
Baseline Assessment

Proposal to improve Labour
Mobility in MSG Countries

TA 028/2016

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List of acronyms

ACP – African Caribbean Pacific
ANU – Australian National University
APTC – Australia Pacific Training College
CARICOM – Caribbean Community
CSC – CARICOM Skills Certificate
CSME – Caribbean Community Single Market and Economy
EU – European Union
FIC – Forum Island country
FMC – Free Movement Certificate (of CARICOM)
FORES – Foreign Employment Scheme (of the Fiji Government)
FVS – Fiji Volunteer Scheme
ILO – International Labour Organization
IOM – International Organisation on Migration
MOU – Memorandum of Understanding
MSG – Melanesian Spearhead Group
MSGTA – Melanesian Spearhead Group’s Trade Agreement
NEC – National Employment Centre (Fiji)
PATVET – Pacific Association of Technical and Vocational Education and Training
PIC – Pacific Island country
PICTA – Pacific Island Countries Trade Agreement
PNG – Papua New Guinea
RSE – Recognised Seasonal Employer Scheme (New Zealand)
SMS – Skilled Movement Scheme [of the Melanesian Spearhead Group]
SPEC – Skilled Professionals Evaluation Committee (of Fiji)
SPBEA – South Pacific Board for Educational Assessment
SPC – Secretariat of the Pacific Community
SWP – Seasonal Worker Program (Australia)
TA – Technical Assistance
TMNP – Temporary Movement of Natural Persons
VIPA – Vanuatu Investment Promotion Authority (VIPA)
VHRA – Vanuatu Hotels and Resorts Association
VNWU – Vanuatu National Workers Union
VIT – Vanuatu Institute of Technology

Executive summary

The Melanesian Spearhead Group (MSG) is a sub-regional organization of the Melanesian countries in the Pacific region with its headquarters in Vanuatu. In 2012 MSG member States of Fiji, PNG, Solomon Islands and Vanuatu signed an MOU to facilitate the temporary movement of skilled MSG nationals within the MSG countries for the purposes of taking up employment, through an MSG Skilled Migration Scheme (SMS). All parties to the MOU are required to undertake necessary modifications to their domestic laws and regulations to provide for the smooth and progressive implementation of the SMS in each country. Currently, Fiji is the only party that has significantly modified its relevant legislation. The failure of three of the signatories to the MOU to do likewise has hindered the successful implementation of the SMS.

It is expected the SMS will be subsumed in a MSG Trade Agreement (MSGTA). The key features of the SMS are expected to remain although the agreement would raise the level from that of an MOU.

The MSG secretariat has requested assistance to work with the Governments of Fiji, Papua New Guinea, Solomon Islands and Vanuatu to amend their domestic legislations on immigration and labour (and other related legislation and policy) and to facilitate improved labour mobility within MSG member States.

The methodology for the assessment comprised a literature review on labour mobility, meetings and or in depth interviews with stakeholders in Vanuatu and a questionnaire which was sent to principal stakeholders in other MSG countries. There was limited time to obtain information from stakeholders outside of Vanuatu and a general lack of data on the issue of labour mobility with MSG countries. Details of literature reviewed is provided at Annex 1, key stakeholders are detailed in Annex 3 and Non State Actors in Annex 4.

The description of the current state in Section 3.1 provides both a general country specific views. Feedback regarding the Technical Assistance Fiche (TAF) discusses at Section 3.4 updates the views of the MSG Secretariat who have sought assistance, including in addition to developing draft or template legislation, their desire to establish an e portal for applications and also to link employers with vacancies and applicants. The MSG Secretariat also raised the issue of an MSG Travel Card, this issue seems to be driven principally by the fact that MSG nationals can travel to all other MSG countries other than PNG for short visits for tourism and business and it would seem more easily solved through negotiating reciprocal arrangements. It is proposed that any assistance including a person with legal drafting experience and include both regional workshops and visits to each MSG country. Fiji's legislation is a potential model, an alternative could also be the Caribbean Community's Skilled Migration Scheme.

There has been little or no use of the SMS to date, not least due to the fact that apart from Fiji if a person is seeking to enter an MSG country through the SMS they will add a layer of complexity to their application compared to simply going through normal channels. There is a low level of awareness regarding the SMS, information available from official website apart from the MSG Secretariat is limited or non-existent.

There is movement of MSG nationals within the region to take up skilled employment, however even this appears to be at relatively low levels. Factors affecting this include, traditional low levels of emigration from MSG countries, Fiji excepted, small pools of skilled workers with little or no

surplus to domestic demand, competition from countries with longer histories and more advanced networks in sending skilled workers overseas, costs of importing MSG workers relative to those from other countries and concerns that incoming workers could displace local workers. These factors are also risks to the successful implementation of an MSG labour mobility program even if all MSG countries introduce supporting legislation.

All MSG countries have legislation governing the entry of people for employment and have identified agencies to assess qualifications and skills. There is generally provision for relevant Ministers to waive work permit and in most cases entry permits or visas through declaration of eligible persons as a class in a gazette notice or specifying in the relevant Act. Fiji has introduced separate legislation which subordinates labour and immigration legislation and directs the issue of entry permit and any occupational license or registration required.

The objective of assistance would be the implementation of legislation facilitating the mobility of MSG nationals for skilled employment throughout the region. The success of any assistance provided can be initially be measured by considering:

- Have all MSG countries have enacted legislation to support the SMS.
- The awareness of the provisions of the SMS within implementing agencies and other stakeholders.
- Is information available from the MSG Secretariat's and MSG country implementing agency websites in respect of the SMS up to date and complete.

1. Introduction and background

The Melanesian Spearhead Group (MSG) is a sub-regional organization of the Melanesian countries in the Pacific region with its headquarters in Vanuatu. The Skilled Movement Scheme (SMS) is governed by the Memorandum of Understanding that was signed between MSG members States of Fiji, PNG, Solomon Islands and Vanuatu that came into force on 30th September 2012. The objective of the SMS is to facilitate the temporary movement of skilled MSG nationals within the MSG countries for the purposes of taking up employment without compromising national laws and policies on health and safety, minimum working conditions and border requirements. All parties to the MOU are required to undertake necessary modifications to their domestic laws and regulations to waive visa and work permit requirements to provide for the smooth and progressive implementation of the SMS in each country.

Access to employment under the scheme is based on skilled professions that Members have offered in their List of Occupations contained in the Schedules, which is in Annex 1 of the MOU. Qualifications and minimum levels of experience and maximum duration of stay can be specified for each occupation. Those occupations not in the list may be considered on the discretion of Members based on shortages in those professions and/or where they mutually agree to open up. This SMS is not intended to be open to the unskilled sector where there are already surplus local workers but this will also be at the discretion of Members, where unforeseen shortages may occur.

To access the SMS, MSG nationals will need to first be offered a contract to work in another MSG SMS party. The applicant will be required to fill in the MSG SMS Application Form together with

other required documents and submit to the Department of Labour in the other SMS party. Nationals of the MSG countries seeking employment in other MSG countries under the SMS will only travel to the other party to take up employment once approval of an application is granted by the receiving country including screening and subsequent contractual arrangements between the employer and the worker by the receiving country in accordance with the procedural requirements set out in the MOU.

The scheme is capped at a total quota of 400 people per Member country. This is a minimum quota and Members may exercise discretion above this quota depending on demand. The quota can therefore be renegotiated depending on each Members' shortages over a period of time.

