Capacity building for environmental law in the South Pacific

Pepe Clarke, Ilona Millar and Kaspar Sollberger
South Pacific Regional Environmental Law Capacity Building Project

Scoping Report
South Pacific Regional Environmental Law
Capacity Building Project

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Pepe Clarke, Ilona Millar, Kaspar Sollberger
Environmental Defender's Office, Sydney, Australia
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This publication has been made possible in part by funding from BMZ.

Published by: IUCN, Gland, Switzerland in collaboration with the IUCN Regional Office for Oceania, Suva, Fiji and the IUCN Environmental Law Centre, Bonn, Germany

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Citation: Clarke, Pepe, Ilona Millar, Kaspar Sollberger (2008). *South Pacific Regional Environmental Law Capacity Building Project. Scoping Report*. IUCN, Gland, Switzerland. xvi + 183.


Cover design by: IUCN Environmental Law Centre

Cover photo: Yasawas, Fiji, photo by Stuart Chape, Secretariat of the Pacific Regional Environment Programme

Layout by: Druck Center Meckenheim GmbH

Produced by: IUCN Environmental Law Centre

Printed by: Max Marketing & Publishing Ltd, Fiji

Available from: The World Conservation Union (IUCN) Publications Services
Rue Mauverney 28
1196 Gland
Switzerland
Tel +41 22 999 0000
Fax +41 22 999 0010
books@iucn.org
www.iucn.org/publications

A catalogue of IUCN publications is also available.

The text of this book is printed on Focus 80gsm paper, supplied by an FSC (COC) accredited supplier.
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Environmental Law Capacity Building in the Oceania Region
Supporting Biodiversity Conservation in the Pacific

Executive Summary

This report was prepared by the Environmental Defender’s Office (EDO), at the request of the IUCN Environmental Law Program (IUCN ELP). The report is intended to inform the development and implementation of a project to build the environmental law capacity of government and non-government organisations in the South Pacific region.

The project will be delivered jointly by the IUCN and the Secretariat of the Pacific Regional Environment Program (SPREP), in collaboration with government and non-government partners throughout the region.

The report provides a concise overview of the following topics:

- environmental issues in the South Pacific;
- environmental law and policy in the South Pacific;
- key institutions and existing capacity-building programs; and
- proposed capacity-building strategies and activities.

The review of key environmental issues in the region reveals an urgent need for effective legal and policy responses to promote sustainable development and environmental protection in the region.

The main body of the report provides a detailed consideration of international and regional environmental law in the South Pacific, including international and regional agreements in relation to biodiversity conservation, natural resource management, pollution control and waste management. The report reviews selected national environmental laws in a series of country profiles (see Appendix II).

Numerous local, national, regional and international organisations are working to promote sustainable development and environmental protection in the South Pacific. This report provides detailed profiles of relevant international and regional institutions (see Appendix I) and selected national institutions in a series of country profiles (see Appendix II).

The report discusses strategies for building the capacity of key stakeholders, including government agencies, civil society organisations, academic institutions and the judiciary. The report also canvasses a range of legal strategies that may be employed by government and non-government organisations to promote the development and implementation of environmental law.

Finally, the report reviews a range of proposed activities intended to build the environmental law capacity in the region, including: outreach and consultation; communication and networking; technical assistance; professional and academic exchanges; training programs; community education; conferences, seminars and meetings; and, the establishment of environmental law programs and centres throughout the region.
For centuries, traditional resource management systems have regulated individual and communal use of natural ecosystems in the South Pacific. Custom has been the basis of conservation by land owners, helping communities to avoid resource depletion and scarcity. However, in recent decades, rapid population growth and economic development have placed considerable pressure on terrestrial and marine ecosystems, threatening biological diversity and undermining sustainable livelihoods.

These trends, together with developments in international law and policy, have prompted governments in the region to develop national environmental law and policy frameworks. However, the capacity of governments in the region to implement environmental legislation effectively has been limited, resulting in significant compliance and enforcement failures in many countries in the region.

The report was prepared at the request of the IUCN Commission on Environmental Law, and is intended to inform the development and delivery of environmental law capacity building and technical assistance activities in the region. Stakeholder consultation undertaken during the preparation of this report has revealed significant demand for enhanced delivery of such activities.

The IUCN Secretariat, through the IUCN Environmental Law Centre and the recently established IUCN Regional Office for Oceania, has made a strong commitment to the future development of environmental law in the region, by fostering partnerships, providing technical assistance and building upon the existing capacities of government and non-government organisations throughout the region.

Environmental law and governance is a core priority of the IUCN Regional Programme for Oceania, both as an independent program component and as a cross-cutting theme in areas such as marine conservation and protected area management. The establishment of a regional environmental law program, hosted by the IUCN Regional Office for Oceania, presents an exciting opportunity for enhanced regional collaboration and improved environmental outcomes.

On behalf of the IUCN Secretariat, we commend this report to you, and hope that you will find it a useful resource.

Taholo Kami  
Director, IUCN Regional Office for Oceania  
Suva, Fiji

Alejandro Iza  
Director, IUCN Environmental Law Centre  
Head, IUCN Environmental Law Programme  
Bonn, Germany
Foreword

The IUCN Environmental Law Programme (ELP) composed by the Commission on Environmental Law (CEL) and the IUCN Environmental Law Centre (ELC), is responsible for designing and carrying out the work of IUCN in the field of environmental law and policy. The mission of the ELP is to advance sustainability through the development of legal and policy concepts and instruments, and through building the capacity of societies to develop and implement environmental law and policy.

We are pleased to jointly present this new publication on regional capacity building in the South Pacific, which is the result of the collective effort between the ELC and CEL, especially the lawyers of the Oceania network and John Scanlon, CEL Vice Chair, who was instrumental in setting up this network.

The South Pacific is an area of high biological diversity and low economic base that is vulnerable to a range of human-induced threats. Its ecosystems are fragile and slow to recover from stress. Natural and human activity has led to environmental degradation in many States and territories, and steps must be taken to prevent further deterioration. The challenges are many, and include the vulnerability of small island states to rising sea levels, insufficient freshwater supply, land degradation, invasive species and threats to marine and coastal resources.

During the past two decades, almost all the South Pacific countries have enacted environmental legislation and become parties to a large number of global and regional environmental conventions, agreements and protocols. Nevertheless, effective implementation of environmental legislation requires an increasing level of capacity by governments and non-government organisations.

We hope that the content of this publication will provide useful practical guidance for government officials and civil society in the South Pacific and enhance their collective efforts to work towards a sustainable future.

Sheila Abed
Chair, IUCN Commission on Environmental Law
Asunción, Paraguay
Acknowledgments

This scoping report for the South Pacific Regional Capacity Building Project is a joint initiative of the IUCN Environmental Law Program (Bonn, Germany), the Secretariat of the Pacific Regional Environment Program (Apia, Samoa) and the Environmental Defender’s Office (Sydney, Australia). The decision to draft the scoping report was an initiative of an enthusiastic group of IUCN Commission on Environmental Law (CEL) members from Oceania, with support coming from right across the globe.

I would like to take this opportunity to acknowledge and thank the primary authors of the report – Pepe Clarke, Ilona Millar and Kaspar Sollberger – and the volunteers who contributed to the report – Rachel Carey, Gillian Duggin, Tim Jamieson, Lily Mathews, Alex Pui, Cecilia Rose and Thomas Slocum. The authors and contributors have done an outstanding job.

We would also like to thank the following people for providing feedback on earlier drafts of the report:

Damien Ase, Centre for Environmental Law and Community Rights, Papua New Guinea
Transform Aqorau, Forum Fisheries Agency
Cema Bolabola, Pacific Islands Association of NGOs
Glenn Boswell, Solicitor
Professor Klaus Bosselmann, New Zealand Centre for Environmental Law
Oliver Braedt, Rural Development and Natural Resources Sector Unit, World Bank
Rae Kwon Chung, UN Economic and Social Commission for Asia and the Pacific
Thomas Greiber, IUCN Environmental Law Centre
Sharelle Hart, IUCN Environmental Law Centre
Karol Helmink, Resource Management Law Association, New Zealand
Laura Holbeck, Department of the Environment and Heritage, Australia
Rae Julian, Council for International Development, New Zealand
Maggie Keenan, Environmental Law Alliance Worldwide
Mark Nan Tie, Environment Institute of Australia and New Zealand
Neil Netaf, University of the South Pacific
Clark Peteru, Pacific Regional Environment Programme
Sarah Tsiamalili, Environmental Law Centre, Papua New Guinea
Wanhua Yang, UNEP Regional Office for Asia and the Pacific

We would like to especially recognise the extensive contribution of Erik Bluemel, of New York University, for his detailed comments and editorial input.
We all look forward to receiving further feedback on the report and to your ongoing support in helping build environmental law capacity and networks in the Oceania region for the conservation of biodiversity and sustainable development.

**John Scanlon**
Vice Chair
IUCN Commission on Environmental Law
Sydney, Australia
January 2007
1 Introduction

This scoping report was prepared by the Environmental Defender’s Office (EDO), at the request of the IUCN Environmental Law Program (IUCN ELP). The report is intended to inform the development and implementation of a project to build the environmental law capacity of government and non-government organisations in the South Pacific region.

The key objective of the IUCN ELP global capacity-building initiative, the Environmental Law Capacity Building Program for Sustainable Development, is as follows:

For every country to have the capacity to actively participate in the international policy debate, to implement what is agreed through coordinated policies, laws and institutions that respect the rule of law and to ensure effective compliance with environmental laws.

Consistent with the aims of this initiative, this project seeks to provide legal capacity-building support for government and non-government organisations in the South Pacific region. The project will be delivered jointly by the IUCN ELP, the EDO, and the Secretariat of the Pacific Regional Environment Program (SPREP), in collaboration with government and non-government partners throughout the region.

The project partners propose to work with government and non-government organisations in the South Pacific to promote sustainable development and environmental protection in the region by:

• undertaking research and consultation in relation to existing legal frameworks and capacity building needs in the region, to inform the strategic direction of the project;
• reaching out to government and non-government organisations to assess the capacity of these organisations to facilitate the implementation of environmental law in the region;
• building the capacity of government and non-government organisations in the region by providing ongoing technical assistance, training, information and other support.

1.1 Project Goals and Objectives

The long-term goals of the project are to develop:

• systems of national environmental laws in the South Pacific that are realistic reflections of their countries’ needs and capacities;
• a pool of in-country expertise in South Pacific institutions and individuals, trained and experienced in developing and drafting environmental law;
• progressive legal responses to emerging issues in environmental conservation in the South Pacific; and to
• enhance the capacity of civil society to engage in environmental decision making.

The objectives of the project are to:
• provide rapid and flexible responses to requests for technical assistance and capacity-building support;
• build a team of legal experts – institutions and individuals – to work closely with the project partners to provide highly qualified in-country expertise wherever possible;
• address emerging issues and advance new concepts in environmental law, particularly in the field of biodiversity conservation, including customary law, traditional knowledge, and marine conservation.

1.2 Project Partners

This scoping report was developed to inform the development and delivery of a regional environmental law capacity-building project by the following organisations:
• IUCN Environmental Law Program;
• Environmental Defender’s Office; and
• Secretariat of the Pacific Regional Environment Program.

1.2.1 IUCN Environmental Law Program

The mission of the IUCN Environmental Law Program (ELP) is to advance environmental law through the development of legal concepts and instruments, and through building the capacity of societies to employ environmental law in furtherance of the IUCN mission.

The ELP is an integrated Program of activities that assists decision makers with information, legal analysis, advisory services, legislative drafting, mentoring and capacity building at national, regional and global levels. The Program also provides the opportunity and the forum for governments, non-government organisations and others to network and to share information and discuss ideas.

This vast Program of activities is carried out through the co-operation of the Commission on Environmental Law (CEL), one of six IUCN Commissions, which consists of an extensive global volunteer network of environmental law specialists in 62 countries, the Environmental Law Centre (ELC), an outposted unit of IUCN Headquarters located in Bonn, Germany with skilled legal, policy and information specialists, and IUCN lawyers based in Regional and Country Offices around the world, including the recently established IUCN Regional Office for Oceania.

The ELC works in collaboration with CEL members, IUCN staff and focal points in IUCN Headquarters and Regional and Country Offices. The ELC also houses an extensive library consisting of environmental law holdings, and is the Management Unit for the ECOLEX gateway to
environmental law, a joint initiative of the Food and Agriculture Organization (FAO), IUCN and the United Nations Environmental Program (UNEP).

1.2.2 Environmental Defender’s Office

The Environmental Defender’s Office (EDO) is the largest public interest environmental law centre in Australia. For twenty years, the EDO has provided expert legal advice to individuals and community groups seeking to protect the environment in Australia.

The key functions of the office are:

• legal advice and representation;
• policy and law reform;
• scientific assessment and advice; and
• community legal education.

Each year, the EDO responds to more than 1000 requests for free legal advice. Our litigation and law reform programs have played a key role in the development of environmental law in Australia. In the last two years, our community education programs have reached more than 1200 participants.

Our professional team, including nine lawyers, three educators and two staff scientists, possess a range of skills relevant to this project, including specialist legal expertise, community legal education skills, legal policy expertise and project management skills, as well as fundraising and promotional experience.

The EDO has an active international program, which currently extends to countries in Asia, the Pacific and South America, including:

Papua New Guinea

Since 1999, the EDO has received funding from the Macarthur Foundation to provide capacity-building support for the Environmental Law Centre (ELC) in Papua New Guinea. The EDO provides legal advice and training, and facilitates lawyer exchanges and external training.

The EDO also works with the Centre for Environmental Law and Community Rights (CELCOR), providing staff training and technical assistance. The EDO has liaised closely with Damien Ase, CELCOR founder, during the preparation of this scoping report.

Solomon Islands

In previous years, the EDO has undertaken community training and legislative drafting for the Solomon Islands government. More recently, the EDO has provided comment on a proposal to establish a major forestry and conservation project in the Solomon Islands, including a community legal support service.
Vanuatu

In 2005, the EDO co-presented an environmental advocacy training program for women and youth in Vanuatu, in partnership with the Pacific Concerns Resource Centre (PCRC) and the UNSW Diplomacy Training Program (DTP).

In 2005-2006, the EDO coordinated the recruitment of an Australian lawyer to work with the Wantok Environment Centre, a ni-Vanuatu community-based organisation, for twelve months, via the AusAID-funded Australian Youth Ambassadors for Development (AYAD) program.

Cambodia

The EDO has acted as the Australian Partner Organisation for three consecutive AusAID funded placements of environmental lawyers with the Community Legal Education Centre (CLEC) in Cambodia. These lawyers played a key role in the establishment of the CLEC Land and Natural Resources Project.

1.2.3 Secretariat of the Pacific Regional Environment Program

SPREP serves as the ‘lead regional organization ... for environmental activities in the Pacific’. The organisation’s abbreviation originally stood for the South Pacific Regional Environment Program, however, due to geographical spread, now stands for the (expanded) Pacific Regional Environment Program, as well as the Secretariat of the Pacific Regional Environment Program. SPREP’s growing influence started with a small program attached to the (then) South Pacific Commission (SPC) in the 1980s, and was formally recognised with the 1993 Agreement Establishing the South Pacific Regional Environment Program. SPREP now has 25 members, 21 being Pacific island nations and territories, and four countries having direct interests in the region. Its secretariat is based in Apia (Samoa) and employs over 70 staff, including two full-time legal advisors.

The mandate of SPREP is ‘to promote cooperation in the South Pacific region and to provide assistance in order to protect and improve its environment and to ensure sustainable development for present and future generations’. This is to be achieved by means of a regularly revised Action Plan, which serves to coordinate regional activities addressing the environment, to monitor and assess the state of the environment in the region, to promote and develop programs – including legal and research programs – in order to protect the atmosphere, ecosystems and species, to reduce pollution, to strengthen national and regional capabilities and institutional arrangements, to increase and improve training, educational and public awareness activities, and to promote integrated legal, planning and management mechanisms. The directions of the five year Action Plan itself are outlined in ten year Strategic Programs.

SPREP operates two major programs, the Island Ecosystems Program and the Pacific Futures Program; the former aims to assist its members in managing island resources and ocean ecosystems in a sustainable manner and that supports life and livelihoods, while the latter has the goal to enable SPREP members to plan and respond to threats and pressures on island and ocean systems.

SPREP has delivered a highly diverse range of projects, including capacity building for international negotiations, environmental education, legal advice and the promotion of domestic and international environmental law, and a whole range of actions, plans, programs and strategies for
natural resource management, many of them in close partnership with other governmental, intergovernmental and non-governmental organisations. Examples of such projects are the assistance in building National Environmental Management Strategies, the Action Strategy for Nature Conservation in the Pacific Islands Region 2003-2007, the Pacific Islands Climate Change Assistance Program (PICCAP), the operation of an Information Resource Centre (IRC), and the compilation of the Pacific Sub-Regional Report for the World Summit on Sustainable Development (WSSD).
Environmental Issues in the South Pacific

The South Pacific is a vast region, covering an area of roughly 30 million square kilometres, and encompassing a total of twenty-four countries and territories: American Samoa, Australia, Cook Islands, Fiji, French Polynesia, Guam, Kiribati, Marshall Islands, Federated States of Micronesia, Nauru, New Caledonia, New Zealand, Niue, Northern Mariana Islands, Palau, Papua New Guinea, Pitcairn Islands, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu, Vanuatu, Wallis and Futuna. Countries and territories in the region have enormous marine territories, relative to their land mass: Kiribati, for example, has a total land area of 726 square kilometres, and a total marine territory (exclusive economic zone) of 3.5 million square kilometres.

The terrestrial and marine environments of the South Pacific support enormous biological diversity. The islands of the South Pacific sustain tropical forests, woodlands, grasslands, wetlands and coral reefs. The South Pacific has some of the highest marine diversity in the world – up to 3000 species may be found on a single reef. The many thousands of islands are surrounded by rich, complex coastal ecosystems, including mangroves, seagrass beds and estuarine lagoons. The region’s marine and terrestrial ecosystems are also home to the world’s highest proportion of endemic species per unit of land.

A significant number of the world’s global biodiversity ‘hotspots’ are in the South Pacific region, including south west Australia, Melanesia, Micronesia, New Zealand and Polynesia. South Pacific species are unique in the world. In Melanesia and Polynesia, for example, over 60% of the bird species and 50% of the plant species are found nowhere else, making preservation of the biodiversity found in the region crucial to the protection of global biodiversity.

The rich biodiversity of the South Pacific is in serious jeopardy. According to the United Nations Economic and Social Commission for Asia and the Pacific report, State of the Environment in Asia and the Pacific 2000, ‘the biological diversity of the South Pacific region is [amongst] the most critically threatened in the world’. The South Pacific contains the highest number of threatened species in the world; an estimated 75 percent of documented bird and mammal extinctions have occurred in the region.

The region also contains a rich diversity of cultures, languages and traditions relating to the use and conservation of biodiversity in the sea as well as on land. For centuries, customary land tenure

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1 Biological diversity, or ‘biodiversity’, is defined in the 1992 Convention on Biological Diversity, Article 2, as: ‘the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems’.


and traditional resource management systems have successfully regulated individual and communal use of natural ecosystems. Custom has been the basis of conservation by land owners, helping communities avoid resource depletion and scarcity. However, rapid population growth and economic development have recently been placing considerable pressure on terrestrial and marine ecosystems and the biodiversity they contain:

In the past half-century, the rich biological resources of the region have been increasingly exploited both for international trade and to sustain the growing population. The direct harvesting and export of natural products, particularly timber and fish, the expansion of agriculture into primary forests, wetlands and grasslands, and the replacement of traditional native crops with high-yielding exotic species have had severe impacts on the region’s environment. In addition, urbanisation, pollution, mining, tourism, introduced species, hunting, illegal trade in endangered species and the lack of proper management practices have taken their toll. In the past decade, demand on biological resources increased sharply due to rapid economic and population growth.

Destruction of natural habitat for agricultural development is a major driver of biodiversity loss in the region. Population growth, together with an increased emphasis on export crops, is leading to the removal of increasing areas of natural habitat for agricultural purposes. Urban development associated with rapid population growth also presents a significant threat to biodiversity in certain parts of the South Pacific. In countries such as Papua New Guinea, the Solomon Islands and Vanuatu, commercial logging activities exact a heavy toll on forest ecosystems. Mineral development projects have been responsible for high intensity impacts on terrestrial biodiversity, as well as downstream pollution impacts on riverine, coastal and marine ecosystems.

Marine biodiversity in the South Pacific is threatened by over-fishing, marine pollution and destruction of marine and coastal habitat, including coral reefs and mangroves. Freshwater ecosystems have been affected by over-extraction and pollution. The islands of the South Pacific are particularly vulnerable to the predicted effects of climate change, including coral bleaching, rising sea level, altered rainfall patterns and extreme weather events. Concerted national, regional and international effort is required to halt the decline in biodiversity in the region and to mitigate the biodiversity impacts of climate change.

In recent decades, environmental protection has become a matter of regional concern, with significant developments in regional cooperation to promote biodiversity conservation and environmental protection. However, the capacity of national governments to participate in the

5 ‘The accelerating loss and degradation of biological resources is one of the most alarming environmental problems in the East Asian and South Pacific regions. Deforestation, desertification, pollution of the environment, and illegal hunting and trading in endangered species, all contribute to the diminution of biological resources.’ Richardson, B. ‘A Study of the Response of Transnational Environmental Law and Policy to the Environmental Problems of East Asia and the South Pacific’ (1990) EPLJ 209 at 219.


development and implementation of international and regional agreements has been limited by a range of factors, including the availability of financial, technical and human resources. Resource limitations have resulted in significant gaps in environmental law and policy, together with significant difficulties in relation to implementation and enforcement of these laws and policies.
3 Environmental Law and Policy in the South Pacific

3.1 International Environmental Law

International environmental law has developed rapidly over the last forty years. Two broad areas of international environmental law play a significant role in the South Pacific: first, law relating to biological diversity and natural resource management, and second, law in relation to pollution control, waste management and carbon emissions. There are a number of agreements that establish guiding principles, set binding standards, and provide mechanisms for international cooperation in relation to biodiversity conservation and pollution control. These are summarised below.

3.1.1 International Agreements – Biodiversity and Natural Resource Management

Key global agreements in relation to the conservation of biodiversity include:

- 1946 *International Convention on the Regulation of Whaling* (IWC);
- 1971 *Convention on Wetlands of International Importance* (Ramsar Convention);
- 1972 *Convention Concerning the Protection of the World Cultural and Natural Heritage* (WHC);
- 1973 *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES);
- 1979 *Convention on the Conservation of Migratory Species of Wild Animals* (CMS);
- 1992 *Convention on Biological Diversity* (CBD); and

The ratification status of each of these treaties by independent states in the South Pacific is summarised in the following table.
Table 1: South Pacific Membership of Multilateral Biodiversity Agreements

<table>
<thead>
<tr>
<th>Country</th>
<th>IWC</th>
<th>Ramsar</th>
<th>WHC</th>
<th>CITES</th>
<th>CMS</th>
<th>UNCLOS</th>
<th>CBD</th>
<th>ITPGR</th>
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</tbody>
</table>

Key: ✓ = ratified; s = signed, but not ratified

The limited ratification of global biodiversity agreements in the South Pacific is a significant threshold issue limiting the implementation of international biodiversity law in the region. Nonetheless, national governments throughout the South Pacific have signed and ratified the Convention on Biological Diversity and the United Nations Convention on the Law of the Sea, and others have signalled their intention to ratify other biodiversity conventions in the future.

Each of the agreements listed above provides for the conservation of biodiversity via the protection of species or the conservation of natural ecosystems. The objectives and key features of each of these agreements are reviewed briefly below.

**International Convention on the Regulation of Whaling**

The International Convention on the Regulation of Whaling (IWC), signed in 1946, is one of the earliest attempts to regulate the use of a marine resource. The IWC was initially created to regulate the commercial take of whales in order to conserve whale populations for future harvesting. The International Whaling Commission was established to set quotas for catch limits and to disseminate scientific information on the status of various whale species. However, due to significant falls in whale populations and growing pressure from conservation minded nations such as Australia, New Zealand and the United States, in 1982 the Commission voted to place a moratorium on commercial whaling. The moratorium commenced in 1986 and remains in place.

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10 IWC Art III para. 1.
today. The IWC also contains provisions that establish the Southern Ocean and Indian Ocean Whale Sanctuaries where whaling of any type is completely banned.\textsuperscript{11} Japan has noted reservations against these provisions and accordingly, conducts scientific research in the Southern Ocean every year.\textsuperscript{12}

Within the South Pacific region, national Exclusive Economic Zone Whale Sanctuaries now total more than 10.9 million square kilometres and range from Melanesia (including Papua New Guinea) through to the far reaches of French Polynesia.\textsuperscript{13} Currently the Cook Islands, Fiji, Papua New Guinea, French Polynesia, Samoa and Niue have declared sanctuaries, with other countries actively considering similar action (for example, Vanuatu). Furthermore, American Samoa, Tonga and Tokelau effectively protect whales and are sanctuaries in all but name.

\textit{Convention on Wetlands of International Importance}

The 1971 \textit{Convention on Wetlands of International Importance} (‘Ramsar Convention’) aims ‘to stop the loss of wetlands and to promote their conservation and wise use’.\textsuperscript{14} Parties to the Convention are required to identify wetlands of international importance within their territory and designate such wetlands for inclusion on a list established under the Convention.\textsuperscript{15} Parties are required to maintain the ecological character of listed wetlands, and to report on the status of listed wetlands within their territory.\textsuperscript{16} Furthermore, each party undertakes to promote the conservation of wetlands – both listed and unlisted – by establishing and managing wetland reserves.\textsuperscript{17}

\textit{Convention Concerning the Protection of the World Cultural and Natural Heritage}

The 1972 \textit{Convention Concerning the Protection of the World Cultural and Natural Heritage} (‘World Heritage Convention’) is concerned with identifying cultural and natural heritage sites of ‘outstanding universal value’, and with promoting cooperation amongst nations to contribute effectively to the protection of these areas.\textsuperscript{18} Parties to the Convention are required, \textit{inter alia}, ‘to take the appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation of this heritage’.\textsuperscript{19} Parties must report periodically on the legislative and administrative measures which they have adopted to implement the Convention.\textsuperscript{20}

\begin{footnotesize}
\begin{enumerate}
\item IWC Art V para. 1.
\item Schedule to IWC as at 24 June 2005 - www.iwcoffice.org/schedule.html.
\item www.sprep.org/topic/marine.htm.
\item Boer, B. and Durchschlag, E.M. `Conservation of Species and Habitats, Including Trade in and Sustainable Use of Endangered Species’ (Unpublished Draft Report), para. 58.
\item Convention on Wetlands of International Importance 1971, Art. 2.
\item Convention on Wetlands of International Importance 1971, Art. 2, 3.
\item Convention on Wetlands of International Importance 1971, Art. 4.
\item Convention Concerning the Protection of the World Cultural and Natural Heritage 1972, Art. 4.
\item Convention Concerning the Protection of the World Cultural and Natural Heritage 1972, Art. 5.
\item Convention Concerning the Protection of the World Cultural and Natural Heritage 1972, Art. 29.
\end{enumerate}
\end{footnotesize}
Convention on International Trade in Endangered Species of Wild Fauna and Flora

The aim of the 1973 Convention on International Trade in Endangered Species (‘CITES’) is to protect endangered species by banning trade in endangered species and regulating trade in other listed species. The Convention provides for the listing of species threatened with extinction, species threatened by utilisation incompatible with their survival, and species protected in the territory of a state party, where that party requests assistance in controlling international trade in that species. Parties to the Convention are required to take legislative and administrative measures to regulate the import and export of listed species, including a system of import permits and export certificates. Parties are required to provide biennial reports to the Secretariat in relation to the measures taken to enforce the provisions of the Convention.

Convention on the Conservation of Migratory Species of Wild Animals

The 1979 Convention on the Conservation of Migratory Species (‘CMS’) provides a framework for states to take individual and cooperative action for the conservation of terrestrial, marine and avian migratory species and their habitats. Parties are required to adopt strict measures to protect listed endangered migratory species, and are encouraged to enter into agreements for the conservation and management of other migratory species. There are currently no bilateral or regional agreements for the conservation of migratory species in the South Pacific, and membership of the Convention in the region is limited.

Convention on Biological Diversity

The objectives of the 1992 Convention on Biological Diversity (‘CBD’) are ‘the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of the benefits arising out of the utilisation of genetic resources’. Parties to the Convention are required to develop national strategies, plans or programs for the conservation and sustainable use of biodiversity, or to adapt existing plans or programs for this purpose. The Convention contains normative provisions in relation to identification and monitoring of biodiversity, conservation of biodiversity in situ and ex situ, and for the sustainable use of biodiversity. The Convention also requires parties to adopt policy and procedural measures to promote conservation and sustainable use of biodiversity, including: financial incentives, public education and awareness, research and training, and environmental impact assessment procedures.

The Cartagena Protocol on Biosafety to the CBD was adopted in 2002. The objective of the Protocol is, in accordance with the precautionary approach, to ensure an adequate level of

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24 Convention on the Conservation of Migratory Species of Wild Animals 1979, Art. IV.
26 Convention on Biological Diversity, Art. 6.
27 Convention on Biological Diversity, Art. 7-10.
28 Convention on Biological Diversity, Art. 11-14.
protection in the field of safe transfer, handling and use of living modified organisms (LMOs), taking into account risks to human health, and specifically focusing on transboundary movement.\textsuperscript{29} The Cartagena Protocol covers the transboundary movement, transit, handling and use of all LMOs that may have an adverse effect upon the conservation and sustainable use of biological diversity.\textsuperscript{30}

\textit{International Treaty on Plant Genetic Resources for Food and Agriculture}

The objectives of the 2001 \textit{International Treaty on Plant Genetic Resources for Food and Agriculture} (‘ITPGR’) are the conservation and sustainable use of plant genetic resources for food and agriculture and the fair and equitable sharing of benefits derived from their use, in harmony with the \textit{Convention on Biological Diversity}, for sustainable agriculture and food security.\textsuperscript{31} Plant genetic resources for food and agriculture are crucial with regard to quality and productivity of crops and therefore to the sufficient alimentation of the world’s population. Agriculture depends on international cooperation and on the open exchange of the crops and their genes that farmers all over the world have developed and exchanged over 10,000 years.\textsuperscript{32} Through the Treaty, countries agree to establish an efficient, effective and transparent Multilateral System to facilitate access to plant genetic resources for food and agriculture, and to share the benefits in a fair and equitable way. The Multilateral System applies to over 64 major crops and forages. The Governing Body of the Treaty, which will be composed of the countries that have ratified it, will set out the conditions for access and benefit-sharing in a Material Transfer Agreement.\textsuperscript{33}


The UN \textit{Convention on the Law of the Sea 1982} (‘UNCLOS’), which came into force in November 1994, has had a significant impact upon international environmental law and in particular on the way in which States manage their marine resources. UNCLOS largely reflects the codification of customary international law relating to ocean use. It has specific Parts that address the territorial sea, international navigation, archipelagic states, the exclusive economic zone, the continental shelf, the high seas, islands, enclosed and semi-enclosed seas, rights of landlocked states, the seabed and ocean floor beyond national jurisdiction, protection and preservation of the marine environment, marine research and development and transfer of technology.

Importantly, UNCLOS divides marine spaces into a number of jurisdictional zones measured from the low water mark of the coastal State.\textsuperscript{34} It defines areas over which States have national sovereignty to include the territorial sea,\textsuperscript{35} archipelagic waters and the continental shelf\textsuperscript{36} and provides the legal basis for States to extend their jurisdiction to regulate activities in the contiguous

\begin{footnotesize}
\begin{itemize}
\item[29] Cartagena Protocol, Art. 1.
\item[31] \textit{International Treaty on Plant Genetic Resources for Food and Agriculture}, Art. 1.
\item[33] \textit{International Treaty on Plant Genetic Resources for Food and Agriculture}, Art. 10-13.
\item[34] UNCLOS Art. 5.
\item[35] UNCLOS Arts. 2-16.
\item[36] UNCLOS Arts. 46-50.
\item[37] UNCLOS Art. 76 – note that these rights do not extend to the water column above the shelf (Art. 78).
\end{itemize}
\end{footnotesize}
zone and an exclusive economic zone. By providing a legal mechanism for States to claim territory and access vast marine resources it creates both opportunities and responsibilities for States that seek to exploit marine resources. For example, within a State's exclusive economic zone, the coastal state is to ensure, through proper conservation and management measures, that maintenance of living resources in the exclusive economic zone is not endangered by over-exploitation; to restore populations to sustainable yield; and to consider impacts of activities upon dependent species.

The area beyond national jurisdiction is termed the “high seas” and a specific legal framework for that area is provided for in Parts VII and XI of the Convention. In 1994 a supplementary Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea (Part XI Agreement) was agreed to. The legal framework for the high seas provides that the high seas are open to all States to use, with due regard to the interests of other States. Those rights include freedom of navigation, fishing, research and other activities, subject to conditions imposed by the Convention and the Part XI Agreement, in particular, the general obligation to conserve and manage high seas resources. Similarly, resources within the sea bed are considered to be the common heritage of mankind and whilst any State can seek to carry out activities in that area they cannot claim sovereignty or sovereign rights over any area or its resources. In recent years there has been mounting pressure to develop a network of high seas marine protected areas and legal scholars are considering appropriate means to give effect to such an initiative.

Part XII of UNCLOS addresses issues relating to the control of marine pollution in order to “protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life”. Article 192 imposes a general obligation upon States to “protect and preserve the marine environment”. Article 194 then provides that States must take, individually or jointly as appropriate, all necessary measures to prevent, reduce and control pollution from any source, including land based sources, pollution from or through the atmosphere, pollution from vessels, pollution by dumping and pollution from installations and devices used in exploration or exploitation of the natural resources of the seabed and subsoil and other installations and devices operating in the marine environment. Articles 204-206 provide for environmental impact assessment and monitoring of the risks and effects of pollution.

The 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (Fish Stocks Agreement) is also relevant to

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38 UNCLOS Art. 33.
39 UNCLOS Arts. 55-75.
40 UNCLOS Art. 61. States also have the power to prohibit, limit or regulate exploitation of marine mammals within their EEZ: Art. 65.
41 UNCLOS Art. 119.
43 UNCLOS Art. 194(5).
the South Pacific. The aim of the Fish Stocks Agreement is to ensure the long-term conservation and sustainable use of straddling and highly migratory fish species. Article 5 of the Agreement sets out general principles which require States to, *inter alia*, protect biodiversity and the marine environment, take into account the interdependence of stocks in conservation and management measures, minimise pollution and impacts on non-target species and assess the impacts of fishing and other human activities.

Whilst the agreement primarily governs target species in the high seas, certain key provisions – relating to adopting a precautionary approach to resource utilisation and promoting compatible measures in waters adjacent to the high seas – apply to areas under national jurisdiction. Important aspects of the Fish Stocks Agreement include the requirement that fisheries management be based on precaution, the use of best scientific evidence and an ecosystem based approach. The Agreement also seeks to promote cooperative measures for monitoring and enforcement, particularly at the regional level.

### 3.1.2 International Agreements – Pollution and Waste

Key international agreements that address marine pollution include:

- **1972** *London Convention for the Prevention of Marine Pollution by Dumping of Wastes and Other Matter;*
- **1990** *International Convention on Oil Pollution Preparedness, Response and Cooperation (OPRC);*

Other key agreements that address waste issues and emissions into the atmosphere include:

- **1989** *Basel Convention on the Control of Hazardous Wastes and their Disposal;*
- **1985** *Vienna Convention for the Protection of the Ozone Layer;*
- **1987** *Montreal Protocol On Substances that Deplete the Ozone Layer;*
- **1992** United Nations *Framework Convention on Climate Change (UNFCCC);*
- **1997** *Kyoto Protocol to the UNFCCC.*

The ratification status of each of these conventions by independent states in the South Pacific is summarised in Table 2.
Table 2: South Pacific Membership of Multilateral Pollution and Waste Agreements

<table>
<thead>
<tr>
<th>Country</th>
<th>London</th>
<th>MARPOL</th>
<th>OPRC</th>
<th>Ballast</th>
<th>Basel</th>
<th>Vienna</th>
<th>Montreal</th>
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There is generally widespread support amongst South Pacific countries for international conventions dealing with pollution and waste. However, the response to the marine pollution and dumping agreements has been more limited. This may be due to a perception that developing countries do not have large domestic maritime fleets to regulate and that the Conventions have little application. However, the MARPOL and London Conventions are important insofar as they also regulate the conduct of vessels transiting through Pacific waters.

The objectives and key features of these pollution, waste and emission conventions are reviewed below.

**MARPOL Agreements**

The International Maritime Organization (IMO) has developed a number of international shipping instruments, rules and standards that apply to vessels in national waters and on the high seas. The mandate of the IMO is to ensure ‘safe, secure and efficient shipping on clean oceans’. Through the *International Convention for the Prevention of Pollution from Ships* (MARPOL 73/78), subsequent resolutions and guidelines, both accidental and intentional discharges from ships are regulated. MARPOL 73/78 recognizes the ecological value and sensitivity of particular marine environments by identifying special areas where more stringent pollution controls are required. A

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44 www.imo.org.

45 There are currently 8 special areas: the Mediterranean Sea area, the Baltic Sea area, the Black Sea area, the Red Sea area, the ‘Gulfs’ area, the Gulf of Aden area, the Antarctic area and the North West European area – the Gulf of Oman area will come into force in 2007.
special area is defined as an ‘area in which, for technical reasons relating to the oceanographical or ecological condition and to their sea traffic, the adoption of special mandatory methods for the prevention of sea pollution is required’.

Guidelines for the Identification of Particularly Sensitive Sea Areas (PSSA) were adopted in 1991. Procedures for the designation of PSSAs and associated protective measures that must be taken to reduce or eliminate risks posed by shipping to that area were agreed to in 1999. PSSAs are regulated by measures to define transit routes, anchoring locations, compulsory pilotage, traffic separation and limitations on discharge.

Convention for the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972 (London Convention)

The London Convention is directed at preventing marine pollution by the deliberate disposal of waste or other matter at sea. In 1996 a Protocol to the Convention was adopted. The Protocol subsequently replaced the London Convention when it entered into force on 24 March 2006. The 1996 Protocol works by prohibiting the dumping of any waste or material that is not listed on Annex 1 to the Protocol. Those materials listed on Annex 1 can only be dumped if a permit is obtained from the appropriate regulatory agency. States are required to carry out environmental impact assessment if they wish to obtain a permit, which involves consideration of the physical characteristics of the proposed dump site and the scale and duration of all potential effects. The Protocol requires all State parties to enforce restrictions on dumping both within their jurisdiction and on all vessels flying their flag in other national jurisdictions and on the high seas. The 1996 Protocol adopts the precautionary principle requiring States to ensure “appropriate preventative measures are taken when there is reason to believe that wastes or other matter introduced into the marine environment are likely to cause harm even when there is no conclusive evidence to prove a causal relation between inputs and their effects.” Further, the Protocol states that the polluter should, in principle, bear the costs of pollution.

International Convention on Oil Pollution Preparedness, Response and Cooperation (OPRC Convention)

The OPRC Convention seeks to protect the marine environment from the serious threat posed by oil pollution events involving ships, offshore units and oil handling facilities. The Convention requires vessels and contracting parties to carry oil pollution emergency plans and be subject to inspection while in port or docked, to develop national systems and procedures for preparedness and response to pollution events and to cooperate to promote research and development to enhance preparedness.

46 IMO Assembly Resolution A720 (17).
47 See Resolution 885(21) of 25 November 1999 – particularly sensitive sea areas are defined as “areas which need special protection through action by the IMO because of their significance for recognised ecological, socio-economic or scientific reasons, and which may be vulnerable to damage by maritime activities.” Some of the procedures in the Guidelines were superseded in 2002 by resolution A.927(22).
48 See Kimball, L. “The International Legal Regime of the High Seas and the Seabed Beyond the Limits of National Jurisdiction and Options for Cooperation for the Establishment of Marine Protected Areas in Marine Areas Beyond the Limits of National Jurisdiction” (2005).
49 This occurred when the 26th state ratified the Protocol. At present, 30 States have ratified the Protocol.
50 1996 Protocol to the London Convention, Art. 3.
International Convention for the Control and Management of Ships’ Ballast Water and Sediments (Ballast Water Convention)

The most recent IMO Agreement is the 2004 Ballast Water Convention, which has not yet entered into force. The objective of the Ballast Water Convention is to “prevent, minimise and eliminate the transfer of harmful aquatic organisms and pathogens due to ballast water exchanges.” In order to achieve this goal, the Ballast Water Convention requires all ships to implement a ballast water and sediments management plan. All new ships are required to carry ballast water record books and to carry out ballast water management procedures to particular standards. For example, ships are required to conduct exchanges of ballast water at least 200 nautical miles from the nearest land and in waters deeper than 200 metres.

Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention)

The Basel Convention strictly regulates the transboundary movements of hazardous wastes and imposes obligations upon State Parties to ensure that such wastes are managed and disposed of in an environmentally sound manner. Hazardous waste is defined by reference to either waste streams or the constituent substances of the waste which are listed in annexes to the Convention. The main principles of the Basel Convention are that (a) transboundary movements of hazardous waste should be reduced to a minimum consistent with their environmentally sound management; (b) hazardous wastes should be treated and disposed of as close as possible to their source of generation; and (c) hazardous waste generation should be reduced and minimised at its source. Importantly, some of the objectives of the Convention include the prevention of shipments of hazardous wastes to countries lacking the legal, administrative and technical capacity to manage and dispose of them in an environmentally sound manner; and to assist developing countries to develop that capacity. Obligations under the Basel Convention include: the adoption of laws and regulations controlling the import and export of hazardous waste and preventing and punishing conduct in breach of the Convention; reducing the generation and transboundary movement of hazardous wastes; establishing appropriate facilities and regulatory authorities and reporting to the Secretariat of the Conference of the Parties. To the extent that transboundary movements do occur, they are only allowed between Parties and are to be subject to rigorous packaging, labelling and transportation standards.

