



Baseline Assessment Report

Proposal for Improved Visa
Policy for the Republic of the
Marshall Islands

TA/034/2016

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List of acronyms

BMS	Border Management System
COFA	Compact of Free Association (with the USA)
DoI	Division of Immigration
FIBL	Foreign Investment Business Licence
MIMRA	Marshall Islands Marine Resources Authority
NSA	Non state actor
OCI	Office of Commerce and Investment
OSL	Occupational Shortages List
PIDC	Pacific Immigration Directors Conference
RMI	Republic of the Marshall Islands
TAF	Technical Assistance Fiche
VOA	Visa on Arrival

Executive summary

The Republic of the Marshall Islands (RMI) is a north Pacific state made up of 29 coral atolls spread over a large maritime area. It has a relatively small population (around 68,000) and a small land area of around 181 square kilometers. Legal entry to RMI is through two designated seaports and two international airports. The immigration environment in RMI has two important features:

- the Compact of Free Association (COFA) with the USA which allows RMI citizens access to the US labour market and allows US citizens free access to RMI;
- the major impact of the tuna fishing industry both as a contributor to the economy but also as a border management challenge with the lagoon at Majuro being one of the largest trans-shipment ports in the Pacific.

This report is designed to provide a baseline for a more intensive intervention which will analyse the policy settings and operation of the RMI visa system and, through a consultative process, make recommendations for constructive change in line with national development objectives. The report details the methodology of the assessment, explores some of the key issues identified and documents the key stakeholders.

Current immigration legislation (consisting of the Migration Act and subsidiary regulations) provides a functional basis for immigration management but, as the Director of the Division of Immigration (DoI) has recognised, there is considerable scope for improvement in a range of areas – both policy related and institutional. The Director is seeking to increase staff numbers and improve the organization profile of the Division. He is also seeking budget funding to develop a Border Management System. These are sound and positive objectives. The focus of this intervention is on getting the policy settings right within the visa system. This necessitates some examination of related legislation relating to investment business licenses and regulation of the labour market through the Work Permit system.

A Baseline Assessment is not intended to provide a prescriptive set of recommendations for policy change but it does identify broad areas of concern which can inform subsequent more intensive analysis. The consultant enjoyed broad access to Government stakeholders and some non-Government stakeholders. Some of the findings emerging from the discussions include the potential for:

- **review of the regime of visa exemptions** with a view to rationalization and to tighter definition;
- some **restructure of the legislation** to achieve greater clarity and flexibility;
- some **variation to the visa architecture** including some new categories and some re-named and revised visa categories;
- **rationalization and expansion of visa criteria**;
- development of an **official immigration website** to provide information to clients globally and facilitate visa application processes.

More detail is provided in the body of the report. The consultant is confident that the Technical Assistance Intervention (for which this assessment is a preliminary step) will support the objective of improving the RMI visa system.

1. Introduction and background

The requesting entity and primary beneficiary of the Technical Assistance Intervention is the Division of Immigration (DoI) within the Ministry of Justice of the Republic of the Marshall Islands (RMI)

The Technical Assistance Fiche (TAF) notes that the DoI lacks standard operating procedures and “lacks a vibrant visa policy to manage the emerging challenges in relation to the management of RMI borders”. The TAF highlights the lack of any computer-based data management system which limits the efficiency of the organisation and its capacity to capture and process data. The TAF also identifies the need for support in implementing recent reciprocal visa commitments made with the European Union.

The TA intervention fits well with the ACP EU Dialogue on Migration and Development’s recommendation on visas which specifically advocates to identify “...best ways to improve accessibility to visa application procedures and to information on such procedures “

Within this overall context the Baseline Assessment will:

- identify key stakeholders (Government and NSA) and sensitise them to the nature and conduct of the broader intervention and the likely milestones;
- initiate policy dialogue on some of the key issues with current visa policy;
- gather statistics and information which will inform the intervention;
- report on preliminary findings in relation to gaps in policy and future needs.

Building on the Baseline Assessment, the specific objective of the technical assistance intervention will be to recommend a new visa policy and processes that support national development strategy.

2. Baseline assessment methodology

The assessment was carried out in three phases:

- Initial research (2 days)
- In-country consultations (5 days)
- Report writing phase (3 days)

Prior to the in-country consultations, the consultant reviewed available printed materials which were limited to:

- the Migration Act
- the Migration Regulations
- The Labour (Non Resident Workers) Act
- Some basic material on application procedures derived from internet searches.

Prior to travel the consultant requested additional supporting materials such as policy manuals but was advised that no such documents have yet been developed.