The MOU provides for the development of common standards and recognition of qualifications across the MSG SMS parties to facilitate movement of skilled nationals. There is ongoing work in this area based on the Mutual Recognition Arrangement (MRA) framework which is in Annex 3 of the MOU.

Currently, Fiji is the only party that has significantly modified its relevant legislation. The failure of three of the signatories to the MOU to do likewise has hindered the successful implementation of the SMS.

A description of the Fiji model is in Section 3.1.

Feedback from the MSG Secretariat is that the SMS will be subsumed in an expected MSGTA. There is sensitivity regarding release of detail likely to be agreed when MSG leaders meet as expected in Honiara on 14 July 2014 but in essence the key features of the SMS remain although the country quotas of 400 have been removed and replaced with the option of having numerical limits on occupations or classes of occupations and the agreement would raise the level from that of an MOU. This is discussed further in Section 3.4.

The support requested through the ACP-EU Migration Action would be a worthwhile intervention to assist the work of the MSG secretariat and the Governments of Fiji, Papua New Guinea, Solomon Islands and Vanuatu to amend their domestic legislations on immigration and labour (and other related legislation and policy) to facilitate improved labour mobility within MSG member States.

2. Baseline assessment methodology

The methodology for the assessment comprised a literature review on labour mobility, meetings and or in depth interviews with stakeholders in Vanuatu and a questionnaire which was sent to principal stakeholders in other MSG countries. Stakeholders in Vanuatu were selected in consultation with Action staff in country, details of key external stakeholders were verified with the MSG Secretariat. Details of the literature reviewed are in Annex 1, key informants are at Annex 3 and the questionnaire is at Annex 2.

There was limited time to obtain information from stakeholders outside of Vanuatu and a general lack of data on the issue of labour mobility within MSG countries. There was only a single response to the questionnaire sent to key stakeholders outside Vanuatu, this was in spite of follow up contact by the Consultant and MSG Secretariat.

Entry and exit interviews were conducted with the MSG Secretariat who have sought the intervention.

3. Assessment results

3.1 State of affairs

General Information

To access the SMS, MSG nationals must first be offered a contract to work in another MSG country. the applicant will be required to fill in the MSG SMS Application Form together with other required documents and submit to the Department of Labour in the MSG country they wish to work in. Nationals of the MSG countries seeking employment in other MSG countries under the SMS will only travel to the other country to take up employment once approval of an application is granted by the receiving country including screening and subsequent contractual arrangements between the employer and the worker by the receiving country in accordance with the procedural requirements set out in the MOU. The scheme is capped at a total quota of 400 people per Member country. This is a minimum quota and Members may exercise discretion above this quota depending on demand. The quota can therefore be renegotiated depending on each Members' shortages over a period of time. ¹

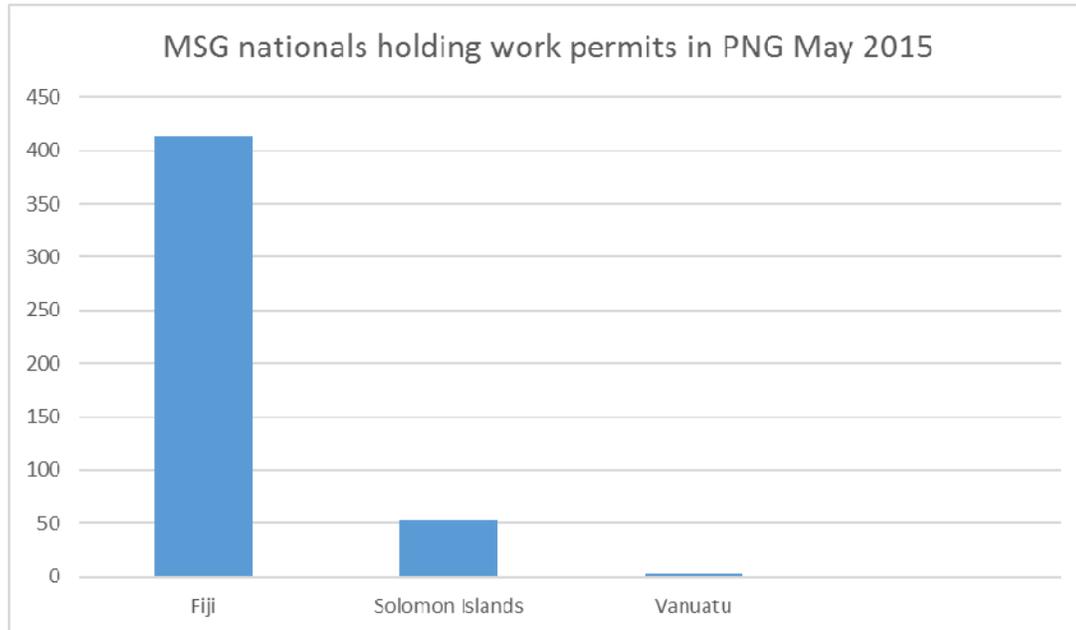
Currently applying through the SMS to enter most MSG countries actually adds a layer of complexity to simply following the process required by any person to get a visa and work permit. Even in the case of Fiji who appear to have made changes to legislation to reflect the SMS, the absence of any reflection (even in not referencing the relevant Act) of this in information to would be applicants on the Fiji Immigration Department website indicates that there has not been any real change at this point. ²

¹<http://www.msgsec.info/index.php/publicationsdocuments-a-downloads/msg-skills-movement-scheme>

²<http://www.fiji.gov.fj/getattachment/58e2f64d-2ca3-462f-842d-a1689bf4c2f0/Registration-of-Skilled-Professionals-Act-2016.aspx>

<http://www.immigration.gov.fj/travel-options/work-in-fiji>

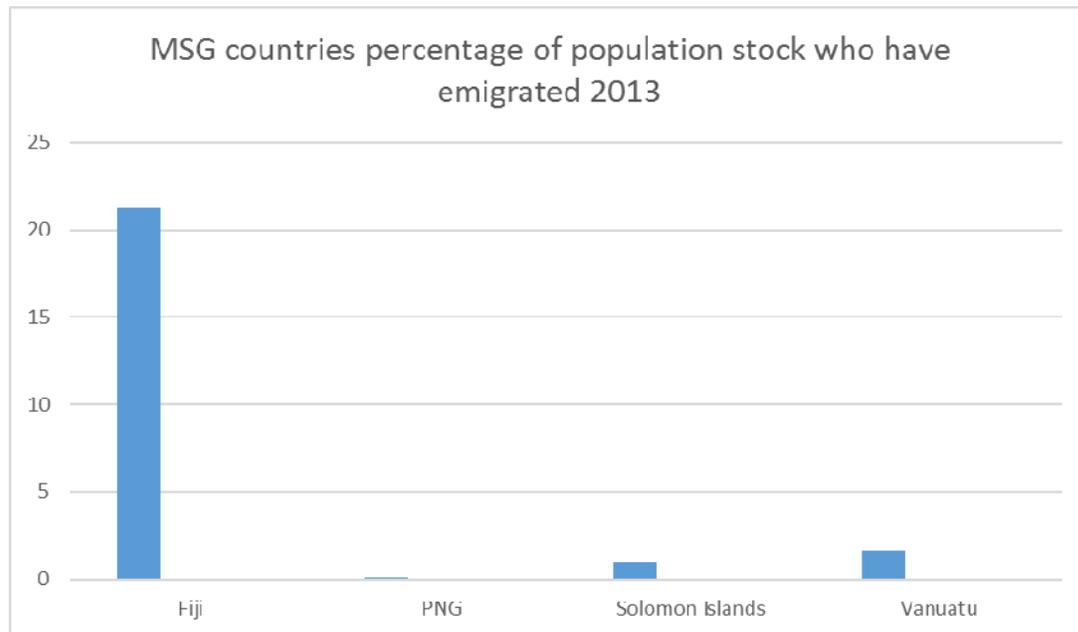
There has been very little or no use of the SMS to date, it was not possible to get any accurate data but anecdotal information suggests numbers may not exceed single figures, indeed the MSG Secretariat noted that had not seen a single application form. This does not mean skilled workers from MSG countries are not mobile within the region. For example:



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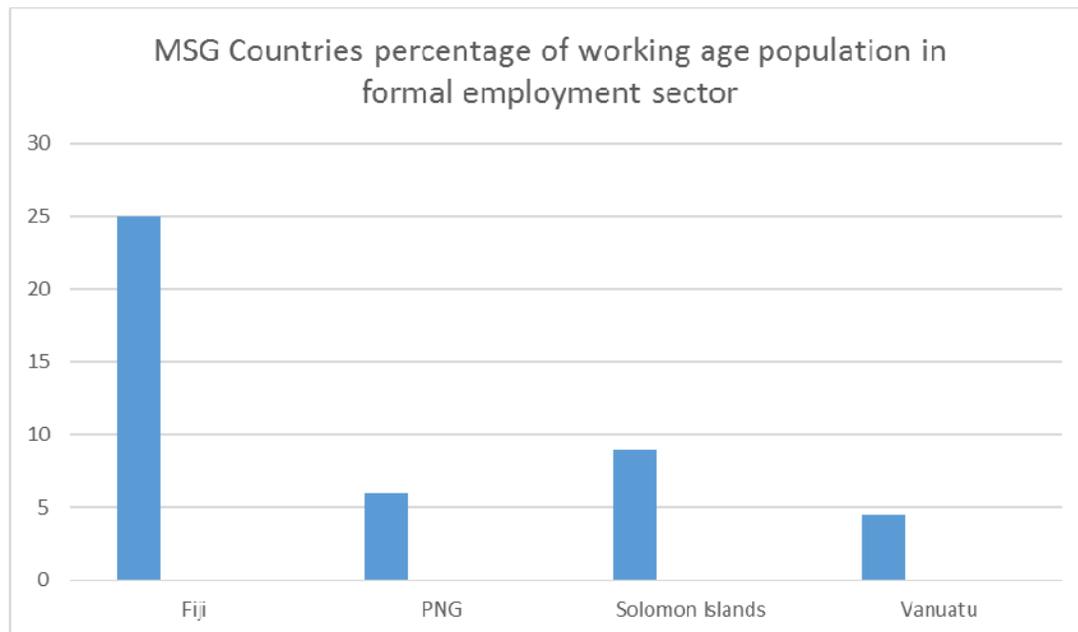
3 Voight Graf, C 2015 Why are so few Pacific Islanders working in PNG, DEVPOLICYBLOG, Development Policy Centre, ANU College of Asia and the Pacific, <http://devpolicy.org/why-are-so-few-pacific-islanders-working-in-png-20150923/>

Having said that, other than Fiji nationals of MSG countries have demonstrated little propensity to emigrate in recent years.



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Within the Pacific Island region there is an overall shortage of skilled and semi-skilled labour. Attempts to facilitate movement of workers under PICTA's TMNP have not been fruitful not least because TNMP is based on there being a surplus of skilled workers. Except for some limited areas this is not the case noting relatively low percentages of people working in formal sector economy.



4

4 Weber Bandung 2015 Journal of the Global South, Envisioning South-South relations in fields of environmental change and migration in the Pacific Islands – Past present and futures. <http://bandungjournal.springeropen.com/articles/10.1186/s40728-014-0009-z>

Literature available notes there is a lack of data of labour market needs and labour migration more generally between PICs. ⁵

Primary data obtained as part of this assessment did nothing to change this view.

All MSG countries other than the Solomon Islands have bodies who can assess competency. The South Pacific Board for Educational Assessment (SPBEA) and Pacific Association of Technical and Vocational Education and Training (PATVET) both of which are part of the Secretariat of the Pacific Community (SPC), based in Suva, Fiji could potentially provide a regional approach to the competency assessment.

Country Specific Information

Fiji

In February 2016 Fiji enacted the Registration of Skilled Professionals Act 2016. This Act established a Skilled Professionals Evaluation Committee (SPEC). The Committee is constituted by the permanent secretaries responsible for Industry and Trade (Chair), Civil Service, Employment, Finance and the Solicitor-General. As the power of the SPEC includes:

*“Issue directives to enable skilled professionals to enter, reside and work in Fiji,” and
“promote Fiji as a destination for skilled professionals”*

Immigration and to a lesser extent Foreign Affairs are strangely absent.

A person seeking to enter and work in Fiji and or requiring registration and or licensing to work in Fiji may make application, together with supporting information and pay the prescribed fee to the SPEC. The SPEC assesses the application and determines:

*“whether the individual is a skilled professional” and
“it is in the public interest for the applicant to be employed in Fiji as a skilled professional”
and
“approve or reject the application.”*

If the SPEC approves the application, it must issue a written directive

- a) *“to the Director of Immigration to issue to the applicant, within 2 days, a permit to enter, reside and work, reside and work or work in Fiji; and*
- b) *the relevant professional body, if any, to issue, upon payment of the relevant fee by the applicant, a certificate of registration or license or both, as the case may be”*

These directives must be complied with. The Ministry of Industry, Trade and Tourism is responsible for administering this Act. ⁶

⁵ ACP Observatory on Migration 2014 South-South Labour Mobility in The Pacific: An Overview, Pacific Dialogue Ltd, http://www.pacificdialogue.com.fj/images/pdf/South_South_labour_mobilit_PACIFIC_17Apr2014-1.pdf
Voight Graf, C 2015 Melanesians on the move, DEVPOLICYBLOG, Development Policy Centre, ANU College of Asia and the Pacific, <http://devpolicy.org/melanesians-on-the-move-20150202/>

⁶ Fiji, 11 February 2016, Registration of Skilled Professionals Act 2016, Act number 8 of 2016, <http://www.fiji.gov.fj/getattachment/58e2f64d-2ca3-462f-842d-a1689bf4c2f0/Registration-of-Skilled-Professionals-Act-2016.aspx>

Fiji, Ministry of Industry, Trade and Tourism, Application for Special Registration and check list. http://www.mit.gov.fj/images/2016/Application_Form.pdf, http://www.mit.gov.fj/images/Checklist_for_Application_for_Registration_of_Skilled_Professionals_final.pdf

Regulations and or guidelines relating to the Act have not been able to be identified to date. There is no reference to the MSG or SMS in the Act or supporting documentation identified but it is understood it is by this Act that Fiji would determine applications under the SMS. It should be noted that the MSG Secretariat understood that Fiji had amended their legislation in 2013, extensive searches of the legislation database could find no such legislation, requests from the MSG Secretariat and the consultant to Fiji for confirmation had not been answered at the date of writing. No data was available regarding the number of persons (MSG nationals or otherwise) approved for entry and work in Fiji under these arrangements.