Vienna Convention for the Protection of the Ozone Layer & Montreal Protocol

The Vienna Convention requires parties to take appropriate measures to protect human health and the environment against adverse effects resulting or likely to result from human activities which

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51 Ballast Water Convention, Art. 2.
52 See Annex to the Ballast Water Convention – Section A – General Provisions and Section B – Management and Control Requirements for Ships, in particular regulations B-2, B-3 and B-4. See also “New Convention on Ballast Water – Preventing Alien Invaders” (2004) Environmental Policy and Law 34/3 p. 120.
modify or are likely to modify the ozone layer.54 Those measures include the establishment of international mechanisms for research, monitoring and exchange of information.55 The Montreal Protocol On Substances that Deplete the Ozone Layer which was adopted in 1987 puts in place a framework for a freeze on the production and consumption of chlorofluorocarbons (CFCs) and halons, a reduction of CFC consumption by 50% by 1998 and a complete production stop for CFCs and halons by 2010.

Framework Convention on Climate Change & Kyoto Protocol

The likely impacts of climate change on Pacific Island states have been described as follows:

“While the impact of climate change will be felt everywhere, the IPCC has reconfirmed that small islands will be hit first and hardest through increases in sea level and extreme weather events. Not only are small islands most vulnerable, but they also have limited capacity to adapt to the worsening impact of climate change.”56

Accordingly, climate change is a priority focus in the region. Whilst very few Pacific States are required to meet binding emission reduction targets under the Kyoto Protocol, those states will nevertheless play an important part in the operation of the agreements as partners for joint implementation, clean development mechanism (CDM) and other projects.

The objective of the UNFCCC is “to achieve ... the stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure food production is not threatened and to enable economic development to proceed in a sustainable manner.”

Article 4.1 of the UNFCCC commits Parties to the Convention, having regard to their common but differentiated responsibilities, to (amongst other things):

- develop national inventories of anthropogenic emissions by sources and removals by sinks;57
- formulate, implement publish and regularly up-date national and regional programs containing measures to mitigate climate change;58
- promote sustainable management and promote and cooperate in the conservation and enhancement, as appropriate, of sinks and reservoirs of all greenhouse gases not controlled by the Montreal Protocol, including biomass, forests and oceans as well as other terrestrial, coastal and marine ecosystems.59

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54 Vienna Convention, Art. 2.
55 Vienna Convention, Arts. 3-5.
57 UNFCCC Art. 4.1(a).
58 UNFCCC Art. 4.1(b).
59 UNFCCC Art. 4.1(d).
cooperate in preparing for adaptation to the impacts of climate change; develop and elaborate appropriate and integrated plans for coastal zone management, water resources and agriculture ...\(^60\)

promote and cooperate in scientific, technological, technical, socio-economic and other research systematic observation and development of data archives related to the climate system and in the exchange of that information.\(^61\)

Article 4.2 of the UNFCCC commits developed countries to adopt national policies and take corresponding measures (jointly or in collaboration with other parties) on the mitigation of climate change, by limiting their anthropogenic emissions of greenhouse gases and protecting their greenhouse gas sinks and reservoirs.\(^62\)

Parties are required to give consideration to actions necessary to meet the specific needs and concerns of developing country Parties arising from the adverse effects of climate change and/or the impact of the implementation of response measures, especially upon areas including small island states and countries with low-lying coastal areas.\(^63\)

The Kyoto Protocol to the UNFCCC shares the objective, principles and institutions of the Convention. However, it seeks to strengthen the Convention by committing Annex 1 countries to individual, legally binding targets to limit or reduce their greenhouse gas emissions. Those targets equate to a reduction of approximately 5\% between 2008 and 2012 relative to 1990 emissions. The Kyoto Protocol came into force on 16 February 2005.

In addition to limiting emissions, the Kyoto Protocol provides a set of compliance rules and identifies land use, land use change and forestry activities and flexibility mechanisms to assist in achieving emissions reductions. The flexibility mechanisms include joint implementation for trading of credits between developed States and clean development mechanisms for trading between developed and developing States.\(^64\)

3.2 Regional Environmental Law

Regional environmental agreements play a key role in promoting and facilitating the implementation of global environmental agreements, and present opportunities for the development of innovative, regionally-appropriate principles and practices.\(^65\) In the South Pacific, pollution control, conservation of biodiversity in general and the protection and preservation of wildlife and habitat in

\(^{60}\) UNFCCC Art. 4.1(e).
\(^{61}\) UNFCCC Art. 4.1(g) and (h).
\(^{62}\) UNFCCC Art. 4.2(a).
\(^{63}\) UNFCCC Art. 4.8.
\(^{64}\) KP Art. 12.
particular has been a matter of regional concern. The South Pacific community has been particularly active in developing regional environmental and conservation strategies.  

Key regional agreements related to the environment in the South Pacific include:

- 1979 South Pacific Forum Fisheries Convention (‘SPFF Convention’);
- 1986 Convention on the Protection of Natural Resources and the Environment of the South Pacific (‘Noumea Convention’);
- 1986 Protocol for the Prevention of Pollution of the South Pacific Region by Dumping (‘Protocol 1 Dumping’);
- 1986 Protocol Concerning Co-operation in Combating Pollution Emergencies in the South Pacific Region (‘Protocol 2 Emergencies’);
- 1989 Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific;
- 1993 Agreement Establishing the South Pacific Regional Environment Program;
- 1995 Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and management of Hazardous Wastes within the South Pacific Region (‘Waigani’).  

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Table 3: South Pacific Membership of Selected Regional Agreements

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Key: ✓ = ratified; s = signed, but not ratified

**Convention on the Conservation of Nature in the South Pacific**

The 1976 *Convention on the Conservation of Nature in the South Pacific* (‘Apia Convention’) was signed in Apia, Western Samoa on 16 June 1976. However, the Convention did not come into effect until 1990 and few countries in the region have ratified the agreement. The Convention aims to establish a broad framework for nature conservation in the South Pacific region. The Convention requires parties to safeguard representative samples of natural ecosystems by establishing and maintaining national parks and reserves. Parties are required to protect native flora and fauna, and to provide for the listing and protection of endangered species. Parties to the Convention also undertake to cooperate in the matters of environmental research, information exchange, and training of personnel.69

**South Pacific Forum Fisheries Convention**

The 1979 *South Pacific Forum Fisheries Convention* recognises the need for effective cooperation for the conservation and optimum utilisation of the highly migratory fish species of the region and establishes the Forum Fisheries Agency to carry out the following functions for the benefit of member

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69 *Convention on the Conservation of Nature in the South Pacific*, Art. II-VII.
states: monitoring regional fisheries; providing technical advice and information; assisting with the
development of fisheries policies; and, assisting with licensing, surveillance and enforcement of
national fisheries legislation.\textsuperscript{70}

\textit{Convention on the Protection of Natural Resources and the Environment of the South Pacific}

The 1986 \textit{Convention on the Protection of Natural Resources and the Environment of the South
Pacific} (‘Noumea Convention’) requires parties to prevent, reduce and control pollution, and to
ensure sound environmental management and development of natural resources.\textsuperscript{71} The Convention
requires parties to ‘take all appropriate measures to protect and preserve rare or fragile
ecosystems and depleted, threatened or endangered flora and fauna as well as their habitat’.\textsuperscript{72} To
this end, parties are required, as appropriate, to establish protected areas, and prohibit or regulate
any activity likely to have adverse effects on the species, ecosystems or biological processes that
such areas are designed to protect. Parties are further obliged to develop and maintain technical
guidelines and legislation for environmental impact assessment.\textsuperscript{73} Parties are required to report on
the measures adopted by them to implement the Convention.\textsuperscript{74}

There are two Protocols to the Noumea Convention. The 1986 \textit{Protocol for the Prevention of
Pollution of the South Pacific Region by Dumping} requires parties to take appropriate measures to
prevent, reduce and control pollution in the Protocol area by dumping.\textsuperscript{75} The Protocol is intended to
be a regional agreement consistent with the London Convention and adopts a similar process of
prohibiting the dumping of wastes listed in the Annex to the protocol.\textsuperscript{76} The 1986 \textit{Protocol
Concerning Co-operation in Combating Pollution Emergencies in the South Pacific Region} calls
upon parties to establish and maintain, or ensure the establishment and maintenance of, the means
of preventing and combating pollution incidents and reducing the risk of such incidents.\textsuperscript{77} The
Protocol operates by requiring parties to put in place legislation or contingency plans to respond to
emergencies; to exchange and communicate information about pollution incidents; and, to provide
assistance to other parties to deal with pollution incidents.\textsuperscript{78}

\textit{Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific}

The 1989 \textit{Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific} requires
each party to prohibit its nationals and vessels from engaging in driftnet fishing activities within the
Convention area, and to take measures consistent with international law to restrict driftnet fishing,

\textsuperscript{70} \textit{South Pacific Forum Fisheries Agency Convention}, Art. VII. For information about the Forum Fisheries
Agency, visit: www.ffa.int.
\textsuperscript{71} \textit{Convention on the Protection of Natural Resources and the Environment of the South Pacific}, Art. 5.
\textsuperscript{72} \textit{Convention on the Protection of Natural Resources and the Environment of the South Pacific}, Art. 15.
\textsuperscript{73} \textit{Convention on the Protection of Natural Resources and the Environment of the South Pacific}, Art. 16.
\textsuperscript{74} \textit{Convention on the Protection of Natural Resources and the Environment of the South Pacific}, Art. 19.
\textsuperscript{75} \textit{Protocol for the Prevention of Pollution of the South Pacific Region by Dumping} Art. 3.
\textsuperscript{76} \textit{Protocol for the Prevention of Pollution of the South Pacific Region by Dumping} Art. 4.
\textsuperscript{77} \textit{Protocol Concerning Co-operation in Combating Pollution Emergencies in the South Pacific Region} Art. 3.
\textsuperscript{78} \textit{Protocol Concerning Co-operation in Combating Pollution Emergencies in the South Pacific Region} Arts. 3-5.
including: prohibiting the use of driftnets in areas within its jurisdiction; prohibiting the import of fish caught using a driftnet; and, restricting port access for driftnet fishing vessels.79

**Agreement Establishing the South Pacific Regional Environment Program**

The 1993 Agreement Establishing the South Pacific Regional Environment Program was concluded to formalise the establishment of the South Pacific Regional Environment Program (SPREP) as an entity independent from the South Pacific Commission. The purposes of SPREP are ‘to promote cooperation in the South Pacific region and to provide assistance in order to protect and improve its environment and to ensure sustainable development for present and future generations.80

SPREP has played a vital leadership role in the region and provided essential support for the development and implementation of environmental law in the South Pacific. As Boer, Ramsay and Rothwell note: ‘the development of the South Pacific Regional Environment Program (SPREP) is perhaps the strongest example throughout the whole Asia Pacific of an environmentally-centred subregional organisation.’81

**Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region (“Waigani Convention”)**

The Waigani Convention is intended to be a transboundary agreement under Article 11 of the Basel Convention and in many parts replicates the scope and structure of that Convention. Parties to the Waigani Convention are required to take appropriate legal, administrative or other measures within their jurisdiction, to ban the import of hazardous wastes and radioactive waste from outside the convention area.82 The Convention reaffirms a commitment to prohibit the dumping of hazardous wastes at sea.83 Within the convention area, parties are obliged to ensure the generation of hazardous wastes is reduced at its source to a minimum; to ensure the availability of adequate treatment and disposal facilities; to develop programs to simplify the movement of wastes that cannot be disposed of in an environmentally sound manner in their source country and to develop national waste management strategies.84 The Waigani Convention also provides for the establishment of competent regulatory authorities by each party and a process for notification of relevant authorities of any proposed transboundary movements of waste.85

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80 Agreement Establishing the South Pacific Regional Environment Program, Art. 2. To read about SPREP, visit: www.sprep.org.ws.
82 Waigani Convention, Art. 4.1.
83 Waigani Convention, Art. 4.3.
84 Waigani Convention, Art. 4.4.
85 Waigani Convention, Arts. 5 and 6.
3.3 Relationship between International and Regional Conventions

As the discussion above demonstrates, many of the regional conventions address material that is dealt with in international agreements. To a large extent, particularly in relation to pollution and waste issues, the regional conventions represent agreements contemplated under specific provisions of an international convention. For example, the Waigani Convention is an agreement contemplated by Article 11 of the Basel Convention, and the First Protocol to the Noumea Convention gives effect to the London Convention. It is interesting to note that the regional pollution and waste conventions have been more widely ratified than their global counterparts.

In contrast, the Apia Convention, and to a lesser extent the provisions of the Noumea Convention, have received less support and their relevance has been questioned by some. Both Conventions deal with matters that include establishing protected areas, protecting threatened species and cooperating in relation to research on biodiversity. These are matters that are now comprehensively dealt with in the CBD, which provides more direct obligations and frameworks for achieving its objectives of conserving biological diversity and promoting sustainable development. In circumstances where almost all of the Pacific States have ratified the CBD, the provisions of the Apia Convention (and to a lesser extent the Noumea Convention) appear redundant and outdated. The strengths of the regional conventions are that they promote regional cooperation and the sharing of information and resources. However, it is arguable that they need to be reviewed and updated to reflect regional cooperation in the implementation of the CBD, instead of operating in parallel with that regime.

3.4 Implementation of International Environmental Law in the South Pacific

The international and regional agreements discussed above provide a sound framework for environmental protection in the South Pacific, but require action at a regional and national level to achieve their ambitious goals. In order to assess the measures which South Pacific states have taken to implement these international agreements, it is useful to consider the following key elements of the implementation process: ratification, implementation, compliance and enforcement.

The limited resources of national governments in the South Pacific present significant challenges for the effective implementation of international environmental agreements: ‘within countries of this region, lack of, or weakness of, national policies, legal and institutional arrangements, and human

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86 Personal Communication, Peteru, C. SPREP Legal Officer, February 2006.
resource capabilities are the core obstacles to the effective negotiation, ratification and implementation of multilateral environmental agreements.  

3.4.1 Ratification

Ratification of international biodiversity conservation agreements by island nations in the South Pacific, with the exception of the CBD, has been relatively limited. Similarly, ratification of pollution and waste agreements has also been relatively low. The exception in this area is the UNFCCC and the Kyoto Protocol which have widespread support in the region. This is due in part to the limited resources of these island nations:

At the national level, the operation of the [multilateral environmental agreement] system requires significant time and resources to address policy considerations for negotiation, signature and ratification of conventions. The same is true for the implementation of national commitments under ratified conventions. For small nations such as the Pacific islands, these requirements are very large in relation to the total number of personnel and their other responsibilities.

The increasing complexity of international environmental law, and the related demands upon national governments in relation to negotiation, signature, ratification, implementation, compliance and enforcement of multilateral environmental agreements, has prompted a number of national governments to complain of ‘treaty fatigue’, an unwillingness or inability to enter into new international agreements, or to adequately implement existing agreements.

3.4.2 Implementation

According to a recent report published by the United Nations University, ‘[t]he first and foremost problem that states in the Pacific face in the implementation of multilateral environmental agreements is the absence of an effective and comprehensive legal framework, or its incoherence.’

The international agreements discussed above contain a range of provisions requiring the development of national polices and subsequent enactment of legislation. For example, the Convention on Biological Diversity requires parties to:

- develop national strategies, plans or programs for conservation and sustainable use of biodiversity;
- develop or maintain legislation for the in situ conservation of threatened species and populations; and
- regulate collection of biological resources from natural habitats for ex situ conservation; and

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92 Convention on Biological Diversity, Art. 6.
93 Convention on Biological Diversity, Art. 7.
• establish appropriate procedures for environmental impact assessment of proposed projects that are likely to have significant effects on biological diversity.\textsuperscript{95}

\textit{National Strategies}

A number of South Pacific states have developed national strategies for sustainable development. Each of the following countries and territories has developed a \textit{National Environmental Management Strategy}: Cook Islands, Fiji, Kiribati, Marshall Islands, Federated States of Micronesia, Niue, Samoa, Solomon Islands, Tonga and Tuvalu.\textsuperscript{96} These national strategies represent an important step towards sustainable environmental management. In most cases, however, these strategies have not adequately addressed biodiversity conservation principles. As a result, a number of South Pacific states have invested significant resources in reviewing existing strategies, or developing new biodiversity conservation strategies.

For example, Vanuatu’s \textit{National Biodiversity Conservation Strategy} identifies the following key objectives: ensure sustainable management and conservation of Vanuatu’s biodiversity; develop appropriate policy, planning and legal mechanisms for the management of biodiversity; improve knowledge about biodiversity in Vanuatu; improve the capacity of national, provincial, non-government and community organisations to manage biodiversity; increase local awareness of the importance and value of biodiversity; and, foster community participation in the management and conservation of biodiversity.\textsuperscript{97}

Other countries in the South Pacific that are developing, or have developed, national strategies for biodiversity conservation include the Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Niue, Papua New Guinea, Solomon Islands, Samoa, Australia and New Zealand.\textsuperscript{98} The development of these national strategies is an admirable initiative, requiring significant resources, research and community consultation. However, inadequate human and financial resources, particularly in the developing countries of the region, are hampering implementation of these strategies and plans.\textsuperscript{99}

\textit{National Legislation}

The international and regional environmental conservation agreements discussed above require national governments to take appropriate legal and administrative measures to achieve the objectives of the conventions:

\begin{itemize}
  \item \textit{Convention on Biological Diversity,} Art. 8.
  \item \textit{Convention on Biological Diversity,} Art. 14.
  \item \textit{South Pacific Regional Environment Program (2000) Convention on Biological Diversity: An Information Package for Pacific Island Countries,} SPREP, Apia, p. 3.
\end{itemize}
These international and regional conventions provide an adequate framework in terms of establishing policies and goals for the conservation of biological diversity, but they are not self-executing in each country to which they apply. They require action at a national level to become operative.100

Most countries in the South Pacific have enacted legislation in relation to environmental protection, or have enacted sectoral legislation containing environmental protection provisions. However, most countries in the region have not enacted comprehensive environmental legislation, resulting in a fragmented approach to biodiversity conservation. In most cases, existing laws do not comprehensively address the obligations of state parties under international biodiversity agreements.

Environmental legislation in many countries in the region is a mixture of outdated sectoral laws, unenforced framework legislation and inapplicable models. Common problems include:

- gaps and omissions (for particular sectors, such as waste management, or processes, such as environmental impact assessment);
- statutory law in conflict with customary law, resulting in one law on paper and another law in practice;
- inadequate institutions to administer, implement and enforce the law.

The introduction of comprehensive environmental legislation, such as Fiji’s Sustainable Development Bill, has been a controversial process, resulting in substantial delays and conflict. The limited resources of national governments in the region, combined with domestic controversy regarding land use regulation and economic development priorities, have resulted in significant delays in the drafting and enactment of comprehensive environmental legislation in a number of countries.101

There is demand from many countries in the region to modernise their environmental legal regimes. For most countries in the region, however, this process is difficult, as they lack local expertise and have limited access to comparative information and experience. Model legislation is most often not an option because foreign laws are not readily transferable and in many circumstances completely inapplicable to local situations. Environmental legal regimes must be evaluated, and new laws drafted, in the context of a country’s entire legal system. The task requires both knowledge of the state of the art in environmental legislation and a thorough understanding of the needs and legal situation of the particular country.

3.4.3 Compliance

International agreements require national governments to comply with a range of obligations, including, but not limited to, the legislative measures discussed above. The ability of small developing states to deal with the compliance burden associated with membership of multilateral

environmental agreements is a significant issue in the South Pacific: ‘smaller states, especially in the Southwest Pacific, have very small and under-resourced government bureaucracies and therefore find it difficult to deal with the vast number of international environmental conventions and to address issues such as national implementation and meeting reporting requirements.”\(^{102}\)

### 3.4.4 Enforcement

While an adequate legal framework is necessary for effective environmental protection and biodiversity conservation, it will be insufficient unless there are adequate institutions to implement and enforce the legal principles and administrative policies established by that legal framework.\(^{103}\) Effective enforcement of environmental legislation is contingent upon the availability of adequate staff and financial resources, the administrative and political will of the enforcement agencies and the level of public awareness of environmental laws.\(^{104}\)

Although most countries in the South Pacific have enacted environmental legislation, ‘there is a lack of enforcement or implementation of many policies or legislation, together with a growing weakness in the protection of the subregion’s indigenous property rights’.\(^{105}\) According to the *State of the Environment in Asia and the Pacific 2000* report, ‘although appropriate legal and institutional frameworks have been established in most countries of the region, the effective implementation of environmental legislation remains one of the foremost challenges for the achievement of environmentally sustainable governance.’\(^{106}\)

Development activities are routinely under-regulated by national governments in the South Pacific. In many cases, resource development is actively promoted in the interests of economic growth and national development.\(^{107}\) As Boer, Ramsay and Rothwell note, in cases where ‘environmental concerns have consequences for economic development, and where there has been a traditional reliance upon natural resource exploitation, this is a sensitive and difficult issue to resolve’.\(^{108}\) As Farrier notes:

> environmental protection and conservation have a relatively low priority in countries where people suffer from relative disadvantage in terms of unemployment, educational opportunities and health care. The primary commitment of Pacific island countries is to economic development.\(^{109}\)


The extent to which enforcement is accepted by the community, an issue that inevitably influences the exercise of discretion by enforcement agencies, may vary depending on the nature of the regulated activity. For example, controls over large-scale development by foreign interests are more likely to be tolerated by local communities than habitat protection laws that affect a large number of small landholders.\textsuperscript{110}

However, there are other difficulties associated with the regulation of large-scale development. Most major resource extraction projects in the South Pacific are conducted by foreign companies, including large multinational corporations. According to Richardson:

\begin{quote}
many small developing States are ... simply incapable of effectively regulating transnational corporations; lack of staff and technical ability, and a weak regulatory framework or monitoring capability to ensure surveillance of industrial operations, all allow transnational corporations to circumvent government regulation.\textsuperscript{111}
\end{quote}

Other factors that undermine law enforcement in the South Pacific include corruption, civil unrest and practical difficulties associated with enforcement in remote or offshore locations. Controlling illegal fishing activities is particularly problematic, due to the enormous resources required to effectively monitor fishing activities in the open ocean.

### 3.5 National and Provincial Environmental Law

#### 3.5.1 Introduction

The national environmental laws of each state, where they exist, provide the most direct way to protect each state’s environment and regulate activities affecting it – assuming that the laws are suitably drafted and are complied with. For various reasons these assumptions are not always correct.\textsuperscript{112}

National environmental legislation in South Pacific states typically includes:

- separate legislation on topics such as fishing, forestry, land development, and pollution control;
- laws implementing certain international conventions; and
- a relatively recent and broader environment and planning statute.

\begin{footnotes}
\item[111] ‘[T]he sheer inequality of bargaining power between giant transnational corporations and small developing countries makes these nations particularly vulnerable to the activities of transnational corporations. The critical need for capital investment may force many states to accept environmentally degrading industries.’ Richardson, B. ‘A Study of the Response of Transnational Environmental Law and Policy to the Environmental Problems of East Asia and the South Pacific’ (1990) \textit{EPLJ} 209 at 222. See also, United Nations Centre on Transnational Corporations (1985) \textit{Environmental Aspects of the Activities of Transnational Corporations: A Survey}.
\item[112] See section 3.5.2 below and the discussion under the heading “National Legislation” in section 3.4.2 above.
\end{footnotes}
Some states, such as Papua New Guinea, also include environmental protection or sustainability objectives in their constitutions, although these provisions are generally not enforceable.\textsuperscript{113}

### 3.5.2 Recent Environmental Legislation

While earlier environmental laws in each state tend to be focussed on a particular issue, many South Pacific states have recently enacted more broadly applicable environmental laws. Often, these recently adopted laws have generated substantial controversy, and have only been enacted following significant and extended debate.\textsuperscript{114}

This type of legislation will commonly set up one or more environmental management bodies, prescribe the duties of those bodies, provide for environmental offences and require certain environmental plans to be prepared. The statute may also provide for environmental impact assessments for certain developments.

While the enactment of such legislation indicates a welcome degree of state commitment to environmental protection, certain issues remain. Not all states have legislation that is sufficiently proactive to provide for forward (or ‘strategic’) planning for land use and protection. Some regimes simply respond to development proposals or other environmental issues as they arise – a problematic approach, which fails to deal adequately with the cumulative impacts of development.\textsuperscript{115}

Furthermore, much of the legislation is ‘command and control’ in nature, with top-down decision-making. Limited opportunities for community input into environmental rules and plans may result in less appropriate or acceptable plans and lower compliance rates. Resources to enforce the legislation are also likely to be limited.\textsuperscript{116}

### 3.5.3 Overview of Key Environmental Laws

The table below sets out the name and, in brief, the key features of the broad environmental legislation of selected South Pacific states. Appendix II (\textit{National Environmental Laws and Institutions in Selected South Pacific Countries}) sets out the environmental legislation of those states in more detail.

\textsuperscript{113} See Appendix II.


\textsuperscript{115} Ibid.

\textsuperscript{116} Ibid.
Table 4: Summary of principal environmental legislation in selected South Pacific states

<table>
<thead>
<tr>
<th>State</th>
<th>Summary</th>
</tr>
</thead>
</table>
| Fiji  | *Environmental Management Act 2005*  
  - Establishes a National Environment Council, with responsibility for overseeing implementation of a National Environment Strategy, ensuring commitments made at regional and international fora are implemented, and advising the government on international and regional treaties relating to the environment.  
  - Establishes procedures for environmental impact assessment of certain proposed developments and provides for certain waste management and pollution control measures, including a permit scheme, improvement and prohibition notices and stop work orders.  
  - Provides for investigation and prosecution of environmental offences.  
  - Establishes an Environmental Tribunal to hear appeals under the Act. |
| Kiribati | *Environment Act 1999*  
  - Aims: (a) to provide for and establish integrated systems of development control, environmental impact assessment and pollution control; (b) to prevent, control and monitor pollution; (c) to reduce risks to human health and prevent the degradation of the environment by all practical means; and (d) to protect and conserve the natural resources threatened by human activities.  
  - The Minister, acting in accordance with the advice of the Cabinet, is responsible for the administration and implementation of the Act. Environmental inspectors may be appointed for the purposes of the Act.  
  - A person who proposes to carry out certain prescribed development in Kiribati is required to apply to the Minister.  
  - Offences are established with respect to pollution, licences to discharge waste, and emitting noise, odour or electromagnetic radiation from a prescribed premise. Pollution abatement notices or stop notices may be issued.  
  Note: As at June 2006, the Act is being redrafted and the amendments have been submitted to Parliament for assent as a Bill. The proposed redrafted legislation makes provision for the creation of World Heritage Areas. |
<table>
<thead>
<tr>
<th>State</th>
<th>Summary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Samoa</td>
<td><em>Lands, Survey and Environment Act</em> 1989</td>
</tr>
<tr>
<td></td>
<td>• Establishes the Department of Lands, Surveys and Environment to: (a) advise</td>
</tr>
<tr>
<td></td>
<td>on all aspects of environmental management and conservation; (b) promote</td>
</tr>
<tr>
<td></td>
<td>the conservation and protection of natural resources and the environment; (c)</td>
</tr>
<tr>
<td></td>
<td>advocate environmental management to other government agencies; (d) control pollution</td>
</tr>
<tr>
<td></td>
<td>and litter; (e) make recommendations regarding national parks and reserves; and (f)</td>
</tr>
<tr>
<td></td>
<td>promote awareness of the importance of the environment.</td>
</tr>
<tr>
<td></td>
<td>• Empowers Minister to undertake a range of environmental management functions, including</td>
</tr>
<tr>
<td></td>
<td>assessment of development proposals, monitoring, and establishing environmental</td>
</tr>
<tr>
<td></td>
<td>management guidelines.</td>
</tr>
<tr>
<td></td>
<td>• Establishes Environment Board to review matters referred to it by the Minister, including</td>
</tr>
<tr>
<td></td>
<td>informing the Minister of development projects having an adverse effect on the</td>
</tr>
<tr>
<td></td>
<td>environment.</td>
</tr>
<tr>
<td></td>
<td>• Director of Lands is given the power to draft Management Plans, which are</td>
</tr>
<tr>
<td></td>
<td>to be approved by the Minister. These management plans can relate to pollution,</td>
</tr>
<tr>
<td></td>
<td>waste, national parks, coastal zones, waters and water resources and ‘any other matter</td>
</tr>
<tr>
<td></td>
<td>relating to the environment’.</td>
</tr>
<tr>
<td></td>
<td>• Offences are created in relation to foreshores, coastal waters, water pollution</td>
</tr>
<tr>
<td></td>
<td>and littering.</td>
</tr>
<tr>
<td></td>
<td>• Regulations may be made in relation to a number of specific matters, including</td>
</tr>
<tr>
<td></td>
<td>protecting forests, regulating the use of land, protecting and conserving wildlife,</td>
</tr>
<tr>
<td></td>
<td>regulating or prohibiting pollution, undertaking environmental impact assessments, and</td>
</tr>
<tr>
<td></td>
<td>preventing and controlling the clearing of trees and plants.</td>
</tr>
<tr>
<td></td>
<td>See also the Planning and Urban Management Act 2004.</td>
</tr>
<tr>
<td>Solomon</td>
<td><em>Environment Act</em> 1998</td>
</tr>
<tr>
<td>Islands</td>
<td>Objectives of the Act are: (a) to provide for and establish integrated systems of</td>
</tr>
<tr>
<td></td>
<td>development control, environmental impact assessment and pollution control; (b) to</td>
</tr>
<tr>
<td></td>
<td>prevent, control and monitor pollution; (c) to reduce risks to human health and</td>
</tr>
<tr>
<td></td>
<td>prevent the degradation of the environment by all practical means; and (d) to comply</td>
</tr>
<tr>
<td></td>
<td>with and give effect to regional and international conventions and obligations</td>
</tr>
<tr>
<td></td>
<td>relating to the environment.</td>
</tr>
<tr>
<td></td>
<td>*This Act is marked ‘not yet commenced’ on the version available on <a href="http://www.paclii.org">www.paclii.org</a> as</td>
</tr>
<tr>
<td></td>
<td>at 1 September 2006. The Act commences on the date appointed by the Minister.*</td>
</tr>
<tr>
<td>State</td>
<td>Summary</td>
</tr>
<tr>
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<td>---------</td>
</tr>
</tbody>
</table>
| Vanuatu| *Environmental Management and Conservation Act 2002*  
• Provides for the conservation, sustainable development and management of the environment of Vanuatu. A Director is appointed to develop, co-ordinate and implement the Government’s environmental policies and programs.  
• The Director’s duties include: (a) administering the Environmental Registry; (b) preparing State of the Environment Reports; (c) preparing National Policies and National Plans; (d) administering the Environmental Impact Assessment procedure; (e) preparing guidelines, standards, codes of practice and procedures; (f) preparing advice on international environmental treaties, including implementation strategies; (g) undertaking environmental research, assessment, monitoring, and inspection generally; (h) chairing the Biodiversity Advisory Council (dealing with implementation of the CBD); and (i) assisting with establishing Community Conservation Areas.  
• All development activities which impact, or are likely to impact, on the environment of Vanuatu, and which require any licence, permit or approval under any law, must comply with the Act.  
• Various specific environmental offences are provided for, punishable by fines or imprisonment. |

### 3.6 Custom and Traditional Legal Systems

In addition to international, regional and national environmental legislation, customary and traditional legal systems also play a key role in natural resource management and biodiversity conservation in the South Pacific. Environmental law and policy must – as far as possible – be embedded in local custom and tradition, to increase the prospects of its successful implementation.

The South Pacific is inhabited by an enormous variety of peoples. Accordingly, there is an immense fund of customary and traditional rules, which are diverse, diffuse, dynamic – and largely unwritten.\(^{117}\) Despite the great variety, there are certain common features of customary law in the South Pacific, particularly with regard to the role of the individual in society, and the tenure of land.

While each group of indigenous peoples is unique, most traditional societies in the region do not tend to have a strong culture of individual rights, but maintain their structure and coherence through a culture of duties: ‘Social groupings often consisted of little more than extended families

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whose members owed the unit duties of loyalty and contribution to its survival and in return received protection and support, both material and social.\textsuperscript{118}

In many countries in the region, extended families are still often presided over by a – predominantly male – elder or chief (commonly an inherited position, though sometimes acquired through personal merit).\textsuperscript{119} Many communities in the region have a hierarchical structure, in which chiefs have authority over commoners, males over females, and elders over youths.\textsuperscript{120} The basis of identity tends to be the family unit, or the clan.\textsuperscript{121}

Traditional legal systems tend to be particularly strong in remote areas. For example, in Kiribati:

> traditional and public domains are almost indistinguishable on outer-islands [away from urban centres] because of the strong influence that is exercised by the unimane [chiefs] on most islands – sometimes to the point that the elected council is little more than an executive, tasked with carrying out community decisions that have already effectively been made in the maneaba [community meeting place].\textsuperscript{122}

Throughout the region, land is traditionally owned collectively. Land immediately contiguous to the family home may be owned individually, but the vast majority of land, including forest, lagoon and reef, is still owned by the clan or line together, the chiefs or family heads deciding over the deployment and use of the land for the benefit of the clan or community at large.\textsuperscript{123} Apart from ownership, subsidiary and secondary rights of access and other easements can be granted to groups and individuals.\textsuperscript{124}

In the South Pacific, land tends to be regarded as more than the base for subsistence or a mere factor of production – as a Papua New Guinea academic put it: ‘Land is not a commodity to be bought and sold. It is a spiritual item in which people, animals, plants and spirits live in harmony.’\textsuperscript{125}

\textsuperscript{118} See ibid.


\textsuperscript{122} For Kiribati, see op cit above at 22; for Kiribati, see op cit above at 14; for the Solomon Islands, see op cit above at 22-23.

\textsuperscript{123} For Fiji, see op cit above at 22; for Kiribati, see op cit above at 14; for the Solomon Islands, see op cit above at 22-23.

\textsuperscript{121} For Fiji, see op cit above at 22; for Kiribati, see op cit above at 14; for the Solomon Islands, see op cit above at 23-24.


The customary land tenure system affects the exercise of state power in the development of resources – such as forestry and mining operations – and in pursuit of biodiversity conservation and sustainable development. It is crucial to include the community, particularly family elders and chiefs, directly in environmental protection efforts.

Apart from customary land tenure systems, there are traditional land use practices which form the basis for sustainable management of fauna and flora. These practices include seasonal bans for gathering, hunting and fishing, or complete prohibitions on the killing and eating of particular species.\textsuperscript{126} Traditional ecological knowledge can play a vital role in the development of sound resource management practices. However, it is important to note that traditional ecological knowledge may have significant limitations in a context of rapid population growth, economic development and widespread disruption of traditional knowledge systems and decision-making structures.

4 Key Institutions and Capacity-Building Programs

In order to evaluate, define and target strategies and actions for environmental law capacity building in the South Pacific, it is essential to analyse the existing institutional framework, and current capacity-building programs active in the region. An overview of the major government and non-government institutions, and their activities, will facilitate project-related consultation and cooperation on the one hand, and a focus on specific needs and goals on the other hand. The following paragraphs provide a brief overview of existing institutions and activities, while a more detailed description is provided in Appendix I and Appendix II.

4.1 International and Regional Institutions

4.1.1 Intergovernmental Institutions

The United Nations (UN) has a vast number of institutions and programs focusing on, and dealing with, environmental issues. The United Nations Environment Program (UNEP) is, most importantly, the ‘voice for the environment within the United Nations system’, but other UN bodies, particularly the United Nations Development Program (UNDP), the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) and the United Nations Educational, Scientific, and Cultural Organisation (UNESCO) play important roles for environment related issues in the South Pacific Islands. UNEP and UNDP have regional and country offices in the area, and work in partnerships with many international, regional and local government and non-government institutions.

Together with UNEP and UNDP, the World Bank is one of the major development partners and project funders in the Pacific Islands, placing a high priority on environmental issues, with the ultimate goal to reduce poverty. These three institutions administer the Global Environment Facility (GEF), established by the international community to finance actions addressing critical threats to the global environment. GEF funds are a major resource for environmental management activities in the Pacific Islands, particularly via its Small Grants Program. The Asian Development Bank (ADB) finally, is another important funder and partner for environment related projects in the Pacific Islands.

In order to unify and amplify their voices, many Pacific Island nations have joined the Alliance of Small Island States (AOSIS), a global coalition of small island and low-lying coastal countries that share similar development challenges and concerns about the environment, especially their vulnerability to the adverse effects of global climate change. As an information sharing and communication device, AOSIS has launched the Small Island Developing States Network (SIDSnet).

The ‘lead regional organization ... for environmental activities in the Pacific’ is the Secretariat of the Pacific Regional Environment Program (SPREP).\textsuperscript{128} SPREP operates two major programs: The Island Ecosystems Program aims to assist its members in managing island resources and ocean ecosystems in a sustainable manner, while the Pacific Futures Program has the goal to enable SPREP members to plan and respond to threats and pressures on island and ocean systems.\textsuperscript{129} SPREP regularly compiles different strategies, programs and reports, often in close partnership with other government and non-government institutions. SPREP is a member of the Council of Regional Organisations in the Pacific (CROP).

Other members of CROP have a direct role in environmental matters, including the Forum Fisheries Agency (FFA), created to ensure a sustainable management of living marine resources, and the South Pacific Applied Geoscience Commission (SOPAC), focusing on non-living resources, particularly drinking water, sewage and energy. The remaining CROP members include the Pacific Islands Forum Secretariat (PIFS), acting as the permanent CROP chair, the Secretariat of the Pacific Community (SPC), the University of the South Pacific (USP), the Pacific Islands Development Program (PIDP), the South Pacific Tourism Organisation (SPTO), the Fiji School of Medicine (FSchM), and the South Pacific Board for Educational Assessment (SPBEA).

As a partnership of government and non-government practitioners, and mainly funded by the Dutch and US environmental agencies, the International Network for Environmental Compliance and Enforcement (INECE) provides a forum for cooperation and capacity building on enforcement and compliance issues. In 2005, INECE, together with other partners including the Asian Development Bank, launched the regional Asian Environmental Compliance and Enforcement Network (AECEN). This network does not currently extend to countries in the South Pacific.

4.1.2 Non-Government Institutions

Many international and regional non-governmental environment organisations are active in the South Pacific region. The World Conservation Union (IUCN) has recently initiated an Oceania Program and has recently opened the IUCN Regional Office for Oceania in Suva (Fiji) to coordinate its activities in the region. The work of this regional office will be complemented by the activities of the IUCN Commission on Environmental Law (CEL), Environmental Law Centre (ELC) and Environmental Law Program (ELP).

The World Wide Fund for Nature (WWF) also maintains a South Pacific Program (SPP), managed from its Regional Secretariat in Suva (Fiji) and eight other country and project offices in the area. The Nature Conservancy (TNC) coordinates its Pacific Island Countries Program from its office in Brisbane, Australia, and has established four Country Program Offices in the islands. Greenpeace Australia Pacific manages its regional activities from offices in Sydney (Australia) and Suva (Fiji). Oxfam Australia and New Zealand have numerous environment-related aid and development projects in the region.

\textsuperscript{129} See www.sprep.org.ws/program/program.htm (27 Feb 2006).
In addition to these global organisations, regional non-government organisations, associations and networks play an important role. The Pacific Concerns Resource Centre (PCRC) in Suva (Fiji) acts as the secretariat for a network of more than 100 affiliated non-governmental and community organisations from around the Pacific active in sustainability, human rights and related matters. The Pacific Islands Association of NGOs (PIANGO) which also has a secretariat based in Suva, works with twenty-two National Liaison Units which catalyse collective action for a just and sustainable human development in the region. PIANGO has established, together with the Development Resource Centre, the Pacific Development Directory. This directory provides details of more than 1100 agencies and organisations working on development projects in the Pacific. The Foundation of the Peoples of the South Pacific International (FSPI) is another Suva-based network of local NGOs and overseas affiliates focusing mainly on community self-governance in the South Pacific. The Pacific Islands Roundtable for Nature Conservation (PIRNC) is a regional coalition of conservation organisations and donor agencies, which provides an internet-based Inventory of Regional Conservation Activities.

International organisations focused on environmental law that work in the region, or have expressed an interest in doing so, include the IUCN Environmental Law Centre (ELC) and the Environmental Law Alliance Worldwide (E-LAW). E-LAW is a networking platform for public interest lawyers and scientists, supported by a permanent secretariat (E-LAW U.S.) located in Eugene, Oregon (USA). The Center for International Environmental Law (CIEL), also based in the USA, is another active partner in the South Pacific. The London-based Foundation for International Environmental Law and Development (FIELD) has assisted Pacific island states in negotiating and implementing international environmental agreements.

The Pacific Regional Rights Resource Team (RRRT), based in Fiji, specialises in human rights advocacy. RRRT provides an excellent model for regional collaboration and capacity building for environmental civil society organisations.

Aid and development organisations in the South Pacific region often deal with environmental issues in the course of their community development activities. In Australia and New Zealand, international development organisations are represented by the Australian Council for International Development (ACFID) and the New Zealand Council for International Development (CID).

