

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

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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.

ISBN: 978-2-8317-1024-2

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.

Preface

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 outpost 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).

2 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.¹ 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.²

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'.³ 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.⁴

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

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'.

² UN Economic and Social Commission for Asia and the Pacific (2000) *State of the Environment in Asia and the Pacific 2000*, United Nations, New York, p. 364.

³ UN Economic and Social Commission for Asia and the Pacific (2000) *State of the Environment in Asia and the Pacific 2000*, p. 364.

⁴ UN Economic and Social Commission for Asia and the Pacific (2000) *State of the Environment in Asia and the Pacific 2000*, p. 364.

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:⁵

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.⁶

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.⁷ 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.⁸

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.⁹

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.

⁶ United Nations Environment Program (2000) *Global Environmental Outlook (GEO 2000)*, Chapter 2.

⁷ Boer, B., Ramsay, R. and Rothwell, D. (1998) 'Regional Environment Issues and Responses' in *International Environmental Law in the Asia-Pacific*, Kluwer Law International, London, p. 50.

⁸ Ongwamuhana, K. (1991) 'Mining and Environmental Protection in Papua New Guinea', 15 *EPLJ* 133.

⁹ United Nations Economic and Social Commission for Asia and the Pacific (2000) *State of the Environment in Asia and the Pacific 2000*, United Nations, New York, p. 364.

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);
- 1982 *United Nations Convention on the Law of the Sea* (UNCLOS);
- 1992 *Convention on Biological Diversity* (CBD); and
- 2001 *International Treaty on Plant Genetic Resources for Food and Agriculture* (ITPGR).

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

Country	IWC	Ramsar	WHC	CITES	CMS	UNCLOS	CBD	ITPGR
Australia	✓	✓	✓	✓	✓	✓	✓	✓
Cook Islands	–	–	–	–	–	✓	✓	✓
Fiji	–	✓	✓	✓	–	✓	✓	–
Kiribati	✓	–	✓	–	–	✓	✓	✓
Marshall Islands	✓	✓	✓	–	–	✓	✓	s
FSM	–	–	✓	–	–	✓	✓	–
Nauru	✓	–	–	–	–	✓	✓	–
New Zealand	✓	✓	✓	✓	✓	✓	✓	–
Niue	–	–	✓	–	–	✓	✓	–
Palau	✓	✓	✓	✓	–	✓	✓	–
Papua New Guinea	–	✓	✓	✓	–	✓	✓	–
Samoa	–	✓	✓	✓	✓	✓	✓	✓
Solomon Islands	✓	–	✓	✓	–	✓	✓	–
Tonga	–	–	✓	✓	–	✓	✓	–
Tuvalu	✓	–	–	–	–	✓	✓	–
Vanuatu	–	–	✓	✓	–	✓	✓	–

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.¹⁰ 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

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.¹¹ Japan has noted reservations against these provisions and accordingly, conducts scientific research in the Southern Ocean every year.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.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.

Convention on Wetlands of International Importance

The 1971 *Convention on Wetlands of International Importance* ('Ramsar Convention') aims 'to stop the loss of wetlands and to promote their conservation and wise use'.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.¹⁵ Parties are required to maintain the ecological character of listed wetlands, and to report on the status of listed wetlands within their territory.¹⁶ Furthermore, each party undertakes to promote the conservation of wetlands – both listed and unlisted – by establishing and managing wetland reserves.¹⁷

Convention Concerning the Protection of the World Cultural and Natural Heritage

The 1972 *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.¹⁸ Parties to the Convention are required, *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'.¹⁹ Parties must report periodically on the legislative and administrative measures which they have adopted to implement the Convention.²⁰

¹¹ IWC Art V para. 1.

¹² Schedule to IWC as at 24 June 2005 – www.iwcoffice.org/schedule.html.

¹³ www.sprep.org/topic/marine.htm.

¹⁴ 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.

¹⁵ *Convention on Wetlands of International Importance 1971*, Art. 2.

¹⁶ *Convention on Wetlands of International Importance 1971*, Art. 2, 3.

¹⁷ *Convention on Wetlands of International Importance 1971*, Art. 4.

¹⁸ *Convention Concerning the Protection of the World Cultural and Natural Heritage 1972*, Art. 4.

¹⁹ *Convention Concerning the Protection of the World Cultural and Natural Heritage 1972*, Art. 5.

²⁰ *Convention Concerning the Protection of the World Cultural and Natural Heritage 1972*, Art. 29.

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.²¹ Parties are required to provide biennial reports to the Secretariat in relation to the measures taken to enforce the provisions of the Convention.²²

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.²³ 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.²⁴ 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'.²⁵ 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.²⁶ 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.²⁷ 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.²⁸

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

²¹ *Convention on International Trade in Endangered Species of Wild Fauna and Flora* 1973, Art. III-VI.

²² *Convention on International Trade in Endangered Species of Wild Fauna and Flora* 1973, Art. VIII.

²³ Boer, B. and Durchschlag, E.M. 'Conservation of Species and Habitats, Including Trade in and Sustainable Use of Endangered Species' (Unpublished Draft Report), para. 9.

²⁴ *Convention on the Conservation of Migratory Species of Wild Animals* 1979, Art. IV.

²⁵ *Convention on Biological Diversity*, Art. 1.