Fiji has a quota of 400 people over 12 predominately professional occupations on its SMS Schedule of Occupations.

The Fiji Immigration Department makes no reference to the Registration of Skilled Professionals Act or the SMS in its web based information.⁷

Fiji has a National Employment Centre (NEC) established in 2009. People in Fiji seeking employment (irrespective of skill level) register with the NEC. The NEC approaches employers within Fiji and overseas seeking to facilitate employment of persons registered.

Fiji established the Fiji Government Foreign Employment Scheme (FORES) within the NEC in 2009, it commenced operating in 2013 (perhaps illustrating how long such schemes can take to implement). Workers were sought by the NEC for placement in employment in the United Arab Emirates and the NEC manages recruitment under RSE and SWP. The NEC has links to the SMS page of the MSG Secretariat on its webpage.⁸

Fiji has the Fiji Volunteer Scheme (FVS) where teachers and nurses in Fiji near too or past retirement age (55) are encouraged to take up employment opportunities in other FICs. Participants receive remuneration in fees and or kind. Vanuatu has received teachers under this program.⁹

The pool of skilled workers aged 55 and over is a potential significant regional resource in the supply of skilled workers for other MSG countries.

Fiji Higher Education Commission has responsibility for assessment of overseas qualifications.¹⁰

The Fiji National University also administer a National Trade Test .¹¹

⁷ <http://www.immigration.gov.fj/travel-options/work-in-fiji>

⁸ <http://www.nec.gov.fj/fores.html>, <http://www.fiji.gov.fj/Media-Center/Speeches/Hon-Minister-Jone-Usumate---Speech-at-the-FOREIGN-.aspx>

⁹ <http://pacificidf.org/fiji-signs-voluteer-scheme-agreement-with-vanuatu/>

¹⁰ <http://www.fhec.org.fj/index.php/en/about-us-fhec/organisation-structure/section-abstract/section-abstract-professional-services>

¹¹ <http://www.fnu.ac.fj/ntpc/departments/national-trade-test>

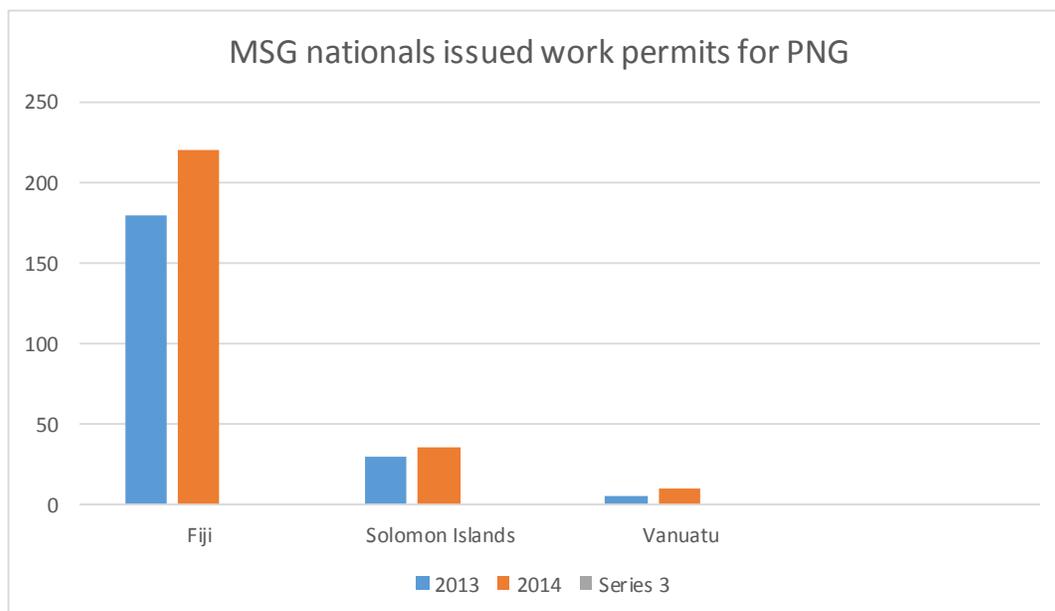
Papua New Guinea

PNG has made no provision in relevant legislation to facilitate the SMS. If a person wishes to enter PNG for work and do so under the SMS, they must apply for SMS in addition to the normal requirement for a visa and work permit. Work Permits are the responsibility of the Department of Labour and Industrial Relations, visas and entry permits the Department of Immigration, the relevant legislation provide for non PNG citizens to be exempted from the requirement to hold a work or entry permit via inclusion in a Gazette Notice.¹²

PNG has a quota of 400 people over 48 professional, trade and technical occupations on its SMS Schedule of Occupations.

Data available indicates there have been no people approved to enter PNG under the SMS.¹³

MSG nationals do go to PNG on work permits as the table below shows.



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PNG is the only MSG country requiring other MSG nationals obtain a visa prior to travel for Business or Tourism. Officials are exempted in some circumstances. ¹⁵

The Department of Labour and Industrial Relations currently manages labour migration agreements, including SMS, New Zealand's RSE scheme, and Australia's Seasonal Worker Program (SWP).

The National Training Council the National Apprenticeship and Trade Training Board and the TVET Division of the Department of education have responsibility for assessment of overseas trade and some technical occupations.

¹²[http://www.paclii.org/cgi-](http://www.paclii.org/cgi-bin/sinodisp/pg/legis/consol_act/eona2007305/eona2007305.html?stem=&synonyms=&query=work%20permit)

[bin/sinodisp/pg/legis/consol_act/eona2007305/eona2007305.html?stem=&synonyms=&query=work%20permit](http://www.paclii.org/cgi-bin/sinodisp/pg/legis/consol_act/ma1978118/ma1978118.html?stem=&synonyms=&query=Migration)

http://www.paclii.org/cgi-bin/sinodisp/pg/legis/consol_act/ma1978118/ma1978118.html?stem=&synonyms=&query=Migration

<http://pngembassy.org/migration.html>

¹³ ILO Compendium of legislation and institutional arrangements in Pacific Island countries 2014 (Bedford B, Burson B, Bedford C)

http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-suva/documents/publication/wcms_304002.pdf

¹⁴ <http://devpolicy.org/pdf/blog/Voigt-Graf-Construction-in-PNG-PAILS-Forum-2016.pdf>

¹⁵ <http://www.immigration.gov.pg/>

Solomon Islands

Solomon Islands has made no provision in relevant legislation to facilitate the SMS. If a person wishes to enter Solomon Islands for work and do so under the SMS, they must apply for SMS in addition to the normal requirement for a visa and work permit. MSG nationals and many others can travel to Solomon Islands for tourism or business purposes without prior approval and be granted an entry permit for 30 days. Work Permits and visas are the responsibility of the Ministry of Commerce, Industries, Labour and Immigration, the relevant legislation provides for non-Solomon Island citizens persons to be exempted from the requirement to hold a visa via inclusion in a Gazette Notice but no exemptions to holding a work permit work or entry permit are identified.¹⁶

In spite of some apparent enthusiasm there is no data to indicate any person has entered Solomon Islands under the SMS.