### 4.2 National and Provincial Institutions

#### 4.2.1 Government Agencies

National government agencies play a core role in the development and implementation of environmental law in the South Pacific. The key agencies responsible for national environmental law and policy in the region include:
<table>
<thead>
<tr>
<th>Country</th>
<th>National Environmental Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>Department of Environment and Heritage&lt;br&gt;www.deh.gov.au/</td>
</tr>
<tr>
<td>Cook Islands</td>
<td>Cook Islands National Environment Service&lt;br&gt;www.environment.org.ck/</td>
</tr>
<tr>
<td>Fiji</td>
<td>Department of Environment&lt;br&gt;www.fiji.gov.fj/publish/page_630.shtml</td>
</tr>
<tr>
<td>Kiribati</td>
<td>Environments &amp; Conservation Division&lt;br&gt;Ministry of Environment, Lands and Agricultural Development&lt;br&gt;www.tskl.net.ki/environment</td>
</tr>
<tr>
<td>Marshall Islands</td>
<td>Environmental Protection Authority</td>
</tr>
<tr>
<td>FSM</td>
<td>Department of Health, Education and Social Services, Department of Economic Affairs&lt;br&gt;National Environmental Management and Sustainable Development Council&lt;br&gt;www.fsmgov.org/ngovt.html</td>
</tr>
<tr>
<td>Nauru</td>
<td>Environment Division, Department of Island Development and Industry</td>
</tr>
<tr>
<td>New Zealand</td>
<td>Department of Conservation, Ministry for the Environment&lt;br&gt;www.doc.govt.nz</td>
</tr>
<tr>
<td>Niue</td>
<td>Department of Environment and Biodiversity&lt;br&gt;www.niuegov.com/</td>
</tr>
<tr>
<td>Palau</td>
<td>Division of Environmental Health, Ministry of Health&lt;br&gt;www.palaugov.net/minhealth/envirohlth.html</td>
</tr>
<tr>
<td>Papua New Guinea</td>
<td>Department of Environment and Conservation&lt;br&gt;www.pngonline.gov.pg/</td>
</tr>
<tr>
<td>Samoa</td>
<td>Division of Environment and Conservation&lt;br&gt;Department of Lands, Surveys and Environment&lt;br&gt;Ministry of Natural Resources and Environment&lt;br&gt;www.govt.ws/</td>
</tr>
<tr>
<td>Tonga</td>
<td>Environmental Planning and Conservation Section&lt;br&gt;Ministry of Lands, Surveys and Natural Resources&lt;br&gt;www.pmo.gov.to</td>
</tr>
<tr>
<td>Tuvalu</td>
<td>Environment Unit, Ministry of Natural Resources, Energy and Environment&lt;br&gt;www.tuvaluislands.com</td>
</tr>
<tr>
<td>Vanuatu</td>
<td>Environment Unit&lt;br&gt;Ministry of Lands, Natural Resources, Geology, Energy and Environment&lt;br&gt;www.biodiversity.com.vu</td>
</tr>
</tbody>
</table>
National government aid agencies also play a key role in environment protection in the South Pacific. The Australian Agency for International Development (AusAID), New Zealand’s International Aid and Development Agency (NZAID), the United States Agency for International Development (USAID) and agencies from other developed nations – particularly from Europe, where the European Union itself directly provides an important part of foreign assistance – initiate and support a wide variety of environment-related projects and programs. On ground assistance is often provided by volunteers, embedded in government funded and supported volunteer programs. National environment ministries, departments and offices often support or complement the foreign aid agencies in their activities.

4.2.2 Non-Government Organisations

A number of national environmental law organisations are active in the region. The Australian Network of Environmental Defender’s Offices (EDO Network) is made up of nine independently constituted community legal centres. The Environmental Defender’s Office (NSW), based in Sydney, is the largest public interest environmental law centre in the region, and takes a lead role within the EDO network for activities in the South Pacific region. The Environmental Defence Society (EDS) of New Zealand is periodically active in the South Pacific.

The Papua New Guinea-based Environmental Law Centre (ELC-PNG) and Centre for Environmental Law and Community Rights (CELCOR) are public interest environmental law centres active in policy, education and litigation, both working in partnerships with other environmental organisations. The Eco-Forestry Forum, also based in Papua New Guinea, provides a mechanism for NGOs with a shared interest in sustainable forest management to collaborate on public awareness campaigns, law reform proposals and public interest environmental litigation.130

In most South Pacific nations, there are few genuine environmental non-government organisations on the local or national level.131 Most of the environmental work done by non-government organisations is undertaken in conjunction with community development work, in the areas of health, water and sanitation, waste management, agro-forestry, home food production and nutrition, sustainable fishing and hunting, disaster relief, small business development and good governance.

Partners in Community Development Fiji (PCDF), for example, focused on nutrition when founded in 1978, and is now doing participatory community work with a skilled group of outreach workers.132 The Foundation of People and Community Development (FPCD) Papua New Guinea has been working in community development since 1965 and currently has one of its five core programs in ecoforestry.133 Also addressing social, environmental and economic challenges, the Solomon Islands Development Trust (SIDT) has been educating and placing village

130 See www.ecoforestry.org.pg/about.html (9 Jun 2006).
131 Contact details of several national environmental NGOs are available at: www.fspi.org.fj/network.htm (9 Jun 2006).
demonstration workers since 1977. In Tonga, environmental and other community work is conducted by the Tonga Trust established in 1979.

The national NGOs mentioned above are affiliated with the Foundation of the Peoples of the South Pacific International (FSPI). Two national FSP organisations, the Foundation of the Peoples of the South Pacific Kiribati (FSPK), and the Foundation of the Peoples of the South Pacific Vanuatu (FSPV), are both active in the context of sustainable community development.

The Tuvalu FSPI partner is the Tuvalu Association of Non-Government Organisations (TANGO), a coalition of Tuvalu NGOs including Island Care, an NGO mainly concerned with environmental issues. TANGO is also affiliated with the Pacific Islands Association of NGOs (PIANGO). In Samoa, the first genuine environmental NGO – the O Le Siosiomaga Society (OLSSI) – is also affiliated with FSPI. OLSSI was founded in 1990 and specialises in working with village communities to sustainably manage their natural resources.

Other national environmental NGOs, not directly affiliated with FSPI, include the Environmental Concerns Action Network of Solomon Islands (ECANSI), established in 2002, and the Wantok Environment Centre (WTEC) Vanuatu, which represents the interests of rural communities and families directly involved in matters of conservation and sustainable management of natural environment and resources. Under the WTEC umbrella, the Vanuatu Protected Areas Initiative (VPAI) supports village-based conservation initiatives.

Relevant professional associations in the region include Australia’s National Environmental Law Association (NELA), the Resource Management Law Association of New Zealand (RMLA) and the Environment Institute of Australia and New Zealand (EIANZ).

A more detailed overview of national and regional NGOs in the South Pacific region is provided in Appendix III.

4.2.3 Academic Institutions

Institutions of higher education have a role to play in building regional capacity as well, via lecturer and student exchange, research, conference contributions, scholarships and consultancy. The University of the South Pacific (USP) is the premier institution of higher education for the South Pacific region with campuses in twelve island countries. USP, and particularly its Pacific Centre for Environment and Sustainable Development (PACE-SD), are described in more detail in Appendix I.

Other universities active in the South Pacific include the Australian Centre for Environmental Law (ACEL), with branches at the University of Sydney, the University of Adelaide and the

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139 This network does not appear to have a website. See the 2004 UN report available at www.un.org/smallsilands2005/documents/a59409e.doc (9 Jun 2006).
140 See www.positiveearth.org/ (9 Jun 2006).
141 See www.positiveearth.org/vpai (9 Jun 2006).
Australian National University, the Macquarie University Centre for Environmental Law (MU-CEL) based in Sydney, the New Zealand Centre for Environmental Law (NZCEL) at the University of Auckland, and the Asia Pacific Centre for Environmental Law (APCEL) at the National University of Singapore.

4.2.4 Judiciary

The legal systems of the majority of nations in the South Pacific are based on the common law legal systems of England and the British Commonwealth, as adapted to local circumstances and influenced by customary law.¹⁴²

South Pacific nations have adopted legal procedures and court systems similar to the ones found in nations of the Commonwealth, particularly Australia and New Zealand. Generally, there are Local Courts, Municipal Courts and Magistrates Courts at the lower level, and High Court, Court of Appeal and Supreme Court at the higher level (for country specific information, see country profiles in Appendix II).

Specialised courts have been established in a number of countries to deal with questions of land tenure, where the interaction between common law and customary law is greatest. For example, Samoa has a Land and Titles Court, while Vanuatu has instituted a Customary Land Tribunal, and the Solomon Islands a Customary Land Appeal Court.

5 Proposed Capacity Building Strategy and Activities

5.1 Capacity-Building Strategies

In many parts of the South Pacific, governments and intergovernmental organisations have not effectively managed the environmental impacts of resource extraction. Combined with other economic development and population growth, this has led to major losses in biodiversity, contamination of the natural environment and declining natural resource stocks. As the more detailed discussion of environmental law and policy will further illustrate, there is a very real need to enhance the capacity of government and non-government organisations to promote the development and enforcement of environmental law and policy in the South Pacific region. In discussing the global implementation of the *Convention on Biological Diversity*, Johnston argues that:

> The general frustration and disappointment associated with ... international processes centres around the lack of implementation and the lack of commitment to turn the rhetoric of international diplomacy into concrete actions which materially address the issues currently facing society. It has been suggested that civil society turn to ... the legal system to break the impasse which seems to emasculate the capacity of the international community to respond to issues in a timely fashion.\(^\text{143}\)

Notwithstanding Johnston’s emphasis on civil society legal strategies as a means to hold national governments to account for their international commitments and national policies, the authors of this report take the view that capacity building strategies may fulfil a wide range of functions, and that strengthening governmental legal capacities is as important as civil society capacity building. In many cases, cooperation between national governments, regional organisations, economic stakeholders and non-government organisations – be they constituted at a local, regional or global level – may even be the most efficient and effective approach. In a review of the implementation of international environmental law in Asia and the Pacific, it was argued that ‘a culture of enhanced cooperation among government, private sector, non-governmental organisations and other civil society actors needs to be fostered in order for sustainable development initiatives to succeed’.\(^\text{144}\)

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In order to promote environmental law capacity in the South Pacific, the project partners are currently examining a range of existing and emerging legal strategies. This report canvasses a range of local and country-based legal aims and strategies (Section 5.1.1) – such as building government legal capacity, facilitating legislative reform, delivering community legal education, conducting public interest litigation and building civil society legal capacity – and regional and global legal aims and strategies (Section 5.1.2) – including monitoring and reporting, participating in multilateral negotiations, utilising formal complaint mechanisms and taking legal action in international tribunals.

This report does not aim to provide a comprehensive analysis of each of these aims and strategies, or to provide an exhaustive list of legal strategies available to strengthen environmental law capacity in the region. Rather, it focuses on giving a broad overview of existing limitations and possible responses. Feedback from a range of government and non-government organisations has been integrated into the report.

### 5.1.1 Domestic Capacity-Building Strategies

#### 5.1.1.1 Building Government Legal Capacity

The Asian Development Bank (ADB) observes that, despite some progress in establishing a national agenda for environmental capacity and norms, most Pacific nations still lack comprehensive legal frameworks covering the major aspects of environmental protection and natural resource management at the local level.\(^{145}\) In some countries, the problems encountered in establishing a national legal framework arise from conflict between Pacific traditions of local management authority and attempts to impose top-down, centralised management structures. These difficulties may also be the result of the lack of concerted consultation with all stakeholders.

Where environmental legal frameworks and policies exist, there are challenges of implementation and enforcement, particularly due to a lack of financial resources as well as to a shortage of adequately trained and skilled personnel. Limited financial and human resource capacity also means that there has been limited progress in mainstreaming environmental considerations into the way plans, policies and programs are developed for key sectors, such as transportation, energy, industry, and tourism. Most resources and effort have been absorbed in trying to build apex environmental bodies at the national level.\(^{146}\)

In line with the general ADB observations, and symptomatic for the state of implementation of many international instruments, the 2002 *Strategic Plan for the Convention on Biological Diversity* identifies ‘capacity-related obstacles’ as a key barrier to the implementation of the *Convention on Biological Diversity*.\(^{147}\) In 2002, a report of a South Pacific judges symposium recognised ‘the

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widespread regional need for continued strengthening of the capacity of judges, lawyers, enforcement officers and non-government organisations to promote the implementation of national and international environmental law through domestic compliance and enforcement regimes'.\(^{148}\)

The need for capacity building support to facilitate implementation of international agreements and national policies in the South Pacific is further emphasised by researchers from the United Nations University, following consultations in the Cook Islands, Vanuatu and Palau:

> A key problem identified by all ministries, agencies and social actors … relates to the lack of institutional, financial and human capacity. The urgent need for capacity building to address physical, human resource and skill requirements was often expressed. The most abundant needs identified relate to skills, including international law, program management, communication capacities, staff training and public and community education.\(^{149}\)

Civil society organisations with relevant expertise may play a key role in building the capacity of national governments, particularly with regard to the negotiation and implementation of international agreements. Civil society organisations have, on various occasions, successfully cooperated with government and regional organisations, which resulted in enhanced environmental law capacity.

Various non-government organizations have provided legal and policy advice, technical and scientific assistance, organisational governance support, and training programs to government employees, authorities and organisations. These efforts complement the assistance provided by inter-governmental institutions – most importantly by the United Nations (UNEP/UNDP), the World Bank, the Asian Development Bank (ADB), and national government agencies for international development such as AusAID and NZAID – which grant assistance and loans for general capacity building and specific natural resource management projects, and fund placements of experts, consultants and volunteers within national government agencies in the South Pacific.

\(^{148}\) Statement of Conclusions and Recommendations, adopted at the Pacific Island Judges Symposium on Environmental Law and Sustainable Development, Brisbane, Australia, 5-7 February 2002.

Case Study – Regional Biodiversity and Climate Change Capacity Building

The Pacific Regional Environment Program (SPREP), the WWF South Pacific Program (WWF-SPP) and the Foundation for International Environmental Law and Development (FIELD) have developed a joint program to strengthen national and regional capacity for the negotiation and implementation of the international agreements on biodiversity and climate change in the Pacific Region.

The three organisations have collaborated in the past on a number of capacity-building initiatives for the Pacific island countries in relation to both biodiversity and climate change agreements, including assistance in establishing National Biodiversity Strategic Action Plans. However, the need was identified for a more structured and strategic longer term approach.

Program activities include two regional preparation and implementation workshops per year, as well as advice and assistance through briefings and other papers on key issues within the biodiversity and climate change regimes.

The first workshop under this program of work took place in April 2003 in Samoa. This highly successful workshop benefited from the input of a range of stakeholders, including local communities, national and regional non-government organisations and the private sector. The workshop was used to discuss substantive issues, as well as addressing negotiation training needs and promoting the exchange of information through existing and new networks.

In addition to the direct benefits flowing from enhancing the capacity of government agencies to implement and enforce environmental law, the involvement of civil society organisations in national capacity building processes can contribute to the development of productive working relationships between government agencies and non-government organisations. The direct involvement of civil society organisations in government capacity building provides these organisations with direct access to key decision-makers, allowing them to present public interest perspectives and to influence the development of environmental protection measures.

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Case Study – Human Resources Capacity in Kiribati and Timor-Leste

Many of the Asian Development Bank’s (ADB) environment-related activities in the region have suffered from an overestimation of counterpart staff skills at the country level. Constant transfer and turnover of personnel is another common and closely related problem. This suggests that special attention must be given to capacity building in all projects, while also ensuring the availability of key counterpart staff for the implementation of specific projects. Staff transfer between government agencies has to be minimised, and information exchange as well as public record keeping ensured. In addition, continuing training programs are needed to train replacement staff whenever there is a high staff turnover rate. An ADB technical assistance project in Kiribati to strengthen the capability of the Environment Unit in undertaking environmental impact assessment and environmental data management encountered serious difficulties due to a lack of counterpart staff and a cohesive consulting team.153

As a newly established country, Timor-Leste has limited technical capacity in enforcing environmental laws and regulations. In order to address this deficiency, ADB in April 2001 implemented an advisory technical assistance project to strengthen the capability of the environment agency to review, evaluate, and monitor the enforcement and implementation of environmental management laws, regulations, and standards appropriate to Timor-Leste. The technical assistance project was completed in October 2002 and successfully attained its objective of developing and supporting the capacity of the national Division of Environment, particularly in carrying out environmental impact assessment, monitoring, and promoting sustainable development. This was achieved through (i) training staff in environmental management; (ii) developing a plan for implementing an environmental management institution; (iii) reviewing the environmental and natural resources management regulations currently applied in Timor-Leste and recommending appropriate amendments; (iv) preparing environmental profiles; and (v) identifying procedures for the development and use of environmental indicators in environmental reporting. This was no small accomplishment, given the country’s recent independence and new governmental structure.

Case Study – South Pacific Biodiversity Conservation Program (SPBCP)\(^{154}\)

During a detailed evaluation of the decade-long UNDP/GEF-funded South Pacific Biodiversity Conservation Program (SPBCP), many lessons have been learned. The most significant contributions of the SPBCP have been to:

- help governments engage communities and resource users in conservation;
- provide seed finance, training, and technical assistance to demonstrate practical methods of community-based conservation; and
- build the capacity of conservation area support officers (CASOs) as a critical resource for community-based conservation in the Pacific.

A number of challenges were identified:

- numerous cultural and resource tenure variations and the distances between countries and communities made regional delivery difficult;
- regional overheads for implementation are high;
- when staff move on, they leave a capacity vacuum behind in conservation areas and lead agencies; and
- the reporting and planning requirements called for an administratively cumbersome framework.

At the end of the day, community-based conservation is seen as a highly valuable means to achieve both community development/poverty reduction and conservation objectives. However, the delivery of activities from a regional base is fraught with problems. In order to achieve lasting benefits, investment in community-based conservation needs to be more flexible, rapidly adaptive, and non-time-bound.

The evaluation of SPBCP produced a number of recommendations to improve program delivery, including the following:

- locally driven and home-grown solutions introduced through flexible procedures/processes;
- longer, lower-cost projects rather than rapid-fire, high-cost programs;
- resource commitment to core functions to govern natural resources, conserve biodiversity, and protect the environment;
- more time and care in project/program preparation and design;
- proper participation and ownership by stakeholders in the design process;
- staged implementation through a process of action and learning, with built-in monitoring;
- capacity building as the most important project objective;
- knowledge management as an integral part of any design; and
- partnership and collaboration with other organizations and stakeholders as a performance measure for project/program success.

5.1.1.2 Policy and Law Reform

The Strategic Plan for the Convention on Biological Diversity identifies ‘lack of appropriate policies and laws’ as a key barrier to the conservation of biodiversity. One of the key goals of the Strategic Plan is to ensure that: ‘Every Party has effective national strategies, plans and programs in place to provide a national framework for implementing the objectives of the Convention and to set clear national priorities.’

The experience of government agencies and non-government organisations in the region indicates: (1) overly comprehensive and complex legal measures are less likely to be accepted and implemented than simpler and better focused mechanisms; and (2) it is essential that all important stakeholders be engaged in the consultative process leading to new regulatory or policy measures, particularly with regard to the incorporation of traditional environmental management practices into national policy and legislation.

Civil society organisations play a ‘vital role in the identification of weaknesses and gaps in current policy or legal frameworks’. In particular, they must work to ensure that each country has adequate and effective legal instruments, administrative policies and executive institutions for the management and conservation of natural resources. Civil society law reform strategies must emphasise the importance of facilitating community involvement in implementation and enforcement of natural resource management and conservation measures:

- citizens and environmental non-governmental organisations should be able to be partners in the enforcement process – this involves ensuring that citizens have access to the courts in terms of open-standing provisions and access to information and financial and other resources to be able to enforce effectively the laws and policies.

The role of civil society organisations in promoting environmental law reform depends in part on the position adopted by governments in relation to environmental matters. In many cases in the South Pacific, national governments have demonstrated a commitment to sustainable development and the conservation of biodiversity, yet lack the capacity to develop an appropriate legislative regime to put that commitment into effect. In circumstances such as these, it has been suggested that ‘[t]he best possible way … to support countries with regard to their legal processes is through the production and distribution of clear technical documentation’.

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In this regard, civil society organisations may assist by directly drafting proposed legislation, or by preparing technical reports exploring alternative legal and institutional mechanisms. For example, in 1992, the EDO was engaged by the government of Temotu Province in the Solomon Islands to draft amendments to the endangered species protection provisions of the province’s *Environmental Protection Ordinance 1989*.\(^{161}\) The following year, the EDO was retained by SPREP to prepare a technical report entitled *Legal and Institutional Models for Conservation Areas*, which aimed to provide ‘a broad analysis of legal and institutional options for the establishment and management of conservation areas in fourteen independent Pacific Island countries’.\(^{162}\) The report contained detailed technical information and clear recommendations for legislative and administrative action.

In circumstances where the position of the government is incompatible with the public interest objectives of civil society organisations, those organisations may seek to influence government policy and promote law reform via community awareness raising, public campaigns and political lobbying. International civil society organisations must be sensitive to the positions of local groups and communities, and work in partnership with local civil society organisations wherever possible.

It is important that international civil society organisations do not seek to impose inappropriate external models for biodiversity conservation, particularly in countries with strong customary law systems, including customary land ownership and decision-making systems: ‘the need to enact environmental legislation must be carefully justified rather than assumed, and the precise components of that legislation must be tailored to the policy context and needs of Pacific island countries and not based on imported models from developed countries.’\(^{163}\) In areas with strong customary law systems, ‘law reform’ activities may occur at a local level by engaging with communities in relation to local resource management issues. For example, the Environmental Law Centre (ELC-PNG), a non-government organisation in Papua New Guinea, is currently working with landowners in East Sepik to support the establishment of a community-based marine protected area.

In countries with a number of environmental organisations, such as Australia, New Zealand, Papua New Guinea and Fiji, establishing mechanisms for cooperation and consensus-building can increase the effectiveness of civil society law reform campaigns. For example, in Australia, peak environmental groups in New South Wales have established the Environmental Liaison Office, a mechanism for coordinating civil society legislative analysis and parliamentary lobbying activities (see *Case Study* below). In Papua New Guinea, the Eco-Forestry Forum provides a mechanism for non-government organisations with a shared interest in sustainable forest management to collaborate on public awareness campaigns, law reform proposals and public interest environmental litigation.


Case Study – Coordinating Environmental Lobbying Activities in New South Wales

The Environment Liaison Office (ELO) is an initiative of the leading conservation organisations in New South Wales, Australia. For over fourteen years, the ELO has provided a link between the environment groups and the members of the New South Wales Parliament.

The member organisations – the Nature Conservation Council, Total Environment Centre, National Parks Association, The Wilderness Society, Australian Conservation Foundation, Greenpeace, Blue Mountains Conservation Society and Colong Foundation for Wilderness – meet on a regular basis to discuss policy and law reform issues, and to brief the Environment Liaison Officer.

The Environment Liaison Officer monitors and reports on proposed legislation before Parliament, and meets regularly with members of Parliament to present the views of the ELO member organisations. The Environment Liaison Officer’s position is jointly funded by the ELO member organisations. The EDO participates in the ELO in an advisory capacity.

Case Study – IUCN Environmental Law Program – Technical Assistance Projects 2000-2005

The IUCN Environmental Law Program is a world leader in supporting the efforts of developing countries around the world to enhance their environmental laws and policies. Examples of some of the key technical assistance projects undertaken by the ELP during the period 2000-2005 are described below.

Bangladesh – the ELC and IUCN Bangladesh collaborated with the Bangladesh Environmental Law Association in the revision of the country’s Environment Framework Law. The request came from the Ministry of Environment and Forest.

Nepal – the ELC and IUCN Nepal collaborated in a judges’ training programme which focused on biodiversity issues.

Malawi – the ELC carried out a study aimed at identifying the needs of selected developing countries, including Malawi, to improve forestry laws and associated regulations.

Nicaragua – the ELC coordinated with the IUCN Regional Office for Mesoamerica and CEL, a project to assist Nicaragua with the drafting of new legislation on biological diversity as well as training for staff of the relevant government agency. The request came from the Ministry for the Environment.

Guinea-Bissau – after more than two years of suspension due to civil unrest, the ELC organised a mission composed of two international experts, one national expert, and a legal officer, to evaluate the financial and institutional situation of the project, as well as proposing a framework for its continuation. This project aims at assisting technically the Government of Guinea-Bissau in the drafting of environmental legislation as well as building capacity in environmental law, by establishing a centre within the Ministry for the Environment and Natural Resources.

Philippines – With assistance from the ELP, an environmental law group called “KALIKUPAN” has been established to focus on education and ensuring compliance with the law. In addition, the University of Cebu has agreed to set up an Environmental Centre, with which KALIKUPAN will be
associated. The Environmental Centre's primary purpose will be to build the capacity of local
government officials and civil society at the grassroots level.

Lebanon - The IUCN ELP has delivered a series of lectures on an introduction to environmental
law at Lebanese universities and the Beirut Bar Association. Following on from the lecture series,
two training courses for government officials and decision-makers on drafting and implementation
of environmental legislation were conducted. These lectures form part of an ongoing cooperation
agreement between the ELP, the Lebanese Ministry for the Environment, and other Lebanese
partners.

Mesoamerica – The ELP and IUCN Regional Office for Mesoamerica have signed a memorandum
of understanding with the Central American Commission on Environment and Development
(CCAD), an organ of the Central American Integration System, to support the activities of the
CCAD in the field of environmental law, especially implementation of multilateral environmental
agreements.

Cambodia – The ELC has in conjunction with a drafting team from the Ministry of Forestry,
Fisheries and Agriculture undertaken development of a new national forestry law and has also
worked on development of draft wildlife conservation legislation.

West Africa - An environmental law programme for the West Africa Region has been developed in
cooperation with the IUCN West African Office.

5.1.1.3 Community Legal Education

The Strategic Plan for the Convention on Biological Diversity identifies ‘lack of local community
capacity’ as a key barrier to the conservation of biodiversity. There is significant scope for
community capacity building activities in the region: ‘Grassroots non-governmental organisations
are a recent development in many of the South Pacific islands. The full potential of many
community-based and indigenous non-government organisations is still not fully realised’.164

Community legal education has a key role to play in informing members of the public of their legal
rights and empowering the community to protect the environment through law.165 To empower
communities to protect the environment through law, community legal and environmental
education has to play a key role within an environmental law capacity building project. As the Asian
Development Bank (ADB) stresses, ‘[b]uilding partnerships among government, community groups,
NGOs, and the private sector is an efficient and sustainable approach to making use of scarce resources, sharing burdens, and developing local expertise and ownership’.166

Case Study – Community Legal Education for Forest Communities in Papua New Guinea

In Papua New Guinea, commercial logging operations require the informed consent of local customary landowners. However, local communities are often not aware of their legal rights in relation to logging operations on their land, resulting in widespread illegal and unsustainable logging on community lands. In response to this problem, the Environmental Law Centre (ELC-PNG) and the Centre for Environmental Law and Community Rights (CELCOR) conduct legal awareness workshops with remote forest communities. The workshops aim to provide communities with the information and advice they require to make informed decisions about the use of natural resources on their customary lands and to enforce their legal rights where customary lands are being exploited illegally. In addition, ELC-PNG delivers community log monitoring workshops, intended to equip customary landowners with the practical skills and knowledge necessary to identify illegal activities by logging companies, particularly failures to adhere to proper logging practices and codes set out in forestry legislation. The workshops also incorporate community organising and mobilisation activities to support community involvement in natural resource management.

Case Study – Community Governance for Rainforest Conservation in the Solomon Islands167

This IUCN funded project focuses on Santa Isabel, an island in the northern part of the Solomon Islands. Santa Isabel has a population of approximately 20,000 people who reside mainly in rural and remote villages along the coast. These communities rely on subsistence for their livelihoods. The local people in Santa Isabel (and in the Solomon Islands as a whole) still have customary tenure over their forests. However, despite the fact that this traditional ownership is legally recognised and enshrined in the constitution, communities are often left out of the decision-making process with regards to the exploitation of their natural resources.

The Community Governance for Rainforest Conservation Project has been developed to focus on building the capacity of local communities (including marginalised groups such as women and youth) to plan, make informed decisions and act in support of sustainable development and environmental conservation. In addition, the project works with rural communities and seeks to empower them by returning to them the control of their forests that they have traditionally managed.

To address the challenges faced by the rural communities, the project engages in the following:

- building capacity of local people to map their communities (including their rainforests), identify problems and solutions, and formulate action plans in support of their own development (including forest management plans) – this process is known as ‘Participatory Learning and Action’ (PLA);
- supporting communities in implementing action plans, specifically assisting them to find alternatives to unsustainable activities for their rainforests; and
- through the PLA process, building capacity among communities to advocate on behalf of their rights in maintaining long-term stewardship over their forests, locally, nationally and regionally through dialogue, networking and policy influence.

This project is managed by the FSPI Secretariat who provides technical expertise in PLA processes (FSPI has on staff a PLA expert – Ms. Suliana Siwatibau – who is also the Oceania representative on the IUCN World Council). FSPI also provides management and coordination of activities, advocacy on a regional level to other regional NGOs and organisations.

The Solomon Islands Development Trust (SIDT) is responsible for carrying out capacity building work within each community, utilising their community outreach officers and Village Demonstration Workers.

5.1.1.4 Public Interest Environmental Litigation

In the correct circumstances, public interest environmental litigation may be a powerful tool for promoting the implementation and enforcement of natural resource management and conservation measures. However, it is important for civil society organisations to critically examine the effectiveness and appropriateness of litigation strategies in each jurisdiction and in relation to particular classes of environmental problems. For example, in countries with strong traditional authority structures at a local level, civil society organisations need to exercise caution in seeking to impose conservation outcomes via litigation in national or provincial courts.

In light of the limited resources available for public interest environmental litigation in the South Pacific, it is important that civil society organisations adopt a strategic approach in the selection of suitable cases. An effective litigation strategy may involve one or more of the following broad classes of legal action: common law; administrative law; environmental law; and, constitutional law. In certain jurisdictions, customary law will play a key role in certain aspects of litigation – for example, resolving competing claims to land – and may also form the basis of local dispute resolution mechanisms.

In relation to common law claims, depending on the jurisdiction, a person may commence legal action to obtain damages or injunctive relief based on a number of causes of action, including negligence, nuisance, trespass or breach of contract. For example, landowners affected by pollution of their water supply by upstream mining operations may seek to maintain a claim in nuisance. Landowners affected by illegal logging may be able to seek damages and an injunction to prevent further trespass on their customary lands. In cases where landowners have entered into
agreements with companies to allow logging, breach of environmental management provisions in an agreement may form the basis for a claim in contract law.

Administrative law is concerned with the lawfulness of government decisions. Judicial review of administrative decisions allows an ‘interested person’ to obtain declaratory or injunctive relief to remedy an unlawful government decision. In Papua New Guinea, for example, the Environmental Law Centre has commenced judicial review proceedings to have certain timber permits in the East Awin area declared invalid on the basis that they were issued in breach of the Foresty Act 1991. In preliminary proceedings, the National Court accepted that the Eco-Forestry Forum had standing to commence judicial review proceedings. This is the first time in Papua New Guinea that a community based organisation has been granted standing to seek judicial review of an administrative decision.

Environmental law, including environmental and planning legislation, as well as environmental protection provisions in sectoral legislation, provides the most direct means for individuals to obtain environmental outcomes via litigation. If the relevant legislation does not provide standing for members of the community to take legal action to enforce environmental protection provisions, standing may present a significant obstacle to civil society enforcement of environmental law. If this is the case, civil society organisations must undertake a concerted campaign to obtain standing in environmental matters, drawing on examples from other jurisdictions168 and emphasising support for public participation in international law.169

Constitutional law may also form the basis of public interest environmental litigation. Constitutional provisions in a number of South Pacific countries identify national priorities – such as the sustainable use of natural resources – and recognise certain individual and collective rights – such as the right to a clean and healthy environment – which directly further public interest litigation objectives.170 Constitutional law has been used to great effect by public interest environmental lawyers in jurisdictions such as India and Pakistan.171 Furthermore, as Anderson argues, ‘explicit constitutional rights to environmental protection can lie dormant unless they are actively seized by environmentalists and lawyers’.172

168 For example, in New South Wales, Australia, most environmental statutes provide standing for ‘any person’ to commence civil enforcement action to remedy or restrain a breach of the relevant statute. See, for example, the National Parks and Wildlife Act 1974, Environmental Planning and Assessment Act 1979, Threatened Species Conservation Act 1995 and Protection of the Environment Operations Act 1997. cf. Environment Protection and Biodiversity Conservation Act 1999, s.475 re standing (‘interested person’ test).
169 For example, Rio Declaration on Environment and Development, Principle 10 and the UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice (‘Aarhus Convention’).
170 For example, one of the national goals in the Constitution of Papua New Guinea is ‘for Papua New Guinea’s natural resources and environment to be conserved and used for the collective benefit of us all, and to be replenished for the benefit of future generations.’ See also the Constitution of Vanuatu: ‘Every person has the fundamental duty to themselves, their descendants and to others to protect Vanuatu and to safeguard the national wealth, resources and environment in the interests of present and future generations.’
Public interest lawyers may also play a role in defending communities and civil society organisations from attempts to silence opposition to environmentally harmful activities. For example, in 2003, the PNG-based Environmental Law Centre (ELC-PNG) represented customary landholders who were sued by a tuna company in relation to alleged public statements about the pollution impacts of the company’s tuna canning factory at Madang. ELC-PNG was successful in forcing the company to discontinue the legal action against the landholders.

*Case Study – Public Interest Environmental Litigation in Papua New Guinea*

In 2002, the Environmental Law Centre (ELC-PNG) achieved a significant victory in litigation to prevent illegal logging in Collingwood Bay. This successful litigation resulted in the direct protection of 38,000 hectares of rainforest and exposed the fraudulent activities of resource companies seeking logging permits. Neighbouring landowners, empowered by the success of the Maisin people, have placed nearly 1.2 million hectares of land extending from Collingwood Bay under customary conservation.

In the same year, ELC-PNG presented a complaint to the Ombudsman Commission on behalf of the Kasua people, challenging the extension of an existing timber permit. The extension covered an area of 800,000 hectares. The report of the Ombudsman Commission found that the extension was void and that there had been wrongful conduct by government officials. In response to the report, the Governor of the Western Province filed proceedings in the National Court and obtained an injunction to prevent logging in the area.

5.1.1.5 Building Civil Society Legal Capacity

Established civil society organisations have a crucial role to play in building environmental law capacity in the South Pacific, particularly in supporting the establishment and ongoing development of public interest environmental law centres and programs. Public interest environmental law centres now exist in many countries around the world. Collaboration between existing centres, and support for emerging centres, is an important mechanism for improving the effectiveness of civil society legal strategies.

International environmental law organisations, such as the Centre for International Environmental Law (CIEL), have played a key role in this regard. For example, CIEL was instrumental in the establishment of the Centre for Environmental Law and Community Rights (CELCOR) in Papua New Guinea. However, there is also considerable scope for national environmental law organisations to work in partnership to build the capacity of public interest environmental lawyers in the region (see Case Study below).

173 For more information about CELCOR and CIEL, see the corresponding paragraphs and links in Appendix I.
Case Study – Civil Society Capacity Building in Papua New Guinea

For a number of years, the Environmental Defender’s Office (NSW) (EDO), a public interest environmental law centre based in Australia, has worked in partnership with the Environmental Law Centre (ELC-PNG) in Papua New Guinea, providing capacity building support. The capacity building project aims to enhance the effectiveness of ELC-PNG’s litigation, law reform and community education programs by providing training, advice and assistance.

The project provides opportunities for regular lawyer exchanges. EDO lawyers travel to Port Moresby to deliver training sessions for ELC-PNG and CELCOR staff and to work with ELC-PNG staff on current litigation matters. ELC-PNG lawyers travel to Sydney to participate in external training programs and to work with EDO staff on ELC-PNG projects. Information exchange, advice and assistance are facilitated by an email discussion group involving all legal staff from both offices.

Civil society collaboration and capacity building also occurs via national, regional and international networks. There are substantial benefits associated with the establishment of civil society legal networks: ‘regional and national networks of organisations improve the efficacy of individual organisations by facilitating coordination and exchanging information and expertise’.174

International and regional networks, used effectively, have the potential to meet the following objectives:

- strengthening environmental law implementation and enforcement;
- facilitating transboundary collaboration and information exchange;
- building government and non-government institutional capacity;
- identifying regional priorities and building consensus; and
- overcoming limited resources.175

The Environmental Law Alliance Worldwide (E-LAW), for example, is an international network of more than 300 public interest environmental lawyers and scientists from around the world. Working primarily through the internet, E-LAW supports and facilitates public interest environmental litigation and law reform, builds lasting local capacity to defend the environment through law, and fosters global and regional collaboration among the members of the network.176 E-LAW membership in the South Pacific currently extends to Australia and Papua New Guinea.

Other international environmental law networks, open to individuals working in the field of environmental law from a variety of sectors, include the International Network of Environmental Compliance and Enforcement (INECE), the IUCN Commission on Environmental Law (IUCN CEL),

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176 For more information about E-LAW, see the corresponding paragraph and links in Appendix I.
Regional environmental law networks provide opportunities for collaboration and information exchange on issues of regional concern. The physical proximity and shared interests of regional partners allows a stronger emphasis on substantial collaboration in the development and implementation of national and regional legal strategies (see Case Study below).

**Case Study – Regional Civil Society Networking in the Americas**

The Asociación Interamericana para la Defensa del Ambiente (AIDA), or the Interamerican Association for Environment Defence, is a regional civil society network that works through the collaborative efforts of participating organisations, each of which is an established public interest environmental law centre.

AIDA’s mission is to promote the ability of citizens to protect their health and environment through development and enforcement of national and international laws. The members of the network accomplish this by bringing cases of international concern before national and international tribunals, and advocating for laws and treaties that protect the human right to a healthy environment and provide for citizen enforcement of environmental laws.

Collaboration between member organisations, with support from the AIDA secretariat, has played a vital role in the success of a number of key cases, including litigation to prevent petroleum exploration on tribal lands in Colombia and legal action against offshore oil drilling and open-pit gold mining in Costa Rica.

The South Pacific currently lacks a comprehensive regional public interest environmental law network. In Australia, the nine member organisations of the Australian Network of Environmental Defender’s Offices (ANEDO) collaborate in relation to federal litigation and law reform matters, but do not engage systematically with other organisations in the region. To date, interactions with public interest environmental lawyers in New Zealand have remained limited.

In Papua New Guinea, ELC-PNG, CELCOR and the Eco-Forestry Forum work closely on issues of common concern, and maintain informal links with public interest environmental lawyers in Australia and South-East Asia, but interaction with environmental organisations in other parts of the South Pacific remains relatively limited. There are currently no other dedicated public interest environmental law centres established in the South Pacific island states.

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178 For more information about AIDA, visit: www.aida-americas.org.

179 ANEDO consists of nine independently constituted public interest environmental law centres in the Australian Capital Territory, New South Wales, the Northern Territory, North Queensland, Queensland, South Australia, Tasmania, Victoria and Western Australia. For more information about the EDO Network, see the information and links in Appendix I.

180 For example, the Environmental Defence Society; see the information and links in Appendix I.
Regional networks require thoughtful design in order to achieve their objectives. Key network design elements to be considered include: membership and participation, governance and coordination, network structure, financial resources, and communication systems. The selection of appropriate models for capacity building and network building is greatly assisted by examination of existing regional organisations: ‘Networking is a very powerful tool for achieving cooperation among countries in areas such as environmental implementation and enforcement. … [E]merging regional networks can look to existing networks and build on their strengths and supplement their weaknesses.’

**Case Study – Regional Human Rights Capacity Building in the South Pacific**

The Regional Rights Resource Team (RRRT) is a non-profit training and technical resource organisation specialising in human rights advocacy, law and education tailored specifically to the Pacific region. The organisation’s goal is to strengthen the capacity of partners in the region to implement principles and practices of democracy and human rights.

The RRRT provides human rights training, legal advisory services and technical support to government and civil society organisations throughout the region. The RRRT has a sustained presence in the Cook Islands, Fiji, Kiribati, Solomon Islands, Tonga, Tuvalu and Vanuatu, with established national partners permanently based in those countries.

The RRRT plays a key role in building the capacity of national partners to promote good governance and observe human rights. Two key components of the RRRT’s approach to capacity building at the national level include training and supporting:

- legal rights training officers: these officers are based in a national non-government organisation with a strong commitment to human rights, and are responsible for community level workshops, undertake public awareness programs, provide individual advice to those in need, and participate in local policy and law reform dialogues.

- community paralegals: these paralegals are civil society leaders and government field officers, who have undertaken a six-week human rights training program, and agreed to act as community mobilisers, promoting human rights awareness to outlying rural areas, as well as providing a support network for legal rights training officers.

The RRRT provides an excellent model for regional collaboration and capacity building for environmental civil society organisations, and also presents interesting opportunities for collaboration in relation to issues that include both environmental and human rights dimensions, such as pollution from mining activities and illegal logging on indigenous lands.

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183 For more information about the RRRT, see the corresponding paragraph and links in Appendix I; for information about links between human rights and environmental issues, visit Fundación Centro de Derechos Humanos y Ambiente (CEDHA) at: www.cedha.org.ar.
5.1.1.6 Building Academic Capacity

Increasing the ability of academics in the region to deliver high-quality training and education in the field of environmental law is a key component of long-term capacity-building for government and non-government organisation alike. Existing human resource limitations, combined with a high turnover of personnel, within many government institutions, severely constrains the ability of governments in the region to effectively respond to environmental challenges.

Case Study – IUCN Capacity Building Program for the Asia Pacific

Following an intensive training course at the National University of Singapore in 1997-8, a two volume set of materials titled, *Capacity Building for Environmental Law in the Asia and Pacific Region: Approaches and Resources*, was published by the Asian Development Bank in 2002 (edited by the IUCN Commission on Environmental Law). This publication is intended to foster environmental law expertise in the Asian and Pacific region, especially for universities, governments, the private sector and non-governmental organisations.

5.1.1.7 Building Judicial Capacity

Inter-jurisdictional contact between members of the judiciary as well as formal training opportunities can be important factors contributing to a high standard in judgments with regard to environmental issues, which often require a high level of scientific knowledge. The United Nations Environment Program (UNEP) regularly holds symposia on the role of the judiciary in promoting the rule of law in the area of sustainable development. 184 A Judicial Education Program is also run by the US-based Environmental Law Institute (ELI), however, no meeting of judges has been held in the South Pacific yet. 185

5.1.2 Regional Capacity Building Strategies

In addition to the domestic legal strategies described above, local, regional and international civil society organisations may also seek to employ a range of international legal strategies to promote the implementation of international agreements with regard to biodiversity, natural resources, pollution and waste management. These strategies include: monitoring and reporting; formal complaint mechanisms; multilateral negotiations; dispute resolution proceedings; and, legal action in international tribunals.

