii) National Strategic Plan – National Security – “Residents and visitors live in a safe and secure environment”. The safety and protection of residents and visitors, property and the environment will continue to be a priority within border and domestic processes.</p> <p>(iii) Department Corporate Plan – International Law “The Crown Law office provides advice and support to the Office of External Affairs for matters relating to external (foreign) affairs, this includes work on Treaties.</p> <p>To assist with reporting and other requirements for bilateral and multilateral international Treaties for which Niue is a member.</p> <p>Advise government on the legal obligations and costs of compliance versus non-compliance in relation to regional and international treaty action. Advise Government on whether or not a particular treaty action requires policy changes.</p> <p>(v) N/a.</p>
<p>C) Policy Considerations (Give full explanation where you indicate either one):</p> <p>(i) Supports existing policy:</p> <p>(ii) Requires new policy:</p> <p>(iii) Extends existing policy:</p>	<p>Accession to the BWC will support and extend the existing policies under the Niue National Strategic Plan in terms of national security and demonstrate Niue’s willingness and efforts to support the international community in the universal implementation of the BWC.</p> <p>Niue has already ratified the Chemical Weapons Convention and the Comprehensive Nuclear Test Ban Treaty and the BWC will demonstrate Niue’s stance against weapons of mass destruction.</p>
<p>5 LEGAL AND REPORTING OBLIGATIONS UNDER TREATY/AGREEMENT</p>	



<p>(i) Legal Obligations:</p> <p>(ii) Responsible Office/Department:</p> <p>(iii) Period of Reporting:</p> <p>(iv) Extent of Obligations(Explain whether such obligations fall within existing responsibilities or add to existing responsibilities):</p>	<p>(i) Niue's legal obligations at this stage would be to pass legislation, the <i>Biological Weapons Convention Bill 2018</i> and enact into national law as part of domestic procedures. Once legislation is passed, Crown Law Office will commence acceding to the BWC in accordance with national constitutional processes and BWC procedures.</p> <p>Financing the BWC requires States Parties to make financial contributions as annual subscriptions that are assessed against variables of individual States Parties. In Niue's case, it was agreed that a country of Niue's size would pay an annual fee of \$10 USD.</p> <p>(ii) Any reporting requirements would be undertaken by External Affairs.</p> <p>(iii) Annual reports are required for submission to the Conference of the Parties held every year, in the form of Confidence Building Measures (CBMs):</p> <p><i>CBM A</i> Research centres, laboratories and biological defence research and development programmes;</p> <p><i>CBM B</i> Exchange information on outbreaks of infectious diseases and similar occurrences caused by toxins;</p> <p><i>CBM C</i> Encouragement of publication of results and promotion of use of knowledge;</p> <p><i>CMB E</i> Declaration of legislation, regulations and other measures;</p> <p><i>CBM F</i> Declaration of past activities in offensive and / or defensive biological research and development programmes;</p> <p><i>CBM G</i></p>
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	<p>Declaration of vaccine production facilities.</p> <p>If at the next annual conference of the Parties there is no difference to the CBMs for countries, a simple 'no change to CBMs' will suffice.</p> <p><i>*CBM D got deleted at the Seventh Review Conference of the Parties.</i></p>
6 BUDGETARY SUPPORT REQUIRED:	No budgetary support required for Niue at this stage for national implementation.
7 TECHNICAL ASSISTANCE REQUIRED (Indicate areas where TA may be required in future):	Nil requirements
B IMPLEMENTATION PLAN	
An Implementation/Work Plan (Attach work plan of how the Department will internally prepare to implement the Treaty/Agreement. Below are suggested headings)	<p><i>February 2018</i> Introduce Biological Weapons Convention Bill to Niue Legislative Assembly.</p> <p><i>March 2018</i> Once enacted, submit Instrument of Accession for deposition at the BWC.</p>
B Key responsible department (Where appropriate- Indicate responsible department(s) if implementation requires cooperation between two or more departments): Other(s):	Secretary to Government – Office of External Affairs Crown Law Office

Biological Weapons Convention Bill 2018



- * Domestic procedures - legislation requisite of Ratification of Treaties
- * Cabinet authorized accession to the BWC in March 2018
- * Bill tabled in Parliament, 1st reading March 2018
- * Referred Bills Committee
- * Amendments made
- * 2nd reading in May 2018

Participation of Women Parliamentarians

- * Niue's Legislative Assembly:
 - 20 members
 - 14 Village Constituencies & 6 Common Roll seats
- * **5 women in Assembly** – one quarter of Niue's Assembly
Vaainga Tukuitonga, Joan Viliamu, Mona Ainuu, Maureen Melekitama, O'Love Jacobsen
- * Representation on Interior / Select Committees
- * **Highest representation of women in Politics in the Pacific**
- * Bills Committee – chaired and vice chaired by women MPs, Crown Law sit in
- * High representation of women in key Government roles

Special Thanks

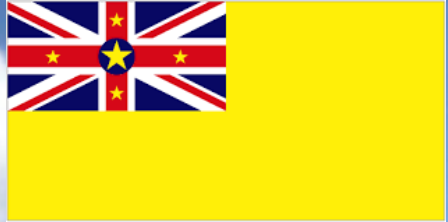


* *Peter Barcroft & PGA*



* *Hon. Associate Minister Taefu*

* *Government of Samoa*



Fakaue Lahi – Thank You