Based on these limited materials the consultant prepared some presentations designed to highlight certain issues with the legislation and clarify elements of visa policy which were unclear.

While in Majuro from 1 October to 7 October, the consultant had a series of consultations with Government agencies and with some non-Government parties. The consultation with the Division of

Immigration was understandably the most prolonged and intensive and this was followed up with a number of interviews with individual migration officers to explore particular aspects of the visa system. Some statistical data was made available although it is limited in scope.

Consultation with other stakeholders were primarily in the form of structured interviews in which the consultant sought the stakeholder's views on specific aspects of the visa system. Prior to departure from Majuro on 7 October the consultant had an exit meeting with the Director of Immigration, Damien Jacklick and his senior staff.

Although there were some logistical and scheduling issues during the consultation phase, these were not of an order which impeded the overall information gathering process and all scheduled consultations were conducted.

During the Baseline Assessment in country, the consultant was given some additional written materials as documented in Annex 1 but there are many areas of the visa system (and associated systems) which are inadequately documented. At the highest level, there is no overall statement of Government immigration policy objectives and directions. The development of such a statement might assist the Government of RMI to achieve greater coherence in its management of immigration policy and associated policy areas including investment and labour market controls.

3. Assessment results

3.1 State of affairs

The DoI is a small immigration service (11 personnel of whom 9 are in the Majuro office). In comparative terms the volume of non-citizens crossing RMI borders is low but DoI resources are thinly stretched especially given the variety of operational responsibilities they are managing. As would be expected, migration officers are proficient in their knowledge of the existing procedural framework but they could do with **further development in terms of investigative skills, evidence based decision making, analytical skills, change management skills and policy development**. If the Director's plans for some additional staff and a re-organisation of the Divisional structure come to fruition, it would enhance the opportunity for this skills development to occur.

A further constraint in terms of their operating capability is the **absence of any Border Management System**. It is worth noting that DoI previously had a BMS which was installed with US assistance (and prior to that they had some IT infrastructure provided by Australia). However, the US supported BMS has not been used for some time as the hardware broke down about two years ago and there was no maintenance contract in place to keep it going. The consultant has not delved into the history of the defunct BMS in any detail as it is peripheral to the intervention and in any event the key issue is that at present there is no immigration specific IT platform in operation. As a consequence, all transactions are paper based and there is **limited capacity for data and trend analysis and monitoring**.

Any credible medium to long term development plan for DoI would logically include the development of a BMS and the Director has sought funding from the RMI Government through the budget process for this purpose. The consultant has advised the Director that the TA intervention will not, of itself, deliver a technology appraisal or any IT capability. Its recommendations can however, underline the importance of developing a technology platform to better manage movement monitoring and visa processing functions in the medium to long term. Structural adjustments to the visa system which may arise out of the intervention will feed into and support the architecture of a future BMS.

The other likely future capability which would impact on the visa system would be the introduction of some form of **online visa processing** which would have significant client service and security

advantages. Current arrangements for the lodgement of visa applications by person resident offshore are at best “clunky” and generally rely on the intervention of sponsoring parties in RMI. Once visas are approved, applicants are sent an authority to travel and then visas (depending on the type) are evidenced post arrival. These mechanisms are typical of small island states which have very limited offshore consular representation.

The **RMI Migration Act was last amended in 2006**. While the visa provisions in the legislative package (the Act and associated Regulations) have many of the elements which one would expect from a relatively recent piece of legislation, **the assessment has identified some gaps, anomalies and grey areas which should be addressed in the TA intervention**. There is little or no consolidated policy guidance for officers.

The RMI is in many ways a unique immigration environment. Key characteristics which contribute to that view include the special relationship with the USA reflected in the Compact of Free Association which gives Marshall Islands citizens open access to the USA for work, study or residence and gives reciprocal privileges to US citizens who (along with citizens of the FSM and Palau), can enter RMI on an unconditional visa exempt basis. The capacity of RMI citizens to live in the USA has significant outward migration ramifications which affect, among other things, the skill pool in the RMI labour market. There are a number of categories of people who are identified in the legislation as visa exempt (including US citizens) and this means that a significant proportion of the overall volume of non-citizens entering RMI are visa exempt. The categories within this visa exempt cohort are largely undifferentiated (in terms of monitoring entry) even though some exempt groups have markedly different characteristics. There is further discussion of the exemptions issue below.