The Deputy Prime Minister for the Solomon Islands made reference to increasing opportunities for Solomon Islanders in Papua New Guinea in the Statement by the Solomon Islands to the 68th session of General Assembly of the United Nations on 30 September 2013 when he observed:

“New Guinea continues to provide opportunities for young Solomon Islanders in terms of employment and scholarships. Visa free work schemes were launched and trade relations continue to grow to new heights.”

In the East-West Centre’s daily ‘Pacific Islands Report’ on 21 October, 2013, an article by Reginald Chandar on the establishment of a Fiji-Solomons Business Council noted that:

“There are around 400 Fijians living in the Solomon Islands apart from students and this is expected to grow even further as the Melanesian Spearhead Group Skilled Labour Movement (sic) comes into implementation

Solomon Islands has a quota of 400 people over 10 predominately professional and technical occupations on its SMS Schedule of Occupations.

Currently the Solomon Islands does not have a national entity overseeing recognition of qualifications.

The Ministry of Education and Human Resource Development is currently working towards the establishment of the Solomon Islands Qualifications Authority. A Qualifications Framework has been drafted and awaiting setting up of the Authority in finalizing and implementing.

¹⁶ http://www.paclii.org/cgi-bin/sinodisp/sb/legis/consol_act/ia84/ia84.html?stem=&synonyms=&query=labour
http://www.paclii.org/cgi-bin/sinodisp/sb/legis/num_act/ia2012138/ia2012138.html?stem=&synonyms=&query=immigration
<http://www.commerce.gov.sb/Divisions/Immigrationnew/index.html>

Vanuatu

Vanuatu has made no provision in relevant legislation to facilitate the SMS. If a person wishes to enter Vanuatu for work and do so under the SMS, they must apply for SMS in addition to the normal requirement for a visa and work permit. MSG nationals and many others can travel to Vanuatu for tourism or business purposes without prior approval and be granted an entry visa for 30 days. Work Permits are the Department of Labour and visas the Department of Immigration. There is provision to exempt a non-Vanuatu citizen from holding a work permit but not the need to hold a visa after entry.

The entry of Foreign Investors is facilitated through the Vanuatu Foreign Investment Promotion Act which gives the Vanuatu Investment Promotion Authority (VIPA) the power to determine someone is a Foreign Investor, the Department of Labour is directed to issue a work permit and the Department of Immigration to decide a visa application in 5 days to anyone VIPA determines is a Foreign Investor, the Labour (Work Permits) Act 2006 and Immigration Act 2010 respectively. This is not dissimilar to how the Registration of Skilled Professionals Act 2016 in Fiji directs “subordinate” agencies to issue Immigration permits and occupational registration and or licensing to “skilled professionals”¹⁷

There is no data to indicate people have entered Vanuatu under SMS although the use of volunteers from Fiji has been widely reported.

“In December 2013 it was reported that Vanuatu had become the first MSG country to sign a volunteer service agreement that will see the engagement of experienced teachers from Fiji to work in VanuatuOutside of the reciprocal agreements relating to migration of small numbers of skilled workers between countries that are part of the Melanesian Spearhead Group and the seasonal work schemes in Australia and New Zealand, there are no formal labour migration programmes for ni-Vanuatu citizens. Ni-Vanuatu seafarers work on inter-island shipping vessels that operate between Vanuatu, Fiji and the Solomon Islands but there is no seafarer training programme similar to the ones found in Kiribati and Tuvalu. There was quite considerable labour migration to New Caledonia during the colonial era, but this movement has slowed in recent years at least in terms of formal labour recruiting arrangements.”¹⁸

The Department of Trade and Department of Immigration advised that in their view the Department of Labour was responsible for implementing SMS. The Department of Labour whilst agreeing that the decision on work permits or similar would be theirs felt that the MSG Secretariat must play a coordinating role.

It should be noted that some key informants also advised of nurses being recruited from the Solomon Islands but some were unaware of the SMS in general and did not know if these nurses came under SMS, we were advised by the Department of Labour that as these nurses (around 100) were employed within the Public service, they were exempt from the requirement to hold work permits and were granted visas after arrival.

¹⁷ http://www.paclii.org/cgi-bin/sinodisp/vu/legis/consol_act/lpa240/lpa240.html?stem=&synonyms=&query=labour

http://www.paclii.org/cgi-bin/sinodisp/vu/legis/num_act/ia2010138/ia2010138.html?stem=&synonyms=&query=immigration

[http://www.paclii.org/cgi-](http://www.paclii.org/cgi-bin/sinodisp/vu/legis/consol_act/vfipa438/vfipa438.html?stem=&synonyms=&query=vanuatu%20investment%20promotion%20authority)

[bin/sinodisp/vu/legis/consol_act/vfipa438/vfipa438.html?stem=&synonyms=&query=vanuatu%20investment%20promotion%20authority](http://www.paclii.org/cgi-bin/sinodisp/vu/legis/consol_act/vfipa438/vfipa438.html?stem=&synonyms=&query=vanuatu%20investment%20promotion%20authority)

¹⁸ http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-suva/documents/publication/wcms_304002.pdf

Some key informants indicated there is considerable community resistance to the "import" of foreign workers, whether from MSG countries or elsewhere. It was speculated that this may be why obtaining work permits for foreign skilled workers was very time consuming. They advised there was a real need for a quicker process for short term entry of skilled specialists who often sought to provide training, repair and install plant and equipment and provide similar services but who faced delays similar to people being brought in for longer term skilled employment.

Vanuatu has a quota of 400 people over 25 professional and technical occupations on its SMS Schedule of Occupations.

The Department of Labour and Industrial Relations currently manages labour migration agreements, including SMS, New Zealand's RSE scheme, and Australia's Seasonal Worker Program (SWP). Graduates from the Asia Pacific Training College (APTC) Hospitality training programs have been able to access SWP in the Accommodation sector, which includes some arguably skilled occupations.

Although none of the relevant informants interviewed had reliable data they all indicated Vanuatu had a skills shortage across occupations in which they delivered training or sought employees

Vanuatu Qualifications Authority (VQA) leads implementation of Vanuatu National Qualifications Framework (VNQF) and the Vanuatu Quality Assurance Framework, the national framework is aligned with the Pacific Quality Framework and training institutions are required to be compliant with the VNQF by 1 January 2017. VQA is responsible for oversight of assessment of qualifications.

Website Wok I Kik exists advertising jobs in Vanuatu and Solomon Islands, MSG Secretariat believes this could be a platform for wider advertising of available jobs under SMS or similar. On 22 June there were 45 vacancies current on the site, the majority being skilled work.

3.2 Key baseline indicators

The key indicator that technical assistance has been successful would be that people are moving within the MSG countries under the SMS or MFTA and doing so in a way where barriers are minimized. It is likely that this situation will not exist within the current time frame for assistance and so key indicators more within the control of the provider of the assistance are suggested.

- All MSG countries have enacted legislation to support the SMS/MFTA
- The awareness of the provisions of the SMS/MFTA within implementing agencies and other stakeholders.
- Information available from the MSG Secretariat's and MSG country implementing agency websites in respect of the SMS/MFTA is up to date and complete.

3.3 Stakeholders mapping and analysis

A list of key informants at Annex 3.

The list represents the main players in the MSG Secretariat, MSG Government agencies with responsibilities relating to labour mobility and a sample of people in the education and training sector and business. Meetings were held with those in Port Vila and key MSG Government informants outside of Vanuatu were canvassed with the questionnaire as reported at Annex 2.