5.1.2.1 Monitoring and Reporting

Civil society organisations may play an important role in monitoring the extent to which countries are implementing their obligations under international law, and reporting non-compliance to the international community. 186 By bearing witness to breaches of international environmental law, civil

184 For references and more information about UNEP see the corresponding paragraphs in Appendix I.
185 See www2.eli.org/research/judicialtraining.htm (27 Jul 2006).
society organisations create pressure for states to regulate environmentally harmful activities. If the actions or omissions of a state undermine a particular international or regional agreement, a civil society organisation may submit an informal, but comprehensive petition to the relevant convention secretariat to pressure the state to alter its behaviour. Lodging the petition may: induce the state to take action to resolve the issue; prompt the secretariat to work with the state to resolve the issue; or, raise public awareness of a previously unknown concern.187

**Case Study – Monitoring and Reporting on the Impacts of the Australian Mining Industry**

Since 2000, the Oxfam Mining Ombudsman has monitored and reported on the activities of the Australian mining industry in countries in the Americas, Africa and the Asia-Pacific. The project aims to draw attention to the impacts of these mining operations on the natural environment and human rights of affected communities (including, in the Pacific region, communities affected by the Tolukuma mine in Papua New Guinea and the Vatukoula mine in Fiji). Oxfam’s monitoring and reporting framework makes explicit reference to international human rights law, and makes clear recommendations for state action, including home-state regulation of Australian mining companies and the establishment of an independent mining industry complaints mechanism in Australia.188

5.1.2.2 **Formal Complaint Mechanisms**

Multilateral environmental agreements do not generally provide formal complaint mechanisms for non-state actors. However, there are a number of international complaint mechanisms that may directly or indirectly provide opportunities for environmental protection and biodiversity conservation, including complaints mechanisms adopted by international human rights institutions and international financial organisations.

International human rights complaint mechanisms may play a role in environmental protection in cases where environmental degradation occurs as a result of an act or omission by government, and deprivation of human rights occurs as a result of the environmental degradation. In the absence of a regional human rights system,189 communities in the South Pacific are limited to the complaints mechanisms available within the United Nations human rights system including, inter alia, complaints to the UN Human Rights Committee and the UN Committee on Economic, Social and Cultural Rights. These mechanisms provide an opportunity to draw international attention to the issue and to place pressure on national governments to respond to the issue.190

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189 Regional human rights systems in Europe and the Americas provide for binding orders to be issued by a regional human rights court. No similar institution exists in the Asia-Pacific.

International financial institutions, such as the World Bank and the Asian Development Bank, play an important role in the South Pacific by financing development projects, providing technical assistance and influencing domestic economic policy.\textsuperscript{191} Through their lending practices and policies, international financial institutions have a significant impact on development activities in the region.\textsuperscript{192} In response to pressure from civil society organisations, a number of international financial institutions, including the World Bank and the Asian Development Bank, have established investigation and dispute resolution mechanisms to respond to claims by affected communities that a project funded by the institution has failed to comply with a relevant environmental protection standard, including institutional policies.\textsuperscript{193}

\textbf{Case Study – World Bank Review of Wawoi Guavi Logging Project in Papua New Guinea}

In 2004, the Environmental Law Centre (ELC-PNG) was successful in lobbying the World Bank to send a team to the Western Province of Papua New Guinea to inspect the Wawoi Guavi logging project. Under the terms of a World Bank loan for a national forest conservation program, the national government is required to take certain measures to improve the sustainability of forestry operations in Papua New Guinea. The World Bank Review Team’s report highlighted a number of failures to comply with the terms of timber permits, environmental standards and operating requirements for logging operations. This report will provide a useful resource for civil society organisations seeking to draw attention to widespread problems with illegal logging in Papua New Guinea.

\textbf{5.1.2.3 Multilateral Negotiations}

Conferences of the parties to multilateral environmental agreements are conducted on a regular basis to promote treaty implementation, draft protocols and exchange information. Most multilateral environmental agreements allow non-state actors, including civil society organisations, to participate as observers during these meetings, which provides them with access to key experts and decision-makers, and excellent opportunities for lobbying on implementation issues.\textsuperscript{194} In recent years, civil society organisations have begun to participate directly in multilateral negotiations, as members of official national delegations. Governments benefit from the expertise, knowledge and legitimacy of the civil society organisation, while civil society organisations gain from increased access to information and potentially more direct influence on official positions.\textsuperscript{195} In some cases, civil society

\begin{itemize}
  \item \textsuperscript{191} For more information about the World Bank and the Asian Development Bank, see the corresponding paragraphs and links in Appendix I.
  \item \textsuperscript{193} Detailed discussion of international financial institution complaint mechanisms is beyond the scope of this paper. For a practical guide to the use of these mechanisms, including the World Bank Inspection Panel and the ADB Inspection Committee, see Malone, L. and Pasternak, S. (2004) \textit{Defending the Environment: Civil Society Strategies to Enforce International Environmental Law}, pp. 100-7.
\end{itemize}
organisations have more formally represented governments at international conferences. In these instances, the organisations actually speak for the government, in what is essentially a lawyer-client relationship. For example, CIEL has represented the Marshall Islands in negotiations over land-based sources of marine pollution, and the Foundation for International Environmental Law and Development (FIELD) has assisted and advised the Alliance of Small Island States (AOSIS) in relation to climate change negotiations.  

**Case Study – Civil Society Representation of Small Island States (SIDs) in Climate Change Negotiations**

FIELD played a core role in the formation of AOSIS. Due to their isolation and small markets, AOSIS countries often have limited financial and technical resources, which makes it difficult for them to present their case effectively during international negotiations. FIELD’s legal advice and assistance to the group has helped the coalition become one of the key players in the international climate change negotiations, quite ‘disproportionately to [the] economic and geopolitical clout’ of the SIDS. FIELD assists AOSIS members by providing briefing materials on the legal and political issues at stake, informing and training AOSIS members between negotiating sessions, assisting with the drafting of submissions and interventions, supporting delegations during the negotiations, and, when requested, intervening on their behalf.

5.1.2.4 Dispute Resolution Proceedings

The dispute resolution mechanisms for international biodiversity, natural resource, pollution and waste agreements do generally not allow participation by non-state actors. However, a civil society organisation may encourage and assist a sympathetic government to initiate dispute resolution proceedings against another state in breach of convention obligations. Initiating dispute resolution proceedings may: induce the state to take action to resolve the issue; prompt the secretariat to work with the state to resolve the issue; or, raise public awareness of the issue. This region presents unique opportunities – as yet untested – for civil society organisations to work with national governments on the preparation of dispute resolution claims.

5.1.2.5 Legal Action in International Tribunals

A number of international tribunals, including the International Court of Justice, the International Tribunal on the Law of the Sea and the Permanent Court of Arbitration are empowered to hear disputes in relation to environmental matters. The jurisdiction of international tribunals have traditionally been limited to the resolution of disputes between states, but civil society organisations may play a role in supporting state participation in international judicial proceedings.

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Indeed, Richardson argues that international tribunals play a vital role in safeguarding the interests of small developing states:

Conciliation presupposes an equal power relationship, and that the disputing parties can freely ‘negotiate’ and ‘compromise’ their differences. In fact, international relations are clearly unequal, and few developing countries can alone effectively negotiate with power industrialised nations. Instead, it is essential that developing countries be provided with the necessary financial, information and technical resources to enable them to adequately represent their interests and environmental concerns in international judicial forums.\(^{199}\)

In the event that a state, or states, in the South Pacific, elected to commence judicial proceedings in relation to an issue regulated by an international agreement (for example, illegal fishing activities), civil society organisations may be able to play a key role in supporting the litigation. In addition, some tribunals allow non-state actors to present *amicus curiae* briefs to advise the court on matters relevant to the claim.

In 2001, the Permanent Court of Arbitration adopted optional rules for the arbitration of disputes relating to natural resources and the environment, which provides for the resolution of disputes between state and non-state actors.\(^{200}\) The optional rules provide a potentially powerful mechanism for the involvement of civil society actors in international environmental arbitration, but are limited by the voluntary nature of the court’s jurisdiction.\(^{201}\)

### 5.2 Proposed Capacity-Building Activities

The South Pacific Regional Environmental Law Capacity Building Project aims to provide technical assistance and legal capacity-building support for government and non-government organisations in the South Pacific region. The project will be delivered jointly by the IUCN Environmental Law Program (IUCN-ELP) and the Environmental Defender’s Office New South Wales (EDO), in collaboration with government and non-government partners throughout the region.

The overall administration of the project is the responsibility of the Head of IUCN-ELP, the Director of the IUCN Environmental Law Centre (ELC). Project coordination and technical supervision is the responsibility of a legal officer at the ELC or, alternatively, the EDO. Staffing for the individual activities within the overall project is determined according to the specific requirements and circumstances in each case. Consultants may be chosen from among IUCN member organisations working in the field of environmental law and from members of the IUCN Commission on Environmental Law (IUCN-CEL), as well as from among individuals and organisations not formally associated with IUCN.

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200 Permanent Court of Arbitration *Optional Rules for the Arbitration of Disputes Relating to Natural Resources and/or the Environment*. For more information, see [www.pca-cpa.org](http://www.pca-cpa.org).

Environmental law capacity in the South Pacific is to be enhanced by a diverse range of activities ranging from communication and networking, technical assistance, professional and academic exchanges, training programs, community education, conferences, seminars and meetings, to the establishment of environmental law programs and centres, all outlined in more detail below.

5.2.1 Outreach and Consultation

Drawing on the experience of previous projects in the region, this report has been prepared in consultation with a wide range of stakeholders. Earlier drafts of the report were circulated to a wide range of stakeholders – including each of the organisations profiled in Appendix I – for formal comment. The feedback received was integrated into the final version of the report.

The project partners – IUCN, EDO and SPREP – have undertaken informal consultation with a range of stakeholders. A variety of international, regional and local organisations have expressed an interest in collaborating with the project partners to support the implementation of the project. For example, the Pacific Concerns Resource Centre (PCRC), the Centre for Environmental Law and Community Rights (CELCOR) and the secretariat of the Environmental Law Alliance Worldwide (E-LAW) have expressed an interest in collaboration and a willingness to support the project.

Austraining International, the firm responsible for administering the volunteer programs of the Australian Agency for International Development (AusAID) has expressed an interest in working with the EDO and IUCN to deliver strategic capacity-building outcomes in the region by facilitating volunteer placements for Australian environmental lawyers in the region. The EDO and Austraining International have prepared a draft memorandum of understanding, highlighting the opportunities for collaboration in the region.

The project partners propose to implement the project in ongoing consultation with stakeholders in the region. Subject to the availability of funding, the project partners propose to host a series of regional and national consultation meetings.

5.2.2 Enabling Communication and Networking

Linking people is a key goal of this project. Contact between project officers and other representatives of governmental and non-governmental organisations, including lawyers and scientific experts, will play a vital role in fulfilling the objectives of this project.

The project partners will promote and facilitate participation in networks for the exchange of information and assistance. An electronic mailing list (listserv) for IUCN Commission on Environmental Law (CEL) members in the Oceania region was launched in late February 2006, supported by the Young Lawyers Environmental Law Committee of the New South Wales Law Society.202

Membership of the IUCN-CEL network will be further encouraged and facilitated by the project partners, as well as membership of other networks including the International Network for Environmental Compliance and Enforcement (INECE) and the Environmental Law Alliance

Prospective members are generally required to demonstrate their expertise in the field of environmental law and policy (IUCN-CEL), their commitment to environmental compliance and enforcement (INECE), or similar attributes. E-LAW membership is based on a nomination by two current members and a lack of objection from other members. Suitable candidates for network membership are to be sought particularly in South Pacific countries with no or a low representation in these networks. Promotion and facilitating activities will be particularly undertaken by the IUCN or EDO legal officer coordinating the project.

Subject to the availability of appropriate resources, the project partners will consider the provision of technical support in the area of information and communication technologies, such as the access to computer equipment and software, and to the internet. Various programs, including the Pacific Plan for Strengthening Regional Cooperation and Integration, emphasise the need to build capacity in this respect. Even though not a core objective of this project, IUCN and EDO will endeavour to assist local environmental organisations to access technologies necessary for communication and networking. E-LAW also has a long history of involvement in providing technological support for public interest environmental law centres.

5.2.3 Technical Assistance

Technical assistance – legal and policy advice, scientific assistance, and organisational governance support – is another important aspect of environmental law capacity building. Requests for assistance require a rapid and flexible response, which will be provided by in-country and other experts, affiliated with the IUCN and EDO networks. Technical assistance might be combined with professional exchanges, research fellowships, workshops and other meetings.

As an intermediary between the originator of the request and the legal or scientific expert providing the actual assistance or advice, a project officer evaluates the various requests and consults within the network of IUCN-ELC, IUCN-CEL and EDO in order to identify the expert (individual or team) delivering the assistance, and the procedures to be followed, which may include research and field activities. In the short term, the intermediary task will be undertaken by project officer(s) hosted by the IUCN ELC and the EDO. In the medium or long term, this task is to be dedicated to a regional legal project officer based in one of the South Pacific island states, possibly at the Secretariat of the Pacific Regional Environment Program (SPREP) or at a regional or national environmental law centre. For each technical assistance project, a contract will specify the responsibilities of all participants.

5.2.3.1 Legal and Policy Advice

Legal and policy advice takes up highly variable forms, depending on the nature and source of the request. It includes reviewing existing legislation and policies, assisting with the drafting of a bill or proposed regulations, compiling research notes of comparative and international laws, facilitating participation of civil society organisations in legal consultation processes, providing overviews of case law for negotiation and litigation purposes, recommending litigation or other dispute resolution strategies, and providing primary legal sources and documents.

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203 For more information about CEL, INECE and E-LAW, see the corresponding paragraphs and links in Appendix I.
204 Endorsed by the Pacific Islands Forum Secretariat (PIFS); see the corresponding paragraph about PIFS in Appendix I.
Legal experts will be recruited within the organisations and networks of IUCN-CEL, IUCN-ELC (Bonn), IUCN Oceania Program (Fiji regional office), Australian Network of Environmental Defender’s Offices (ANEDO), Environmental Law Alliance Worldwide (E-LAW), and the Secretariat of the Pacific Regional Environment Program (SPREP). Legal and policy advice may be undertaken (a) within existing resources, (b) via core project funding or (c) via specific project funding.

5.2.3.2 Technical and Scientific Assistance

The field of technical and scientific assistance is as broad as the one of legal and policy advice, with both fields often overlapping. Types of assistance include reviewing literature, compiling scientific research notes, reviewing documents (for example, environmental impact statements), facilitating field research (for example, by financing equipment), and enabling access to experts (for example, as witnesses).

Technical and scientific assistance may be provided by experts from the organisations and networks of IUCN Oceania Program (Fiji regional office), EDO (scientific advisory service), E-LAW (members and secretariat), SPREP, and national government agencies. This assistance may be provided (a) within existing resources, (b) via core project funding or (c) via specific project funding.

5.2.3.3 Governance Support

Government agencies and non-government organisations involved in environmental law and policy may require assistance with organisational governance – for example, establishing an appropriate organisational structure, management systems, fundraising programs and reporting mechanisms. The project partners will provide governance support as necessary to achieve the aims of the project.

5.2.4 Professional and Academic Exchanges

Professional exchanges will play a key role in the project. The project partners will facilitate opportunities for legal or scientific officers, students and academics from the South Pacific region to work with colleagues in countries such as Australia or New Zealand, and for suitably qualified professionals to work in host countries in the South Pacific region. Apart from the cultural exchange, ideas are shared, methods of natural resource management reviewed and enhanced, and institutions strengthened.

This project aims to facilitate professional and academic exchanges in both directions. Exchanges between government environmental agencies are already taking place and are to be developed further. Placements of legal and scientific officers are to be made possible within environmental law centres and network participants in order to strengthen civil society. The project will seek to facilitate exchanges between government agencies, non-government organisations and inter-governmental organisations. Legal training for South Pacific islands lawyers may also be provided by professional bar and lawyers associations, primarily in Australia and New Zealand.205

Donor funded volunteer and scholarship programs will play a key role in supporting these professional and academic exchanges. Examples of Australian programs in this area include the Australia Youth Ambassadors for Development (AYAD) Program, the Volunteers for International

205 For more information about these organisations, see the corresponding paragraphs and links in Appendix I.
Case Study – Cooperation between government environmental agencies in Australia and Papua New Guinea

Under the Australian Agency for International Development (AusAID) funded Australian Youth Ambassadors for Development (AYAD) Program, there is a broad collaboration between the Australian Department of Environment and Heritage (DEH) and the respective national environmental agencies in Kiribati, Fiji, Papua New Guinea and Vanuatu, with several AYADs placed in these countries.

In the PNG Department of Environment and Conservation (DEO), a number of AYADs are working on both terrestrial and marine biodiversity assignments. As a specific example of the collaboration, a DEH Protected Areas Policy Advisor was placed with DEC, developing an assignment aligned with Papua New Guinea’s development priorities, which focuses on the management of protected areas.

The assignment involved assisting in the formulation of a National Protected Areas Policy that balances both domestic obligations and international expectations. The Policy is planned to be a key strategic document to guide the establishment and management of protected areas in Papua New Guinea. While the DEH officer gained experience with international environmental issues, the DEC benefited from a training opportunity, skills sharing and further development of the professional networks of its staff.207

5.2.5 Training Programs

While professional and academic exchanges generally involve placements on a medium to long term basis, training programs more likely focus on a specific topic or issue during workshops or similar events, which cover an intensive, but comparatively short period of time. Training programs are therefore often combined with and embedded in other capacity building activities such as technical assistance (in its broadest sense), professional or academic exchanges, or larger conferences. Training programs can be either issue-based – covering topics such as biodiversity, climate and trade – or skill-based, focusing on topics such as legislative drafting, international negotiation, policy analysis and trial advocacy. The production and publication of materials in hard copy and electronic format will enhance workshop outcomes and providing a useful reference for participants and the wider public.

206 For more information about these organisations, see the corresponding paragraphs and links in Appendix I.
5.2.6 Community Education

While training programs in the sense defined above are generally delivered to professionals, the broader community also needs to know about the key role law plays in protecting the environment and conserving biological diversity. Ecologically sustainable development can only be achieved if members of the community are aware of their rights and the consequences of their daily activities. Again, community education can cover issue-based topics, such as land rights, illegal logging and natural resource management, or skill-based topics, such as advocacy, lobbying and submission writing. Local awareness programs are to be delivered to landholders, conservationists, staff of community based organisations and other stakeholders. Experts in delivering community education include the EDO, E-LAW U.S., and the Diplomacy Training Program of the University of New South Wales (DTP). In some cases, a train-the-trainer approach may be adopted, in collaboration with regional and local organisations. Relevant regional partner organisations include the Pacific Concerns Resource Centre (PCRC), the Pacific Regional Rights Resource Team (RRRT), the Environmental Law Centre (ELC-PNG) and the Centre for Environmental Law and Community Rights (CELCOR).

5.2.7 Conferences, Seminars and Meetings

National and regional meetings, focused on negotiation, continuing education, information exchange or general networking, are another important aspect of environmental law capacity building. Within this project, two different objectives are set with regard to such events: (a) participation of South Pacific island countries representatives in institutional events and conferences is to be facilitated; and (b) multi-stakeholder events are to be organised by the project partners themselves.

With regard to institutional events and conferences, such as the conferences of the parties of various international environmental agreements, representation of the South Pacific island countries – by government officials as well as civil society members – is most important. This has already been acknowledged through different projects, particularly by the Foundation for International Environmental Law and Development (FIELD) and NZAID.\(^{208}\)

The project partners will support participation by government agencies and non-government organisations, in relevant international fora, including conferences of the parties to multilateral environmental agreements, annual meetings and conferences of organisations such as the International Network for Environmental Compliance and Enforcement (INECE), the World Conservation Union (IUCN), the Environmental Defender’s Office (EDO), the Environmental Law Alliance Worldwide (E-LAW) and the Secretariat of the Pacific Regional Environment Program (SPREP). In the past, lawyers from the Environmental Law Centre (ELC-PNG), the Centre for Environmental Law and Community Rights (CELCOR) and the Solomon Islands’ Public Solicitor’s Office (PSO) have attended EDO conferences with support from foundations and the Australian Agency for International Development (AusAID).

In order to increase knowledge, enable information exchange and build personal and professional relationships in the area of environmental law, further national and regional conferences, seminars and meetings are to be organised by the project partners.

\(^{208}\) For more information, particularly the (discontinued) Pacific Initiatives for the Environment (NZAID fund) and the cooperation between the Alliance of Small Island States (AOSIS) and FIELD, see the corresponding paragraphs and links in Appendix I.
5.2.8 Establishment of Civil Society Environmental Law Programs

One of the most important steps towards enhancing environmental law capacity of civil society in the South Pacific islands is to establish and implement environmental law programs. Where civil society environmental law centres are lacking – or while such centres are waiting to be established – integrating environmental law programs within existing civil society organisations can be a successful way to provide civil society with permanent and practical legal and technical advice and support concerning environmental and conservation matters.

This objective may be achieved by enabling a civil society organisation to employ an in-house lawyer with an environmental law background (see Case Study below). Environmental law programs may be established by integrating a legal program within environmental organisations, or by establishing an environmental program within legal rights and advocacy organisations. Such an integrative approach encourages personal, organisational and financial synergies, and allows cost-effective establishment of environmental law programs.

The process of establishing environmental law programs is to start with an outreach and briefing stage, where existing organisations with a potential for an environmental law program are identified and contacted. If suitable, professional exchanges allow an outline of the program to be established. Advice and support in fundraising and recruitment are the next steps to be undertaken. Finally, legal support, training and mentoring is to be provided to integrate the new ‘program window’ – and new staff – into the existing organisation.

Case Study – Wantok Environment Centre Vanuatu (WTEC)

The Wantok Environment Centre (WTEC) is a national environmental NGO incorporated in Vanuatu as a charitable association with a mission to take care of and protect Vanuatu’s natural environment.209 In order to improve WTEC’s capacity for practical legal and technical advice and support available for community-based conservation initiatives, particularly the Forest Conservation Initiative Project (FCI), Australian Youth Ambassadors for Development (AYAD) recently assigned WTEC a legal advisor for conservation.

The AYAD lawyer’s tasks include advising on the legal options for supporting community-based conservation initiatives, providing legal input for the completion of a Community Conservation Toolkit and activities to help conservation practitioners understand their legal rights and how to exercise them, assisting in training, education and capacity building activities, and briefing WTEC staff on environmental law issues. The assignment of the legal advisor represents a successful example of integrating an environmental law program within an existing environmental organisation.

5.2.9 Establishment of Civil Society Environmental Law Centres

The most sustainable tool to enhance civil society environmental law capacity is the establishment of independent environmental law centres. Two public interest environmental law centres currently

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209 For more information about WTEC, see the Vanuatu country profile in Appendix II.
exist in Papua New Guinea – the Environmental Law Centre (ELC-PNG) and the Centre for Environmental Law and Community Rights (CELCOR).\textsuperscript{210} Environmental law centres may provide legal advice and representation, play an active role in environmental policy and law reform, undertake scientific assessments and give related advice, are involved in community legal education, and serve as clearinghouses for data and analysis collection.

An environmental law centre can be established either ‘from scratch’ – via the constitution of a voluntary board composed of NGO members, lawyers, landholders and other community members – or as a ‘spin-off’ from an in-house environmental law program or project within an existing organisation. Similar to an environmental law program, the process is to start with an outreach and extensive consultation stage, where existing programs with a potential for expansion, possible board members and potential donors are identified and contacted. Professional exchanges within existing organisations can allow the scoping and initialising of the centre to be established. Raising sufficient funds to guarantee the existence and functions of the environmental law centre is most essential: It will require setting up an operational budget, beyond the scope of this project, and the involvement of either a major donor or the cooperation of numerous organisations providing substantial funds and, if feasible, in-kind contributions. Recruiting qualified legal staff will take place at the very beginning of the environmental law centre’s functioning. This process may be assisted by established organisations – such as the EDO – which may also provide governance support, legal and technical assistance, training and mentoring, thus playing a catalytic role until the centre is functioning fully and independently.\textsuperscript{211}

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\textsuperscript{210} For more information about ELC-PNG and CELCOR, see the corresponding paragraphs and links in Appendix I.

\textsuperscript{211} For the importance of environmental law centres and respective case studies, see section 5.1.1.5 above.
Appendix I
Key International and Regional Institutions in the South Pacific

i. Governmental Institutions

A. United Nations

The United Nations (UN) has an enormous number of institutions and programs focusing on, and dealing with, environmental issues. The United Nations Environment Program (UNEP) is, most importantly, the ‘voice for the environment within the United Nations system’, but other UN bodies, particularly the United Nations Development Program (UNDP), the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) and the United Nations Educational, Scientific, and Cultural Organisation (UNESCO) play very important roles for environment related issues in the South Pacific.

The United Nations Environment Program (UNEP), established in 1972, has the mission ‘to provide leadership and encourage partnership in caring for the environment by inspiring, informing, and enabling nations and peoples to improve their quality of life without compromising that of future generations’. Some of UNEP’s major tasks are assessing global, regional and national environmental conditions and trends, developing international agreements and national environmental instruments, strengthening institutions for the wise management of the environment, facilitating the transfer of knowledge and technology, and encouraging new partnerships and mind-sets within civil society and the private sector. UNEP’s mandate is contained in the UN General Assembly Resolutions 2997 (XXVII) and 3436 (XXX), and has been reinforced by various declarations. Capacity building is one of UNEP’s priorities: Since 1982, UNEP’s activities in environmental law capacity building have been carried out within the framework of strategic Programmes for the Development and Periodic Review of Environmental Law (Montevideo Programme) approved by the Governing Council every ten years. Capacity building is covered by two out of eight UNEP Divisions, the Division of Policy Development and Law, and the Division of Environmental Policy Implementation. Within the latter, a Capacity Building Branch, and therein, an Environment Education and Training Unit (EETU) deal with capacity building issues. UNEP has six regional offices and several liaison offices around the world, hosts several environmental...
convention secretariats, and supports a growing number of centres of excellence. It is one of three implementing agencies of the Global Environment Facility (GEF), which provides considerable funding for environmental projects. The UNEP Regional Office for Asia and the Pacific (ROAP), as well as the UNEP Regional Resource Center for Asia and the Pacific (RRCAP), is located in Bangkok (Thailand). ROAP runs several regional programs for Asia and the Pacific (NETTLAP) to enhance the region’s capacity to manage the environment in a sound and sustainable manner, which provides not only assistance via technical training at host universities and other institutes, and via an online training manual, but also helps developing countries to plan and implement their own capacity building activities. Another forum, the Pacific Youth Environmental Network (PYEN), recently established by UNEP and linked to SPREP, aims to assist, train, resource and support youth to have meaningful input into the management of the environment they will soon have responsibility for. Furthermore, a ROAP project entitled Environmental Education, Awareness and Training in Asia and the Pacific (EEATAP) aims to document and disseminate best practices on environmental education, training and awareness raising across the region. Finally, in order to further assist Asian and Pacific countries in enhancing their capacity building in environmental law, ROAP regularly organises conferences, workshops and training programs in environmental law and policy, holds symposia on the role of the judiciary in promoting the rule of law in the area of sustainable development provides (together with IUCN and FAO) an internet based environmental law information service (ECOLEX), and disseminates a number of environmental law publications. In the South Pacific, UNEP provided technical assistance in the formulation and review of environmental legislation in Kiribati, Papua New Guinea, Samoa and Tuvalu. Noteworthy in the context of this report, one of the main recommendations of the Pacific Symposium on Environmental Law and Sustainable Development organised by UNEP (as the sixth Regional Judges Symposium), held in Brisbane in February 2002, was to identify an institution in Australia that could serve as a regional centre for capacity building in the field of environmental law and multilateral environmental agreements for

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219 For a more detailed description of the Global Environment Facility (GEF) see Section 5.1.1.3. below.
221 www.rrcap.unep.org.
224 www.pyen.org.
225 See Section 5.1.1.6. below for the actions of the Secretariat of the Pacific Regional Environmental Program (SPREP).
230 See the list at: www.roap.unep.org/program/law.cfm (21 Feb 2006).
the benefit of Pacific Island States.231 A further meeting of Chief Justices and senior judges, the Pacific Island Judges Needs Assessment and Planning Meeting, was held in Auckland in 2003.

The United Nations Development Program (UNDP) is the UN’s global development network, ‘an organization advocating for change and connecting countries to knowledge, experience and resources to help people build a better life’. UNDP links and coordinates efforts to reach the Millennium Development Goals,232 including the overarching goal of cutting poverty in half by 2015.233 One of UNDP’s work priorities is concentrated on issues of energy and environment, as ‘[t]he poor are disproportionately affected by environmental degradation and lack of access to clean, affordable energy services’.234 In integrating environmental and energy dimensions into poverty reduction strategies and national development frameworks, UNDP helps developing countries to strengthen their capacity to address and manage environmental challenges, and has defined the establishment of Frameworks and Strategies for Sustainable Development as one of six focus areas.235 Like UNEP, UNDP is one of the three implementing agencies of the Global Environment Facility (GEF), and manages the GEF Small Grants Program.236 UNDP has several regional bureaux, liaison offices and other offices around the world, the Regional Bureau for Asia and the Pacific (RBAP) being located in Bangkok (Thailand).237 In the South Pacific, UNDP has country offices in Fiji, Papua New Guinea, Samoa, and Timor-Leste.238 It has defined a Multi-Country Program for the Pacific Island Countries (2003-2007), which supports the Federated States of Micronesia, Fiji, Kiribati, the Marshall Islands, Nauru, Palau, the Solomon Islands, Tonga, Tuvalu and Vanuatu in the three strategic areas of Poverty Reduction and Sustainable Livelihoods, Democratic Governance and Human Rights, and Environmental Protection and Resource Management.239 Other examples of UNDP activities in the South Pacific include supporting the expansion of electricity grids to 14 Pacific islands, promoting renewable energy technologies (Pacific Islands Renewable Energy Project), and assisting in the establishment of a judiciary system in Timor-Leste.240 Most recently, UNDP has assisted with the preparatory process to establish a High Level Commission on Legal Empowerment of the Poor (HLCLEP), a new independent global initiative to expand the rule of law – particularly with regard to property rights – to the benefit of all


232 See the list of 8 goals at the UN Millennium Development Goals website at: www.un.org/millenniumgoals/index.asp (21 Feb 2006).

233 See www.undp.org/about/ (21 Feb 2006).


235 The other five focus areas are: Water Governance, Sustainable Energy, Sustainable Land Management, Biodiversity, and Chemicals Management; see www.undp.org/energyandenvironment/about.htm (21 Feb 2006).

236 See www.undp.org/gef/05/ (22 Feb 2006).


The United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) plays an important role for environmental law capacity building in the South Pacific in performing its principal function of ‘promoting economic and social development through regional and subregional cooperation and integration’. UNESCAP edits the Asia-Pacific State of the Environment Report every five years (first in 1985), the 2005 Assessment of the Environmental Quality and State of the Environment in Asia and the Pacific being due for completion in the last quarter of 2006. A specific example of UNESCAP capacity building is the currently implemented Capacity Building in Trade and the Environment Project: In order to assist countries to better understand the interlinkages between trade and the environment, the project ‘aims to enhance the capacity of developing Member States to formulate coherent trade and environment policies that address issues related to environment in an effective manner, thereby increasing market access for products while enhancing environmental sustainability’.

The United Nations Educational, Scientific, and Cultural Organisation (UNESCO) is also involved in environmental protection in the South Pacific, via various research and monitoring projects, community education initiatives, and preparatory and technical assistance in relation to World Heritage properties. UNESCO is particularly active in capacity development and education for sustainable development, in contributing to implement the Strategy for Sustainable Living in Small Island Developing States adopted at the 2005 high-level UN Meeting in Mauritius.

B. World Bank

The World Bank is made up of five agencies: Two of them – the International Bank for Reconstruction and Development (IBRD), and the International Development Association (IDA) – were established in 1944 to speed post World War II reconstruction. The World Bank is one of the world’s largest sources of funding and knowledge to support governments of low and middle-income countries in their efforts to fight poverty and disease, invest in education and health centres, provide water and electricity, and protect the environment. This support is provided through project or policy-based loans and grants as well as technical assistance such as advice and studies. In an implementing function, the World Bank also plays the primary role in ensuring the development and management of investment projects of the Global Environment Facility (GEF). A high priority in the World Bank’s mission to reduce poverty is placed on environmental...
projects focusing on climate change, forests, water resources, pollution management, biodiversity, and other issues. At the end of 2005, the World Bank funded projects with clear environmental objectives amounting to around US$ 13 billion.249

The World Bank is a very active development partner in the Pacific Islands. Its engagement in the Pacific Islands corresponds with the institution’s particular concern for small states,250 where limited capacities are inherent, so that capacity building is of even greater importance. It has established a Papua New Guinea, Pacific Islands and Timor-Leste Country Unit within its East Asia and Pacific Region, and is currently assisting the Pacific Island member states of Fiji, the Federated States of Micronesia, Kiribati, the Marshall Islands, Palau, the Solomon Islands, Samoa, Tonga, and Vanuatu, having granted 38 loans and credits to these countries since 1971.251 In order to incorporate cultural and social dynamics into its development policy, the World Bank has edited a Pacific Island Stakeholder Participation in Development Series for the countries of Fiji, Kiribati, Samoa, the Solomon Islands, and Tonga, published in 1998.252 These detailed reports examine questions concerning important players in a community or society, their formal and informal interaction, the structures that define their roles, the articulation of values and priorities, and the influence of the latter on policy and development. A country’s social fabric and cultural heritage have to be taken into consideration when building environmental law capacity, particularly when setting up environmental law centres, which have to function within the national stakeholder framework.

During the 2000-2003 period, the World Bank completed analytical work on regional environmental issues and climate change, offered policy advice on environmental risk management and climate change adaptation, and financed technical assistance grants in the environment/conservation sector.253 The current regional assistance strategy for the Pacific Islands, incorporated in the Regional Engagement Framework 2006-2009 for Pacific Islands,254 focuses on strengthening government capabilities, improving public expenditure management, and facilitating private sector-led growth and employment.

C. Global Environment Facility (GEF)

The Global Environment Facility (GEF) was established in 1991 to build international cooperation and finance actions, particularly in developing countries, to address critical threats to the global environment. As a result of rising concern from the international community facing global

251 This and more information about the World Bank’s engagement in the Pacific Islands can be found at: www.worldbank.org/pi.
254 Ibid.
environmental degradation, the GEF primarily serves the global environmental conventions, being a facility administered by existing institutions, rather than an actual assistance agency itself, as donor governments wanted to avoid a proliferation of new funding mechanisms. GEF projects generally are subsumed under one or several of six global environmental issues of biodiversity, climate change, international waters, land degradation, ozone layer, and persistent organic pollutants (POPs). Multi-focal projects open a window for institutional strengthening to support cross-sectoral approaches to management of natural resources. For more than 1,300 projects in 140 countries, the GEF has so far provided US$ 4.5 billion in grants and generated US$ 14.5 billion in co-financing from other partners.255

The institutions administering the GEF are the implementing agencies UNDP, UNEP and the World Bank on the one hand, and seven executing agencies on the other hand. The latter are the regional development banks for Africa, Asia, Europe and the Americas,256 as well as the International Fund for Agricultural Development (IFAD), the United Nations Food and Agricultural Organization (FAO), and the United Nations Industrial Development Organization (UNIDO), all having the status of ‘de facto implementing agencies’,257 as they were included in the GEF in 1999 to expand expertise and co-financing capacities. Implementing and executing agencies apply their special expertise, and work closely with project proponents through the stages of scoping, approval, implementing, monitoring and evaluating.

In the Pacific, the GEF has been a major source of financial resources for environmental management activities. However, access to GEF funds has not been easy for Pacific Island nations, and only approximately 40% of the potential maximum amount of GEF-eligible funding for Pacific regional programs has been utilized during the last decade, particularly due to a lack of coordination between states, and the limited ability of small island developing states to access full- or medium-sized projects.258 The UNDP administered GEF Small Grants Program (SGP), which funds small projects with up to US$50,000, has also been under-utilized by Pacific Island Nations.259 To enhance their access to GEF funds, Pacific Island government and non-government organisations adopted a Pacific Island Strategy for GEF as a framework for action, focusing on home-grown and long-term solutions, and with capacity building as ‘the most important project objective’.260


256 The African Development Bank (AfDB), the Asian Development Bank (ADB), the European Bank for Reconstruction and Development (EBRD), and the Inter-American Development Bank (IAD).


258 See ibid at 72-79, and particularly Table 34 at 79, for an overview of the GEF’s role in the Pacific Island Countries.

259 See ibid at 79; for an overview of the Small Grants Program (SGP) see http://sgp.undp.org/ (23 Feb 2006).

260 See ibid at 76 and Box 10 at 77-78.
Against this background, it is regrettable that the GEF-UNDP Capacity Development Initiative has not been fully utilized by Pacific countries, even though the capacity development needs and priorities of small island developing states have been assessed in a special GEF-UNDP report, including a country study of Samoa. In the latter study it is observed that ‘self-initiated, self-owned, and self-supported projects at the individual, local community or national community levels will have greater chances of achieving cumulative and sustainable successes in the long term’, which suggests that projects with significant external impulses and funding will have to go through a multi-sectoral public dialogue in order to be successfully implemented. Similar conclusions are drawn in other reports of the Capacity Development Initiative, with a particular emphasis on the need for an intimate knowledge of the political and macro-institutional context, the need to involve local expertise and stakeholders, and the need for constant evaluation and readaptation. Finally, a GEF strategy paper adds to these needs the principles of basing capacity building on a self-assessment of needs, integrating capacity building in wider sustainable development efforts, and promoting capacity building partnerships. Particularly noteworthy in the context of creating an environmental law network is the GEF recommendation that assistance for regional capacity building ‘should come from nationally-based institutions that are recognized regionally (or even globally) for their expertise’. Based on these principles, the GEF-UNDP National Capacity Self Assessment (NCSA) process was initiated: NCSAs are a type of enabling activity that specifically focuses on capacity development, providing countries with the opportunity to identify priority capacity needs in order to effectively address cross-cutting global environmental issues. Countries are encouraged to then develop a plan of action to achieve global environmental management objectives, particularly in the context of the CBD, UNFCCC and UNCCD Conventions.

D. Asian Development Bank (ADB)

The Asian Development Bank (ADB) is a multilateral development finance institution owned and funded by 64 member states, with a mission to improve the welfare of the people in Asia and the Pacific, by means of policy dialogue, loans, technical assistance, grants, guarantees and equity investments. While ADB’s headquarters are located in Manila (Philippines), the development bank maintains a South Pacific Subregional Office in Suva (Fiji) – having close relations with the Cook Islands, Fiji, Samoa, Tonga and Tuvalu – and a Pacific Liaison and Coordination Office in

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261 Ibid at 78-79; for an overview of the Capacity Development Initiative see www.gefweb.org/Documents/Enabling_Activity_Projects/CDI/cdi.html (23 Feb 2006).


263 Ibid at 163.


266 Ibid at 17.

267 For more details about the NCSA and its methodologies see www.undp.org/gef/05/programming/cda.html (24 Feb 2006).

268 See www.adb.org/About/default.asp (24 Feb 2006).
Sydney (Australia), which is ADB’s focal point for projects in Kiribati, Nauru, the Solomon Islands and Vanuatu; Papua New Guinea hosts its own ADB Resident Mission, while an ADB Special Liaison Office has recently been established in Timor-Leste. Until mid-2005, ADB’s engagement in its Pacific Developing Member Countries (PDMCs) amounted to roughly US$ 1.9 billion. ADB’s environment-related technical assistance, grants and loans to its PDMCs amounted to approximately US$ 149 million between 1992 and 2002, covering 91 projects in urban infrastructure, tourism, energy, agriculture, marine resources, disaster response, ecological management and monitoring, community development and awareness, capacity building and training, and other fields. For example, ADB supported a project to strengthen the capability of the Kiribati Government Environment Unit in undertaking environmental impact assessment (EIA) and environmental data management. This project was only partly successful due to a lack of back-up support, available counterpart staff, and consulting team capacities. In the Marshall Islands, ADB successfully strengthened the Republic’s Environmental Protection Authority by assisting its education unit, expanding the Water Quality Monitoring Program, establishing a coastal zone management program, developing standard EIA procedures, and promoting enforcement of environmental regulation. On a regional scale, ADB – in a partnership with IUCN, UNEP and the University of Singapore – financed the training of legal practitioners and law students on various aspects of environmental law enforcement. Currently, and on a cross-sectoral level addressing major governance issues in the Pacific, ADB is running a regional Leadership Enhancement and Advancement Program (LEAP), which aims to strengthen the professional competences of senior and middle level executives in public and private sectors in its 14 PDMCs.

Drawing on the lessons learned from its environment-oriented assistance in the Pacific Islands, ADB highlights existing conflicts between environmental legislation and local custom and tradition, to the unsuitableness of overly complex legal frameworks based on models from outside the Pacific, or to the lack of counterpart staff skills combined with a constant turnover of personnel in government agencies, and, like many other institutions, stresses the need of a broad public dialogue and involvement.