Fishing Industry: Entry Issues

A key characteristic of the border management environment is the significance of the tuna fishing industry and the challenges this poses in terms of the management of entry and exit controls. The industry has major impacts on the economy but also gives rise to a range of sociological and behavioural challenges. Outside the fiscal assistance provided to RMI under the terms of COFA agreements, the fishing industry is the next biggest contributor to the RMI economy. The lagoon at Majuro is one of the largest transshipment ports in the Pacific for the tuna industry with up to 30 large vessels in the lagoon at one time including purse seine trawlers, long line trawlers and mother ships. This means that there is large floating population of fishing crew on the harbour with access (albeit regulated access) to what is, in comparative terms, a small town – the population of Majuro is around 28,000 while at any one time there might be up to 1,000 fishing crew in port of varying nationalities (including PRC Chinese, Taiwanese, Thai, Indonesian, Korean, Japanese. This poses some interesting management issues and gives rise to concerns about behavioural management, impacts on the community and the potential for human trafficking. The Migration Act and associated regulations contain provisions whereby immigration officers control the issuance of shore passes, hours of curfew are imposed and there are penalties relating to non-compliance. In other jurisdictions provisions of this nature would more often be the province of Port Authority or police.

With the benefit of input from a number of sources (Australian navy, Port Authority, RMI Police, Immigration and Marshall Islands Marine Resources Authority (MIMRA), the consultant concludes that the provisions in the Act and Regulations relating to the shore leave of commercial and fishing crew are unlikely to require amendment. Fishing crew are not visaed when they come onshore nor (unlike yacht crew) they are visa exempt. The primary tools of control are:

- the Shore Pass requirements which are controlled by immigration (section 116); and
- the curfew provisions at Section 119 of the Migration Act.

To improve the legal certainty around this framework it might be advisable to create an additional provision in Section 115 or 116 of the Migration Act complementing Section 112 (which relates to entry by air). This could be drafted broadly along the following lines:

“A person who is a member of the crew of a fishing vessel or commercial vessel and who is not a citizen of RMI is not permitted to enter the Republic unless that person is the holder of a valid shore pass.

A person who is a member of the crew of a fishing vessel or commercial vessel and who is not a citizen of RMI who has entered and remains in the Republic and:

- *is not compliant with the conditions of a shore pass issued to him; or*
- *is not the holder of a shore pass*

is unlawfully in RMI. “

Consideration might also be given to defining the meaning of “entry” – the existing framework carries the logic that a person who remains on a fishing vessel within the lagoon does not legally enter RMI until he or she disembarks from the vessel.

Another approach considered in discussions was to bring the requirements relating to fishing crew within the exemptions regime. This would be possible provided the conditions of that exemption were properly defined. Further consideration of these maritime entry issues will occur during the intervention. Whatever legal framework is used to manage the entry of fishing crew, the greater challenge is likely to be in achieving compliance. Effective patrolling of the harbour precinct especially at night would be an obvious measure but this would probably be a function for police or the port authority rather than for DoI.

It is noted that, based on advice from immigration, the current provisions relating to the advance reporting obligations of the masters of vessels are more honoured in the breach than in the observance. This is not a legislative problem but goes more to the capacity and willingness of the authorities to enforce these obligations.

There are separate provisions relating to the entry status of crew on cruise ships and private (cruising) yachts which provide them with a visa exemption for stays of up to 7 days. The Regulations provide for the grant of a Cruising Visa with which cruising yacht crew can receive stay of up to 12 months. Yacht crew can apply for this visa onshore – that is after the vessel has been entry cleared and during the 7 day exemption period. This regime for cruise ships and private yachts seems sensible.

The Human Trafficking dimension

While not the primary focus of this assessment the consultant notes that the presence of large numbers of fishing crew in Majuro’s lagoon **elevates concerns about the incidence of human trafficking and this issue was raised by a number of interlocutors**. The human trafficking issue has achieved some public prominence recently (including in the media) due to RMI being rated “Tier 3” (the lowest rating) in the most recent US State Department report.

There is little or no empirical evidence on trafficking in RMI but the extent of the anecdotal evidence and the nature of circumstances supports the view that there is a fair probability that some trafficking is occurring. There are three possible trafficking scenarios which emerge from the discussions held during the assessment:

- Non-citizen females primarily of Asian origin being trafficked into Majuro in situations of sexual servitude driven (in part) by the presence of large numbers of fishing crew.
- RMI females being coerced into providing sexual services to fishing crew.
- Possibility that some crew on some vessels could be in situations of labour servitude.

It should be noted that the phenomenon of women providing sexual services cannot be assumed to constitute trafficking – that is, it may not always be coercive. However, the possibility of trafficking occurring in this context is self-evident.