A list of non-State actors is at Annex 4. This group were interviewed to gather information regarding the awareness of SMS, experience in obtaining skilled labour from other MSG countries, capacity of training institutions to meet local/regional demand for skilled workers, their role in accreditation of skilled workers and to obtain information regarding labour market outcomes for newly trained local workers in Vanuatu in the local and regional labour markets.

3.4 Feedback regarding the Technical Assistance Fiche

The nature of the TA described in the Terms of Reference and the Technical Assistance Fiche indicate an open border arrangement with MSG countries along the Schengen model is sought, feedback provided by the MSG Secretariat who have requested the TA, indicates that in the short to medium term something more limited may have to first be implemented as a pathway to a real open border within the MSG community.

The MSG Secretariat advised that the SMS would be subsumed into an MSGTA, which is expected to be signed if MSG leaders meet as planned in Honiara on 14 July 2016. The MSGTA retains virtually all aspects of the SMS with the exception of total country quotas of 400, which have been replaced with the option of limits on specified occupations or classes of occupations. On documents provided no limits are currently planned.

The current request for assistance is to assist Papua New Guinea, Solomon Islands and Vanuatu to **draft legislation that follows the Fiji or similar model that would streamline the visa and permit application and approval process to facilitate the movement** of skilled labour for extended temporary stay. The MSG Secretariat has an objective of the TA providing draft or a template for legislation. The MSG Secretariat also envisages an e Portal whereby an applicant having been selected by an employer would make application in a e form, this would be accessed by the relevant skills assessing body in their home country and by visa and work permit authorities in the receiving country who following certification of the applicant would provide approval. In respect of this the MSG Secretariat advised work is proceeding on a website that would list available vacancies, would be applicants and investment opportunities in MSG countries, this is scheduled for completion in September 2016. **The MSG Secretariat has requested assistance in developing an application portal**, noting they need to review the current paper application form and would appreciate expert feedback on this. If the TA (or a future TA) did assist in development of an e Portal, assistance in developing related work flows and processes would be required.

The MSG have considered if an application process could be removed or at least streamlined with the use of a **Mutual Recognition Framework for qualifications**, skills and experience, as is provided for in the MOU and draft MSGTA but any practical movement on this issue is likely beyond the scope of the current TA timeframe.

The MSG Secretariat wondered if the MSG **Travel Card** could be within the scope of the TA, noting PNG and Singapore have offered assistance in this but funding was uncertain. It was noted that the APEC Travel Card (the model for the MSG) was to facilitate short term temporary movement for business purposes rather than longer temporary stay for work and this was generally available to MSG nationals travelling within the group, excepting travel to PNG. The benefits of a travel card in a small regional grouping like the MSG who already have facilitated travel throughout most of the group are undoubtedly overstated. The real issue here is reciprocity. There may be scope within the TA to ensure key officials are across the real issue and obvious solution.

The importance of the TA consultant visiting and consulting in all MSG countries was stressed by key informants. A **workshop with key stakeholders from the agencies who would own any legislation is**

recommended in the early stages of the TA to ensure all are across the objectives of the TA and understand their role and to fill any gaps in information remaining after the Baseline Assessment.

It is recommended a workshop with key participants take place late in the consultancy to be seek comment on proposed draft legislation/template but also to develop best/common practices in the assessment of applications made, to maximize benefit from any changes to legislation and seek to avoid replacing processes/requirements current under present legislation with those that are just as onerous and time consuming for applicants. It is recommended that the technical assistance include a consultant with drafting skills, a familiarity with the Fiji or CARICOM free movement legislation or processes would also be useful in addition to an understanding of the Schengen model. Beyond the provision of a draft/template legislation and hopefully the passing of such legislation by individual MSG jurisdictions it is considered likely that implementing agencies in MSG countries would require further assistance to develop working policy and guidelines.

It is assumed relevant Ministers will seek to have any legislation developed as part of the TA passed through their respective parliaments, there is of course a significant risk that competing legislative priorities or domestic political considerations such as concern on the import of foreign workers could impact on this. To mitigate this, it is recommended a consultant brief the Ministers responsible for the legislation.

Carmen Voight Graf put forward the following reasons why there were so few Pacific Islanders working in PNG¹⁹:

- **Movement under general work permit policy** and no movement under the MSG SMS or the PICTA
- **Competition from workers from all other countries**; Filipinos in particular have gained an excellent reputation among employers in PNG as well qualified, hard-working and not complaining;
- **Foreign-owned companies sometimes recruit workers from country where headquarters are located**;
- **Recruitment generally done through (local or foreign-based) recruitment agencies** with links to selected countries overseas;
- **Pacific Islanders have not developed networks and reputation** in PNG; Lack of Pacific Qualifications Framework;
- **Cost of travel**: Flights from Port Moresby to Manila are cheaper than to any Pacific Country.

These reasons to a greater or lesser extent apply throughout the MSG countries and can be considered **risks to the successful implementation of a labour mobility scheme**.

¹⁹ Voight Graf, C 2016 Opportunities for Pacific Islanders in PNG's Construction Industry, National Research Institute PNG, PAILS Forum Pt Vila 19-21 April 2016. <http://devpolicy.org/pdf/blog/Voigt-Graf-Construction-in-PNG-PAILS-Forum-2016.pdf>

Added to these could be:

- Community and political pressure against the “import of foreign workers”
- Limited administrative capacity in agencies responsible for implementation.
- Awareness in the community is low and hence applicants do not chose to participate in the scheme.
- Skilled workers from MSG countries will in some cases have other options in terms of where they can move to work and will choose the destination they assess as providing the best overall outcome for them.
- The process in applying under the scheme is more complex and time consuming that applying in the “normal” manner.

Some of these risks can be mitigated by the TA engaging stakeholders and assisting in developing efficient processes and information material and strategies to publicize the SMS. It is important though that any promotion of SMS pathways be backed up by the existence of an improved product.

As the MSG countries are not yet ready to implement an open border in the Schengen model, perhaps in the short to medium term as a stepping stone another model could be Caribbean Community’s Skilled Migration Scheme implemented through the Caribbean Community Single Market and Economy (CSME). A summary is below, a detailed description of Free Movement in CARICOM countries is available at *Secretariat, 2015, CARICOM Single Market and Economy, Free Movement – Travel and Work*

http://www.criti.info/wp-content/uploads/2015/12/en_csm-single-market-economy-free-movement.pdf

CARICOM has free movement for short term entry for all CARICOM nationals. In terms of free movement to live and work the CSME has abolished work permits for classes of CARICOM nationals including:

- University graduates
- Tertiary-trained teachers
- Tertiary-trained nurses.
- Media workers
- Artistes
- Musicians
- Sportspersons
- Managers
- Technical and supervisory staff attached to a company
- Self-employed persons / service providers.

Additionally, the spouses and immediate dependent family members of these nationals are exempt from work permit requirements.

It should be noted some CARICOM members have not exempted all classes from the need to hold a work permit.

Movement is facilitated by use of a CARICOM Certificate of Recognition of CARICOM Skills Qualification also known as CARICOM Skills Certificate (CSC). To obtain a CSC a person in one of the agreed classes applies to a Free Movement Committee (FMC). The FMC is convened by a competent authority, which vary from state to state but are generally Labour, Immigration or Caribbean Affairs. The application can be made to any CARICOM country irrespective of where the person resides or wishes to reside. There is no requirement to have already arranged employment. All CARICOM states have identified accreditation authorities who verify qualifications and are represented on the FMCs.