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269 See www.adb.org/About/field.asp (24 Feb 2006).
270 See www.adb.org/Pacific/projects.asp (24 Feb 2006).
272 See ibid at 134-135.
273 See ibid at 136.
274 See ibid at 143.
276 See ibid at 62-66 (Tables 27-30); for specific examples see ibid Appendix 5 at 131-146.
E. Alliance of Small Island States (AOSIS) and Small Island Developing States Network (SIDSnet)

The **Alliance of Small Island State (AOSIS)** is a world-wide coalition of small island and low-lying coastal countries that share similar development challenges and concerns about the environment, especially their vulnerability to the adverse effects of global climate change. It functions primarily as an ad hoc lobby and negotiating voice for small island developing states (SIDS) within the United Nations (UN) system. Its members work together primarily through their New York diplomatic missions to the UN, based on consultation and consensus, without a formal charter or a permanent secretariat.²⁷⁸ From the Pacific, the Cook Islands, Fiji, the Federated States of Micronesia, Kiribati, the Marshall Islands, Nauru, Niue, Palau, Papua New Guinea, Samoa, the Solomon Islands, Tonga, Tuvalu, and Vanuatu are amongst the 39 AOSIS regular members, and American Samoa and Guam are two of four observer states.²⁷⁹

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**Case Study – Civil Society Representation of Small Island States in Climate Change Negotiations²⁸⁰**

The Foundation for International Environmental Law and Development (FIELD) played a core role in the formation of AOSIS. Due to their isolation and small markets, AOSIS countries often have limited financial and technical resources, which makes it difficult for them to present their case effectively during international negotiations. FIELD’s legal advice and assistance to the group has helped the coalition become one of the key players in the international climate change negotiations, quite ‘disproportionately to [the] economic and geopolitical clout’ of the SIDS.²⁸¹ FIELD assists AOSIS members by providing briefing materials on the legal and political issues at stake, informing and training AOSIS members between negotiating sessions, assisting with the drafting of submissions and interventions, supporting delegations during the negotiations, and, when requested, intervening on their behalf.

To further its purposes, AOSIS launched the **Small Island Developing States Network (SIDSnet)**, supported by UNDP’s Sustainable Development Networking Program (SDNP), a catalytic initiative to kick-start networking in developing countries and help people share information and expertise relevant to sustainable development.²⁸² SIDSnet is currently administered by the Water Resources Management and Small Island Developing States Branch of the United Nations Department of Economic and Social Affairs (DESA).²⁸³ The network is supposed to serve the sustainable development of its members by means of modern communication technologies, and particularly to

²⁸² For more information about the SDNP see www.sdnp.undp.org/docs/whatis/backgrounder98.html (27 Feb 2006).
help implement the objectives defined at the Global Conference on the Sustainable Development of Small Island Developing States, held in 1994 in Barbados.²⁸⁴ Through its internet site, SIDSnet provides tools for virtual discussion forums and conferences, focused searching, document submission and storage, mailing lists, events calendar, and links to relevant web sites. One can also find a collection of successful sustainable development projects in SIDS all over the world.²⁸⁵ For region-specific issues, SIDSnet also provides for a Pacific window, which gives an overview of existing environmental action partnerships in the Pacific.²⁸⁶ However, experts recommended at an AOSIS meeting that ‘SIDSnet should be upgraded in its design to allow for greater community level usage and to effectively support capacity development beyond the current activities of storage of scientific and technical information about SIDS’.²⁸⁷

F. Secretariat of the Pacific Regional Environment Program (SPREP)

SPREP serves as the ‘lead regional organization ... for environmental activities in the Pacific’.²⁸⁸ The organisation’s abbreviation originally stood for the South Pacific Regional Environment Program, however, due to geographical spread, now stands for the (expanded) Pacific Regional Environment Program, as well as the Secretariat of the Pacific Regional Environment Program.²⁸⁹ SPREP was initiated as a small program attached to the South Pacific Commission (SPC) in the 1980s, and was formally recognised with the 1993 Agreement Establishing the South Pacific Regional Environment Program.²⁹⁰ SPREP now has 25 members, 21 being Pacific island nations and territories,²⁹¹ and four countries having direct interests in the region.²⁹² Its secretariat is based in Apia (Samoa) and employs over 60 staff,²⁹³ including a full-time legal advisor.

The mandate of SPREP is ‘to promote cooperation in the South Pacific region and to provide assistance in order to protect and improve its environment and to ensure sustainable development for present and future generations’.²⁹⁴ This is to be achieved by means of a regularly revised Action Plan, which serves to coordinate regional activities addressing the environment, to monitor and

²⁸⁴ For more information about SIDSnet see www.sidsnet.org/5.html; for the 1994 Barbados Program of Action see www.sidsnet.org/docshare/other/BPOA.pdf (both 27 Feb 2006).
²⁸⁶ www.sidsnetpacific.org/ (27 Feb 2006).
²⁸⁹ See www.sprep.org.ws/legal/documents/AESamendment2004.pdf (27 Feb 2006); the name change is in operation, but not yet legally in force.
²⁹⁰ See www.sprep.org.ws/sprep/about.htm (27 Feb 2006).
²⁹² Australia, France, New Zealand, United States of America.
²⁹³ See www.sprep.org.ws/sprep/about.htm (27 Feb 2006).
assess the state of the environment in the region, to promote and develop programs – including legal and research programs – in order to protect the atmosphere, ecosystems and species, to reduce pollution, to strengthen national and regional capabilities and institutional arrangements, to increase and improve training, educational and public awareness activities, and to promote integrated legal, planning and management mechanisms. The directions of the five year Action Plan itself are outlined in ten year Strategic Programs.

SPREP operates two major programs, the Island Ecosystems Program and the Pacific Futures Program; the former aims to assist its members in managing island resources and ocean ecosystems in a sustainable manner and that support life and livelihoods, while the latter has the goal to enable SPREP members to plan and respond to threats and pressures on island and ocean systems. The list of projects SPREP has been and is currently running is highly diverse, including capacity building for negotiations, environmental education, legal advice and the promotion of domestic and international environmental law, and a whole range of actions, plans, programs and strategies for natural resource management, many of them in close partnership with other governmental, intergovernmental and non-governmental organisations. Examples of such projects are the assistance in building National Environmental Management Strategies, the Action Strategy for Nature Conservation in the Pacific Islands Region 2003-2007, the Pacific Islands Climate Change Assistance Program (PICCAP), the operation of an Information Resource Centre (IRC), and the compilation of the Pacific Sub-Regional Report for the World Summit on Sustainable Development (WSSD). Furthermore, SPREP is in charge of the secretariat duties for the three regional Apia, Noumea and Waigani conventions, and provides a whole range of legal documents, including lists and tables of parties to international and regional instruments, samples of important national environmental laws, and various environmental legal publications.

297 See www.sprep.org.ws/program/program.htm (27 Feb 2006).
302 Convention on Conservation of Nature in the South Pacific (1976, Apia); Convention (and related Protocols) for the Protection of the Natural Resources and Environment of the South Pacific Region (1986, Noumea); Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region (1995, Waigani).
G. Council of Regional Organisations in the Pacific (CROP)

A number of other regional intergovernmental agencies carry out environment related activities. Ten of them, including SPREP, are embedded in a solid institutional framework, the Council of Regional Organisations in the Pacific (CROP). CROP provides a communication, coordination and negotiation forum in the Pacific, also – and particularly – with regard to common environmental management problems and shared natural resources. The Pacific Islands Forum Secretariat (PIFS), a CROP member based in Suva (Fiji), acts as CROP’s permanent chair and provides secretariat support. CROP member organisations have several common missions: ‘First, they are meant to achieve economies of scale in gathering expertise and making it available to Pacific countries, so that each country does not need to duplicate this capacity. Second, they allow countries to better address common problems and those that are transboundary in nature. Third, they facilitate regional dialogue and increase the strength of the Pacific “voice” in regional and global forums. When it comes to program interventions, however, these organizations are most effective at regional rather than country levels. ... Though SPREP has been given the lead responsibility for the environment field among regional organizations, virtually all CROP members have some type of environmental management activity among their programs.’ Apart from SPREP (already presented above), CROP members include the following organisations:

The Pacific Islands Forum Secretariat (PIFS) is the administrative arm of the Pacific Island Forum (PIF), the Pacific's premier political and economic policy organisation, which has a mission to enhance economic and social wellbeing. It was established in 1971 and has now 16 independent and self-governing member countries, as well as four observers. It is in contact with key dialogue and assistance partners – currently 13 – at ministerial level. The Forum has no formal rules governing its operations or the conduct of its meetings. Generally, Forum Leaders meet annually to develop collective responses to regional issues, with an agenda based on reports from the Secretariat and related regional organisations and committees, as well as other issues that members may wish to raise. Decisions by the Leaders are reached by consensus and are outlined in a Forum communiqué, from which policies are developed and a work program is prepared by the Secretariat. In October 2005, the Forum endorsed a Pacific Plan for Strengthening Regional

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309 See ibid at 51 (Box 8) for a short presentation of 8 of 10 CROP members.
311 Australia, Cook Islands, Fiji, Guam, Kiribati, Marshall Islands, Federated States of Micronesia, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, Vanuatu.
312 French Polynesia, New Caledonia, Tokelau, and Timor Leste as a Special Observer.
313 Canada, People’s Republic of China, European Union, France, India, Indonesia, Japan, Republic of Korea, Malaysia, Philippines, Thailand, United Kingdom, United States.
Cooperation and Integration,\textsuperscript{315} after broad consultation with all PIF countries and CROP members. The Pacific Plan aims to enhance and stimulate economic growth, sustainable development, good governance and security for Pacific countries through regionalism.\textsuperscript{316} The plan identifies sectors where the region can gain most from sharing governance resources, and creates stronger and deeper links between Pacific island countries. However, a regional approach is only taken after a subsidiarity and a sovereignty test reveals that national or local governments cannot well provide a particular service by themselves, and that a proposed regional initiative does not reduce the degree of effective national sovereignty.\textsuperscript{317} A particular emphasis is placed on information and communications technologies.

The \textbf{Forum Fisheries Agency (FFA)} was established by international Convention in 1979 to help countries in beneficially and sustainably managing their living marine resources – particularly highly migratory species like tuna – that fall within their 200 nautical mile exclusive economic zones.\textsuperscript{318} The intergovernmental organisation is based in Honiara (Solomon Islands) and comprises 17 member governments.\textsuperscript{319} The Forum Fisheries Committee meets annually to consider regional policies, budget and work program of the Agency. FFA collects and disseminates data, provides technical assistance and coordinates policy and legislative responses to increasing commercial pressure on the tuna fishery. Achievements of the Agency include fostering fisheries management expertise among its members, defining boundaries and resources, providing assistance negotiating multilateral treaties, setting up and operating a regional register of fishing vessels, creating a secure communications network and establishing a real-time vessel monitoring system based on satellite technology.\textsuperscript{320} FFA regularly participates in regional environmental projects: The Strategic Action Program for the International Waters of the Pacific Small Island Developing States (IWP), for example, is a 7-year project in partnership with SPREP and the Secretariat of the Pacific Community (SPC), having the overall objective to conserve and sustainably manage coastal and ocean water resources in the Pacific region.\textsuperscript{321} Another example is the joint UNDP/FFA Pacific Islands Oceanic Fisheries Management Project, which assists Pacific island states ‘to improve the contribution to their sustainable development from improved management of transboundary oceanic fishery resources and from the conservation of oceanic marine biodiversity generally’.\textsuperscript{322}

\textsuperscript{316} Ibid at 3.
\textsuperscript{317} Ibid at 6.
\textsuperscript{318} See the 1979 Convention Establishing the South Pacific Forum Fisheries Agency: www.ffa.int/book/print/265; for a short FFA introduction see www.ffa.int/node/192 (both 1 Mar 2006).
\textsuperscript{319} Australia, Cook Islands, Fiji, Kiribati, Marshall Islands, Federated States of Micronesia, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu, Vanuatu.
\textsuperscript{320} See www.ffa.int/node/12 (1 Mar 2006).
The South Pacific Applied Geoscience Commission (SOPAC),\textsuperscript{323} based in Suva (Fiji), originated in 1972 as the Committee for Coordination of Joint Prospecting for Mineral Resources in South Pacific Offshore Areas. Its member countries have given SOPAC the mandate, in relation to the non-living environment, to focus on the development of natural resources in a sustainable manner and reduce vulnerability.\textsuperscript{324} SOPAC runs three key programs. Ocean and Islands is an integrated program focused on research, development and management of non-living resources in ocean and island systems, addressing issues relating to seabed resources, energy, maritime boundary delimitation and monitoring of ocean processes. Community Lifelines is a diversified program that strengthens national capacities in energy, water and sanitation, information and communications technologies. Community Risk is a comprehensive program aimed at reduction of community vulnerability through improved hazard assessment and risk management. Benefits accrue to member countries directly through the provision of basic geological knowledge, and indirectly through improvements in land and ocean use, leading to improved health through water and sanitation provision, wealth generation through the development of mineral resources, and hazard and disaster management and sustainable development by taking into account the geo-environmental impacts of development.\textsuperscript{325} SOPAC plays a particularly important role in water resource management, and runs, or participates in numerous projects. For example, it is one of the leading organisations of the broad Pacific Partnership Initiative on Sustainable Water Management, which aims to achieve sustainable water and wastewater management.\textsuperscript{326} SOPAC further participates in the Pacific Wastewater Framework for Action, which identifies the priorities for action on sewage, implementing the UNEP Global Program of Action for the Protection of the Marine Environment from Land-based Activities.\textsuperscript{327} Moreover, together with the World Health Organization (WHO), SOPAC runs the AusAID funded Pacific Water Safety Plans Program, an initiative to strengthen national capacity to assess and manage risks, and to improve and maintain safe drinking water supplies.\textsuperscript{328} In all these projects, the importance of regulation, financing, management, capacity building, access to information and community participation is underlined.

The Secretariat of the Pacific Community (SPC), the former South Pacific Commission established in 1947, is one of the oldest regional organisations in the world,\textsuperscript{329} bringing together all 22 Pacific island countries and territories,\textsuperscript{330} as well as the four remaining founding powers of the Commission.\textsuperscript{331} SPC is headquartered in Noumea (New Caledonia) and runs a regional office in Suva (Fiji). The organisation is a non-political research, planning, technical assistance, advisory and

\textsuperscript{323} For a general introduction see www.sopac.org/ (1 Mar 2006).
\textsuperscript{324} Member countries are Australia, Cook Islands, Fiji, Guam, Kiribati, Marshall Islands, Federated States of Micronesia, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu; associate members are American Samoa, French Polynesia and New Caledonia.
\textsuperscript{325} See www.sopac.org/tiki/tiki-index.php (1 Mar 2006).
\textsuperscript{329} For a general introduction see www.spc.org.nc/AC/history.htm (1 Mar 2006).
\textsuperscript{330} American Samoa, Cook Islands, Fiji, French Polynesia, Guam, Kiribati, Marshall Islands, Federated States of Micronesia, Nauru, New Caledonia, Niue, Northern Mariana Islands, Palau, Papua New Guinea, Pitcairn Islands, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu, Vanuatu, Wallis and Futuna.
\textsuperscript{331} Australia, France, New Zealand, United States of America.
training body, mainly working in land, marine and social development. Areas of focus in land development are agriculture and forestry, where many projects are related to production. Similarly in the marine division, many projects concern the commercial management of fisheries. The social development focus covers issues of community education, gender, demography, information and communication technology, media, and public health. Like all other CROP members, SPC works in numerous partnerships with other organisations and donors.

The University of the South Pacific (USP), founded in 1968, is the premier institution of higher education for the South Pacific region. The University is jointly owned by the governments of twelve island countries, and has campuses in all of them. The main campus, Laucala, is located in Suva (Fiji), while the School of Law is hosted by the Emalus Campus in Vanuatu. As an interdisciplinary body with a mission to promote environmentally sustainable development, the Pacific Centre for Environment and Sustainable Development (PACE-SD) was established by USP in 2001, based on its main campus. The Centre coordinates, stimulates and catalyses environmental teaching, research and consultancy at USP, and collaborates with all other relevant sections of the University, regional and international organisations, regional governments, NGOs and the public. As an example of its activities, the Centre organised an AOSIS Meeting of Experts on capacity development for sustainable development through training, education and public awareness in late 2003. It focused on the three major areas of higher education, primary and secondary education, and informal education, training and public awareness. One of the expert’s conclusions was that ‘[t]he present uncoordinated approach to capacity development in which a number of organizations run a number of similar projects, with sometimes similar approaches, is unsustainable and limited resources go to overhead costs. There must be donor coordination at the national level, both for NGOs as well as government. This may seem contrary to decentralization drives, but the one-size-fits-all is absolutely wrong for SIDS. Governments should be more rigorous in assessing offers of aid and project methods. In this regard the meeting agreed that an organization such as the UNDP could be well placed to develop the necessary coordination mechanisms and procedures at the national and regional levels of SIDS, through technical and financial support and through its institutional assets, stressing the need for efficient use of limited resources’. The Pacific Islands Development Program (PIDP) was established in 1980 by the East-West Center in Honolulu (Hawaii/USA). The East-West Center is an education, research and dialogue organisation established by the US Congress in 1960 to strengthen US/Asia Pacific relations and understanding, and is mainly funded by the US government. PIDP conducts a broad range of

333 Cook Islands, Fiji, Kiribati, Marshall Islands, Nauru, Niue, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu, Vanuatu.
335 See www.usp.ac.fj/pace/ (2 Mar 2006).
337 See www.eastwestcenter.org/about-ov.asp (2 Mar 2006).
activities in its mission to assist Pacific islands leaders in advancing their collective efforts to
achieve and sustain equitable social and economic development. 338 It compiles the daily Pacific
Islands Report and provides other information services, promotes private sector development and
positive cross-cultural business interactions, funds research, facilitates dialogue, and conducts
education and training programs. In this role, PIDP serves as the Secretariat of the Pacific Islands
Conference of Leaders and the Secretariat for the US/Pacific Island Nations Joint Commercial
Commission. PIDP is particularly active in building social and economic stability, sponsoring
projects in Fiji and the Solomon Islands to reflect on these countries’ past of instability – marked by
civil unrest and coups d’état – and positively influence their future. 340

The South Pacific Tourism Organisation (SPTO) fosters regional cooperation in the development
and promotion of tourism to and within the island nations of the South Pacific. 341 It is open to
country as well as private/corporate membership, 342 and runs a permanent secretariat in Suva (Fiji).
SPTO has recognised the importance of a sustainable and responsible tourism in the South Pacific:
The SPTO Regional Tourism Strategy for the Central and South Pacific identifies the need to
facilitate the sustainable development of tourism. 343 Accordingly, SPTO regularly joins other CROP
members in their efforts to promote sustainable development. In 2005, for example, SPTO held a
Sustainable Tourism Development Workshop, where the issue discussed was how tourism
development and expansion within the region could encompass environmental conservation,
cultural values, human resource development and commercial investment. 344

The Fiji School of Medicine (FSchM), as an institution sensitive to the needs of the Pacific and
mindful of cultural and environmental issues that affect the lives of the communities of the
Pacific, 345 recently joined CROP in order to be formally linked to the main intergovernmental
organisations in the Pacific. Its focus is (obviously) placed on public health issues. The School
regularly participates in capacity building initiatives in other Pacific island nations. In 2003, for
example, FSchM assisted in an EU/Kiribati project to improve health facilities in the Kiribati outer
islands. 346

340 See id for links to the Talanoa, Fiji Futures and Navigating Solomon Islands Future Projects.
342 Country members are the Pacific island nations of American Samoa, Cook Islands, Fiji, French Polynesia,
Kiribati, New Caledonia, Niue, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu, as
well as China; private/corporate members encompass national tourist offices, hotels, resorts, car rental and
coach operators, travel agents, tour operators, airlines, cruise and dive operators and many other
businesses associated with travel and tourism in the South Pacific.
345 See www.fsm.ac.fj/New_web/vision.htm (2 Mar 2006).
The **South Pacific Board for Educational Assessment (SPBEA)**, a new CROP member as well, was established in 1980 to deliver assessment and examination services to a number of Pacific countries. Its main focus is on training personnel in the development and use of assessment.347

Overall, CROP has become an important communication, coordination and negotiation forum, which bundles the Pacific regional organisations’ efforts in many areas, including environmental law capacity building. As ADB observes, ‘'[t]here have been some notable achievements in regional environmental awareness raising and capacity development, particularly for global issues such as biodiversity conservation and climate change. However, the CROP network has not yet reached its full potential in managing and disseminating information on Pacific resources and best practices utilized at the national and regional levels. In some senses, their view has been outwards toward the global stage, rather than directed to national issues and concerns. Cooperation among CROP members and their internal management structures could be improved. Until their work becomes more directly relevant to helping solve national-level concerns, even their regional efforts will suffer’.348 In order to efficiently address common environmental management problems at both the country and regional levels, the CROP network needs and deserves further strengthening.349

**H. National Government Agencies for International Development**

The **Australian Agency for International Development (AusAID)** is an administratively autonomous Australian Government agency responsible for managing the Government’s official overseas aid program. The objective of the aid program is to advance Australia’s national interest by helping developing countries reduce poverty and achieve sustainable development.350 The environment is a key aid theme for AusAID, as preventing environmental degradation is essential if poverty reduction and development is to be sustainable in the longer term. Accordingly, Australia’s aid program has a two-pronged approach to environment issues: The first is to ensure that possible impacts on the environment are considered in the design and implementation of all aid activities, the second is to build a portfolio of activities that directly target environmental issues, including those of global concern such as climate change and loss of biodiversity.351

For the Pacific region, AusAID has defined a Pacific Regional Aid Strategy 2004-2009, which focuses on the four themes of stronger broad-based growth, more effective, accountable and democratic government, improved law and justice and security, and enhanced service delivery, including effective fiscal management.352 In line with the recommendations of the 2004 Pacific Islands Forum Review, AusAID intends to place a greater emphasis on regional approaches in aid programming, and play a lead role in building cooperative frameworks with other donors and with

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349 Ibid at 86.
Such cooperation is already practiced on a regular basis: For example, AusAID has strong links with and financially supports the regional intergovernmental organisations PIFS, SOPAC, SPC and SPREP via several Capacity Building for Climate Change programs, which develop strategies to respond to climate change, climate variability and sea level rise, enhance disaster management, provide technology transfer, and implement UNFCCC/CDM.

Against the background of the political instability in the region, AusAID has recognized the need to focus more closely on capacity building and conflict prevention, which implies building stronger law and justice institutions. AusAID is currently supporting legal reform programs in Fiji, Papua New Guinea, Tonga and Vanuatu. In Papua New Guinea, the Agency supports a professional development training program for all judges, magistrates and court officers in order to strengthen court operations. In Vanuatu, the Legal Sector Strengthening Program aims to improve the performance of Vanuatu’s Public Prosecutor’s Office, the Public Solicitor’s Office and the State Law Office, concurrently via capacity building and legislation review.

In order to provide direct assistance ‘on the ground’, AusAID has established the Australian Youth Ambassadors for Development (AYAD) and the Volunteers for International Development from Australia (VIDA) programs. AYAD and VIDA provide funding and support for short-term assignments of Australian citizens in government and non-government organisations throughout Asia and the Pacific. The programs are administered by Austraining International Pty Ltd, a South Australian Government owned international consulting and project management company. Austraining has expressed an interest in supporting further environmental law capacity building projects in the Pacific, which could be implemented by AYAD and VIDA placements.

Primarily funded by AusAID (but also by the wider Australian community), and therefore to be mentioned at this stage, is Australian Volunteers International (AVI), Australia’s largest international volunteer sending agency. With a vision to create a peaceful and just world through greater cross-cultural understanding, AVI places volunteers in some 70 countries worldwide, also in the majority of South Pacific island nations. For example, Australian and New Zealand AVI lawyers are placed within the Office of the People’s Lawyer and the Office of the Attorney General in Kiribati.

Like AusAID, New Zealand’s International Aid and Development Agency (NZAID) is, as a semi-autonomous body within the Ministry of Foreign Affairs and Trade, responsible for delivering its Government’s official development assistance. While eliminating poverty is central to NZAID’s mission, high priority is placed on achieving environmental sustainability, with programs carried out

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362 See www.australianvolunteers.com/about and www.australianvolunteers.com/where/pacific (both 5 Apr 2006).
in partnerships with national and regional organisations. The Agency’s environment policy emphasises the natural resource rights of the poor, the equitable governance and management of natural resources, development planning, environmental protection, and access to technology. Managing climate change is of particular importance to NZAID and is the subject of various projects, including the Pacific Framework for Climate Change, an umbrella for all Pacific priority actions on climate change.

Consistent with the geographic location of New Zealand, NZAID’s focus lies in the Pacific. The two main priorities of NZAID’s Pacific Regional Environment Program are to support community-level environmental management and development, and to facilitate and assist Pacific Island participation in international environmental processes, particularly with regard to climate change, biodiversity and sustainable resource management. Like AusAID, NZAID has strong financial and operative links to regional organisations, particularly SOPAC and SPREP, but also PIFS, FFA and SPC. Under the (discontinued) Pacific Initiatives for the Environment fund, NZAID was financing local projects covering a wide range of environmental concerns, including capacity building. It is also a strong supporter of WSSD Type II Partnership Initiatives which aim to promote better collaboration between national, regional and international stakeholders in the implementation of development activities.

The United States Agency for International Development (USAID), finally, is another foreign aid institution sporadically active in the South Pacific. As an independent federal government agency, it serves the ‘twofold purpose of furthering America’s foreign policy interests in expanding democracy and free markets while improving the lives of the citizens of the developing world’. With regard to environmental values, USAID supports projects in the areas of biodiversity, biotechnology, climate change, energy, environmental compliance, forestry, land management, policy development, pollution prevention, research and water. Much of the on-ground work in developing countries is done by volunteers of the Peace Corps, another independent US federal government agency. The Peace Corps’ mission is to help the people of interested countries in meeting their needs for trained men and women, and to promote a better understanding both of Americans on the part of the peoples served and of other peoples on the part of all Americans. In the South Pacific, Peace Corps volunteers are active in Fiji, Kiribati, Samoa, Tonga, and Vanuatu. In Fiji, for example, volunteers provide educational and technical support for marine, coastal and terrestrial environmental management and preservation. In Vanuatu, Peace Corps members are working with communities in promoting sustainable land use management practices, developing coastal (and other natural) resources management plans, establishing conservation areas,

enhancing natural disaster preparedness, and promoting nature tourism and conservation enterprises.370

I. National Government Agencies for Environment

While AusAID is focused on overseas aid and development, the Australian Department of the Environment and Heritage (DEH) is responsible for Australia’s participation in the international community dealing with global and regional environmental issues. DEH’s international efforts are guided by Australia’s national interest and the common responsibility for internationally shared natural resources, species and ecosystems. The methods used to address environmental issues range from informal discussions and understandings, to cooperative activities with other stakeholders, and formal agreements or legally binding instruments. DEH is particularly active in the Asia and Pacific region, in regional fora such as SPREP, as well as on a bilateral basis.371 The Department of the Environment and Heritage has a range of skills and experience in environmental management and undertakes some activities to share expertise with its counterpart agencies in other countries, particularly in Asia and the Pacific. DEH also administers the Regional Natural Heritage Program (RNHP), a government funding initiative which provides grants to NGOs and other relevant agencies to protect outstanding biodiversity in hotspot areas of South-East Asia and the Pacific.372

In New Zealand, the Ministry of Foreign Affairs and Trade (MFAT) and the Ministry for the Environment (MFE) have shared responsibilities for New Zealand’s role in dealing with international environmental issues. The MFAT Environment Division was set up to coordinate, in particular, New Zealand’s input and response to the global rise of environmental concerns which resulted in and stemmed from the 1992 Rio Earth Summit and UNCED Agenda 21, covering climate change, biodiversity, the control of hazardous chemicals and other substances, sustainable forest management and sustainable development. The division also looks after a range of other subjects, including whales, ozone depletion and non-nuclear hazardous wastes.373 On the other hand, MFE – the department responsible for administering planning and environment legislation – is also in charge of implementing environmental agreements, setting up mechanisms for cooperation and exchanges on environmental issues, and working with regional and bilateral partners to create opportunities for the exchange of environmental technologies, services and expertise.374 New Zealand runs a variety of environmental programs and projects in the South Pacific region, which are mainly coordinated, financed and implemented by NZAID.

J. International Network for Environmental Compliance and Enforcement (INECE)

The International Network for Environmental Compliance and Enforcement (INECE) is a partnership of more than 4,000 government and non-government enforcement and compliance practitioners from more than 150 countries. INECE’s goals are to raise awareness of compliance and enforcement, to develop networks for enforcement cooperation, and to strengthen capacity to implement and

373 See www.mfat.govt.nz/about/oppu/divisions/divisions.html#Environment%20Division (3 Mar 2006).
enforce environmental requirements, consistent with its mission to contribute to a healthy and clean environment, sustainable use of natural resources and the protection of ecosystem integrity. To reach its goals, INECE uses regulatory as well as non-regulatory approaches at the global, regional and national levels, and hosts conferences, training and workshops, and publishes comparative country studies as well as other literature.\textsuperscript{375}

INECE is mainly funded by the Dutch and US environmental agencies, the founders of the network in 1989, with additional support from UNEP, World Bank, EU, OECD and Environment Canada. Its activities are coordinated by an Executive Planning Committee with balanced representation among regions of the world composed of primarily government/public officials as well as representatives from non-governmental organisations and international organisations including UNEP and the World Bank. The (informal) INECE Secretariat, located in Washington DC (USA), provides support with regard to technical and administrative matters, publications, communication, coordination and implementation.\textsuperscript{376} INECE also provides web-based fora designed to facilitate communication between geographically spread practitioners and other persons with a common interest in the benefits and challenges of environmental enforcement relating to specific topics such as illegal logging, public access to information, et cetera.\textsuperscript{377} INECE is also developing compliance and enforcement indicators to better measure and manage compliance and enforcement activities in different countries. On the INECE homepage, one can find a diversity of legal and other publications, including capacity building documents.\textsuperscript{378}

INECE does not appear to be very active in the South Pacific region. However, in 2005, INECE, together with other partners including ADB, launched the Asian Environmental Compliance and Enforcement Network (AECEN), which has a mission and goals corresponding to the ones of INECE.\textsuperscript{379}

\section*{ii. Non-Governmental Institutions}

\subsection*{A. Global Non-Governmental Environment Organisations}

The \textbf{World Conservation Union (IUCN)}, founded in 1948, is the world’s largest and most important conservation network, bringing together 82 states, 111 government agencies, more than 800 non-governmental organisations, and some 10,000 scientists and experts from 181 countries in a unique worldwide partnership. IUCN’s mission is to influence, encourage and assist societies throughout the world to conserve the integrity and diversity of nature and to ensure that any use of natural resources is equitable and ecologically sustainable. The Union employs over 1,000 staff located in 62 countries, and has its headquarters in Gland (Switzerland). IUCN supports and

\begin{itemize}
\item \textsuperscript{375} See www.inece.org/overview.html (7 Mar 2006).
\item \textsuperscript{376} See id and www.inece.org/overview/structure.html (7 Mar 2006).
\item \textsuperscript{377} See www.inece.org/forums.html (7 Mar 2006).
\item \textsuperscript{378} See www.inece.org/library/capacity.html (7 Mar 2006).
\item \textsuperscript{379} See www.inece.org/region_asia.html; www.inece.org/aecen/ (both 7 Mar 2006).
\end{itemize}
develops cutting-edge conservation science, implements this research in field projects around the world, and then links both research and results to local, national, regional and global policy through dialogue with governments, civil society and the private sector. One of the major results of this process has been that the Union has helped over 75 countries to prepare and implement national conservation and biodiversity strategies. The priority of the current IUCN Program 2005–2008 is to build recognition of the many ways in which human lives and livelihoods, especially of the poor, depend on the sustainable management of natural resources. 380 IUCN has a great number of regional, liaison and country Offices, as well as national and regional Committees, and established the following six advisory Commissions made up of volunteer scientists and experts: Ecosystem Management; Education and Communication; Environmental, Economic and Social Policy; Environmental Law; Protected Areas; and Species Survival. 381 The activities of the Commission on Environmental Law (CEL), together with those of the Environmental Law Centre (ELC), will be described under the section ‘Environmental Law Centres’ below.

As to IUCN’s involvement in the South Pacific, the Union has been active in the Oceania region for many years, through the work of the volunteers from its six advisory Commissions, and of its members, including its member States and NGOs, the National Committees of Australia and New Zealand, and the Oceania Regional Committee. As there has been no coordinated approach to service delivery in the Oceania region so far, IUCN recently initiated the Oceania Program, which includes a project seeking to provide legal capacity-building support for governmental and non-governmental organisations in the South Pacific region. The overall objective of this capacity building project is for every country to have the capacity to actively participate in the international policy debate, to implement what is agreed through coordinated policies, to have laws and institutions that respect the rule of law, and to ensure effective compliance with environmental laws. This objective corresponds with the aims of the IUCN Environmental Law Program, which is described below. The Oceania Program, which is opening a regional office in Suva (Fiji), will both support the work of the Union in the region and work in collaboration with Pacific communities. The Oceania region incorporates Australia, New Zealand and the Pacific, but initially the Program will focus on the Pacific islands region, where the greatest priority for conservation action and capacity building exists. The Program builds on existing initiatives, adds value to the work of regional bodies, NGOs and development agencies, makes global expertise and experience available, involves members and partners, and brings governments and civil society together for conservation action. In particular, it supports the implementation of the Action Strategy for Nature Conservation in the Pacific Islands Region, which defines capacity building as one of its major goals, and has been endorsed by all SPREP member countries as well as more than 100 national and regional NGOs. SPREP is a regional key partner of IUCN, and the two organisations have signed a memorandum of understanding with regard to collaboration in several areas, including environmental law. 382

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381 For a general introduction to IUCN see www.iucn.org/en/about/ (7 Mar 2006).

382 This summary of IUCN’s Oceania activities is based on Millar, I & Iza, Dr A, “IUCN Environmental Law Programme 2005 – The Year in Review” (IUCN Environmental Law Centre, Bonn)
As is illustrated below, most of the diverse IUCN environmental law capacity building activities are designed and implemented by the Commission on Environmental Law (CEL) and the Environmental Law Centre (ELC), the latter being based in Bonn (Germany). The EDO has been and is closely collaborating with both institutions, and the South Pacific Regional Environmental Law Capacity Building Project, which is scoped in this paper, is a major result of the ongoing CEL-EDO cooperation, supported by the IUCN.

The World Wide Fund for Nature (WWF), established in 1961 and headquartered in Gland (Switzerland), is another of the world’s largest non-governmental conservation organisations, active in over 90 countries. WWF’s ultimate goal is to stop and eventually reverse environmental degradation and to build a future where people live in harmony with nature. The WWF South Pacific Program (WWF-SPP) was established in 1990 as part of WWF’s endeavour to work effectively and locally in the region, and involves more than 100 staff today. The program is managed from the Regional Secretariat based in Suva (Fiji), supported by eight other country and project offices in the Cook Islands (Rarotonga), Fiji (Vanua Levu), the Solomon Islands (Gizo, Honiara) and Papua New Guinea (Port Moresby, Daru, Madang, Moro). Projects in New Caledonia and French Polynesia are coordinated with WWF France. WWF-SPP works closely together with global, regional, national and local stakeholders in environmental policy.\[383\]

Formerly known as the World Wildlife Fund, WWF’s focus has traditionally been on the conservation of species. This still is a priority of WWF, and of WWF-SPP, which currently focuses on the conservation of sea turtles, whales, coconut crabs and the eaglewood tree.\[384\] Apart from species conservation, general focus areas are forest, freshwater and marine protection, as well as climate change. WWF-SPP’s approach to conservation is strongly community-based, recognizing that communities’ livelihoods, customs and traditions are intertwined with natural resources. Accordingly, traditional skills and practices are built into nature conservation activities and plans, and local capacities are strengthened to develop and implement genuine conservation strategies.\[385\] For example, WWF-SPP has been working closely with local communities to record traditional knowledge about medicinal and cultural plants, such as kuta, a sedge-like water plant used in traditional weaving. The Kuta Restoration project has involved local women who were gradually restoring the plant’s original habitat and relearning its cultural significance. WWF-SPP has also been assisting communities to set up marine, coastal and forest protected areas, as well as wildlife management areas, and possibly combine conservation with a sustainable use of natural resources and ecotourism (Kikori, Sepik, Transfly Projects).\[386\] While WWF-SPP prioritizes the strengthening of conservation capacity, environmental law capacity building does not belong to its key activities.

The Nature Conservancy (TNC), founded in 1951 and headquartered in Arlington VA (USA), is a non-governmental conservation organisation with a mission to preserve the plants, animals and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive. With this goal, TNC is working in all 50 of the United States and 27 countries.

\[383\] See www.wwfpacific.org.fj/who_we_are/index.cfm (8 Mar 2006).
\[384\] See www.wwfpacific.org.fj/where_we_work/fiji/species.cfm (8 Mar 2006).
\[385\] See www.wwfpacific.org.fj/who_we_are/how_we_work/index.cfm (8 Mar 2006).
\[386\] See www.wwfpacific.org.fj/where_we_work/png/freshwater.cfm (8 Mar 2006).
It provides a record of having protected more than 117 million acres of land and 5,000 miles of river around the world.\textsuperscript{387} TNC’s conservation approach is called Conservation by Design, which helps to identify the highest-priority landscapes and seascapes that, if conserved, promise to ensure biodiversity over the long term.\textsuperscript{388} TNC’s vision is to conserve portfolios of functional conservation areas within and across ecoregions. Through this portfolio approach, TNC works with partners to conserve a full array of ecosystems and viable native species around the world.\textsuperscript{389}

TNC runs a Pacific Island Countries Program, which is coordinated from its Australia Office in Brisbane. Country Program Offices are established in Pohnpei (Federated States of Micronesia), Koror (Palau), Port Moresby (Papua New Guinea) and Honiara (Solomon Islands).\textsuperscript{390} TNC’s main focus is on conservation work, including conservation covenants, community managed protected areas, education engagement and funding. In Papua New Guinea, for example, TNC helped establish the Mama Graun (Mother Earth) Conservation Trust Fund – the first of its kind in this country – designed to provide long-term, uninterrupted funding for conservation work.\textsuperscript{391} In the Solomon Islands, TNC led the Solomon Islands Rapid Ecological Assessment, the most comprehensive survey of the country’s marine life ever undertaken.\textsuperscript{392} In pursuing its mission, TNC is also building capacity in the Pacific region: In Papua New Guinea, TNC helped establish the Mahonia Na Dari (‘Guardians of the Sea’) Conservation and Research Center, which promotes conservation education and serves as a regional learning centre for national and international scientists.\textsuperscript{393} In Palau, TNC helped establish the Palau Conservation Society, the nation’s first environmental NGO, which, in a short time and together with TNC, successfully encouraged Palau’s chiefs to reinstate the age-old bul tradition, allowing fish stocks to reproduce and replenish the waters.\textsuperscript{394}

**Greenpeace**, founded in 1971, is an independent campaigning organisation which uses non-violent, creative confrontation to expose global environmental problems and to force solutions which are essential to a green and peaceful future.\textsuperscript{395} It has its headquarters in Amsterdam (Netherlands), and runs 27 national and regional offices around the world, providing a presence in 41 countries. Greenpeace Australia Pacific has offices in Sydney (Australia) and Suva (Fiji), and is currently focusing on ancient forests, climate change, oceans, radioactivity and genetically engineered food.\textsuperscript{396} With regard to the South Pacific region, Greenpeace has been particularly active in amplifying the call for a South Pacific whale sanctuary, a proposal which so far has been rejected by the International Whaling Commission (IWC).\textsuperscript{397} In Papua New Guinea and the Solomon Islands, Greenpeace has launched a campaign called Paradise Forest: It is supporting local

\textsuperscript{387} See www.nature.org/aboutus/ (8 Mar 2006).
\textsuperscript{388} See www.nature.org/aboutus/howwework/ (8 Mar 2006).
\textsuperscript{389} See www.nature.org/aboutus/howwework/cbd/ (8 Mar 2006).
\textsuperscript{390} See www.nature.org/wherewework/asiapacific/ (8 Mar 2006).
\textsuperscript{391} See www.nature.org/wherewework/asiapacific/papuanewguinea/ (8 Mar 2006).
\textsuperscript{392} See www.nature.org/wherewework/asiapacific/solomonislands/ (8 Mar 2006).
\textsuperscript{393} See www.nature.org/aboutus/campaign/success/art1652.html (8 Mar 2006).
\textsuperscript{394} See www.nature.org/wherewework/asiapacific/palau/work/ (8 Mar 2006).
communities and forming partnerships with domestic NGOs (like the Environmental Law Centre (ELC-PNG) and the Centre for Environmental Law and Community Rights in Papua New Guinea, CELCOR) to protect ancient rainforest from (predominantly illegal) destructive logging. At the same time, Greenpeace is assisting the development of small scale ecoforestry ventures and ecotimber certification (FSC). As a capacity building initiative in a broader sense, Greenpeace has set up a Get Active website, which provides community groups with basic advice and rules for how to undertake environmental action.

The World Resources Institute (WRI), founded in 1982 and headquartered in Washington DC (USA), presents itself as an environmental think tank that goes beyond research to find practical ways to protect the earth and improve people’s lives. WRI’s mission is to move human society towards sustainable and socially equitable development. It provides information and practical proposals for policy and institutional change with the major goals of reversing the rapid degradation of ecosystems, fighting climate change and helping to adapt to it, harnessing markets and enterprises to integrate economic and environmental factors, and enhancing public access to environmental information. In the South Pacific, WRI is active via its Reefs at Risk project series, which not only provided a detailed analysis of (mainly humanly induced) threats to coral reefs, but also initiated and assisted action on the ground. For example, WRI, together with UNDP, UNEP and the World Bank, assisted in building a network of communities for monitoring and regulating the use of coastal waters by means of locally managed marine areas (LMMAs). As to its information access focus, WRI contributes to capacity building by convening a global coalition of civil society groups – The Access Initiative (TAI) – which collaborate to promote national-level implementation of access to information, participation, and justice in decisions affecting the environment. TAI raises awareness about the rights of the public, provides a complete toolkit that supports civil society groups to research and monitor their government’s environment-related information performance, and sets priorities for reform.