There are anti trafficking provisions in the RMI Criminal Code but they are rudimentary. The consultant was advised that there is a draft of new and more comprehensive counter trafficking legislation which is under consideration but the consultant was unable to obtain a copy.

Visa Exemptions

A substantial proportion of the non-citizens entering RMI for various purposes are entitled to visa exemptions under Section 113 of the Migration Act. These groups include (my paraphrasing):

- A citizens of USA, Palau and FSM;
- B persons entitled to privileges and immunities (diplomats and officials of accredited international organisations);
- C US contractor personnel - these are third country nationals (not US citizens) who are contracted to work on US facilities in RMI – and their dependents;
- D Members of visiting forces who are in RMI at the request of or with the consent of the RMI Government;
- E Crew or passengers of cruise ships or private vessels who are in RMI for less than 7 days;
- F Crew of commercial aircraft who will remain in RMI for less than 14 days;
- G Persons employed by the RMI Government;
- H the spouse or child of any of the above groups.

Some discussion was held with the Immigration division about the evolution of these policies. It is appropriate to regard categories A, D, E and F as “genuine” exemptions in the sense that no process is required in advance of their entry although arriving passengers from any of the above groups can be refused entry at the primary line if they are found to be of concern on (for example) criminal conduct grounds in line with Section 114 of the Migration Act.

The TA intervention might explore the question of whether groups B, C and G should remain as exemptions. In each of these cases there is a pre-clearance process which is more consistent with a visa than with an exemption in the commonly understood meaning of the term.

In respect of category B there would be a pre-arrival process whereby Foreign Affairs would confirm in writing the accreditation of the individual concerned (see also paragraph below relating to the Diplomatic Visa) and the Immigration Division would then issue an authority to travel.

In respect of category C there is normally an approach to the RMI Government by the American Embassy. They provide documentation relating to contractor personnel who are then issued an authority to travel.

In respect of category G there is also an advance clearance process for the non-citizen (unless the person is a US citizen) resulting in the grant of an authority to travel.

In relation to category H, there appears to be no policy documentation addressing the various contingencies which might arise and no definition of the possible limitations around the exemption. The consultant developed some scenario studies for the Immigration Division to illustrate the problem situations which might arise.

There are various policy options relating to exemptions which should be explored in the intervention phase including:

- the possibility of shifting some of the exemptions categories into visa classes where they may more logically belong; and/or

- shifting detail of exemptions into the regulations and providing more definition as to requirements and limitations.

In considering any policy measures which might affect (or be seen to affect) existing entry concessions given to the US military and their contractors, it would be advisable for RMI authorities to engage at an early stage with US authorities.

Visa Architecture and legislation

The existing visa architecture of the RMI could be described as functional but not optimal. The architecture is fairly simple with a limited number of visa classes but it is largely fit for purpose given the low volumes and the proportion entering under exemptions (see above). Section 130 of the Act sets out various visa classes but there are additional classes in the Regulations.

One possible structural reform would be to **remove references to specific visa classes from the Act and have them elaborated in regulations**. The primary benefit of this approach would be to facilitate future changes to the visa system – i.e. it would make it easier to adjust visa architecture without amending the Act. Consideration could also be given to **developing visa regulations which integrate all elements of a particular visa class instead of having separate sections** detailing aspects of particular visas. A format could be developed such that a single document (or set of provisions) specifies:

- criteria relating to a particular visa;
- where a client can apply for the visa;
- the period of stay;
- whether it is single or multiple entry;
- the visa conditions (if any);
- whether the visa can be extended; and
- any other characteristics of the visa.

The legislation also refers to entry permits in addition to visas (see Sections 143-144) but there appears to be no compelling rationale which would justify or require the existence of entry permits as a separate legal construct to visas. It may be that the references to entry permits reflect elements of previous (now defunct) legislation.

In line with normal international practice, consideration could be given to **removing the entry permit construct from the legislation as it appears to serve no policy purpose**. In line with this logic, a visa may:

- be granted offshore in order to enable travel to the RMI while noting that there is an entry decision on arrival. The effect of the entry decision is (in normal circumstances) to verify the entry in line with the visa.
 - Note that when a visa is granted to someone offshore, it is evidenced in the form a travel authorisation letter – this being a pragmatic way of getting the person on the plane – and in most cases, a visa evidence is placed in the passport after arrival;
- be granted on arrival (a range of nationalities may be granted a visa on arrival) in which case the visa decision and the entry decision are a single decision;
- be granted onshore to allow for continued stay.

The TA intervention could consider this framework in greater detail.