If satisfied that an applicant is a CARICOM national and is in one of the relevant classes and not otherwise precluded from being granted a certificate, the FMC will issue a CSC.

The holder of a CSC can travel to any CARICOM country and will be granted entry for 6 months with right to work and access benefits unless entry is refused under character or similar provisions. Within the 6 months the application for a CSC is then considered by the FMC in the receiving country if they did not already issue it and if satisfied the person is in an approved class a new CSC is issued and the holder is granted indefinite entry. If the CSC was initially issued by the receiving country the person is granted indefinite entry on their initial arrival.

For the short term provision of services, a similar process applies but the worker obtains certification in their home country and is granted an initial stay of 6 months in any CARICOM country they arrive in.

Annex 1 – List of literature reviewed

- ACP Observatory on Migration 2014 South-South Labour Mobility in The Pacific: An Overview, Pacific Dialogue Ltd, http://www.pacificdialogue.com.fj/images/pdf/South_South_labour_mobilit_PACIFIC_17Apr_2014-1.pdf
- CARICOM Secretariat, 2015, CARICOM Single Market and Economy, Free Movement – Travel and Work http://www.criti.info/wp-content/uploads/2015/12/en_csm-single-market-economy-free-movement.pdf
- Chapman, C., Boodoosingh, R., The CSME and Free Movement of People, Trinidad Guardian and the Law Association, http://www.seiell.com/wordpress/wp-content/uploads/2009/12/The_CSME_and_Free_Movement_of_People_amended_article_11.pdf
- Fiji, 11 February 2016, Registration of Skilled Professionals Act 2016, Act number 8 of 2016, <http://www.fiji.gov.fj/getattachment/58e2f64d-2ca3-462f-842d-a1689bf4c2f0/Registration-of-Skilled-Professionals-Act-2016.aspx>
- Fiji, Ministry of Industry, Trade and Tourism, Application for Special Registration and check list. http://www.mit.gov.fj/images/2016/Application_Form.pdf
http://www.mit.gov.fj/images/Checklist_for_Application_for_Registration_of_Skilled_Profes_sionals_final.pdf
- Fiji, National Employment Centre, Foreign Employment Service <http://www.nec.gov.fj/fores.html>, <http://www.fiji.gov.fj/Media-Center/Speeches/Hon-Minister-Jone-Usumate---Speech-at-the-FOREIGN-.aspx>
- Fiji, Work in Fiji, Fiji Department of Immigration web information. <http://www.immigration.gov.fj/travel-options/work-in-fiji>
- Fraser, J 2014 The changing face of Caribbean migration, Inter Press Service News Agency, <http://www.ipsnews.net/2014/09/the-changing-face-of-caribbean-migration/>
- ILO Compendium of legislation and institutional arrangements in Pacific Island countries 2014 (Bedford B, Burson B, Bedford C) http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-suva/documents/publication/wcms_304002.pdf
- Joseph, O, IMPLEMENTATION OF THE REGIME FOR THE FREE MOVEMENT OF CARICOM NATIONALS: ISSUES AND CHALLENGES, CSME, <http://unpan1.un.org/intradoc/groups/public/documents/caricad/unpan043404.pdf>
- Melanesian Spearhead Group, 2013 Skills Movement Scheme, Information Sheet, List of approved occupations application form, <http://www.msgsec.info/index.php/publicationsdocuments-a-downloads/msg-skills-movement-scheme>

- Melanesian Spearhead Group Travel card to Facilitate Movement of Professionals and Business People in MSG Region, <http://www.msgsec.info/index.php/publicationsdocuments-a-downloads/press-release/758-24-feb-2015-travel-card-to-facilitate-movement-of-professionals-and-business-people-in-msg-region->
- Pacific Island Development Forum, 12 December 2013, Fiji Signs Volunteer Agreement with Vanuatu, <http://pacificidf.org/fiji-signs-volunteer-scheme-agreement-with-vanuatu/>
- Pacific Islands Legal Information Institute, Pacific Legislation Database, available here <http://www.paclii.org/>
- Pacific Islands Report 2016, MSG Ministers Approve New Trade Agreement, <http://www.pireport.org/articles/2016/05/26/msg-trade-ministers-approve-new-trade-agreement>
- PNG, entry requirements, available here <http://pngembassy.org/migration.html>, <http://www.immigration.gov.pg/>
- Radio New Zealand 30 May 2016, Melanesian Free Trade Agreement to start in 2017. <http://www.radionz.co.nz/international/programmes/datelinepacific/audio/201802599/melanesian-free-trade-agreement-to-start-in-2017>
- Solomon Islands, entry requirements available here http://www.commerce.gov.sb/Divisions/Immigration/Residing_in_SI.htm
- Tabaiwalu, P., M. Capper, A. Gariepy, H. rohorua, J. Browne and C. Preville, 2009 *Study on the Pacific Island Countries Trade Agreement (PICTA) temporary movement of natural persons (TMNP) scheme. Stage 1: Draft conceptual framework on the PICTA TMNP scheme. Report to the Pacific Islands Forum Secretariat. Draft. Eco-Consult Pacific, Suva, Fiji Islands.* <https://www.yumpu.com/en/document/view/20938252/study-on-the-pacific-island-countries-trade-agreement>
- Trinidad and Tobago, 1996, Immigration Caribbean Community Skilled Nationals Act 1996, Act 26 of 1996. <http://www.immigration.gov.tt/Portals/0/Documents/Act%2026%20of%201996.pdf>
- Vanuatu Entry Requirements, available here <https://governmentofvanuatu.gov.vu/202-immigration-entry-visa-visitor-visa-form.html>
- Voight Graf, C 2015 Melanesians on the move, DEVPOLICYBLOG, Development Policy Centre, ANU College of Asia and the Pacific, <http://devpolicy.org/melanesians-on-the-move-20150202/>
- Voight Graf, C 2015 Why are so few Pacific Islanders working in PNG, DEVPOLICYBLOG, Development Policy Centre, ANU College of Asia and the Pacific, <http://devpolicy.org/why-are-so-few-pacific-islanders-working-in-png-20150923/>

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- Weber Bandung 2015 Journal of the Global South, Envisioning South-South relations in fields of environmental change and migration in the Pacific Islands – Past present and futures. <http://bandungjournal.springeropen.com/articles/10.1186/s40728-014-0009-z>
- Wok I Kik, Jobs website for Vanuatu and Solomon Islands, <http://vanuatujobalert.blogspot.com/>

Annex 2 – Questionnaires

After consultation with the MSG Secretariat to verify contact points and clear questions, the official contact points as per the MSG SMS Information Page were asked the questions below. Those in Vanuatu were asked in person during wider ranging interviews, those in other countries by email.

- How many people from MSG countries have been approved for entry or have entered (insert country) under the MSG Skilled Migration Scheme (SMS) between 1 July 2013 and 30 June 2015? (or an alternate period if this data is not specifically available). If possible any breakdown by nationality and or occupation would be appreciated.
- What barriers do you think exist to people entering (insert country) under the MSG SMS/Melanesian Free Trade Agreement (MFTA)?
- What assistance would your agency require to overcome/mitigate these barriers?
- What is your agency's role in the approval of people entering (insert country) under the MSG SMS? A copy of any relevant legislation and guidelines or links to same would be appreciated.
- In (insert country) what agency is responsible for assessment or recognition of professional, vocational or other qualifications and skills under the MSG SMS.?