Oxfam is an aid and development NGO worth mentioning in this context, considering its diverse projects relating to the South Pacific environment. Oxfam International is a confederation comprised of 12 independent NGOs – Oxfam Australia and Oxfam New Zealand being two of them – dedicated to fighting poverty and related injustice around the world. Oxfam’s mission is a just world without poverty and its goal is to enable people to exercise their rights and manage their own lives. Oxfam works with communities, allies and partner organisations, undertaking long-term development, emergency work, research and campaigning. Oxfam works on a broad range of issues, including trade, conflict, debt and aid, education, and environment. Both Oxfam Australia and Oxfam New Zealand have projects in Fiji, Papua New Guinea, the Solomon Islands and

400 See http://about.wri.org/goals.cfm (9 Mar 2006).
405 See www.accessinitiative.org/about.html (9 Mar 2006).
Vanuatu, Oxfam New Zealand is also active in Samoa. Examples of Oxfam’s environmental work in the South Pacific are numerous: In Papua New Guinea, Oxfam Australia's Mining Ombudsman took up the case of the Tolukuma Gold Mine, which discharges more than 160,000 tons of heavy metals-contaminated mine waste into the Auga-Angabanga River System each year and made its water and (remaining) fish unfit for human consumption. Under its long-term partnership with the Center for Environmental Research and Development (CERD), based in Papua New Guinea, Oxfam Australia sponsored the Summit of Mine Affected Communities, where impacts of the mine, strategies and action plans were discussed, and a unified body to represent the interests of local communities was created. In the Solomon Islands, two of Oxfam Australia’s priorities are food and livelihood security, and sustainable resource management, with a particular regard to uncontrolled logging. Oxfam works closely with local communities under its Eco-Forestry Program (Solomon Islands Development Trust), in promoting the conservation and sustainable use of forest resources, also via community-based eco-forestry enterprises. A regional project of Oxfam Australia is the Melanesian Farmer First Network (Kastom Gaden Association). It links community-based farmers’ organisations in the Solomon Islands, Papua New Guinea and Vanuatu, providing a forum for the exchange of knowledge on sustainable agriculture and food security, and strengthening technical skills and access to information.

B. Regional Non-Governmental Organisations, Associations and Networks

The Pacific Concerns Resource Centre (PCRC), a non-governmental organisation established in 1980 and based in Suva (Fiji) since 1993, acts as the secretariat for a network of more than 100 affiliated non-governmental and community organisations from around the Pacific. In this function, it holds General Consultative Status with ECOSOC. PCRC’s mission is to coordinate, articulate and disseminate information about the concerns and struggles of peoples of the Pacific in their desire to exist free from exploitation, from the threat of environmental degradation and from both foreign and internal forms of subjugation. PCRC has defined five campaign areas – demilitarisation, decolonisation, environment, human rights and good governance, and sustainable human development – and issues the monthly Pacific News Bulletin. The PCRC Environment Desk is involved in facilitating civil society participation in national, regional and international policy discussions, particularly in the areas of climate change (UNFCCC) and the UNCED/WSSD follow-up. The Desk is also active in public awareness and advocacy campaigns: It conducts the Regional Environmental Advocacy Training Program, which consists of a regional environmental advocacy workshop and a series of national environmental advocacy and law workshops. PCRC has expressed an interest in further environmental law capacity building and is a potential networking partner for according projects in the Pacific.

409 See id.
The **Pacific Islands Association of NGOs (PIANGO)** is a regional network of national umbrella NGOs acting as focal points or national coordinating bodies known as National Liaison Units (NLUs) based in 22 Pacific Island countries and territories. PIANGO was formally established in 1991 with a mission to assist NGOs in the Pacific to initiate action, provide a common voice for them and their concerns, and work collaboratively with other development actors for just and sustainable human development. PIANGO’s role is to be a catalyst for collective action, to facilitate information access and sharing, communication and networking, to promote and support coalitions and alliances on issues of common concern, to strengthen the (common and individual) influence and impact of NGO efforts in the region, and to represent Pacific peoples’ spiritual, cultural, social, ecological, economic and political issues and interests in regional and international fora. Generally, PIANGO activities are subsumed under the program areas of information and communication, capacity building, stakeholder relations, coalition and alliance building, internal governance and administration.412

PIANGO’s secretariat is located in Suva (Fiji), where five staff members are accountable to an elected seven member Board that are elected at triennial PIANGO Council. PIANGO currently has 17 national NGO umbrella bodies (NLUs) which are full members,413 and four other country and territory otherwise recognised NGOs with interim membership.414 Full members need to be registered as a charitable, autonomous organisation with a mandate to represent NGOs in their country or territory. Interim membership may be extended to an NGO in any country or territory where an NLU is yet to be established. Furthermore, there is an associate membership open to supporting regional and sub-regional NGOs, and observer status can be granted for NGOs or individuals in countries or territories where no NGO qualifies as a full or interim member.415

As to specific projects, PIANGO has been particularly active in capacity building. In and beyond promoting and strengthening NLUs, PIANGO has contributed to and run a series of educational programs on NGO leadership and management, such as a graduate diploma programme, conferences, workshops, and other forms of training.416 As a crosscutting project, PIANGO has set up, together with the Development Resource Centre (DEV-zone), the Pacific Development Directory, an information, interaction and coordination tool which provides details of more than 1100 agencies and organisations working on development projects in the Pacific.417 The somewhat dated database, which will be soon revised, allows searching according to the criteria of name, acronym, type of organisation, country of physical location, organisational activities, national areas

412 See www.piango.org/ and www.piango.org/mission%20statement.htm; also see ss. 3-5 of the PIANGO Constitution: www.piango.org/constitution.htm (all 9 Mar 2006).

413 Full member NLUs are established in Australia, Cook Islands, Fiji, Kiribati, Federated States of Micronesia, Nauru, New Caledonia, New Zealand, Niue, Papua New Guinea, Samoa, Solomon Islands, Tahiti, Tonga, Tuvalu, Vanuatu, and West Papua; in the case of Papua New Guinea, there are two NLU members, as s 6 PIANGO Constitution allows for the case where the rights of indigenous people in any country require the establishment of parallel processes.

414 Interim members are based in Bougainville, Guam, Palau, and Wallis and Futuna.

415 See s 6 PIANGO Constitution: www.piango.org/constitution.htm; observers are currently based in American Samoa, the Marshall Islands and Hawaii (USA): www.piango.org/PIANGO_NLU_Contact_List.doc (both 14 Mar 2006).

416 See www.piango.org/programme%20areas.htm (9 Mar 2006).

of operation, target groups, funding sources, and affiliations/networks. For example, the Directory lists 292 organisations which indicate ‘environment’ as (one of) their organisational activities.\textsuperscript{418} PIANGO also provides a list of national, regional and global governmental and non-governmental organisations on its homepage.\textsuperscript{419}

The \textbf{Foundation of the Peoples of the South Pacific International (FSPI)} is a network of South Pacific island NGOs and overseas affiliates,\textsuperscript{420} with a secretariat based in Suva (Fiji). Unlike PCRC and PIANGO, which cover the whole Pacific region, FSPI explicitly focuses on the South Pacific. Its mission is to build and work with South Pacific communities through people-centred, ‘grassroots’ programs to foster self-reliance ‘within a changing world’. FSPI currently runs programs in nine countries,\textsuperscript{421} predominantly in awareness raising, advocacy work and capacity building, with the overarching aim to encourage community members to take responsibility for their own development.\textsuperscript{422} This objective is well illustrated by the FSPI’s Governance Program, which contains, for example, the Grassroots Opportunities for Action and Leadership project, and the IUCN funded Community Governance for Rainforest Conservation project in the Solomon Islands (see case study above). Furthermore, FSPI runs a Communities and Coastal Program, which mainly focuses on projects in coral reef conservation, restoration and management, as well as a Health Program.\textsuperscript{423} FSPI is currently considering recruiting a lawyer to assist with its programs in the region.

The \textbf{Pacific Islands Roundtable for Nature Conservation (PIRNC)} is another regional coalition, made up of conservation organisations and donor agencies, hence a body with governmental and non-governmental participation. The Roundtable has no permanent secretariat and is mainly internet-based: The major PIRNC project is the Inventory of Regional Conservation Activities, a searching instrument and ‘living record’ of activities and actors in the field of conservation.\textsuperscript{424} The tool is supported by SPREP, NZAID, TNC, WWF and USP. The (somewhat dated) Inventory is designed to help increase effective conservation action in the Pacific islands and to complement the Action Strategy for Nature Conservation in the Pacific Islands Region 2003-2007.\textsuperscript{425} More focused on the specific project level than the PIANGO/DEV-zone Pacific Development Directory, the PIRNC Inventory allows searching according to the project features of organisation, title, description, 30 year and 5 year goals, target, status, location, partners, funders and individual contact names.

\textbf{Live and Learn Environmental and Development Education} is a regional organisation that seeks to promote greater understanding and action toward human and environmental sustainability through education and dialogue building. The organisation works mainly with communities – particularly with schools – to share knowledge, skills and values with regard to development.

\textsuperscript{418} www.dev-zone.org/pdd/search.php (14 Mar 2006).
\textsuperscript{419} See www.piango.org/PIANGO%20Links.htm (14 Mar 2006).
\textsuperscript{420} The latter are the Australian Foundation of the Peoples of Asia and the Pacific, Just World Partners (UK) and Counterpart International (USA).
\textsuperscript{421} Fiji, Kiribati, Papua New Guinea, Samoa, Solomon Islands, Timor-Leste, Tonga, Tuvalu, and Vanuatu.
\textsuperscript{422} See www.fspi.org.fj/aboutus/index.htm (14 Mar 2006).
\textsuperscript{423} See www.fspi.org.fj/programs.htm (14 Mar 2006).
\textsuperscript{424} See www.dev-zone.org/pirnc/ (14 Mar 2006).
\textsuperscript{425} See above and www.sprep.org.ws/publication/webpage/002sprep14th/14SM_Off_WP_8_1_1_Att_1.pdf (7 Mar 2006).
integrating environmental, human, cultural and peace concepts. It holds local ownership, open participation and equality as the foundation of its work. The organisation is headquartered in Suva (Fiji), runs a networking office in Melbourne (Australia), and has further country offices in Kimbe (Papua New Guinea), Honiara (Solomon Islands), and Port Vila (Vanuatu). Its activities also extend to the Cook Islands, where Live & Learn runs field based projects. The organisation’s current regional programs are the following: South Pacific RiverCare Program, Green Schools Program, Regional Biodiversity Education, Building a Sustainable Future, and World Water Day, all involving schools in some way. Past accomplishments include a Development Theatre for Natural Resource Awareness and Capacity Building, which innovatively promoted the use of role-play and drama in environmental education. A series of country and local projects also focus on sustainable schools and raising environmental awareness among children and students.

C. Environmental Law Centres and Networks

The IUCN Environmental Law Centre (ELC), established in 1970 and based in Bonn (Germany), is an outposted unit of the IUCN Headquarters, and a part of the broad network of environmental law expertise that comprises the IUCN Environmental Law Program (ELP). The Centre works in close collaboration with the whole of the IUCN family, including the Commission on Environmental Law (CEL), consisting of an extensive global volunteer network of over 975 environmental law specialists in 130 countries. The ELP, as an integrated Program of activities, can be traced back to 1958. It assists decision makers with information, legal analysis, advisory services, legislative drafting, mentoring and capacity building at national, regional and global levels, and also provides the opportunity and the forum for governments, NGOs and others to network and to share information and discuss ideas. ELP activities are carried out through the cooperation of CEL, ELC and lawyers based in IUCN Regional and Country Offices, as well as in partner centres, all around the world. There are innumerable and diverse ELP activities, with regard to different natural resources and biodiversity, and particularly to judiciary and governance. Major ELP achievements are the creation of an integrated and computerised system for national and international legal materials, the Environmental Law Information System (ELIS), which has been integrated into ECOLEX, a IUCN/UNEP/FAO shared environmental law information service, and major contributions to the development of international treaty law through the preparation of draft instruments, most notably for CITES, CMS, CBD, and the International Covenant on Environment and Development, as well as to the development of international ‘soft law’, including the 1972 Stockholm and 1992 Rio Declarations. An example of local and regional capacity building

427 Another country office is located in Phnom Penh (Cambodia); see www.idea.org.au/liveandlearn/structure/.
432 See Miller, I. and Iza, Dr A. “IUCN Environmental Law Programme 2005 – The Year in Review” (IUCN Environmental Law Centre, Bonn).
433 See the overview and links at www.iucn.org/themes/law/dev01.html (8 Mar 2006).
through seminars, workshops and training courses is the ‘Train the Trainers’ Program developed in
the mid-1990s, starting with the Asia Pacific region in partnership with the National University of
Singapore, the Asia Pacific Centre for Environmental Law, and support from UNEP and ADB. 436
This project conducted courses for law professors teaching environmental law in the Asia-Pacific
Regions at University level and has resulted in a two-volume set of training materials for the region.
IUCN, CEL and ELC are currently intensifying their activities in the South Pacific region. Within the
ELP, and the Oceania Program outlined above, a regional listserve for CEL members in Oceania
was launched in early 2006, 437 and IUCN has recently concluded an agreement (memorandum of
understanding) with SPREP which defines areas of possible cooperation in the field of
environmental law. These areas include the further development of international and national
environmental law, providing technical legal assistance, enhancing access and dissemination of
environmental law information, as well as training and capacity building through training programs,
organising joint events, and contributing resources, including persons and teaching materials. 438

The Environmental Law Alliance Worldwide (E-LAW), founded in 1989, is determined to give
public interest lawyers and scientists around the world – particularly in low-income communities –
the skills and resources they need to protect the environment through law. More than 300 lawyers
and scientists in 60 countries call on the E-LAW network for critical legal and scientific tools.
Membership is based on a nomination by two current members and a lack of objection from other
members. Working primarily through the internet, E-LAW supports and facilitates public interest
environmental litigation and law reform, builds lasting local capacity to defend the environment
through law, and fosters global and regional collaboration among the members of the network. The
network secretariat, E-LAW U.S., which is located in Eugene (Oregon, USA), plays a critical role in
the worldwide E-LAW network. E-LAW U.S. not only provides direct support and advice to
grassroots advocates, but also strengthens organisations, provides communication technology
equipment, hosts visiting fellows, and, if necessary, protects the rights of advocates working within
the E-LAW network. 439

Membership of the E-LAW network in the South Pacific is currently limited to Australia and Papua
New Guinea. 440 With help from the E-LAW network, the Environmental Law Center in Papua New
Guinea (ELC-PNG) has won an important victory for its country’s forests and the indigenous
communities that rely on them. In May 2002, a Judge of the National Court of Papua New Guinea
ruled that the national government had illegally sold, to private development and logging
companies, the rights to exploit the customary land of the Maisin people in Collingwood Bay. The
court cancelled the government’s leases and issued an order enjoining the companies from entering
the land without the written consent of the Maisin people, which resulted in the direct protection of
38,000 hectares of rainforest. 441

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436 See id.
438 See Miller, I. and Iza, Dr A. “IUCN Environmental Law Programme 2005 – The Year in Review”(IUCN
Environmental Law Centre, Bonn).
439 See www.elaw.org/about/ (22 Mar 2006).
South Pacific, E-LAW U.S. has expressed a strong interest in supporting the proposals of this scoping report, particularly in collaborating with NGOs and public interest environmental lawyers in the region.

The **Australian Network of Environmental Defender’s Offices Inc (ANEDO)**, established in 1996, consists of nine independently constituted and managed community environmental law centres located in each State and Territory of Australia. Each Office is dedicated to protecting the environment in the public interest, providing legal representation and advice, taking an active role in environmental law reform and policy formulation, and offering a significant education program designed to facilitate public participation in environmental decision making. Any member of the public can get free initial advice from any Environmental Defender’s Office. Areas in which legal advice is sought most include development applications, air, water and noise pollution, forestry, mining, contaminated land, wildlife protection and environmental impact assessment. ANEDO members are also members of the National Association of Community Legal Centres. \(^{442}\) Within ANEDO, EDO New South Wales has the lead role for activities in the South Pacific region.

The **Environmental Defender’s Office (NSW) Ltd (EDO)** is the largest public interest environmental law centre in Australia. Since its foundation in 1985, EDO has provided expert legal advice to individuals and community groups seeking to protect the environment in Australia, and, on occasions, in the Asia Pacific region. The key functions of the Office are legal advice and representation, policy and law reform, scientific assessment and advice, and community legal education. EDO is also the Australian coordinator of E-LAW. The EDO litigation and law reform programs have played a key role in the development of environmental law in Australia. Furthermore, over 1000 requests for free legal advice are responded to each year. Finally, EDO community legal education programs have reached more than 1200 participants in the last two years. EDO’s work is directed from its office in Sydney, Australia. Its staff team, as of 1 July 2006, will include nine lawyers, three educators, two scientists, and five administration staff. \(^{443}\)

The EDO has the lead role within ANEDO for activities in the South Pacific, which currently extend to the countries of Papua New Guinea, the Solomon Islands, and Vanuatu. \(^{444}\)

The main EDO focus in the South Pacific has, to date, been in Papua New Guinea. Since 1999, the EDO has received funding from the US-based Macarthur Foundation to provide capacity-building support for the Environmental Law Centre (ELC-PNG). The EDO provides legal advice and training, and facilitates lawyer exchanges between Port Moresby and Sydney, external training, and an e-mail discussion group involving all legal staff from both offices. This relationship has been instrumental in a number of landmark court decisions in Papua New Guinea, including the Collingwood Bay case, which resulted in the protection of 38,000 hectares of rainforest from illegal logging. The EDO also works with the Centre for Environmental Law and Community Rights (CELCOR), providing staff training and technical assistance. The EDO recently submitted a joint

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\(^{444}\) In the Asia Pacific region, the EDO has furthermore acted as the Australian Partner Organisation for three consecutive AusAID funded placements of environmental lawyers with the Community Legal Education Centre (CLEC) in Cambodia.
proposal with CELCOR for a twelve-month AusAID funded legal advisor position, based in Port Moresby.

In the Solomon Islands, the EDO has previously undertaken community training and legislative drafting for the national government. More recently, the EDO has received a request to host a lawyer from the Solomon Islands’ Public Solicitor’s Office (PSO) to provide training in relation to public interest environmental litigation and community legal education. In the interim, the EDO will continue to provide technical assistance and research support for PSO staff on an ad hoc basis. In Vanuatu, the EDO has co-presented an environmental advocacy training program for women and youth in October 2005, in partnership with the Pacific Concerns Resource Centre (PCRC) and the UNSW Diplomacy Training Program (DTP).

The **Environmental Defence Society (EDS)** is a New Zealand based environmental advocacy organization, operating primarily as a network of professional people who are prepared to assist EDS undertake its work on a voluntary basis, together with a community of people who support the Society financially through their membership. EDS’ main objective is the preservation of natural and cultural resources, its main areas for action being landscape protection, biodiversity and climate change. The Society pursues its aims through proactive policy development, advocacy and involvement in selected planning cases. It sees itself as a ‘process guardian’ – ensuring that environmental decisions are made properly. EDS also engages in strategic litigation, when necessary, establishing precedents in environmental case law. EDS is active primarily in New Zealand, but occasionally works in the South Pacific on like matters, with local partners.445

The **Center for International Environmental Law (CI EL)** is a US-based NGO working to use international law and institutions in its mission to protect the environment, promote human health, and ensure a just and sustainable society. One of the Center’s major goals is to strengthen national environmental law systems and support public interest movements around the world. CIEL provides a wide range of services including legal counsel, policy research, analysis, advocacy, education, training, and capacity building, in more than 60 countries worldwide. Its main program areas include climate change, biodiversity and wildlife, biotechnology, trade and sustainable development, international financial institutions, law and communities, persistent organic pollutants, and human rights and the environment.446 CIEL’s Law and Communities Program focuses on rural constituencies in developing countries, particularly on issues related to community-based property rights, and explores the impacts of laws and the private sector on sustainable community-based natural resource management. Through its Law and Communities Program, CIEL supports the formation and strengthening of public interest environmental law organisations in countries where it is asked to assist. Mentoring and technical assistance is provided to in-country partners to facilitate internal organisational enhancement and strengthen external impacts. The Program also coordinates and participates in collaborative, in-country research and field-based pilot initiatives related to legal, regulatory, and economic interactions between local communities, formal governmental institutions, and the private commercial sector.447

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446 See www.ciel.org/reciel.html (22 Mar 2006).
447 See www.ciel.org/Lac/programlac.html (22 Mar 2006).
The Foundation for International Environmental Law and Development (FIELD), founded in 1989 and based in London (UK), is a NGO bringing together public international lawyers committed to the promotion of environmental protection and sustainable development through the application and development of international law. FIELD’s vision is a fair, effective and accessible system of international law that protects the global environment and promotes sustainable development. The Foundation is active in research, teaching, training, publishing, advocacy, advice, assistance and networking. It has a varied portfolio of projects, with three core programs covering biodiversity and marine resources, climate change and energy, and trade, investment and sustainable development. It has a particular commitment to strengthening capacity across these programs. FIELD’s London-based lawyers are from a wide range of legal and cultural backgrounds. They are supported by an expert administrative team, and a worldwide network of advisors and associates. FIELD pursues its objectives in cooperation with local partners and national and international organisations. In the Pacific region, FIELD has collaborated with the Pacific Regional Environment Program (SPREP) and the WWF South Pacific Program (WWF-SPP) in the development of the Regional Biodiversity and Climate Change Capacity Building Program to strengthen national and regional capacity for the negotiation and implementation of the international agreements on biodiversity and climate change in the Pacific Region. FIELD has also played a core role in the formation of the Alliance of Small Island States (AOSIS), and is still assisting the Alliance with documentation, training and representation.

The Papua New Guinea-based Environmental Law Centre (ELC-PNG) is a public interest environmental law centre with an office in Port Moresby. Amongst its goals are to protect the forests and marine environment of Papua New Guinea by conducting litigation to stop illegal practices, to create a legal and policy framework conducive to ecologically sustainable development and conservation by landholding communities, and to provide community education with regard to destructive environmental practices. ELC-PNG is regularly involved in environmental lobbying, negotiating and litigation, delivers legal awareness workshops (particularly to remote forest communities), provides legal advice and comment in relation to proposed legislation, and is editing an Environmental Law Toolkit. ELC-PNG has achieved several significant victories in litigation and policy work, particularly in the prevention of illegal logging. Two examples are the already mentioned Collingwood Bay logging case (described under the E-LAW paragraph above) and the effective lobbying of the World Bank to review the Wawoi Guavi logging project (described above). Other examples include a complaint to the Papua New Guinea Ombudsman Commission on behalf of the Kasua people, successfully challenging the extension of an existing timber permit by 800,000 hectares, and a won case in defending landholders who had been sued for defamation in relation to (justified) public statements about the environmental impacts of a tuna cannery at Madang.

The Centre for Environmental Law and Community Rights (CELCOR) is a public interest law NGO in Papua New Guinea. The Centre was established in 2000 in Port Moresby and is currently staffed by five lawyers and four support staff. CELCOR’s mission is to protect and assert legal

448 See www.field.org.uk/about_overview.php (22 Mar 2006).
449 See the case study under Section 5.1.1.6. above.
450 See the case study under Section 5.1.1.5. above.
451 This information is based on unpublished annual reports to the (funding) MacArthur Foundation.
rights and equitable access to and control of natural resource use and promote community based natural resource management through effective law and policies in Papua New Guinea. The Centre provides direct legal assistance and representation with regard to (customary) community based property rights and the environment, is involved in policy research and development (including campaigning and networking), fosters and undertakes public interest lawyers training and capacity building, and conducts a Community Legal Education Program with community leaders and organisations, NGOs, and local and government officials. CELCOR cooperates closely with other NGOs such as Greenpeace, EDO and ELC-PNG. Together with the latter, the Centre conducts legal awareness workshops with remote forest communities. A regular lawyer exchange and communication happens between EDO on the one hand and ELC-PNG and CELCOR on the other hand. CELCOR supports the environmental law capacity building project presented in this scoping report, and has signalled support for local projects, possibly funded via the Global Green Grants Fund.

The Fiji-based Pacific Regional Rights Resource Team (RRRT), established as a UNDP project in 1995 and primarily funded by NZAID, is a training and technical resource organisation specialising in human rights advocacy, law and education, tailored specifically to the Pacific region. The organisation’s goal is to strengthen the capacity of partners – government and civil society organisations – in the region to implement principles and practices of democracy (including access to justice) and human rights, with a particular regard to poverty and social inequities. RRRT has a sustained presence in the Cook Islands, Fiji, Kiribati, the Solomon Islands, Tonga, Tuvalu and Vanuatu, with established national partners permanently based in those countries. RRRT plays a key role in building the capacity of national partners to promote good governance and observe human rights. RRRT trains and supports legal rights training officers, who are based in a national NGO with a strong commitment to human rights. The officers are responsible for community level workshops, undertake public awareness programs, provide individual advice to those in need, and participate in local policy and law reform dialogues. RRRT training and support is also provided to community paralegals, who are civil society leaders and government field officers. These paralegals have undertaken a six-week human rights training program, and agreed to act as community mobilisers, promoting human rights awareness to outlying rural areas, as well as providing a support network for legal rights training officers. Workshops are also conducted with the judiciary, lawyers, medical practitioners, teachers and the police. RRRT provides an excellent model for regional collaboration and capacity building for environmental civil society organisations, and also presents interesting opportunities for collaboration in relation to issues that include both environmental and human rights dimensions, such as pollution from mining activities and illegal logging on indigenous lands.

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452 See www.celcor.org.pg/about.html (23 Mar 2006).
454 See www.greengrants.org (23 Mar 2006).
455 See www.rrrt.org (23 Mar 2006).
457 For information about links between human rights and environmental issues, visit the Fundación Centro de Derechos Humanos y Ambiente (CEDHA) at www.cedha.org.ar.
D. Environmental Law Associations

Australia’s National Environmental Law Association (NELA), founded in 1982 and based in Canberra, is a multi-disciplinary organisation serving the needs of practitioners in law, planning, natural resources and environmental management, environmental science and environmental impact assessment, to obtain and exchange information on issues relevant to environmental law and policy. NELA also comments on proposed legislation and contributes to the development of environmental law and policy through submissions to, or appearances before, committees of enquiry. Furthermore, NELA holds regular national and international conferences and seminars, and publishes the National Environmental Law Review (previously the Australian Environmental Law News), an in-house newsletter, as well as various other publications.458 NELA’s vision is to be a leader in the development and promotion of environmental law to regulate and manage conservation and usage of the environment in accordance with internationally recognized principles of ecologically sustainable development.459 NELA does not have any direct involvement in the South Pacific island nations. However, particularly its conferences often have a regional/international focus, and cover issues of interest for environmental lawyers in the South Pacific.

The Resource Management Law Association of New Zealand (RMLA), founded in 1992, is a forum for all professionals and others with an interest in resource management and the environment. RMLA promotes, within New Zealand and via regional committees, an understanding of resource management law and its implementation in a multi-disciplinary framework, excellence in resource management policy and practice, and resource management processes which are legally sound, effective and efficient, and which produce high quality environmental outcomes.460 Similar to NELA, RMLA regularly holds conferences and seminars, produces environmental law publications, provides submissions etc. It is not directly involved in the South Pacific region.

The Environment Institute of Australia and New Zealand (EIANZ), incorporated in 1987 and having chapters in all 8 Australian States and Territories, as well as in New Zealand, has the main objectives to promote environmental knowledge and competent practice, and to advance ethical and competent practice while facilitating interaction amongst environmental professionals. The Institute is genuinely multi-disciplinary, formed for practitioners in environment related management, policy, planning, assessment, education, law, industrial operations, research and audit. Amongst its activities, focused on Australia and New Zealand, are regular conferences and seminars, a Certified Environmental Practitioner (CEnvP) Program, professional practice committees and the publication of an environmental journal.461

E. Institutions of Higher Education

The Australian Centre for Environmental Law (ACEL), established in 1992, is a cooperative venture between the Law Faculties of the University of Sydney, the University of Adelaide and the

461 See www.eianz.org (4 Apr 2006).
Australian National University, having branches at each of these universities. ACEL promotes teaching, research, scholarships and consultancy in environmental law and policy, has established itself as a resource base in this field for Australia, Asia and the Pacific region, and maintains close links with relevant institutions, conservation and industry groups, and with lawyers practising in the field. ACEL holds regular seminars and conferences in Adelaide, Canberra and Sydney. Its Sydney branch publishes the *Asia Pacific Journal of Environmental Law*.\(^{462}\)

The **Macquarie University Centre for Environmental Law (MU-CEL)**, based in Sydney, has a strong record of environmental law teaching, research and publication, and is integrated in a worldwide network of national, international, industry, government and community organisations.\(^{463}\) In particular, the Centre is a founding member of the IUCN’s Academy of Environmental Law, and has hosted the Academy’s Third Annual Colloquium in July 2005.\(^{464}\) Various conferences and workshops are organised by MU-CEL on a regular basis, which also edits the *Macquarie Journal of International and Comparative Environmental Law*. MU-CEL has co-operative research and teaching arrangements with several overseas institutions including the Asia Pacific Centre for Environmental Law (see below), encourages student and staff exchanges, and each year hosts a number of academics from the international environmental law community around the world through its Distinguished Visitors Program.\(^{465}\) MU-CEL – and its professors, Donna Craig and Michael Jeffery – are very active in the South Pacific, teaching environmental law as guest lecturers,\(^{466}\) participating in workshops, meetings and conferences,\(^{467}\) and contributing to publications related to the region.\(^{468}\)

The **Centre for Natural Resources Law and Policy** at the University of Wollongong, established in 1992, focuses on sustainable management of natural resources, which includes environmental law but is not limited to it. It is particularly concerned with questions of management of biodiversity, forestry, wetlands, world natural heritage, fisheries, oceans, pollution and implementation of international conventions.\(^{469}\) As a part of its international activities, the Centre maintains close links to institutions and network partners in the South Pacific, particularly via Professor David Farrier, who has been publishing and consulting extensively on natural resources management law in the area.\(^{470}\) The Centre publishes a biannual journal, the *Australasian Journal of Natural Resources Law and Policy*.

The **New Zealand Centre for Environmental Law (NZCEL)** at the University of Auckland, established in 1998, is a specialist centre created to provide a focal point for research, education, community-service, and a range of environmental law activities in New Zealand and the wider Asia Pacific region, including hosting conferences, publishing research and making submissions. It maintains close links with relevant institutions, environmental and industry groups, and with

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\(^{462}\) See www.law.usyd.edu.au/~acel/about.html (4 Apr 2006).

\(^{463}\) See www.law.mq.edu.au/MUCEL/ (5 Apr 2006).

\(^{464}\) Title: *Biodiversity Conservation, Law + Livelihoods: Bridging the North-South Divide*.


\(^{466}\) See, for example, www.law.mq.edu.au/MUCEL/news/vanuatu.htm (5 Apr 2006).

\(^{467}\) See, for example, www.law.mq.edu.au/MUCEL/news/pacific.htm (5 Apr 2006).

\(^{468}\) Professor Donna Craig is a co-editor of the following publication: ADB, *Capacity Building for Environmental Law in the Asian and Pacific Region: Approaches and Resources* (2002).


lawyers practising in the field. The Centre draws on resources throughout the University of Auckland to develop and advance environmental law and policy locally, nationally, and globally.\textsuperscript{471} NZCEL’s staff has close academic contacts in the South Pacific islands and is regularly participating in international events concerning the South Pacific region. In December 2003, NZCEL hosted the Pacific Island Chief Justices Meeting.

The \textbf{Asia Pacific Centre for Environmental Law (APCEL)} at the National University of Singapore was established in 1996 on the initiative of the Faculty of Law and the IUCN Commission on Environmental Law (IUCN-CEL), in collaboration with the United Nations Environment Program (UNEP). APCEL’s establishment was a response to the need for capacity-building in environmental legal education and the need for promotion of awareness in environmental issues. It works closely with the mentioned institutions, development banks, government agencies and other institutions in several projects and programs.\textsuperscript{472} Amongst its objectives are to serve as a regional teaching, training and research centre in environmental law, to organise conferences, seminars and other programs on environmental issues, to establish and develop a centre of environmental law and policy resources, and to publish such resources.\textsuperscript{473} APCEL members are regularly making significant contributions in international, national and local fora, also with regard to environmental law and policy in the South Pacific islands.

The \textbf{Pacific Centre for Environment and Sustainable Development (PACE-SD)} at the University of the South Pacific (USP) has already been described above, within the paragraph regarding USP as a member of the Council of Regional Organisations in the Pacific (CROP).

\section*{F. Aid and Development Umbrella Organisations}

There are numerous aid and development organisations active in the South Pacific region, many of them dealing with environment related matters. As an overview of these organisations would go beyond the scope of this report, only the aid and development umbrella organisations of Australia and New Zealand are briefly presented:

The \textbf{Australian Council for International Development (ACFID)} is representing some 80 Australia-based NGOs involved with international aid and development.\textsuperscript{474} ACFID’s advocacy work promotes a more equitable use of global resources to finance sustainable development. The Council seeks to advance the eradication of poverty by promoting the full range of human rights and the involvement of local communities in development decisions affecting their lives. As a membership organisation, ACFID represents the views and interests of its members to the Australian government and other key stakeholders so as to effectively influence policy and practice related to international aid and development.\textsuperscript{475} As approximately 50 of its member NGOs are active in the Pacific region, ACFID has a policy and advocacy focus on development issues in the

\textsuperscript{471} See www.nzcel.auckland.ac.nz/uoa/law/about/assns/nzcel/about_nzcel/about_nzcel_home.cfm (5 Apr 2006).

\textsuperscript{472} See http://law.nus.edu.sg/apcel/aboutus.htm (5 Apr 2006).

\textsuperscript{473} See http://law.nus.edu.sg/apcel/aboutus/objective.htm (5 Apr 2006).

\textsuperscript{474} A directory of all ACFID members is available at www.acfid.asn.au/memberdirectory/memberdirectory.htm (5 Apr 2006).

\textsuperscript{475} See www.acfid.asn.au/campaigns/advocacy_policy.htm (5 Apr 2006).
Pacific. All ACFID members have to adhere to a code of conduct setting out standards of integrity, transparency and accountability, i.e. on how organisations are managed, how they communicate with the public, and how they spend the funds they raise.

The Council for International Development (CID) is New Zealand’s umbrella organisation for some 80 NGOs involved with international aid and development. It was formed in 1985 to coordinate development activities and programs, and to discuss issues of common concern and present them with a single voice. CID works with other national and international organisations, raises issues within civil society (including political parties), and liaises with the New Zealand government. All CID members must agree to abide by a code of ethics, setting out accountability standards and principles of development work, such as local ownership, sustainability, durability, equity and dignity.

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478 See the list of CID members at www.cid.org.nz/cid-members/index.html (5 Apr 2006).
Appendix II
National Environmental Laws and Institutions in Selected South Pacific Countries

Fiji: Overview of Environmental Laws and Institutions

Gillian Duggin, Solicitor

A. General information

Fiji’s legal system is based on the English common law system. Under the Constitution of Fiji (1997), executive authority is vested in a President who appoints senators. Parliament generally mirrors the British system, with an elected House of Representatives and appointed Senate. The Cabinet is made up of the Prime Minister and other Ministers, chosen from elected members of Parliament. Approximately 22 ministries conduct the affairs of government, with departments operating under the relevant Ministers. There is also a Presidential Council and a Great Council of Chiefs.

B. National environmental legislation and regulation

(a) Environment Management Act 2005

This Act creates a National Environment Council which has the role of approving a National Report and National Environment Strategy, and monitoring and overseeing the implementation of this Strategy. It has a broad role of facilitating discussion of environmental issues and overseeing the implementation of international and regional treaties.

The Act establishes a framework for the establishment of certain environmental reports and plans, being a National State of the Environment Report, a National Environment Strategy and a Natural Resource inventory and National Resource Management Plan. It sets out a scheme for environmental impact assessment of proposed development for ‘approving authorities’, and certain waste management and pollution control measures, including a permit scheme. It provides the Department with the power to issue improvement and prohibition notices. The Act also establishes certain pollution and other offences, as well as an Environmental Tribunal for the hearing of appeals under the Act.
(b) **Endangered and Protected Species Act 2002**

This Act implements CITES, to which Fiji is a signatory. The Act establishes an Authority and Council to implement the Act, as well as a permit scheme, provisions relating to transport and shipment of species, and enforcement provisions.

(c) **Ozone Depleting Substances Act 1998**

This Act controls the sale and use of ozone depleting substances, in accordance with the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer.

(d) **Birds and Game Protection Act [Cap 170]**

This Act regulates the hunting of birds in Fiji, listing species that can be taken and providing for licensing.

(e) **Fisheries Act [Cap 158]**

This Act establishes a licensing regime for fishing, and the registration of fishing vessels. Licences are granted on an annual basis by licensing officers. Recreational fishing is not regulated by the Act. The Act also addresses customary fishing rights. Regulations under the Act have been enacted to protect turtles.

(f) **Forest Decree 1992**

This Decree creates a Forestry Board, to advise the Minister with respect to forestry policy. The Minister can declare state land to be a state forest or nature reserve. Forestry can only occur within a declared area. Licences are required for activities undertaken, and the Decree contains offences. Logging plans are required for all logging activities. The Decree does not require active management of nature reserves.

(g) **Land Conservation and Improvement Act [Cap 141]**

This Act provides the basis for addressing farming-related impacts, such as erosion and localized pollution. The Act establishes a Land Conservation Board. The Board has the power to make orders (such as work orders) to promote the conservation and improvement of resources in relation to agricultural practices.

(h) **Land Development Act [Cap 142]**

This Act establishes a Land Development Authority, and local development boards, to promote and carry out land development projects.

(i) **Litter Decree 1991**

This Decree aims to keep public places clean and tidy.
(j) **Natural Disaster Management Act 1998**

This Act creates a Natural Disaster Management Council and office.

(k) **Rivers and Streams Act [Cap 136]**

This is a small Act which gives the public the right to access to waterbodies. It provides that easements exist for all riverbanks for public access.

(l) **Town Planning Act [Cap 139]**

This Act requires schemes defining land uses to be prepared. The system is arranged by town planning areas that are constituted by ministerial order, on the application by the Director of Town and Country Planning or a local authority. It provides that permissions to develop are also required from a local authority in areas where a scheme has yet to be approved. It also establishes the powers of local authorities in relation to such schemes.

C. **Overview of National Institutional Framework**

Land is administered in Fiji by the Department of Lands and Surveys which deals with property matters such as leasing of state land.

The Native Lands Trust Board (NLTB) administers native land for the benefit of Fiji’s indigenous landowners. It comprises of the president, the prime minister, the Minister for Fijian Affairs and a board of 10 trustees. As ‘custodian,’ the Board is responsible for ensuring that land and natural resources are ‘used and managed in a wise and sustainable manner.’ The NLTB is a significant Fijian institution relating to the management of land in Fiji. It administers a huge number of leases granted over native land, which is leased for agriculture, commerce and industry.

The main government body that addresses environmental matters is the Ministry of Local Government, Housing, Squatter Settlement and Environment.

Within this Ministry exist, amongst other ‘units’ or ‘departments’, the Department of Town and Country Planning and the Department of Environment.

The Department of Town and Country Planning works to facilitate investment, by promoting the development of land resources, through the ‘application of appropriate planning standards and continued revision of planning legislation’. It administers town planning schemes, as noted above.

The Department of Environment website notes that it will concentrate its efforts on the following activities:

- complete the formulation of a new environmental protection legislation;
- formulate policies on waste management, environment impact assessment and resource management;
- continue with climate change project — Pacific Island Climate Change Assistance program;
- implement the Country Program on phasing out of ozone depleting substances;
- review environmental assessments in respect of new development proposal; and
• implement the National Biodiversity Strategy and Action Plan Project.\footnote{www.fiji.gov.fj/publish/m_housing.shtml (12 Mar 2006).}

The Department of Environment clearly is the central institution addressing environmental management. With the introduction of the \textit{Environment Management Act}, its role will no doubt be expanded.

As noted in the legislative review above, the various statutory instruments also create a number of Councils and boards. Most significant will be the National Environment Council created recently by the \textit{Environment Management Act}. That Act also creates a number of ‘units’ within the Department of Environment, as follows: the environmental impact assessment unit, the resource management unit, environmental management unit.

The \textit{Environment Management Act} also establishes an Environmental Tribunal which is to hear and determine any appeals under the Act or any other law.

The Constitution of Fiji allows for three Courts in Fiji: the High Court, the Court of Appeal and the Supreme Court. There are also Magistrates Courts, which exercise limited civil and criminal jurisdiction. The High Court has unlimited jurisdiction to hear civil or criminal proceedings. The Court of Appeal hears appeals from the High Court, with the Supreme Court being the final court of appeal. The appointment of judges is in the hands of the President, after consultation with a Judicial and Legal Services Commission.

For national and regional non-government organisations active in environmental matters, see the overview in \textbf{Appendix III}.
Kiribati: Overview of National Environmental Laws and Institutions

Rachel Carey, Solicitor

A. Introduction to Kiribati Legislation

The Republic of Kiribati comprises three administrative divisions, the Gilbert Islands, Line Islands and Phoenix Islands. Before Kiribati attained independence on 12 July 1979, it had been part of the British protectorate 1892-1916, later the British colony of Gilbert and Ellice Islands 1916-1975, and then from 1975-1979 it was the separate British colony of Gilbert Islands.

The Gilbert Islands were granted self-rule by the United Kingdom in 1971 and gained complete independence in 1979 under the new name of Kiribati (the native translation of the word “Gilbert”). The United States relinquished all claims to the Phoenix and Line Island groups in a 1979 treaty of friendship with Kiribati.

Ten years following independence, the Kiribati Act 1989 was enacted to define the laws of the country, and to provide for the extended application of customary law. Consequently, since independence the laws of Kiribati comprise:

(a) Constitution of Kiribati (the supreme law);

(b) English common law and equity - 1893-1961, as part of “the substance of the law for the time being in force in England (s.20 Pacific Order in Council 1893) and, 1961-1979, as “the substance of the English common law and doctrines of equity” (s15(1)(b) Western Pacific (Courts) Order 1961) so far as appropriate to the circumstances of the country. UK statutes enacted before 1961 are deemed to apply to Kiribati unless there is a specific statute passed by the Maneaba ni Maungatabu that replaces that UK statute.