Specific visa issues

While the Baseline Assessment is not a vehicle for a comprehensive review of the visa system and structure, there were some issues and proposals discussed during the Baseline Assessment which may inform (but are not binding on) the subsequent intervention.

Business and Investment Visas

The current Visitor Visa is used for large range of purposes including:

- A tourism
- B social visits
- C business visits
- D short term visits for conferences, negotiations and meetings and training exercises
- E short term volunteering and work assignments
- F journalism
- G entertainment
- H academic research
- I cultural and sporting exchange.

In other jurisdictions some of these “purposes of entry” are governed by separate visa classes although this more differentiated model is not necessarily desirable for RMI – a question for further debate.

Consideration could be given to creating a new Business Visa which would broadly accommodate categories C,D,E,F,G and H above while the Visitor Visa would continue to accommodate categories A, B and I. This will be a useful distinction in terms of understanding trends in the entry process (while noting that a large number of those entering for short term purposes will continue to do so under exemptions).

The current Business Visa is what most jurisdictions would call an Investment Visa as it is designed to accommodate non-citizens who are intending to start business ventures in RMI. It is recommended that the current “Business Visas” be re-badged as “Investment Visas” and that the term Business Visa be used as suggested above.

Investment Visas

In relation to investment visas, (note suggested name change above) the current assessment methodology seems to be broadly sound. Eligibility for the visa hinges on the grant of a Foreign Investment Business Licence. Non-citizens who have applied for this licence can obtain a temporary visa pending finalisation of their licence application (suggest this be known as Temporary Investment Visa). Once a licence is approved (and assuming no public interest criteria problems) the person would be granted a two year visa (which could be known as a Provisional Investment Visa). Currently there is no policy addressing what happens at the end of the two year period. Consideration could be given to defining a full visa pathway for investors. Under such a framework a person who holds the two year visa could subsequently be granted a visa for 5 or even 10 years (could be named an Established Investor Visa) provided there is satisfactory evidence of business activity during the currency of the initial two year visa. Such evidence might include (but not be limited to) taxation and accounting records, documentation of employment of RMI citizens and non citizens.

Primary carriage of the FIBL policy now appears to rest with the recently created Office of Commerce and Investment although the licence is issued by a unit within the Ministry of Finance. Over recent years, responsibility for this process has shifted to several different bureaucratic entities. Each FIBL application is reviewed by a multi agency Committee and the Licence must be signed off by the Attorney General. The assessment includes examination of the business proposal and checks of the applicants financial and character background. Currently application volumes are running at about 20 a year – in other words volumes are low. Were volumes to increase significantly there may need to be a review of this process – it may not be sustainable in its current form but it would be desirable that the checking and evaluative measures be continued.

Investors also require a Foreign Investor Work Permit from the Division of Labour within the Ministry of Foreign Affairs. If the RMI Government is looking for ways to rationalise processes then consideration could be given to removing this Work Permit requirement for FIBL holders. The process does not seem to add any value noting that:

- the policy rationale for Work Permit processes is the protection of local employment opportunities;
- investors do not displace people in the RMI labour market but rather (if they are genuine) create employment opportunities.

Ministry of Finance officers stated that the existing legislation around the FIBL process is very dated and the threshold investment (dollar) amounts are too low. In the medium to long term, it would be desirable to undertake a parallel review of migration legislation, FIBL legislation and Labour legislation in order to remove anomalies, harmonise these intersecting pieces of legislation and remove unnecessary processes. Taken collectively these three legislative frameworks have a major impact on national development.

Employment Visas

As in many other Pacific jurisdictions the grant of a work visa is contingent on the prior grant of a Work Permit. Under the Labour (Non-resident Workers) Act 2006 there are four types of Work Permit:

- A Foreign Investment Work Permit – required to obtain a Business Licence;
- B OSL Professional Work Permit for non-citizens who have occupations on the Occupational Shortages List (OSL);
- C General Work permit for non-citizens who do not have occupations on the OSL – these are (in theory) considered on a case by case basis;
- D Temporary Purpose Work Permit for the hire of a non-resident worker for a period of up to 6 months in any one calendar year in order to (a) address emergencies, or (b) train local staff or (c) carry out short term technical work.