Responses provided were incorporated into the report. Of the 10 email questionnaires sent, one answered response was received (from the Solomon Islands Ministry of Foreign Affairs and External Trade), in spite of follow up through the MSG Secretariat and repeating requests through alternative contacts. It is possible some responses may be received after the completion of this report.

Annex 3 – List of key informants

Name	Position	Organisation	Contact details	Date of the meeting/ call held	Comments on contacts made
John Licht	Program Manager Trade & Investment	MSG Secretariat	j.licht@msg.int ph: +67827791 x108 mob: +678 5589693/7789693 PMB 9105 Independence Garden Pt Vila Vanuatu	22 June 2016 28 June 2016	Principal contact in terms of delivering Technical Assistance. Contact after 14 July 2016 for update following expected special MSG Leaders Meeting on this date.
Dr Lesikimacuata Korovavala	Head of Office	IOM Vanuatu	korovavala@iom.int ph: +678 29786 mob: +678 7737699 PO Box 6155 Port Vila Vanuatu	22-29 June 2016	
Lionel Kaluat	Commissioner of Labour	Department of Labour	lkaluat@vanuatu.gov.vu , lkaluat@gmail.com ph: +678 22610 Department of Labour HQ PMB 9022 Port Vila Vanuatu	27 June 2016	Labour is key agency for approval of work permit and likely lead for any enabling legislation for SMS.
Sumbue Antas	Director	Department of External Trade	santas@vanuatu.gov.vu mob: +678 7774880 ph: +678 22770/33420 Private Mail Bag 9030 Independence Garden Churchill Ave Port Vila, Vanuatu	27 June 2016	
Tamashiro Henry	Director	Department of Immigration	thenry@vanuatu.gov.vu mob: 678 7741708		

			Private Mail Bag 0092 Port Vila, Vanuatu		
David Lanbukly	CEO	<i>Vanuatu Qualifications Authority</i>	diambukly@vanuatu.gov.vu ph: +678 5333370 PO Box 153 Port Vila Vanuatu	23 June 2016	Key contact in Vanuatu re accreditation of both training programs and skills.
Kalbeo Kalpat	Principal	<i>Vanuatu Institute of Technology</i>	intvdir@vanuatu.com.vu ph: +678 7756633 PM Bag 9015 Pt Vila Vanuatu	23 June 2016	
Anne Niatu	Operations Supervisor	<i>APTC Vanuatu Campus</i>	anne.niatu@aptc.edu.au ph: +678 24066/25585 x135 mob: +678 5588167 PO Box 3390 Pt Vila Vanuatu	23 June 2016	Alternative contact is Kevin Tabi, Trainer Tourism, kevin.tabi@aptc.edu.au mob: +678 5588160
Evelyn Emil	Director	<i>Vanuatu Nursing College</i>	eeemile@vanuatu.gov.au ph: +678 22982	23 June 2016	
Bryan Death	Chair	<i>Vanuatu Hotels and Resorts Association</i>	bryan@tmsvanuatu.com ph: +678 24564 mob: +678 5577034 P.O. Box 5151 Pt Vila, Vanuatu	24 June 2016	
Hon Kalsakau Ephraim	National Secretary	<i>Vanuatu National Workers Union</i>	ekalsakau@vanuatu.gov.au ph: +678 22229 La Perouse St PMB 9089 Port Vila, Vanuatu	27 June 2014	Mr Kalsakau is also the recently Member of Parliament for Port Vila, he plans to handover his NWU duties in the next twelve months

Annex 4 – Data on key Non-State Actors

Full name of the organization and acronym (if available)	Australia Pacific Training College (ACPT)
Organization address and general contact details	ph: +678 24066/25585 x135 mob: +678 5588167 PO Box 3390 Pt Vila Vanuatu http://www.aptc.edu.au/
Contact person details	<i>Operations Supervisor</i>
Background	<i>Commenced operation in 2007. VET sector educational institution. Students are primarily on Australian Government Scholarships but will accept fee paying students. Has an agreement with Vanuatu Institute of Technology (VIT) and is co-located but does not share resources.</i>
Resources	<i>Office and teaching facilities including work place environments suitable for competency assessment. 15 staff including 4 teaching staff.</i>
Core mandate of the organization	<i>Currently offering Certificate Level III and IV in Tourism, Hospitality, Commercial Cookery and Carpentry. Awards Australian qualifications through Queensland TAFE. Also short courses for Cruise Ship staff in the Cruise Industry – Ready to Work Program. APTC has a campus in each MSG capital, courses offered vary between countries and are based on assessed local demand/expertise. Where courses are unavailable at a local campus scholarship students are supported to undertake the program in another APTC. Tourism and Hospitality graduates have been able to work in Australia under the Accommodation sector of the Seasonal Worker Program (SWP). Uses RPL in assessment of students believes could develop capacity to also assess competency of skilled workers.</i>
Legal status in the country	<i>Non-government academic institution.</i>
Ongoing activities	<i>Training and assessment</i>
Past activities relevant to the subject	<i>None</i>
Field presence in the country	<i>Campuses in all MSG capitals.</i>

Full name of the organization and acronym (if available)	Vanuatu Hotels and Resorts Association (VHRA)
Organization address and general contact details	bryan@tmsvanuatu.com ph: +678 24564 mob: +678 5577034 P.O. Box 5151 Pt Vila, Vanuatu http://www.vanuatuhotelsandresorts.com/
Contact person details	<i>Chair</i>
Background	<i>Peak body for hotel and resort industry</i>
Resources	<i>Very limited members generally use resources of the establishments they manage</i>
Core mandate of the organization	<i>Industry association</i>
Legal status in the country	<i>Non-governmental organization</i>
Ongoing activities	<i>Lobbying for industry and members, dissemination of information</i>
Past activities relevant to the subject	<i>Members have brought in skilled workers and have on-going skilled labour demand.</i>
Field presence in the country	<i>No office, operates from members' establishment.</i>

Full name of the organization and acronym (if available)	Vanuatu National Workers Union (VNWU)
Organization address and general contact details	ekalsakau@vanuatu.gov.au ph: +678 22229 La Perouse St PMB 9089 Port Vila, Vanuatu
Contact person details	Hon Kalsakau Ephraim, National Secretary
Background	<i>Established following Independence in 1980. Broad based national trade union, with particular representation in construction and hospitality. International labour movement contacts facilitated</i>

	<i>assistance for members following Cyclone Pam in 2015.</i>
Resources	<i>Office premises but poorly equipped, National Secretary is also Member of Parliament for Port Vila and has access to facilities in Parliament. Union has only 4 staff who are paid. 2000+ members</i>
Core mandate of the organization	<i>Protection of workers Lobbying and negotiation Interpretation of labour laws</i>
Legal status in the country	<i>Non-governmental organization</i>
Ongoing activities	<i>Monitoring of workers conditions.</i>
Past activities relevant to the subject	<i>Have been contacted by foreign workers in country re protection of workers' rights but no actual representation on this matter. Are involved in RSE and SWP in terms of informing workers re rights and responsibilities.</i>
Field presence in the country	<i>Single office in Port Vila, network of volunteer organizers</i>