(c) Acts of the Maneaba ni Maungatabu - enacted with the assent of the President (s.66 Constitution);

(d) Subsidiary legislation – made under Acts of the Maneaba ni Maungatabu;

(e) Customary law

- for the determination of boundaries of, and titles to, customary land (s.58 Magistrates Ordinance 1978);

- for the determination of civil and criminal proceedings in Magistrates' Courts, 1979 - 1989, provided the custom was not repugnant to natural justice, equity and conscience or inconsistent with any Ordinance or other law for the time being in force in the country (s.42(2) Magistrate's Courts Ordinance 1978);
• for all civil or criminal proceedings in all courts except to the extent that it is inconsistent with the Constitution, or legislation or subsidiary legislation in force in Kiribati (s.5 Laws of Kiribati Act 1989).

(f) Common law and equity – except to the extent that it is inconsistent with the Constitution or legislation or subsidiary legislation in force in Kiribati, or with customary law or inappropriate to the circumstances of the country (s.15(1)(b) Western Pacific (Courts) Order 1961; s.6 Laws of Kiribati Act 1989).


(h) Queen's (King's) Regulations made by the High Commissioner of the Western Pacific 1893-1916, and Ordinances made by the High Commissioner of the Western Pacific 1916-1978, by the Resident Commissioner 1963-1974, and by the Governor 1974-1979 and subsidiary legislation made under such Regulations and Ordinances until repealed by an Act of the Maneaba ni Maungatabu (s.7 Laws of Kiribati Act 1989).

B. Environmental Legislation in Kiribati

(a) The Kiribati Constitution of 1979

The Constitution contains no specific provisions dealing with the environment or rights relating thereto. Chapter 2 contains provisions relating to protection of the fundamental rights and freedoms of the individual. Section 4 provides that every person in Kiribati is entitled to fundamental rights and freedoms of:

• life, liberty, security of the person and the protection of the law;
• freedom of conscience, of expression and of assembly and association; and
• protection for the privacy of his home and other property and from deprivation of property without compensation.

The following sections concern the protection those rights and freedoms and limitations on that protection.
• Protection of right to life (s4)
• Protection of right to personal liberty (s5)
• Protection from slavery and forced labour (s6)
• Protection from inhuman treatment (s7)
• Protection from deprivation of property (s8)
• Protection for privacy of home and other property (s9)
• Provisions to secure protection of law (s10)
• Protection of freedom of conscience (s11)
• Protection of freedom of expression (s12)
• Protection of freedom of assembly and association (s13) – subject to the Public Order Ordinance which requires a permit to be obtained from the Commissioner of Police before a public rally
• Protection of freedom of movement (s14)
• Protection from discrimination on the grounds of race and creed but no protection from discrimination on the grounds of gender (s15).

Section 8 provides that no property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where certain specified conditions are met, including where the taking of possession or acquisition is necessary or expedient in the interests of defence, public safety, public order, public morality, public health, town or country planning or the development or utilisation of any property for a public purpose (s8(a)).

Section 8(2)(iv) provides that a law that makes provision for the taking of possession or acquisition of any property, in circumstances where it is reasonably necessary so to do because the property is in a dangerous state or injurious to the health of human beings, animals or plants, will not be inconsistent with the Constitution.

The islands, islets, rocks and reefs that together form the territory of Kiribati are listed in Schedule 2 to the Constitution.

Chapter 2 of the Constitution is very similar to many other constitutions used throughout Africa and the Pacific by the former British colonial administration.

(b) EnvironmentAct 1999

The objects of the Act, set out in section 3, include:

• to provide for and establish integrated systems of development control, environmental impact assessment and pollution control;
• to prevent, control and monitor pollution;
• to reduce risks to human health and prevent the degradation of the environment by all practical means, and
• to protect and conserve the natural resources threatened by human activities, particularly those resources of national and ecological significance as may be classified under the categories of terrestrial vegetation, coral, fish and marine life.

The Act is divided into 5 Parts: Preliminary; Administration; Development Control, Environmental Impact Assessment, Review and Monitoring; Control of Pollution; Miscellaneous.
Section 5 provides that the Minister, acting in accordance with the advice of the Cabinet shall be responsible for the administration and implementation of the Act. The functions of the Minister are outlined in sections 6 and 7.

Section 5(2) empowers the Beretitenti, acting in accordance with the advice of the Public Service Commission to appoint Environmental Inspectors for the purposes of the Act.

Under s13 the development specified in the Schedule is classified as prescribed development for purposes of the Act. Any developer who proposes to carry out any prescribed development in Kiribati is required to apply the Minister in the prescribed form. "Prescribed development" includes agricultural, fisheries and food production activities and activities involving genetically engineered organisms.

Part IV contains provisions relating to offences with respect to pollution, licences to discharge waste or pollutant, emit noise, odour or electromagnetic radiation from a prescribed premise, and the issue of "pollution abatement notices" or "stop notices".

Section 51 provides that any person who is aggrieved by any decision made under sections 19, 21, 35, 36, 39 and 41 of the Act may apply to the High Court with the leave of the High Court by way of proceedings in the nature of judicial review.

Section 52 provides that the Act shall not apply to any island or a part of an island which the Minister, acting in accordance with the advice of the Cabinet may from time to time by order in writing declare to be so exempt.

The Act is currently being redrafted and has been submitted to Parliament for assent as a Bill. The proposed redrafted legislation makes provision for the creation of World Heritage Areas.

(c) Legislation relating to use and protection of environmental resources

Mineral Development Licensing Act 1978
An Ordinance to make provision for the grant of licences to search for and to win minerals, and for purposes incidental thereto and connected therewith.

Wildlife Conservation Ordinance 1975
An Ordinance to provide for the conservation of wildlife. Empowers the Minister to declare any bird or other animal, other than a fish to be fully or partially protected, provides for the appointment of wildlife wardens and sets forth certain prohibitions, offences and penalties.

(d) Maritime/fisheries legislation

Marine Zones (Declaration) Act No.7 of 1983
An Act to make provision in respect of the internal waters, the archipelagic waters, the territorial sea and the exclusive economic zone of Kiribati.

Foreshore and Land Reclamation Act 1969
An Ordinance declaratory of the ownership of the foreshore and regulating certain reclamation projects.
National Environmental Laws and Institutions in Selected South Pacific Countries

Fisheries Ordinance 1978 (as amended in 1983 and 1984)
An Ordinance to make provision for the promotion and regulation of fishing and fisheries industries in Kiribati and its fishery limits.

Kiribati Ports Authority Act No. 13 of 1990
An Act to provide for the establishment of a Kiribati Ports Authority and for connected purposes.

(e) Land Control, Alienation and Development Legislation

The Non-Native Land (Restriction on Alienation) Ordinance 1974
An Ordinance to restrict the alienation of non-native land, defined under section 2 of the Ordinance to mean land owned by a person other than a native but not including, among other things, land owned by a local government council.

The State Acquisition of Lands Ordinance 1979
An Ordinance to regulate the acquisition of land by the Republic for public purposes.

The Native Lands Ordinance 1956 as amended
An Ordinance relating to native land and registration of title thereto. Under section 2 of the Ordinance, a “native” is defined to mean any aboriginal inhabitant of the Islands and a descendant of any aboriginal inhabitant who has not acquired non-native status under the Native Status Ordinance.

Contained within the Ordinance is the Native Land Code. The code deals with matters such as:

- inheritance rights to land (men are entitled to a greater share);
- the rights of adopted children to land;
- the measures that must be taken before land is sold;
- who obtains ownership of land created by a seawall;
- ownership rights over Babai (root vegetable) pits; and
- settling boundary disputes.

Almost all dealings concerning land are required to be ratified by the Courts. Much of the Magistrate and High Court’s time is therefore concerned with determining Land Matters.

Neglected Lands Ordinance 1959
An Ordinance to provide for the purchase of neglected land and to regulate the sale thereof to indigent natives. Under section 2 of the Ordinance "neglected land" means land suitable for agricultural use which is not being fully and efficiently utilised for agricultural purposes.

Land Planning Ordinance 1993
An Ordinance to provide for the control of the development and use of land. The Ordinance provides for the establishment of a Central Land Planning Board and local land planning boards, the preparation of detail land use plans for designated areas, development control and appeals and penalties for unlawful development or redevelopment.
Land Registration Grievance Tribunal Act 2002
An Act to establish a land registration grievance tribunal.

Prohibited Areas Ordinance 1957
An Ordinance to provide for certain islands and their territorial waters to be declared prohibited areas.

(f) Quarantine Legislation

Plant Ordinance 1976
An Ordinance concerned with the control of plant importation and the eradication of plant disease.

Importation of Animals Ordinance 1919

(g) Other

Merchant Shipping (Oil Pollution) Gilbert Island Order 1975
(to apply provisions of UK Merchant Shipping (Oil Pollution) Act of 1971)

Nuclear Installations (Gilbert and Ellice Islands) Order 1972
(to apply provisions of UK Nuclear Installations Act of 1965)

C. Environmental Institutions in Kiribati

(a) Governmental organisations

The relevant government ministry is the Ministry of Environment, Lands and Agricultural Development.

(b) NGOs

For national and regional non-government organisations active in environmental matters, see the overview in Appendix III.

D. Kiribati Environment Profile

Key environmental issues in Kiribati include: pollution in harbours and ports, marine pollution, solid waste disposal, nuclear material, control of over-fishing, global warming and sea level rise, access to fresh water, contamination of ground water and over population in South Tarawa.

According the United Nations Report for Pacific Island Developing Countries (1992), the most significant environmental problems facing the nations in this area of the world are global warming and the rise of sea levels. Variations in the level of the sea may damage forests and agricultural areas and contaminate fresh water supplies with salt water. A rise in sea level by even two feet (60 cm) would leave Kiribati uninhabitable. Kiribati, along with the other nations in the area, is vulnerable to earthquakes and volcanic activity. The nation also has inadequate facilities for handling solid waste, which has been a major environmental concern since 1992, particularly in the larger population centres.

The environment in Kiribati has also been adversely affected by metals and chemicals from mining activities, and agricultural chemicals have polluted coastal waters. Phosphate mining was especially devastating, rendering the island of Banaba almost uninhabitable. The Banabans, who were forced to move to the Fijian island of Rabi, sued the owners of the mines and have won special compensation. A fund was also set up to compensate the people of Kiribati. Called the Phosphate Revenue Equalization Fund (PREF), in 1996 it amounted to A$200 million. The value of the fund is now estimated to be A$600 million and income derived from this fund is used to fund shortfalls in the Republic’s annual budget.

The lagoon of the Tarawa atoll has been heavily polluted by solid waste disposal, particularly in South Tarawa. Significant improvements have been made in recent years with regards to the level of waste, mostly due to the “Kaoki Mange” (return the rubbish), project initiated by FSP Kiribati. Solid waste in landfills has been reduced by 60% and there is now a self-sustaining fund which allows for widespread recycling of cans and plastics. Like other Pacific islands, Kiribati is sensitive to the dangers of pollution and radiation from weapons tests and nuclear waste disposal. The UN Report describes the wildlife in these areas as “among the most critically threatened in the world.” Endangered or extinct species include the green sea turtle and mukojima bonin honeyeater.

According to the experience of a volunteer lawyer from New Zealand, Kiribati has little capacity for lawyers to take on environmental work. There are only five lawyers within the Public Defender’s Office and just three private lawyers for the whole country. Most of the court proceedings are focused on criminal and land matters.
Papua New Guinea: Overview of National Environmental Laws and Institutions

Thomas Slocum, EDO Legal Intern

A. General Information

The Independent State of Papua New Guinea is a parliamentary democracy with a constitutional monarchy, having gained independence on 16 September 1975. The British Monarch is Papua New Guinea’s Chief of State, represented by the Governor General. The Prime Minister serves as the Head of Government. The National Executive Council serves as cabinet, appointed by the Governor General on recommendation of the Prime Minister.

The legal system is founded upon English common law and the Acts passed by Papua New Guinea’s elected unicameral National Parliament. The Chief Justice of the Supreme Court is appointed by the Governor General on the proposal of the National Executive Council after consultation with the minister responsible for justice; other judges are appointed by the Judicial and Legal Services Commission.


The Papua New Guinea Constitution came into effect on Independence Day, 16 September 1975. The document sets forth several National Goals and provides Directive Principles by which the Papua New Guinea government and people may proceed to accomplish these Goals.

The Constitution provides: “We declare our fourth goal to be for Papua New Guinea’s natural resources and environment to be conserved and used for the collective benefit of us all, and be replenished for the benefit of future generations.” To further this Goal, the Constitution calls for wise use of resources, directs that there be conservation and replenishment of the environment, and provides that all necessary steps be taken to ensure the adequate protection of Papua New Guinea’s flora and fauna.

C. National environmental legislation and regulation

(a) Environment Act 2000

The Environment Act 2000 is comprehensive legislation designed to promote sustainable development of Papua New Guinea’s environment and the economic, social and physical well being of its people. The Act provides a scheme safeguarding the life-supporting capacity of air, water, soil and ecosystems for present and future generations and avoiding, remedying and mitigating any adverse effects on the environment caused by human activities. These goals are pursued through the promotion of the sustainable use of Papua New Guinea’s natural resources including replenishment of renewable resources, the assignment of proportionate priority to respective short-term and long-term environmental, economic, and social considerations, and the regulation of industries and activities with real or potential adverse environmental effects.
The Act imposes a general environmental duty mandating that no person shall carry on an activity that will harm or is likely to harm the environment without taking all reasonable or practicable measures to minimize such harm. Breach of this general duty is not a criminal offence nor actionable in civil suit, but compliance may be enforced through an Environment Protection Order, a Clean-Up Order, or an Emergency Direction. Under the Act it is an offence, however, when a person becomes aware of the existence or threat of unlawful serious environmental harm or unlawful material environmental harm as a result of his/her activities and such person does not give written notice to the Director of Environment of the harm and circumstances as soon as practicable. Additionally, the Act provides for the drafting of environmental policies by which environmental protection and sustainable development are pursued.

(b) Dumping of Wastes at Sea Act 1979

This Act provides for the prevention of pollution of the sea by the dumping of waste and other matter which may create hazards to human health, harm living resources and marine life, damage amenities or interfere with other legitimate uses of the sea. Additionally, the Act effects in Papua New Guinea, as far as may be, the International Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972.

(c) Forestry Act 1991

This Act seeks to manage, develop and protect Papua New Guinea’s forest resources and environment as to conserve and renew them for succeeding generations while maximizing the Nation’s participation in the wise use and development of the forest resources as a renewable asset. The Act further strives to utilize the Nation’s forest resources to achieve economic growth and employment creation while encouraging scientific study into forest resources so as to contribute towards a sound ecological balance.

(d) National Parks Act 1982

The National Parks Act provides for the preservation of the environment and of the Papua New Guinea national cultural inheritance through the conservation and management of those sites and areas having particular biological, topographical, geological, historical, scientific or social importance.

(e) Prevention of Pollution of the Sea Act 1979

In being for the prevention and control of pollution of the sea by oil and other substances, this Act effects in Papua New Guinea, as far as may be, several international pollution prevention provisions, including: the International Convention for the Prevention of Pollution of the Sea by Oil, 1954 and as amended; the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969; the International Convention on Civil Liability for Oil Pollution Damage, 1969; and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971.
(f) Crocodile Trade (Protection) Act 1974
This Act seeks to regulate and protect the crocodile skin trade. The Act provides for the control through licensing of the killing of crocodiles.

(g) Fauna (Protection and Control) Act 1966
This Act provides for the protection, control, harvesting and destruction of fauna. It sets forth the procedure by which fauna is declared protected fauna in Papua New Guinea, the killing or taking of which being an offence. The Act also provides for the establishment of sanctuaries and designated areas where fauna are protected.

(h) Fisheries Management Act 1998
The Fisheries Management Act provides for and gives effect to the fourth National Goal and its Directive Principles found in the Papua New Guinea Constitution. Specifically, the Act seeks to promote the management and sustainable development of fisheries.

(i) Whaling Act 1974
This Act provides for the full application in Papua New Guinea of the provisions of the International Whaling Conventions. All activity either required or prohibited under the International Whaling Conventions is so either required or prohibited in Papua New Guinea fully and effectually as if Papua New Guinea were a Contracting State to those Conventions.

D. Environmental Institutions

(a) Governmental Departments and Authorities

(i) Department of Environment and Conservation
The Department of Environment and Conservation is the Papua New Guinea government’s primary environmental entity. From 1998 to 2002, the Department was officially titled the Office of Environment and Conservation before being re-granted Departmental status. Past projects of the Department and Office have included the rationalisation of functions, adoption of strategic management systems, upgrading of a natural resources database, amendments to the nature conservation legislation, and ratification of the Kyoto Protocol.

The DEC oversees a variety of environmental studies and programs. Since 2003, the Department has been very active in producing a Draft National Biosafety Framework, a system to address the safe use of modern biotechnology.

(ii) National Fisheries Authority
The National Fisheries Authority is a non-commercial statutory authority established and operating under the Fisheries Management Act 1998 and related regulations. The major priority of the Authority has been to change its corporate culture and turn the Authority into an effective regulator and overseer of the development of the Fisheries Sector. Under its plan, the Authority has become
a smaller and more responsive Organisation, more clearly focused on management of Papua New Guinea fisheries towards sustainable benefit for its people.

(iii) Department of Mining

The Department of Mining is responsible for the regulating, monitoring, promoting and recording of mineral exploration and mining activity in Papua New Guinea. The Department contains the Geological Survey of Papua New Guinea, and thus also has responsibility for collecting, distributing and archiving a wide variety of geoscientific data. The Department’s mission is to ensure that Papua New Guinea’s geological resources are properly documented, effectively promoted, sustainably developed and managed for the long-term benefit of the people of Papua New Guinea.

(iv) Department of Petroleum and Energy

The Department of Petroleum and Energy was established to promote and regulate the development of petroleum and other sources of energy for the long term benefits of the state in a way which is ethical, socially responsible and environmentally sound. The Department comprises two core Technical Divisions: the Petroleum Division and the Energy Division, each with distinct but related sets of functions.

(b) Non-Governmental Organizations

For national and regional non-government organisations active in environmental matters, see the overview in Appendix III.
Samoa: Overview of National Environmental Laws and Institutions

Gillian Duggin, Solicitor

A. General information

Samoa’s legal system is based on the English common law system in addition to local customs. The Constitution is the ‘supreme law’. Executive authority is vested in a Head of State and the head of government is a Prime Minister. The legislative branch consists of the Legislative Assembly or ‘Fono’ with a majority of representatives elected by voters affiliated with traditional village based districts. Only ‘matai’ (chiefs) may stand for election in the village-based electorates. The Cabinet is made up of 12 members, appointed by the Chief of State upon recommendation of the Prime Minister.

Samoa has an independent judiciary. The judicial branch consists of a Court of Appeal, Supreme Court, Magistrates Courts and Land and Titles Court. The Magistrates Courts determine criminal and civil matters generally, with appeal rights lying to the Supreme Court and finally to the Court of Appeal. The Land and Titles Court deals with all matters relating to Samoan chiefly titles and all claims and disputes relating to customary land. This includes appeals relating to decisions made by the village ‘Fono’.

B. National environmental legislation and regulation

(a) Lands, Survey and Environment Act 1989

This Act established the Department of Lands, Surveys and Environment, and makes provision in relation to land (including alienation of government land, and the regulation of leases), and environmental management. The Act created a role of Principal Environment Officer as a deputy to the Director of Lands, and also establishes an Environment Board whose role it is to review matters referred to it by the Minister, including informing the Minister of development projects having an adverse effect on the environment.

The Act is now administered by the Department of Natural Resources and Environment. The main objectives of the Department are to advise the Minister on all aspects of environmental management and conservation, to promote the conservation and protection of natural resources and the environment, to advocate environmental management to other government agencies, pollution and litter control, to make recommendations to the Minister regarding national parks and nature reserves and to promote public awareness of the importance of the environment.

It gives the Minister broad powers in relation to the management of the environment, including assessing development projects, monitoring, and establishing environmental management guidelines. The Director is given the power to draft Management Plans, which are to be approved by the Minister. These management plans can relate to pollution, waste, national parks, coastal zones, waters and water resources and ‘any other matter relating to the environment’.
Offences are created in relation to the protection of foreshores and coastal waters and the pollution of waters. There are also specific provisions relating to litter control.

The Act also provides that regulations may be made concerning a number of specific matters, such as for the protection of forests, for regulating the use of land, for the protection and conservation of wildlife, regulating or prohibiting pollution, providing for the undertaking of environmental impact assessment and providing for the prevention and control of clearing trees and plants.

(b) National Parks and Reserves Act 1974

This Act provides for the establishment, preservation and administration of national parks and reserves. The Head of State, on the advice of Cabinet, may declare public land to be a national park or nature reserve. The Act also sets out the powers of the Minister in relation to the parks and reserves, and enables regulations to be made for a number of matters including to provide for the further protection of the purposes of any national park or reserve, or of any natural feature, flora, fauna, or aquatic life in a park or reserve.

(c) Noxious Weeds Ordinance 1961

This ordinance provides for declarations of noxious weeds, and provides powers for notices to be given to clear those weeds.

(d) Planning and Urban Management Act 2004

This Act establishes a Planning and Urban Management Agency, and a Board, and implements a framework for planning the use, development, management and protection of land in Samoa.

The Agency is empowered by the Act to prepare sustainable management plans. These plans can regulate the use and development of any land, including by requiring development consent or imposing development standards. The Act governs planning and development assessment, and requires all development to obtain consent unless a plan states otherwise. Environmental impact assessment can be required by the Agency. The Act sets out all matters the Agency is to consider in assessing and determining a development application.

The Act also establishes a Planning Tribunal, to which applicants or people who have made submissions concerning a development application, can appeal to.

The Agency also is given powers to make orders in relation to impacts on amenity, including noise, waste materials, and waste water, sewage and drainage, including ordering an owner or occupier to do work to minimize the nuisance.

(e) Samoa Water Authority Act 2003

This Act creates the Samoa Water Authority which is responsible for Samoa’s water supply.
(f) **Plants Act 1984**

This Act controls importation of plants, disease control and other aspects relating to plants. It does not address biodiversity or any protection of species.

(g) **Maritime Zones Act 1999**

This Act makes provision in relation to the sovereignty of Samoa, including its internal waters. Certain acts of foreign vessels, such as polluting the marine environment or carrying out fishing without a licence, are prohibited.

(h) **Water Act 1965**

This Act governs water supply, use and rights relating to water in Samoa.

C. **Overview of National Institutional Framework**

(a) **Ministry of Natural Resources and Environment / Department of Lands, Survey and Environment**

This is the main governmental body addressing environmental management in Samoa. The Department of Lands, Survey and Environment (DLSE) is responsible for the ‘sustainable management of Samoa’s environmental resources’. The main legislation implemented by the DLSE is the *Lands, Survey and Environment Act*, described above. The DLSE provides policy advice to the Minister for Natural Resources and Environment. It is responsible for the coordination, management and implementation of programs and projects for managing resources, and also to facilitate environmental awareness and educational programs. It acts as a ‘clearing house’ for environmental information and provides environmental advice to other government departments and agencies. It also manages Samoa’s national parks. The Planning and Urban Management Agency also falls within its ‘jurisdiction,’ so that it is responsible for planning for sustainable utilization of land resources, including zoning and town planning. Finally, it provides advice, waste management, and pollution prevention and control through its implementation of relevant provisions of the LSE Act.

The four main areas of DLSE’s operations as identified by it, are as follows:

- policy development – developing policies to guide sustainable development and resource management;
- resource management – to obtain optimum benefits from the use of environmental resources;
- program planning and implementation; and
- organisational support.
(b) **Planning and Urban Management Board and Agency**

The main functions of this Agency are considered in the section above. It falls under the Ministry of Natural Resources and Environment. The Agency's main role is to prepare 'sustainable management plans' and to assess development applications.

(c) **Planning Tribunal**

The role of the tribunal is to hear appeals concerning decisions relation to development applications, and is governed by the Planning and Urban Management Act 2004, discussed above.

(d) **Non-Government Organisations**

For national and regional non-government organisations active in environmental matters, see the overview in Appendix III.
Solomon Islands: Overview of National Environmental Laws and Institutions

Lily Matthews, Solicitor

A. General information

The Solomon Islands are governed by a parliamentary democracy. They were formerly a protectorate of the United Kingdom, achieving independence in July 1978.

The legal system consists of Acts of the Solomon Islands parliament, together with English common law. However, customary law remains important and not all disputes are resolved through the court system. The extent to which legislation is enforced in practice may also vary.

The court system consists of the Court of Appeal, the High Court, Magistrates Courts, Local Courts and the Customary Land Appeal Court (which hears appeals from the Local Courts and from which appeals can be made to the High Court).

B. Environmental Legislation

(a) Environment Act 1998

This Act makes provision for the protection and conservation of the environment; the establishment of the Environment and Conservation Division and the Environment Advisory Committee. The Act includes provisions on development control, environmental impact assessments and pollution control.

The objectives of the Act (section 3) are:

(a) to provide for and establish integrated systems of development control, environmental impact assessment and pollution control;

(b) to prevent, control and monitor pollution;

(c) to reduce risks to human health and prevent the degradation of the environment by all practical means, including the following -

regulating the discharge of pollutants to the air, water or land;

regulating the transport, collection, treatment, storage and disposal of wastes;

promoting recycling, re-use and recovery of materials in an economically viable manner; and

(d) to comply with and give effect to regional and international conventions and obligations relating to the environment.

This Act is marked ‘not yet commenced’ on the version available on www.paclii.org. The Act commences on the date appointed by the Minister (section 1).
(b) **Environmental Health Act 1980**
An Act to make provisions for securing and maintaining environmental health. Among other things, it deals with disease prevention, environmental nuisances, offensive trades, destruction of vermin and mosquitoes, protection of water supplies, unsafe buildings, drainage and sanitation, and contaminated food.

(c) **Fisheries Act 1998**
An Act to revise the laws relating to fisheries and to make provision for the proper management and development of fisheries in Solomon Islands

(d) **Forest Resources and Timber Utilisation Act 1969**
An Act to consolidate and amend the law relating to forest resources and timber utilisation and to control and regulate the timber industry.

(e) **Mines and Minerals Act 1990**
An Act to provide for the development of mining in Solomon Islands by prescribing appropriate procedures for the grant of licences, permits or leases, and to establish a minerals board to regulate and control mining.

(f) **National Parks Act 1954**
An Act to provide for the formation of national parks.

(g) **River Waters Act 1964**
An Act to provide for the control of river waters and for the equitable and beneficial use of them.

(h) **Wild Birds Protection Act 1914**
An Act to make provision for the protection of certain wild birds.

(i) **Wildlife Protection and Management Act 1998**
An Act to provide for the protection, conservation and management of wildlife in Solomon Islands by regulating the export and import of certain animals and plants, and to comply with the obligations imposed upon Solomon Islands under the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

(j) **Town and Country Planning Act 1979**
An Act for the administration of town and country planning in Solomon Islands, the making of local planning schemes, and the control and development of land.
C. Non-Government Organisations

For national and regional non-government organisations active in environmental matters, see the overview in Appendix III.
Tuvalu: Overview of National Environmental Laws and Institutions

Cecilia Rose, Solicitor

A. Introduction

Tuvalu was formerly known as the colony of Gilbert and Ellice Islands. In 1975 the Ellice Islands became the separate British Colony of Tuvalu. In 1978 Tuvalu gained independence from the United Kingdom. Tuvalu is a constitutional monarchy. The laws of Tuvalu include:

- the Constitution of Tuvalu (1 October 1978)
- Acts of the Parliament of Tuvalu;
- some English Acts;
- the common law; and
- customary law.

Ordinances made prior to independence are now deemed to be ‘Acts’.

B. Environmental Legislation

(a) The Constitution of Tuvalu

The Principles of the Constitution include:

the stability of Tuvaluan society and the happiness and the welfare of the people of Tuvalu, both present and future, depend very largely on the maintenance of Tuvaluan values, culture and tradition, including the vitality and the sense of identity of island communities and attitudes of co-operation, self-help and unity within and amongst those communities. …

Nevertheless, the people of Tuvalu recognize that in a changing world, and with changing needs, these principles and values and the manner and form of their expressions (especially in legal and administrative matters), will gradually change, and the Constitution not only must recognize their fundamental importance to the life of Tuvalu but also must not unnecessarily hamper their expression and their development.

The Constitution of Tuvalu also contains a Bill of Rights which addresses freedom under law and fundamental human rights and freedoms, including:

- Life
- Personal Liberty
- Freedom from slavery and forced labour
- Freedom from inhuman treatment
- Property rights
- Privacy of home and property
• Protection of law
• Freedom of belief
• Freedom of expression
• Freedom of assembly and association
• Freedom of movement
• Freedom from discrimination.

(b) Conservation Areas Act 1999
An Act to make provision for the declaration and management of conservation areas and related purposes.

The Act empowers the Minister to declare any part of the territory of Tuvalu a Conservation Area. The objectives of a Conservation Area include to protect the environment, conserve living and non living natural resources, and to protect biological diversity. A management plan must be prepared for each Conservation Area. A Conservation Area fund must be established, to be used for the management of the Conservation Areas.

(c) Fisheries Ordinance
An Ordinance to make provision for regulating fishing activities in Tuvalu and its fishery limits.

(d) Marine Zones (Declaration) Act 1983
An Act to make provision in respect of the internal waters, the archipelagic waters, the territorial sea, the exclusive economic zone and the contiguous zone of Tuvalu.

This Act includes a definition of ‘conservation and management’ as follows:

Conservation and management includes all rules, regulations, methods and measures that-

(a) are required to build, restore or maintain or are useful in building restoring or maintaining, any fishery resource or the marine environment, or

(b) are designed to ensure that-

(i) a supply of food and other products may be taken, and recreational benefits may be obtained on a continuing basis; and

(ii) irreversible or long term ill effects on fishery resources or the marine environment are avoided; and

(iii) there will be a multiplicity of options available with respect to uses of those resources.

(e) Marine Pollution Act 1991
An Act to make provision for preventing and dealing with pollution of the sea, and to enable effect to be given to international conventions for the prevention of marine pollution and the protection of the marine environment.
(f) **Foreshore and Land Reclamation Ordinance**

An Ordinance declaratory of the ownership of the foreshore and regulating certain reclamation projects.

Ownership of the foreshore vests in the Crown subject to some public and private rights. After reclamation of land is authorised, public and private rights over the previous ‘foreshore’ area are extinguished.

(g) **Native Lands Ordinance**

An Ordinance relating to native land and the registration of title hereto.

(h) **Neglected Lands Ordinance**

An Ordinance to provide for the purchase of neglected land and to regulate the sale thereof to indigent natives.

(i) **Plants Ordinance**

An Ordinance to provide protection of plants within Tuvalu. Includes clauses which restrict the importation of certain varieties of plants, quarantine restrictions and powers which relates to the eradication of plant diseases within Tuvalu.

(j) **Wildlife Conservation Ordinance**

An Ordinance to provide for the conservation of wildlife. Provides for the declaration of birds and other animals as fully or partially protected, the prohibition on hunting of protected wildlife, creation of wildlife sanctuaries and closed areas, and certain offences in relation to protected wildlife.

(k) **Pesticides Act 1990**

An Act to control the importation and use of pesticides and for connected purposes. The Act provides that pesticides must be registered, and a permit must be held to import pesticides. A committee decides whether a pesticide should be registered under the Act.

C. **Environmental Institutions**

(a) **Ministry of Natural Resources, Energy and Environment**

The relevant government ministry is the Ministry of Natural Resources, Energy and Environment. Contact details for the ministry are provided at www.tuvaluislands.com, however there is no website provided for the ministry.

(b) **Non-Government Organisations**

For national and regional non-government organisations active in environmental matters, see the overview in **Appendix III**.
Vanuatu: Overview of National Environmental Laws and Institutions

Lily Matthews, Solicitor

A. Introduction

Vanuatu was jointly administered by Britain and France until 1980, and much of the laws of each of those countries were applied to Vanuatu. Since independence in 1980, the laws of Vanuatu consist of:

- Constitution of Vanuatu (the supreme law);
- Acts of Parliament of Vanuatu;
- Joint Regulations (made jointly by the British and French Resident Commissioners in Vanuatu prior to independence, applying to all residents of Vanuatu) which were in existence on 30 July 1980 and have not been repealed by the Vanuatu Parliament;
- British and French laws which were in existence on 30 July 1980 that have not been repealed by the Vanuatu Parliament – including Acts of Parliament, subsidiary legislation and English common law and equity; and
- Customary laws of Vanuatu.

B. Environmental Legislation

(a) Constitution of the Republic of Vanuatu

Section 7(d) of the ni-Vanuatu Constitution provides that every person has the fundamental duty to safeguard the national wealth, resources and environment in the interests of the present generation and future generations.

Section 8 provides that the fundamental duties are non-justiciable except as provided by law, but that it is the duty of all public authorities to encourage compliance with them to the extent it lies within their respective powers.

Section 74 provides that ‘The rules of custom shall form the basis of ownership and use of land in the Republic of Vanuatu’.

(b) Environmental Management and Conservation Act 2002

This Act, which commenced in March 2003, is the primary environmental legislative tool and provides for the conservation, sustainable development and management of the environment of Vanuatu. A Director is appointed to develop, co-ordinate and, where appropriate, implement the Government’s environmental policies and programs (section 4).

The Director’s duties include:

- administering the Environmental Registry;
• preparing State of the Environment Reports;
• preparing National Policies and National Plans;
• administering the Environmental Impact Assessment procedure;
• preparing guidelines, standards, codes of practice and procedures;
• preparing advice on international environmental treaties, including implementation strategies;
• undertaking environmental research, assessment, monitoring, and inspection generally;
• chairing the Biodiversity Advisory Council (dealing with implementation of the CBD); and
• assisting with establishing Community Conservation Areas.

Under section 11, all development activities which impact, or are likely to impact, on the environment of Vanuatu, and which require any licence, permit or approval under any law, must comply with the Act.

(c) Convention on Biological Diversity (Ratification) Act 1992
An Act to provide for the ratification of the Convention on Biological Diversity signed on 5 June 1992.

(d) Forestry Act 2001
An Act to provide for the protection, development and sustainable management of forests and the regulation of the forestry industry in Vanuatu.

(e) Forestry Rights Registration and Timber Harvest Guarantee Act 2000
An Act relating to the registration of certain forestry rights granted in respect of land, and to the harvesting and accreditation of timber plantations.

(f) Geothermal Energy Act 1987
An Act to regulate and control the exploitation of geothermal energy.

(g) International Trade (Flora and Fauna) Act 1989

(h) Mines and Minerals Act 1986
An Act to regulate and control the search for and development of minerals.
(i) **National Parks Act 1993**

An Act to provide for the declaration of national parks and nature reserves, and for the protection and preservation of such areas. A National Parks Board is established, to consider which areas should be designated as National Parks, and to prepare management plans for them. A Conservation Fund is established to provide funding.

(j) **Water Resources Management Act 2002**

An Act to provide for the protection, management and use of water resources in Vanuatu. The Act provides for management plans, policies, committees, protection zones and so on.

(k) **Wild Bird (Protection) Act 1962**

An Act to protect wild bird life.

(l) **Fencing Act 1941**

An Act to provide for the fencing of land.

(m) **Foreshore Development Act 1975**

An Act to regulate the carrying out of works on the foreshore.

(n) **Land Reform Act 1980**

Includes provisions relating to control and use of public land. However, no specific environmental obligations are imposed.

(o) **Municipalities Act 1980**

An Act to provide for the establishment of municipalities, elections to municipal councils and the powers of municipalities (which include powers in relation to parks, public open spaces, drains, sewers etc).

(p) **Physical Planning Act 1986**

An Act to provide for controlling the development of land. No specific environmental obligations are imposed, but the Minister may prevent certain types of development in certain areas, and may impose conditions on development consents.

(q) **Fisheries Act 1982**

An Act to provide for the control, development and management of fisheries.

(r) **Maritime (Conventions) Act 1982**

An Act to provide for the application in Vanuatu of certain international maritime conventions. These include:
• International Convention on Civil Liability for Oil Pollution Damage, 1969;
• International Convention for the Prevention of Pollution of the Sea by Oil, 1954;
• International Convention for the Prevention of Pollution from Ships, 1973;

(s) **Maritime Zones Act 1981**
An Act to provide for the delimitation of the maritime zones of Vanuatu, and for the purposes for which those zones may and may not be used.

(t) **Animal Importation and Quarantine Act 1988**
An Act to make provisions for the regulation and control of the importation of animals, animal products and biological products into Vanuatu.

(u) **Animal Imports Act 1986**
An Act to prescribe conditions for the importation of animals and animal products into Vanuatu, the movement of animals within Vanuatu and to provide for animal health inspection.

(v) **Import of Plants Act 1964**
An Act to provide for plant quarantine.

(w) **Pesticides (Control) Act 1993**
An Act to make provisions for the regulation and control of the importation, manufacture, sale, distribution and use of pesticides.

(x) **Plant Protection Act 1997**
An Act to provide for the exclusion and effective management of plant pests, and to facilitate exports of plant produce.

(y) **Prevention of Spread of Noxious Weeds Act 1966**
An Act to prevent the spread of noxious weeds.

C. **Environmental Institutions**

(a) **Government Ministries**
There is no separate environmental ministry. Ministries exist for forestry, fisheries, energy, lands, agriculture and water supply.
(b) **Environment Unit**

The Environment Unit is the government agency responsible for providing technical advice on environmental matters to the government and peoples of Vanuatu. It is responsible to the Minister of Lands, Natural Resources, Geology, Energy and Environment.\(^483\)

The Environment Unit’s functions include:

- developing programs for the development, conservation and management of Vanuatu’s natural resources, including a project to identify capacity building needs;
- liaising with government institutions, NGOs, community leaders, private sector, regional and international organisations to promote sound and sustainable environmental management;
- advising on environmental impacts and sustainable development practices;
- conducting national conservation projects and activities;
- taking the lead role in preparing both the National Conservation Strategy and the National Biodiversity Strategy and Action Plan;
- developing the National Waste Management Strategy and the National Climate Change planning process;
- being the Operational Focal Point for international environmental conventions, including:
  - Convention on Biological Diversity;
  - United Nations Framework Convention on Climate Change; and
  - Convention on International Trade in Environmental Species; and
- providing an information resource centre and library (upgraded in 2004) including several thousand publications on Vanuatu and environment management issues. This is primarily for government purposes, but access can be arranged for students and others with a special interest. Information on environmental impact assessments is available to the public. This collection is not available electronically, and it is not usually possible to respond to general requests for information from outside Vanuatu.

(c) **Non-Government Organisations**

For national and regional non-government organisations active in environmental matters, see the overview in Appendix III.

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\(^{483}\) Archived website: www.biodiversity.com.vu. Note that some of the information above may be out-of-date as the website was last updated in 2002. A new website is apparently being developed.
Appendix III
National Environmental Organisations in Selected South Pacific Countries

Source: The organisations presented in tables are found in the Pacific Development Directory, an information, interaction and coordination tool which provides details of more than 1100 agencies and organisations working on development projects in the Pacific.484 According to PIANGO, the tool is soon to be revised.

Fiji

Name: South Pacific Action Committee for Human Ecology and Environment. Acronym: SPACHEE

Type: NGO

Postal: PO Box 16737, Suva, Fiji

Physical: ZA Denison Road, Domain, Suva, Fiji

Phone: +679 312 371

Facsimile: +679 303 053

Email: mataitini_l@usp.ac.fj

Types of Activity: Community Development; Education; Environment; Health; Water resources

Countries: Cook Islands; Federated States of Micronesia; Fiji; Kiribati; Palau; Samoa; Solomon Islands; Tonga; Tuvalu; Vanuatu

Principle Language: English

Approach To Development: To promote sustainable development through environmental management training and environmental education and awareness-raising activities.

Funding: Fiji Govt., British Govt., SPREP, UNEP, DCIDA, UNDP, UNV, PCDT, AusAID, IWDA (Through project proposals)

Affiliations: ELCI, IUCN, SPREP, NGO Coalitions, Ecowoman, Sustainable Development Network, Keep Fiji Beautiful Assn, South Pacific Peoples Foundation.


Publications: Newsletters, Brochures, Annual Reports.

Courses: Community Based environment awareness workshops, resource management workshops, women and environment, human resource development (eg EIA workshops), consultancies.

Personnel Paid Fulltime: 2

Personnel Paid Part-time: 2

Personnel Unpaid Part-time: 3

Members: 150

Completed On: 1998-04-05
**Name:** Partners in Community Development Fiji  
**Acronym:** PCDF

Formerly: Foundation for the Peoples of the South Pacific Fiji  
**Acronym:** FSP Fiji

**Type:** NGO Coordinating body

**Postal:** PO Box 451, Lautoka, Fiji

**Physical:** 12 Cakau Street, Lautoka, Fiji

**Phone:** +679 662535

**Facsimile:** +679 663414

**Email:** kanaproject@is.com.fj

**URL:** www.fspi.org.fj/affiliates/fiji.htm

**Types of Activity:** Community Development; Education; Environment; Health

**Countries:** Fiji

**Principle Language:** English

**Approach To Development:** Empower communities to make informed decisions about their own development, health, education, environment.

**Funding:** AusAID, UKFSP/DFID, Misereor Germany, European Union.

**Affiliations:** FSP International, AFAP, UKFSP, FSP Vanuatu, Tonga Trust, Soltrust, FSP Kiribati, FSP PNG, Counterpart USA.

**Courses:** Community based management training.

**Personnel Paid Fulltime:** 23

**Completed On:** 1998-05-08
Name: Pacific Development Institute  
Acronym: PDI

Type: NGO

Postal: PO Box 2492, Suva, Fiji

Physical: 115 Princes Road, Suva, Fiji

Phone: +679 383 363

Facsimile: +679 384 766

Email: apdi@is.com.fj

Types of Activity: Agriculture; Community Development; Disaster relief; Economy; Education; Employment; Environment; Food Supply; Forestry; Health; Industry; Information Technology; Population; Project Design and Management; Refugees; Small business; Tourism; Trade; Transport; Water resources; Women and gender; Engineering.