It is beyond the scope of the Baseline Assessment to undertake a detailed evaluation of the Work Permit system and its intersection with the visa system but there may be scope for reform in these areas. The most problematic aspect of the Work Permit regime at present is that it is so under-resourced. Currently there are only two officers and this unit cannot undertake even basic processing tasks in a timely manner let alone undertake any assessment, monitoring, evaluation or quality control. The consultant was advised that there is currently discussion in Government about merging the Labour Division with the Immigration Division. The consultant cannot speculate about the likelihood of this occurring but it seems clear that there would be some benefits and efficiencies to be derived from this approach were the merger to occur. Sources in the RMI Chamber of Commerce articulated concerns about the length of time taken to process Work Permits and the

cumbersome nature of the end to end process associated with obtaining a work visa. There is also anecdotal evidence of abuses of the Work Permit system. It is noted that many non-citizens working for short periods – less than 90 days would be using the Visitor Visa for that purpose. There are many aspects of the work visa system which might be examined in the course of the intervention:

- simplification of process
- capacity for evaluation (is the process adding value or is it just another process);
- sanctions regime for breaches – is it adequate and is there any enforcement capability;
- scope for a more comprehensive system of occupational classification (eg, the PNG model).

Family Reunion

The Act specifies a visa known as a General Visa (section 135) which provides for the “entry of dependents of a person who is legally working or stationed in the republic.” This visa does not explicitly provide for the entry and stay of the spouses and children of RMI citizens although it may be used for that purpose. Consideration could be given to re-naming this as a Family Reunion Visa that covers dependents of both RMI citizens and legally resident non-citizens.

A custody provision could also be inserted in the legislation as a public interest measure. Broadly this would require that in cases where custody issues might arise, a sponsor or primary applicant would be obliged to provide evidence that the entry and stay of the child will not breach the custody rights of another party.

Multi purpose visa

In RMI as in other jurisdictions situations often arise which are not covered by mainstream visa classes. Consideration could be given to developing a visa product which allows the exercise of discretion in such contingencies. Some of the situations which might be covered would include:

- where a person is compelled to enter because of stress of weather or other emergency;
- where a person on a temporary visa overstays that visas for reasons which are beyond – his or her control – eg. a medical problem or natural disaster prevents departure;
- where a person presence is required in RMI for a court proceeding;
- where a non-citizen identified as a victim of trafficking requires a temporary visa pending repatriation;
- where a person who has been assessed by UNHCR as in need of protection requires temporary stay pending resettlement;
- where a person needs to enter to assist in a disaster relief effort.

A possible model for such a visa was discussed with DoI during the Baseline Assessment

Development Support Visa

Currently there is no specific visa product for the many different categories of people working in the aid and Development Sector. Consideration could be given to developing such a visa. Arguably this could also include non-citizens employed by RMI Government agencies who are currently classified as exempt. The category would also provide for NGO workers and volunteers.

Visa on Arrival

Currently certain nationalities are entitled to obtain a visa on arrival. Section 6 of the Regulations indicates that a visitor visa can be obtained on arrival “by citizens of countries which the Republic has diplomatic ties with”.

The intervention might evaluate whether this is the most logical construct for determining which countries receive visa on arrival privileges noting that most countries using visa on arrival mechanisms determine eligibility of the basis of risk assessment or other national interest considerations.

Public Information Strategy

Currently it is difficult to access clear information on RMI visa policies and requirements. The Director of DoI seems keen to address this. A website can be developed with modest resources and hence this is an advance which can be readily accomplished. The advantages of an official website include:

- improved service for clients and non-citizen applicants both onshore and offshore;
- capacity to download forms
- information on all activities of the Division
- capacity to link to other websites
- information can readily be adapted and amended
- greater transparency.

The development of a website will also be consistent with the stated objective of the ACP EU Migration Action to improve access to immigration services.

3.2 Key baseline indicators

Numerical data on movements and visa grants is very limited but some figures are available in the form of the Division of Immigration **2015 Productivity Report**. The report notes for example that in FY2015 the Division processed around 64,000 movements. One deficiency with this figure is that the paper based statistical process does not record the inward movements of RMI citizens (though it does record their outward movements). We could expect therefore that this figure should be increased by somewhere between 6,000 and 10,000 additional movements. Of these movements around 60 percent are maritime movements. Most of these would relate to the fishing industry reflecting the fact that fishing vessels are continually entering and exiting Majuro harbour.

DoI figures indicate that there were around 1040 international aircraft movements during FY 2015 and around 1584 maritime movements. Over half of these aircraft movements involved either freight flights or “special flights” (including medivac, transit stops and military flights).

The report provides the following very limited statistics relating to the grant of short stay visas in FY 2015:

Visitor visas	122
Provisional Business Investor	4
Transit	534
Cruising visa	0

These figures only capture visitor visa applications lodged by nationals who are **not** eligible for a visa on arrival. The actual number of people granted visitor visas would be dramatically higher if visa on arrival grants were included.

The relatively high number of transit visas reflects that fact that fishing crew and commercial shipping crew use these visas when they fly into RMI to join a vessel.

Overall the statistical information presented is incomplete and, to an extent, misleading. DoI would benefit from a more organised and better defined approach to gathering and publishing statistics. This may be challenging using existing paper based mechanisms.

The consultant notes that while these limited and incomplete figures are of some benefit in gaining an understanding of scale and the border management environment in RMI, such metrics are of no value as baseline indicators for assessing the beneficial impact of the intervention. They are not reliable or appropriate as baseline indicators. For example, an increase in the volume of visas in a particular category over time does not mean that there has necessarily been any improvement in the architecture or functionality or the integrity of the visa system.

The useful indicators in this context will be either qualitative or milestone based. As an example of the latter if DoI moves from its present situation of having no official immigration website to a situation where it has a functioning website, then this would be a clear improvement in terms of information accessibility although the quality of the website would also need to be assessed.

The following table indicates in broad terms the logical baseline indicators for this intervention. It also illustrates the point that, while the intervention may successfully forge a consensus about certain reforms, it cannot generally implement those reforms – that task, in most cases, requires Government commitment and actions.

Baseline Status	Improvement Objective	Indicator	Dependency
Legislation has some structural anomalies and gaps	Legislation reviewed and updated	RMI Government supports recommendations on specific changes required	Requires Government action post intervention
Visa criteria ill defined	Visa criteria reviewed and updated	RMI Government supports recommendations on specific changes required	Requires regulation changes
Visa architecture incomplete	Visa architecture reviewed and updated	RMI Government supports recommendations on specific changes required	Requires regulation changes
Exemptions too broad and ill defined	Consensus achieved on revised exemptions regime	RMI Government supports recommendations on specific changes required	Requires regulation changes
No DoI website	Website progressed	Content supports and reflects improved client service measures	Requires Government action

3.3 Stakeholders mapping and analysis

As the visa system supports Government development and border control policies, there are many stakeholders in the RMI Government who should provide input during the intervention process. The Table below identifies the key Government stakeholders and their interests.

Stakeholder agency	Nature of interests	PC*
Attorney General's Office	Current "owner" of immigration function Oversight of any changes to Act and Regulations	Y
Office of the Chief Secretary	Apex of public service	Y
Division of Immigration	Self-evident	Y
Foreign Affairs	Bilateral and regional implications of changes to immigration policy	Y
Ministry of Finance	Manages issue of Foreign Investment Business Licence	Y
Marshall Islands Maritime Resource Authority	Governance of Fishing Industry	Y
Office of Commerce and Investment	Key agency for foreign investment	Y
RMI Police	Maritime surveillance and public order issues	Y
Marshall Islands Visitors Authority	Interest in promotion of tourism and regulation of visitor flows	Y
Division of Labour	Work Permit is precursor step to Investment and work visas	Y
RMI Customs	Part of surveillance and border control family	Y

* PC column denotes whether or not preliminary consultation held during baseline assessment

Details of direct contacts made with stakeholders are reported in [Annex 3](#)

The table below identifies key NSAs

NSA	Nature of interests	PC*
Chamber of Commerce	Support free movement of persons – interest in investment and employment visa policy	Y
Australian navy	Insights on maritime surveillance and security of borders	Y
ADB	Brings in a range of consultants and experts	Y
US Embassy	Interest in exemptions regime	N
IOM	Insights on trafficking issues Could potentially support other capacity building efforts	Y

The consultant notes that he requested DoI and other parties to identify other NSAs but none have been identified to date. Other possible NSAs might include some commercial interests, the shipping industry, the travel industry, church organisations and NGOs.

3.4 Feedback regarding the Technical Assistance Fiche

The consultant considers that the Technical Assistance Fiche correctly identifies some of the main challenges facing the DoI being:

- lack of long term direction and the need for a visa policy appropriate to manage emerging challenges
- the lack of a BMS
- the need to improve service delivery.

A necessary adjustment to the fiche is to **define the focus as being on the visa system**. The need for a BMS is self-evident but it is not the focus of the intervention. Discussion held during the course of the baseline assessment has clarified that message. Improvements to the visa system which emanate from the intervention will certainly be complementary to the development of a BMS and will feed into its architecture.