Countries: American Samoa; Australia; Cook Islands; Federated States of Micronesia

Approach To Development: Grass roots, community projects. Human rights and basic needs. Sustainable resource management.

Funding: Donors.

Affiliations: FCOSS. ECIL

Resources: Resource centre.


Courses: Environment. Institutional strengthening.

Personnel Paid  
Fulltime: 3

Personnel Unpaid  
Fulltime: 3

Personnel Paid  
Part-time: 5

Kiribati

Name: Foundation for the Peoples of the South Pacific Kiribati
Acronym: FSP Kiribati

Type: NGO

Postal: PO Box 43, Bairiki, Tarawa, Republic of Kiribati

Physical: Abaras Village, Tarawa, Republic of Kiribati

Phone: +686 28 101
Facsimile: +686 28 082
Email: fsp@tskl.net.ki

URL: www.fspi.org.fj/affiliates/kiribati.htm

Types of Activity: Agriculture; Community Development; Environment; Food Supply; Forestry; Health; Women and gender

Countries: Kiribati

Principle Language: English

Approach To Development: We seek to give people the necessary knowledge and skills to improve the quality of life in the areas of health, nutrition, agriculture, environment and local institution building.

Funding: Government donors; AusAID; NZODA; DfID; SPREP; European Union.

Affiliations: Part of FSP International Network.

Resources: Training centre (small; Publications).

Publications: Survey Reports; Videos.

Courses: Training is all in local language of I-Kiribati covering health, nutrition, environment etc.

Personnel Paid Fulltime: 14

Completed On: 1998-08-07

FSP Kiribati has worked for over 20 years in Kiribati, promoting sustainable community development in active partnership with the Government of Kiribati, local NGOs and church groups, regional and international partners. FSP Kiribati’s core strengths include non-formal education and training in the areas of health, water and sanitation, agroforestry, home food production and nutrition, environment, distance education, small business development and good governance. FSP Kiribati works in urban South Tarawa, as well as the rural outer-islands in the Gilbert and Line Groups.
FSPK has recently initiated a local NGO capacity building project to stimulate the involvement of civil society in community development and promote good governance; undertaken social, environmental and economic education projects on a national and regional basis; and has researched, developed and piloted appropriate technological solutions for community development challenges.485

Name: The Kiribati Association of NGOs (KANGO)
Acronym: KANGO

Type: NGO Coordinating body

Postal: P.O.Box 162, Bairiki, Tarawa, Republic of Kiribati, Kiribati

Contact: Nei Roko Timeon

Phone: +686 22810 (updated March 2006)

Facsimile: +686 22819 (updated March 2006)

Email: kango@tskl.net.ki

Types of Activity: Community Development; Health; Poverty Reduction; Project Design and Management; Women and gender; Capacity Building.

Countries: Kiribati

Principle Language: I-Kiribati

Approach To Development: National Coordinating Body

Funding: EU
British High Commissioner
Canada Fund
AusAid

Affiliations: All NGOs in Kiribati
PIANGO

Publications: KANGO NEWSLETTER QUARTERLY
PSL TRAINING MANUALS

Personnel Paid
Fulltime: 4

Personnel Unpaid
Fulltime: 3

Personnel Paid
Part-time: 2

Members: 40

Completed On: 2005-11-13

Papua New Guinea

Name: Foundation For People and Community Development
(formerly Foundation of the People of the South Pacific PNG)
Acronym: FPCD

Type: NGO

Postal: PO Box 1119, Boroko, National Capital District, Papua New Guinea
Phone: +675 325 8470
Facsimile: +675 325 2670
Email: fsppng@datec.com.pg
URL: www.fspi.org.fj/affiliates/png.htm

Types of Activity: Agriculture; Community Development; Disaster relief; Education; Environment; Forestry; Health; Population; Project Design and Management; Tourism; Women and gender.

Countries: Papua New Guinea

Principle Language: English

Approach To Development: Our approach to development is to encourage community participation in project implementation, management and decision making which will in turn benefit the community. Approach to development is a participatory approach.

Funding: Funding mostly from overseas funding agencies.

Affiliations: Affiliation with Australia Foundation for Asia and Pacific (AFAP). Working with AFAP on drought relief program in the country (PNG).

Resources: Currently only has publications available for public use.

Publications: Brochures, newsletters, and annual reports.

Courses: Facilitates workshops on forest certification under forest stewardship council (FSC).

Personnel Paid Fulltime: 26
Personnel Unpaid Fulltime: 2
Personnel Paid Part-time: 2
Completed On: 1998-03-30
The Foundation of People and Community Development is a non-profit NGO located in Port Moresby. The Foundation’s program officers conduct training and awareness raising workshops and provide backup support to program participants around the country.

Beginning in 1968 with a regional focus on development in Bougainville, the Foundation has evolved into a nation-wide organisation concentrating on disaster relief, eco-forestry, conservation and development, literacy, and community theatre that addresses health and social issues through drama.

The Foundation has four primary Programs. The Eco-Forestry Program is designed to educate and assist forest resource owners to sustainably manage their own timber resources without the interference of middlemen. The Integrated Conservation and Development Program seeks to promote conservation on the natural environment by developing locally managed sustainable environmental enterprises. The Foundation’s other two Programs respectively focus on Education and Literacy and on Poverty Alleviation.

Since 1992, the Foundation has been an autonomous member of the Foundation for Peoples of the South Pacific International.486

<table>
<thead>
<tr>
<th>Name</th>
<th>Research and Conservation Foundation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acronym</td>
<td>RCF</td>
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<tr>
<td>Type</td>
<td>NGO</td>
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<tr>
<td>Postal</td>
<td>PO Box 1261, Goroka, EHP, Papua New Guinea</td>
</tr>
<tr>
<td>Physical</td>
<td>Airport Road, next to Mountain Motors, Papua New Guinea</td>
</tr>
<tr>
<td>Phone</td>
<td>+675 732 3211</td>
</tr>
<tr>
<td>Facsimile</td>
<td>+675 732 1123</td>
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<tr>
<td>Types of Activity</td>
<td>Community Development; Education; Environment; Tourism; Mission is to conserve biodiversity.</td>
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<td>Countries</td>
<td>Papua New Guinea</td>
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<tr>
<td>Principle Language</td>
<td>English</td>
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<td>Approach To Development</td>
<td>An integrated conservation and development project (ICASD). Believe conservation and development can go hand in hand.</td>
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<tr>
<td>Funding</td>
<td>Various donors across the world eg. Macarthur Foundation.</td>
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<td>Resources</td>
<td>Publications. Library. Small library – developing it into more curriculum support.</td>
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<tr>
<td>Publications</td>
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<td>Courses</td>
<td>Leadership, resource management, tourism awareness, basic money management etc.</td>
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<td>Members</td>
<td>26</td>
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<td>Completed On</td>
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</table>
Name: Lou Island Community Development and Awareness Team
Acronym: LICDAT

Type: Community-Based Organisation

Postal: PO Box 549, Lorengau, Manus Province, Papua New Guinea

Phone: +675 470 2013

Facsimile: +675 470 9392

Types of Activity: Community Development; Environment; Women and gender; Awareness (Critical Literacy); Environmental, social justice and cultural affirmation issues.

Countries: Papua New Guinea

Principle Language: Ngolan Lov

Approach To Development: Integral Human and Community Development: LICDAT aims to empower people through awareness, so that they and their communities are then able to make their own educated decisions and chart their own appropriate paths of development.


Resources: Human Resources only: i.e., awareness trainers (on environmental, social justice, and cultural affirmation issues).


Courses: Training of Awareness Trainers: Seminars/Workshops on environmental, Social Justice and Cultural Affirmation Issues in Melanesia.

Personnel Unpaid
Fulltime: 2

Personnel Unpaid
Part-time: 6

Completed On: 1998-07-04
Name: Village Development Trust
Acronym: VDT
Type: NGO
Postal: PO Box 2397, Lae, Papua New Guinea
Physical: Trist Ave, Lae, Papua New Guinea
Phone: +675 472 1666
Facsimile: +675 472 4824
Email: VDT@global.net.pg
URL: www.global.net.pg/vdt
Types of Activity: Community Development; Environment; Forestry; Information Technology; Project Design and Management; Small business; Tourism; Women and gender.
Countries: Papua New Guinea
Resources: Full set of resources.
Completed On: 1998-03-23

Name: East Sepik Local Environment Foundation
Type: NGO
Postal: PO Box 1225, Wewak, Papua New Guinea
Phone: +675 856 1171
Types of Activity: Community Development; Disaster relief; Education; Environment; Tourism.
Countries: Papua New Guinea
Principle Language: English
Funding: Bread for the World; German Development Service (GDS)
Affiliations: WWF; Conservation International; Conservation Melanesia PNG Trust; Melanesian Environment Foundation; DTZ PNG Programme; Provincial Forest Management Committee.
Courses: Coastal Zone Rangers
Completed On: 1998-07-23
<table>
<thead>
<tr>
<th>Name</th>
<th>Pacific Heritage Foundation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acronym: PHF</td>
<td></td>
</tr>
<tr>
<td>Type</td>
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</tr>
<tr>
<td>Postal</td>
<td>PO Box 546, Rabaul, East New Britain, Papua New Guinea</td>
</tr>
<tr>
<td>Phone</td>
<td>+675 982 1316</td>
</tr>
<tr>
<td>Facsimile</td>
<td>+675 982 1317</td>
</tr>
<tr>
<td>Types of Activity</td>
<td>Community Development; Education; Environment; Forestry; Small business; Women and gender.</td>
</tr>
<tr>
<td>Countries</td>
<td>Papua New Guinea</td>
</tr>
<tr>
<td>Principle Language</td>
<td>English</td>
</tr>
</tbody>
</table>

**Approach To Development**: Integrated conservation and development at a rural community level. Education, training, awareness and support for business initiatives.

**Funding**: Various overseas donors.

**Resources**: Conference Hall, Small Library

**Publications**: Annual Report

**Personnel Paid**

| Fulltime | 30 |

**Personnel Unpaid**

| Fulltime | 2 |

**Members**: 50

**Completed On**: 1999-03-12

The Papua New Guinea-based **Environmental Law Centre (ELC-PNG)** is a public interest environmental law centre with an office in Port Moresby. Its goals include: to protect the forests and marine environment of Papua New Guinea by conducting litigation to stop illegal practices, to create a legal and policy framework conducive to ecologically sustainable development and conservation by landholding communities, and to provide community education with regard to destructive environmental practices. ELC-PNG is regularly involved in environmental lobbying, negotiating and litigation, delivers legal awareness workshops (particularly to remote forest communities), provides legal advice and comment in relation to proposed legislation, and is editing an Environmental Law Toolkit. ELC-PNG has achieved several significant victories in litigation and policy work, particularly in the prevention of illegal logging.

ELC-PNG is a member of the **Western Province Conservation Coalition (WPCC)**, together with a number of local, national and international non-government organisations. ELC provides legal support to the coalition, and participates in the development of joint projects.
The Centre for Environmental Law and Community Rights (CELCOR) is a public interest law NGO in Papua New Guinea. The Centre was established in 2000 in Port Moresby and is currently staffed by five lawyers and four support staff. CELCOR’s mission is to protect and assert legal rights and equitable access to and control of natural resource use and promote community based natural resource management through effective law and policies in Papua New Guinea.\textsuperscript{487} The Centre provides direct legal assistance and representation with regard to (customary) community based property rights and the environment, is involved in policy research and development (including campaigning and networking), fosters and undertakes public interest lawyers training and capacity building, and conducts a Community Legal Education Programme with community leaders and organisations, NGOs, and local and government officials.\textsuperscript{488}

The Eco-Forestry Forum provides a mechanism for NGOs with a shared interest in sustainable forest management to collaborate on public awareness campaigns, law reform proposals and public interest environmental litigation.\textsuperscript{489}

The Bismarck Ramu Group (BRG) is a local non-government organisation in Madang that provides training to landholders on issues relating to sustainable development, conservation and land management. An example of BRG work with communities which resulted in a conservation deed and the protection of rainforest from the threat of international logging companies is provided on Greenpeace’s ‘Paradise Forest’ homepage.\textsuperscript{490} ELC-PNG and Greenpeace both work closely with BRG on community education projects.

\textsuperscript{487} See www.celcor.org.pg/about.html (23 Mar 2006).
\textsuperscript{488} See www.celcor.org.pg/programs.html (23 Mar 2006).
\textsuperscript{489} See www.ecoforestry.org.pg/about.html (9 Jun 2006).
\textsuperscript{490} See www.paradiseforest.org/reclaiming_paradise/bismark.php (28 Jul 2006).
Samoa

Name: O Le Siosiomaga Society Inc.
Acronym: OLSSI

Type: NGO

Postal: PO Box 5774, Matautu-uta, Apia, Samoa

Physical: Taufusi Courts, Apia, Samoa

Phone: +685 21993
Facsimile: +685 21993

URL: www.fspi.org.fj/affiliates/samoa.htm

Types of Activity: Environment

Countries: Samoa
Principle Language: Samoan

Approach To Development: Environment conservation towards sustainable development.

Funding: Swedish Society for Nature Conservation; Canada Fund - on request; European Union

Affiliations: Samoa Umbrella for Non-Government Organisations; Asia South Pacific Bureau of Adult Education; ELCI.

Resources: Resource Centre (library, publications, video etc); Conference Room.

Publications: Newsletter; Annual reports.

Courses: Video Production Workshop; Radio Programs.

Personnel Unpaid Fulltime: 1

Members: 40

Completed On: 1998-04-06
Name: Samoa Umbrella for Non Governmental Organisations
Acronym: SUNGO

Type: NGO Coordinating body

Postal: PO Box 1858, Apia, Samoa

Physical: Wesley Arcade, 3rd Floor, Apia, Samoa

Contact: Mrs Roina Vavatau

Phone: +685 24322 / 22804 (updated March 2006)

Facsimile: +685 20654 (updated March 2006)

Email: sungomanagement@lesamoa.net

Types of Activity: Agriculture; Community Development; Disaster relief; Education; Environment; Health; Project Design and Management; Small business; Women and gender.

Countries: Samoa

Principle Language: English and Samoan

Approach To Development: Assist local NGOs in: programme design, management and evaluation; assist in finding funding sources; act as the voice of NGOs with Government; disseminate information.

Funding: Europe Directory of Donors. UNDP - PDP Program. Australia/NZ High Commission.

Affiliations: Pacific Islands Association of NGOs (PIANGO).

Resources: Information Centre to be set up soon.

Publications: Newsletter.

Courses: Program design - proposal writing and any course needed by NGOs.

Personnel Unpaid Fulltime: 1

Members: 40

Completed On: 1998-03-31
Solomon Islands

Name: Solomon Islands Development Trust
Type: Development Consultant; NGO.
Postal: PO Box 147, Honiara, Guadalcanal, Solomon Islands
Physical: New China Town, Honiara, Solomon Islands
Phone: +677 21 130
Facsimile: +677 21 131
Email: sidtcid@welkam.solomon.com.sb
URL: www.fspi.org.fj/affiliates/solomon.htm
Types of Activity: Community Development; Education; Environment; Forestry; Health; Information Technology; Population; Water resources.
Countries: Solomon Islands
Principle Language: English; Pidgin English
Approach To Development: Development is about people. SIDT does not fund projects but focuses on the development context and strengthening the quality of village life.
Funding: Other NGOs, own work.
Affiliations: – Aus Foundation Asia Project
– Foundation of the Peoples of Pacific Inc
Resources: Publications; conference centre; training centre; accommodation; headquarters; staff.
Publications: Link komik in Pigin English; Link Magazine published bi-monthly; Monthly News page; Annual Report; Pijin comics; calendar.
Personnel Paid Fulltime: 36
Personnel Paid Part-time: 270
Personnel Paid Part-time: 2
Completed On: 2001-07-01

Under the umbrella of the Foundation for the Peoples of the South Pacific International, the Solomon Islands Development Trust (SIDT) seeks to address the social, environment and economic challenges facing the Solomon Islands by improving the quality of life in the villages. SIDT has a network of Village Demonstration Workers who reside in and work with communities in
the area of village businesses, resource management, improved kitchens, home gardens and mosquito nets. SIDT is also involved in a range of community development programs that contribute to its core mission of improving life in the villages. Using community theatre, Village Demonstration Workers, magazines and comics among other tools, SIDT has addressed development issues such as malaria prevention, Vitamin A deficiency, eco-forestry, coral reef conservation, small-business development, fruit fly eradication and rural water supply and sanitation. Beginning in 1977, SIDT has been one of the primary proponents of community-level development in the Solomon Islands.491

491 For more information, see www.fspi.org.fj/affiliates/solomon.htm (5 Apr 2006).
**Name:** Development Services Exchange  
**Acronym:** DSE  
Solomon Islands National Liaison Unit for PIANGO  

**Type:** NGO Coordinating body  

**Postal:** PO Box 556, Honiara, Solomon Islands  
**Physical:** Crescent Street, New China Town, Honiara, Solomon Islands  

**Contact:** Ms Sharon Newcomb  
**Phone:** +677 23760 (updated March 2006)  
**Facsimile:** +677 27414 (updated March 2006)  
**Email:** teamleader@dse.org.sb  

**Types of Activity:** Agriculture; Community Development; Disaster relief; Education; Environment; Health; Information Technology; Population; Project Design and Management; Small business; Women and gender.  

**Countries:** Solomon Islands  

**Principle Language:** Pidgin  

**Approach To Development:** Co-ordination of information, monitoring and evaluation of NGO members, planning and management. Educational approach.  

**Funding:** Various agencies both locally and international donor agencies.  

**Resources:** Publications, audio-visuals, library, fax, computers, photo-copy services.  

**Publications:** Newsletters, annual reports.  

**Courses:** Planning and management.  

**Personnel Paid**  
**Fulltime:** 4  
**Part-time:** 1  

**Members:** 60  

**Completed On:** 1998-06-03  

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**Environmental Concerns Action Network of Solomon Islands (ECANSI)** was established in May 2002 by local professional and technical volunteers with a strong multidisciplinary composition.  

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[^492]: This network does not appear to have a website. The following information is from a 2004 UN report: www.un.org/smallislands2005/documents/a59409e.doc (5 Apr 2006).
Its aims are to:

- protect and conserve the environment and natural resources;
- foster environmental education awareness;
- research the impacts of development and human activities on the environment;
- disseminate appropriate information on environment;
- render legal and technical advice on environmental matters to government, non-governmental organizations and resource owners; and
- cooperate with environmental organizations and agencies for the promotion and implementation of common objectives and goals.

Activities include training and awareness on coral reef management, dolphin trade, solid waste management, forestry and logging practices, women in fisheries and good governance.

The **Rural Development Volunteers Association (RDVA)**\(^{493}\) acts as partner agency of the Solomon Islands Ministry responsible for Rural Development and other entities involved in helping to improve the quality of life in rural communities in Solomon Islands. RDVA mobilises skilled and experienced people (Rural Development Volunteers and local consultants) for development projects, and builds on community consultations and capacity building. Its flagship project is the People First Network, a rural community email network linking Solomon Islands communities on different islands.

\(^{493}\) For more information, see www.peoplefirst.net.sb/General/RDVA_Association.asp (5 Apr 2006).
Tuvalu

Name: Tuvalu Association of Non-Government Organisations.
Acronym: TANGO

Type:

Postal: PO Box 136, Funafuti, Tuvalu, Funafuti, Tuvalu

Physical: Red Cross Building, Funafuti, Funafuti Island, Tuvalu

Contact: Mrs Annie Homasi

Phone: +688 20 758 (updated March 2006)

Facsimile: +688 20 759 (updated March 2006)

Email: tango@tuvalu.tv

URL: www.tangotuvalu.org; www.fspi.org.fj/affiliates/tuvalu.htm

Types of Activity: Community Development; Disaster relief; Economy; Education; Environment; Health; Project Design and Management; Small business; Women and gender; Information dissemination.

Countries: Tuvalu

Principle Language: Tuvaluan

Approach To Development: Projects, grants, trainings

Funding: OSB – Overseas Service Bureau Australia.

UNDP.

Foundation for the People of the South Pacific.

Pacific Resource Centre.

Affiliations: PIANGO, FSPI, PCRC

Publications: Tango Strategic Plan 2001-2004
Guidelines for Proposal Writing
Review of NGOs in Tuvalu
Guidelines on Strategic Planning

Courses: Disaster preparedness, project management, environment, training.

Personnel Paid
Fulltime: 2

Members: 23

Completed On: 2002-01-10
The principal concern of TANGO is encouraging and assisting NGOs in their work to enable human development within Tuvalu. TANGO encourages the focus of sustainability.

TANGO provides assistance to NGOs such as seminars on constitution writing, financial services assistance, community training and information sharing. For example, in January 2006, TANGO held a Biological Monitoring Training Workshop and a Coral Coast Workshop, which looked at principles and techniques regarding community based management of marine resources.

NGO members of TANGO include: Women in Business, Island Care, Tala-o-Fencia Development Group and the Tuvalu National Youth Council. TANGO is also affiliated with regional organisations such as the Pacific Association of NGOs (PIANGO) and the South Pacific Regional Environment Program (SPREP). No additional information was available on the member NGOs of TANGO.

Projects TANGO have been involved with which relate to climate change include, making a video for distribution to the outer islands on disaster preparedness, assisting members of Niutao Island address coastal erosion by encouraging them to adopt a coastal tree each and protect it. They are currently assisting the National Council of Women and the Fafine Council of Churches on a mangrove replanting project.  

Vanuatu

Name: Foundation for the Peoples of the South Pacific Vanuatu.
Acronym: FSP Vanu

Type: NGO

Postal: PO Box 951, Port Vila, Vanuatu
Physical: Ex-Crow's Nest Bistro, Anabrou, Vanuatu

Phone: +678 22 915
Facsimile: +678 24 510

URL: www.fspi.org.fj/affiliates/vanuatu.htm

Types of Activity: Agriculture; Community Development; Education; Environment; Forestry; Health; Population; Project Design and Management; Small business; Water resources.

Countries: Vanuatu

Affiliations: FSP International; Vanuatu Association of NGOs; PIANGO

Resources: Conference room, library, video cassette tapes.


Personnel Paid: 12
Fulltime:
Members: 50
Completed On: 1998-04-24
Name : Vanuatu Association of Non-Government Organisation
        Acronym: VANGO

Type : NGO Coordinating body

Postal : PO Box 096, Port Vila, Vanuatu

Physical : Iona Building, Melcoffee, Lini Highway, Port Vila, Shefa Province, Vanuatu

Contact : Mr Henry Vira

Phone : VANGO, +678 26 034 (updated March 2006)

Facsimile : +678 26 034 (updated March 2006)

Email : vango@vanuatu.com.vu

Types of Activity : Community Development; Disaster relief; Education; Environment; Health; Information Technology; Population; Poverty Reduction; Project Design and Management; Small business; Water resources; Women and gender.

Countries : Vanuatu

Principle Language: Bislama

Approach To Development : Capacity Building
Increase cooperation among NGOs
Increase skills and effectiveness
Increase education and awareness

Sustainability

Funding : In the past, AusAID, Overseas development agency (UK), United Nations Development Programme (UNDP).
Currently, European Union and French Aid.

Affiliations : PIANGO

Resources : Library, Conference room, publications / reports, photocopy services, computer services, binding services.

Publications : News letters, brochures, annual reports, financial reports, Activity reports.

Courses : Training still focused on proposal writing, information technology and finance.
Training on strategic plans and team or participatory workshops is also organized.

Personnel Paid
Fulltime : 5

Members : 55

Completed On : 2003-08-22
The **Wantok Environment Centre (WTEC)** is a national environmental non-government organisation incorporated in Vanuatu as a charitable association. Its mission is the care and protection of Vanuatu’s natural environment.⁴⁹⁵

WTEC’s primary concern is representing the interests of rural communities and families directly involved in the conservation and/or sustainable management of Vanuatu’s natural environment and resource. The organisation also has an education program in schools, is engaged in promoting sustainable income generation (particularly low-impact tourism) and is involved in species specific conservation and research in-line with national and provincial priorities.

Over the next five years, WTEC will be concentrating on increasing the sustainability of existing rural conservation projects through improved land and natural resource management in the surrounding areas, supporting members in developing alternative income strategies, assisting provincial authorities in achieving sustainable development goals, encouraging and supporting young people in addressing environmental concerns and improving the availability of conservation related information at the national and provincial levels.

The primary objectives of WTEC are:

- To encourage and support rural initiatives concerned with the sustainable conservation and/or management of the natural environment/resources;
- To facilitate better co-ordination and collaboration between government and non-government organisations involved in environmental matters;
- To work with schools and other learning institutions to stimulate interest in Vanuatu’s environment and increase practical skills and experience in environmental subjects;
- To facilitate the use of appropriate technologies that reduce human impact on the environment;
- To encourage and support income-generating activities that are sustainable and have a positive social and environmental impact;
- To encourage and support the application of traditional knowledge and practices in the management and conservation of natural resources in Vanuatu; and
- To raise awareness of environment issues of importance to ni-Vanuatu and provide follow-up and support as and when appropriate.

The **Vanuatu Protected Areas Initiative (VPAI)**⁴⁹⁶ is a non-profit organisation established in 1994 to help meet the growing needs of rural conservation initiatives in Vanuatu. It supports people in rural Vanuatu engaged in conservation related activities, particularly the establishment of protected areas in various forms. VPAI works in partnership with the village-based Loru Protected Area Committee and has been particularly active in helping to establish the Loru Rainforest Protected Area and Loru Environment Centre. It also works closely with the Vanuatu government and local, regional and international NGOs. It is now operating under the Wantok Environment Centre umbrella.

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⁴⁹⁵ See www.positiveearth.org/ (9 Jun 2006).
⁴⁹⁶ See www.positiveearth.org/vpai (9 Jun 2006).
The **Foundation for the Peoples of the South Pacific Vanuatu (FSPV)** is a local not-for-profit, non-governmental organisation, a partner of Foundation for the Peoples of the South Pacific International (FSPI). It focuses on sustainable development, particularly in the sectors of health, youth, good governance, small business and community capacity building. The philosophy of its intervention strategy is based on effective project management, training and local capacity building. FSPV is a voluntary membership organization with various members representing all of Vanuatu's provinces. Members support the mission of FSPV and have access to information and services through the FSPV staff and member network. FSPV works with communities, as well as in partnership with national and local governments and NGOs for the implementation of its projects. It also works in partnership in the areas of program planning and management with multinational aid agencies, bilateral government aid donors, and FSPI and its network of affiliates.
Other selected countries

Name: Tonga Trust
Type: NGO
Postal: PO Box 519, Nuku'alofa, Tonga
Phone: +676 21 494 / 23 478
Facsimile: +676 24 898
Email: tcdt@candw.to
URL: www.fspi.org.fj/affiliates/tonga.htm
Types of Activity: Agriculture; Community Development; Education; Environment; Project Design and Management; Small business; Water resources.
Countries: Tonga
Principle Language: Tongan
Approach To Development: To promote and assist the self-reliant and technologically appropriate development of the people of the Kingdom of Tonga with a specific focus on rural and outer island areas.
Affiliations: Networks with Langafonua, Tongan Government, FSP International and various local, regional and international agencies.
Courses: Training.
Personnel Paid Fulltime: 2
Members: 2600
Completed On: 0000-00-00
<table>
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<th><strong>Name</strong></th>
<th>Palau Conservation Society</th>
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<tr>
<td><strong>Acronym</strong></td>
<td>PCS</td>
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<td><strong>Type</strong></td>
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<tr>
<td><strong>Postal</strong></td>
<td>PO Box 1811, Koror, PW 96940, Republic of Palau</td>
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<td><strong>Physical</strong></td>
<td>Koror, Republic of Palau, Republic of Palau</td>
</tr>
<tr>
<td><strong>Phone</strong></td>
<td>+680 488 3993</td>
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<tr>
<td><strong>Facsimile</strong></td>
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</tr>
<tr>
<td><strong>Email</strong></td>
<td><a href="mailto:Pcs@Palaunet.com">Pcs@Palaunet.com</a></td>
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<td><strong>Types of Activity</strong></td>
<td>Community Development; Economy; Environment; Forestry; Population; Tourism; Marine resources and fisheries.</td>
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<td><strong>Countries</strong></td>
<td>Palau</td>
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<td><strong>Principle Language</strong></td>
<td>English</td>
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<tr>
<td><strong>Affiliations</strong></td>
<td>Partnership with the Nature Conservancy; various informal networks and partnerships.</td>
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<tr>
<td><strong>Publications</strong></td>
<td>Ngerel a Biib; Newsletter of the Palau Conservation Society</td>
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<td><strong>Completed On</strong></td>
<td>1998-03-10</td>
</tr>
<tr>
<td><strong>Name</strong></td>
<td>Micronesian Island Conservation</td>
</tr>
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<td>----------</td>
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<tr>
<td><strong>Acronym</strong></td>
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<tr>
<td><strong>Type</strong></td>
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<tr>
<td><strong>Postal</strong></td>
<td>PO Box 159, Kolonia, Pohnpei, 96941, Federated States of Micronesia</td>
</tr>
<tr>
<td><strong>Physical</strong></td>
<td>Palikir, Pohnpei, 96941, Federated States of Micronesia</td>
</tr>
<tr>
<td><strong>Phone</strong></td>
<td>+691 320 2480</td>
</tr>
<tr>
<td><strong>Facsimile</strong></td>
<td>+691 320 2479</td>
</tr>
<tr>
<td><strong>Email</strong></td>
<td><a href="mailto:Aedward@mail.fm">Aedward@mail.fm</a></td>
</tr>
<tr>
<td><strong>Types of Activity</strong></td>
<td>Environment; Health; Population; Tourism; Water resources.</td>
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<tr>
<td><strong>Approach To Development</strong></td>
<td>We help provide environmental guidelines.</td>
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<tr>
<td><strong>Funding</strong></td>
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<td><strong>Affiliations</strong></td>
<td>PIANGO; COM-FSM (College)</td>
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<td><strong>Resources</strong></td>
<td>Quarterly newsletter; bird manuals; bird and fish posters.</td>
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<td><strong>Publications</strong></td>
<td>MIC News letter; Birds of Pohnpei</td>
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<tr>
<td><strong>Members</strong></td>
<td>40</td>
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<td><strong>Completed On</strong></td>
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### Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>AfDB</td>
<td>African Development Bank</td>
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<tr>
<td>ADB</td>
<td>Asian Development Bank</td>
</tr>
<tr>
<td>AECEN</td>
<td>Asian Environmental Compliance and Enforcement Network</td>
</tr>
<tr>
<td>ANEDO</td>
<td>Australian Network of Environmental Defender’s Offices Inc</td>
</tr>
<tr>
<td>AusAID</td>
<td>Australian Agency for International Development</td>
</tr>
<tr>
<td>AYAD</td>
<td>Australian Youth Ambassadors for Development (AusAID)</td>
</tr>
<tr>
<td>CASO</td>
<td>conservation area support officer (SPBCP)</td>
</tr>
<tr>
<td>CBD</td>
<td>Convention on Biological Diversity (1992)</td>
</tr>
<tr>
<td>CDM</td>
<td>Clean Development Mechanism (UNFCCC, Kyoto Protocol)</td>
</tr>
<tr>
<td>CEL</td>
<td>Commission on Environmental Law (IUCN)</td>
</tr>
<tr>
<td>CELCOR</td>
<td>Centre for Environmental Law and Community Rights (Papua New Guinea)</td>
</tr>
<tr>
<td>CERD</td>
<td>Centre for Environmental Research and Development (Papua New Guinea)</td>
</tr>
<tr>
<td>CFC</td>
<td>Chlorofluorocarbons</td>
</tr>
<tr>
<td>CIEL</td>
<td>Center for International Environmental Law</td>
</tr>
<tr>
<td>CLEC</td>
<td>Community Legal Education Centre (Cambodia)</td>
</tr>
<tr>
<td>CMS</td>
<td>Convention on the Conservation of Migratory Species of Wild Animals (1979)</td>
</tr>
<tr>
<td>CROP</td>
<td>Council of Regional Organizations in the Pacific</td>
</tr>
<tr>
<td>DEH</td>
<td>Australian Department of the Environment and Heritage</td>
</tr>
<tr>
<td>DESA</td>
<td>Department of Economic and Social Affairs (United Nations)</td>
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<tr>
<td>DEV-zone</td>
<td>Development Resource Centre</td>
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<tr>
<td>DTP</td>
<td>Diplomacy Training Program (University of New South Wales)</td>
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<tr>
<td>EBRD</td>
<td>European Bank for Reconstruction and Development</td>
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<tr>
<td>ECANSI</td>
<td>Environmental Concerns Action Network of Solomon Islands</td>
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<tr>
<td>ECOSOC</td>
<td>United Nations Economic and Social Council</td>
</tr>
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<td>EDS</td>
<td>Environmental Defence Society (New Zealand)</td>
</tr>
<tr>
<td>EEATAP</td>
<td>Environmental Education, Awareness and Training in Asia and the Pacific (ROAP)</td>
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<td>EETU</td>
<td>Environmental Education and Training Unit (UNEP)</td>
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<tr>
<td>EIA</td>
<td>environmental impact assessment</td>
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</tbody>
</table>
ELC  Environmental Law Centre (IUCN)
ELC-PNG  Environmental Law Centre (Papua New Guinea)
ELIS  Environmental Law Information System (IUCN)
ELP  Environmental Law Program (IUCN)
EU  European Union
FAO  Food and Agriculture Organization of the United Nations
FFA  Forum Fisheries Agency
FIELD  Foundation for International Environmental Law and Development
FPCD  Foundation of People and Community Development (Papua New Guinea)
FSC  Forest Stewardship Council
FSchM  Fiji School of Medicine
FSPI  Foundation of the Peoples of the South Pacific International
FSPK  Foundation of the Peoples of the South Pacific Kiribati
FSPV  Foundation of the Peoples of the South Pacific Vanuatu
GEF  Global Environment Facility
HIV/AIDS  human immunodeficiency virus/acquired immunodeficiency syndrome
HLCLEP  High Level Commission on Legal Empowerment of the Poor
IAD  Inter-American Development Bank
IBRD  International Bank for Reconstruction and Development (World Bank agency)
IDA  International Development Association (World Bank agency)
IFAD  International Fund for Agricultural Development
INECE  International Network for Environmental Compliance and Enforcement
IRC  Information Resource Centre (SPREP)
ITPGR  International Treaty on Plant Genetic Resources for Food and Agriculture
IUCN  World Conservation Union
IWP  Strategic Action Program for the International Waters of the Pacific Small Island Developing States (GEF/SPC/FFA/SPREP)
LEAP  Leadership Enhancement and Advancement Program (ADB)
LMMA  locally managed marine area
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>MEA</td>
<td>multilateral environmental agreement</td>
</tr>
<tr>
<td>MFAT</td>
<td>Ministry of Foreign Affairs and Trade (New Zealand)</td>
</tr>
<tr>
<td>MFE</td>
<td>Ministry for the Environment (New Zealand)</td>
</tr>
<tr>
<td>NCSA</td>
<td>National Capacity Self Assessment (GEF-UNDP)</td>
</tr>
<tr>
<td>NETTLAP</td>
<td>Network for Environmental Training at Tertiary Level in Asia and the Pacific (ROAP)</td>
</tr>
<tr>
<td>NGO</td>
<td>non-government organisation</td>
</tr>
<tr>
<td>NLU</td>
<td>National Liaison Units (PIANGO)</td>
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<tr>
<td>NPWS</td>
<td>National Park and Wildlife Service (New South Wales)</td>
</tr>
<tr>
<td>NZAID</td>
<td>New Zealand’s International Aid and Development Agency</td>
</tr>
<tr>
<td>OECD</td>
<td>Organisation for Economic Cooperation and Development</td>
</tr>
<tr>
<td>OLSSI</td>
<td>O Le Siosiomaga Society Inc (National Environment Society, Samoa)</td>
</tr>
<tr>
<td>OPRC</td>
<td>International Convention on Oil Pollution Preparedness, Response and Cooperation (1990)</td>
</tr>
<tr>
<td>PACE-SD</td>
<td>Pacific Centre for Environment and Sustainable Development (USP)</td>
</tr>
<tr>
<td>PCDF</td>
<td>Partners in Community Development Fiji</td>
</tr>
<tr>
<td>PCRC</td>
<td>Pacific Concerns Resource Centre</td>
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<tr>
<td>PDMC</td>
<td>Pacific Developing Member Country (ADB)</td>
</tr>
<tr>
<td>PIANGO</td>
<td>Pacific Islands Association of NGOs</td>
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<tr>
<td>PICCAP</td>
<td>Pacific Islands Climate Change Assistance Program</td>
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<tr>
<td>PIDP</td>
<td>Pacific Islands Development Program of the East-West Center</td>
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<tr>
<td>PIF</td>
<td>Pacific Islands Forum</td>
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<tr>
<td>PIFS</td>
<td>Pacific Islands Forum Secretariat</td>
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<tr>
<td>PIRNC</td>
<td>Pacific Islands Roundtable for Nature Conservation</td>
</tr>
<tr>
<td>PLA</td>
<td>Participatory Learning and Action (FSPI)</td>
</tr>
<tr>
<td>PNG</td>
<td>Papua New Guinea</td>
</tr>
<tr>
<td>POPs</td>
<td>persistent organic pollutants</td>
</tr>
<tr>
<td>PSO</td>
<td>Solomon Islands’ Public Solicitor’s Office</td>
</tr>
<tr>
<td>PYEN</td>
<td>Pacific Youth Environmental Network</td>
</tr>
<tr>
<td>RBAP</td>
<td>Regional Bureau for Asia and the Pacific (UNDP)</td>
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<tr>
<td>RNHP</td>
<td>Regional Natural Heritage Program (DEH)</td>
</tr>
<tr>
<td>ROAP</td>
<td>UNEP Regional Office for Asia and the Pacific</td>
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<tr>
<td>RRCAP</td>
<td>UNEP Regional Resource Center for Asia and the Pacific</td>
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<tr>
<td>Acronym</td>
<td>Full Name</td>
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<tr>
<td>RRRT</td>
<td>Pacific Regional Rights Resource Team</td>
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<tr>
<td>SDNP</td>
<td>Sustainable Development Networking Program (UNDP)</td>
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<tr>
<td>SGP</td>
<td>Small Grants Program (GEF)</td>
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<tr>
<td>SIDS</td>
<td>small island developing state(s)</td>
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<tr>
<td>SIDSnet</td>
<td>Small Island Developing States Network</td>
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<tr>
<td>SIDT</td>
<td>Solomon Islands Development Trust</td>
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<tr>
<td>SOPAC</td>
<td>South Pacific Applied Geoscience Commission</td>
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<tr>
<td>SPBCP</td>
<td>South Pacific Biodiversity Conservation Program</td>
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<tr>
<td>SPBEA</td>
<td>South Pacific Board for Educational Assessment</td>
</tr>
<tr>
<td>SPC</td>
<td>Secretariat of the Pacific Community (former South Pacific Commission)</td>
</tr>
<tr>
<td>SPOCC</td>
<td>South Pacific Organisations Coordinating Committee (now CROP)</td>
</tr>
<tr>
<td>SPREP</td>
<td>(Secretariat of the) Pacific Regional Environment Program</td>
</tr>
<tr>
<td>SPTO</td>
<td>South Pacific Tourism Organisation</td>
</tr>
<tr>
<td>TAI</td>
<td>The Access Initiative (convened by WRI)</td>
</tr>
<tr>
<td>TANGO</td>
<td>Tuvalu Association of Non-Government Organisations</td>
</tr>
<tr>
<td>TNC</td>
<td>The Nature Conservancy</td>
</tr>
<tr>
<td>UK</td>
<td>United Kingdom</td>
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<tr>
<td>UN</td>
<td>United Nations</td>
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<tr>
<td>UNCED</td>
<td>United Nations Conference on Environment and Development</td>
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<tr>
<td>UNDP</td>
<td>United Nations Development Program</td>
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<tr>
<td>UNEP</td>
<td>United Nations Environment Program</td>
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<tr>
<td>UNESCAP</td>
<td>United Nations Economic and Social Commission for Asia and the Pacific</td>
</tr>
<tr>
<td>UNESCO</td>
<td>United Nations Educational, Scientific, and Cultural Organisation</td>
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<tr>
<td>UNFCCC</td>
<td>United Nations Framework Convention on Climate Change (1992)</td>
</tr>
<tr>
<td>UNIDO</td>
<td>United Nations Industrial Development Organization</td>
</tr>
<tr>
<td>US/USA</td>
<td>United States of America</td>
</tr>
<tr>
<td>USP</td>
<td>University of the South Pacific</td>
</tr>
<tr>
<td>VIDA</td>
<td>Volunteers for International Development from Australia (AusAID)</td>
</tr>
<tr>
<td>VPAI</td>
<td>Vanuatu Protected Areas Initiative</td>
</tr>
<tr>
<td>WCMC</td>
<td>World Conservation Monitoring Centre (UNEP)</td>
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<td>Abbreviation</td>
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<tr>
<td>WHC</td>
<td>Convention Concerning the Protection of the World Cultural and Natural Heritage (1972)</td>
</tr>
<tr>
<td>WHO</td>
<td>World Health Organization</td>
</tr>
<tr>
<td>WRI</td>
<td>World Resources Institute</td>
</tr>
<tr>
<td>WRM</td>
<td>World Rainforest Movement</td>
</tr>
<tr>
<td>WSSD</td>
<td>World Summit on Sustainable Development (Johannesburg Earth Summit)</td>
</tr>
<tr>
<td>WTEC</td>
<td>Wantok Environment Centre (Vanuatu)</td>
</tr>
<tr>
<td>WWF</td>
<td>World Wide Fund for Nature</td>
</tr>
<tr>
<td>WWF-SPP</td>
<td>World Wide Fund for Nature South Pacific Program</td>
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</tbody>
</table>
Bibliography

**Texts, Articles and Conference Proceedings**


Protected Areas in Marine Areas Beyond the Limits of National Jurisdiction’ (Unpublished Draft Article).