The primary risks relate to the extent of “buy in”. While the leadership of DoI appears to have an understanding of the need for reforms, this may not be the case among other officials (whether in DoI or other agencies) and the “inertia factor” can lead to a grinding down of the impetus for reform. Some officials are likely to be very wedded to the traditional way of doing things – decision making processes for example are mechanical in nature and checklist driven. Developing staff so that they can evaluate a decision on the merits will require ongoing leadership and training. At another level, the reforms likely to emanate from the **intervention will require political support and prioritization**. The consultant emphasized the message that an intervention is not about promoting “change for the sake of change”. Where a change is recommended there must be a logical reason for the change and there must be a recognized benefit. **Accentuating the benefit** is tactically important.

Given the minimal resources and the pressures of meeting day to day operational demands there is also a **risk of implementation failures**. While this risk cannot be entirely eliminated, it can be mitigated to an extent by a high level of commitment to consultation and by ongoing training and support.

There is **currently no other capacity building activity** which would directly complement and support reforms to the visa system. DoI has received some training support in border control skills such as document examination and has in the past received technical support in the form of their (now defunct) BMS. **IOM is active in Majuro but the focus of the office is primarily in areas such as drought relief, disaster risk reduction and counter trafficking activity.** Consequently there is limited opportunity to promote synergies between the TA intervention and other projects or programs but this may change over time.

There is a need for ongoing capacity building support (including implementation support) in relation to the visa system and, more broadly, the full gamut of immigration functions. The RMI Government and its international partners might consider options for this support to be delivered.

Annex 1 – List of literature reviewed

- RMI Migration Act
- RMI Migration Regulations
- Labour (Non resident Workers) Act 2006
- Application Procedures for a Foreign Investment Business Licence (FIBL)
- FIBL Regulations (Item 10, Marshall Islands Administrative Code)
- Marshall Islands Marine Resources Authority (MIMRA) Annual Report 2014
- Division of Immigration : 2015 Productivity Report
- Compact of Free Association Implementation Act 2004

Annex 2 – List of key informants

Name	Position	Organisation	Contact details	Date of the meeting/ call held
Ms Kino Kabua	Deputy Chief Secretary	Office of the Chief Secretary		6 Oct
Filimon Manoni	Attorney General	Department of Justice		5 Oct
George Lanwi	Police Commissioner	MI Police Department	625 4049	4 Oct
Glenn Joseph	Director	Marshall Islands Marine Resource Authority	625 8262	4 Oct
Walter Myazoe	Director	R&D Unit, Trade Office		6 Oct
Isabella Silk	Acting Secretary	Ministry of Foreign Affairs		4 Oct
Ravuni Uluilakeba	CEO	Office of Commerce and Investment	625 4624	6 Oct
Yetta Aliven	Projects Officer	MI Visitors Authority	625 6482	6 Oct.
Daniel Timothy	Chief of Customs	RMI Customs		5 Oct
Damien Jacklick	Director	Division of Immigration	625 4572	Several meetings
Mathew O'Loughlin	Maritime Surveillance Adviser	Royal Australian Navy	625 3062	5 Oct
Ellen Milne Paul	President	MI Chamber of Commerce	kujmilne@gmail.com	7 Oct
Malyia Rudolph	Project officer	IOM Majuro	247 4705	7 Oct

Annex 3 – Data on key Non-State Actors

Full name of the organization and acronym (if available)	Marshall Islands Chamber of Commerce
Organization address and general contact details	Marshall Islands Resort, Majuro, Room 46
Contact person details	Ellen Milne Paul
Background	Promoting interests of affiliated businesses in Marshall Islands
Resources	Minimal resources – office space at MIR is shared
Core mandate of the organization	Promoting interests of affiliated businesses in Marshall Islands
Legal status in the country	Business umbrella group
Ongoing activities	Lobbying Government to foster the interests of affiliated businesses. Forum for discussion on business related issues
Past activities relevant to the subject	Have advocated for business interests including in the area of visa policy – want smoother access for non citizens for purposes of business , investment and employment.
Field presence in the country	Located in Majuro only.

Full name of the organization and acronym (if available)	Royal Australian Navy
Organization address and general contact details	PO Box 1793 Majuro
Contact person details	Mathew O’Loughlin, Maritime Surveillance Adviser
Background	Ongoing presence for some years
Resources	Two full time Australian naval personnel.
Core mandate of the organization	Support maritime surveillance in RMI through (a) provision of patrol boat and (b) ongoing support for maritime operations
Legal status in the country	Bilateral military aid mechanism
Ongoing activities	Providing advice to Government on maritime surveillance matters,

	providing training for RMI personnel.
Past activities relevant to the subject	
Field presence in the country	Located in Majuro only.