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 focussing on transboundary movement.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.³⁰

International Treaty on Plant Genetic Resources for Food and Agriculture

The objectives of the 2001 *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 *Convention on Biological Diversity*, for sustainable agriculture and food security.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.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.³³

United Nations Convention on the Law of the Sea

The UN *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.³⁴ It defines areas over which States have national sovereignty to include the territorial sea,³⁵ archipelagic waters³⁶ and the continental shelf³⁷ and provides the legal basis for States to extend their jurisdiction to regulate activities in the contiguous

²⁹ Cartagena Protocol, Art. 1.

³⁰ Cartagena Protocol, Art. 4.

³¹ *International Treaty on Plant Genetic Resources for Food and Agriculture*, Art. 1.

³² See www.fao.org/ag/cgrfa/itpgr.htm (26 Jul 2006).

³³ *International Treaty on Plant Genetic Resources for Food and Agriculture*, Art. 10-13.

³⁴ UNCLOS Art. 5.

³⁵ UNCLOS Arts. 2-16.

³⁶ UNCLOS Arts. 46-50.

³⁷ UNCLOS Art. 76 – note that these rights do not extend to the water column above the shelf (Art. 78).

zone³⁸ and an exclusive economic zone.³⁹ 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.⁴⁰

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.⁴¹ 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 areas⁴² 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*”.⁴³ 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

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.

⁴² 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), also Gjerde, K. & Breide, C. (eds) “Towards a Strategy for High Seas Marine Protected Areas”, Proceedings of IUCN, WCPA and WWF Expert Workshop on High Seas Marine Protected Areas 15-17 January 2003, Malaga, Spain.

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*;
- 1973/1978 *International Convention for the Prevention of Pollution from Ships (MARPOL)*;
- 1990 *International Convention on Oil Pollution Preparedness, Response and Cooperation (OPRC)*;
- 2004 *International Convention for the Control and Management of Ships' Ballast Water and Sediments*.

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

Country	London	MARPOL	OPRC	Ballast	Basel	Vienna	Montreal	UNFCCC	Kyoto
Australia	✓	✓	✓	-	✓	✓	✓	✓	✓
Cook Islands	-	-	-	-	✓	✓	✓	✓	✓
Fiji	-	-	-	-	-	✓	✓	✓	✓
Kiribati	✓	-	-	✓	✓	✓	✓	✓	✓
Marshall Islands	-	✓	✓	✓	✓	✓	✓	✓	✓
FSM	-	-	-	-	✓	✓	✓	✓	✓
Nauru	✓	-	-	-	✓	✓	✓	✓	✓
New Zealand	✓	✓	✓	-	✓	✓	✓	✓	✓
Niue	-	-	-	-	-	✓	✓	✓	✓
Palau	-	-	-	-	-	✓	✓	✓	✓
Papua New Guinea	✓	✓	-	-	✓	✓	✓	✓	✓
Samoa	-	✓	✓	-	✓	✓	✓	✓	✓
Solomon Islands	✓	-	-	-	-	✓	✓	✓	✓
Tonga	✓	✓	✓	-	-	✓	✓	✓	-
Tuvalu	-	✓	-	✓	-	✓	✓	✓	✓
Vanuatu	✓	✓	✓	-	-	✓	✓	✓	✓

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’.⁴⁴ 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 areas⁴⁵ where more stringent pollution controls are required. A

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 1991.⁴⁶ 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 1999.⁴⁷ PSSAs are regulated by measures to define transit routes, anchoring locations, compulsory pilotage, traffic separation and limitations on discharge.⁴⁸

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 2006.⁴⁹ 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.*”⁵⁰ 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.”⁵¹ 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.⁵²

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.⁵³ 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

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.

⁵³ Beckman, R. “The Basel Convention” Summary of outline presented at IUCN/APCEL/UNEP *Training the Trainers Course on Capacity Building for Legal Education*, Singapore, 1997.

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

⁵⁴ *Vienna Convention*, Art. 2.

⁵⁵ *Vienna Convention*, Arts. 3-5.

⁵⁶ Leferve, J. quoted in Craig, D. Robinson, N. and Kheng-Lian, K. *Resources Vol. 2 Capacity Building for Environmental Law in the Asian and Pacific Region – Approaches and Resources Vol. 2* p. 802 (2002, ADB, Manila Philippines).

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.

⁶⁵ Boer, B. 'Biodiversity Planning' in Carew-Reid, J. (ed) (2002) *Biodiversity Planning in the Asian Region*, IUCN, p. 531.

particular has been a matter of regional concern. The South Pacific community has been particularly active in developing regional environmental and conservation strategies.⁶⁶

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

- 1976 *Convention on the Conservation of Nature in the South Pacific* ('Apia Convention');
- 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').⁶⁷

⁶⁶ Boer, B., Ramsay, R. and Rothwell, D. (1998) 'Regional Environment Issues and Responses' in *International Environmental Law in the Asia-Pacific*, Kluwer Law International, London, p. 48.

⁶⁷ Other South Pacific regional environmental agreements, beyond the scope of this paper, include: 1956 *Plant Protection Agreement for the South East Asia and Pacific Region*, 1985 *South Pacific Nuclear Free Zone Treaty*, 1986 *Protocol concerning Co-operation in Combating Pollution Emergencies in the South Pacific Region*, 1987 *Agreement on Implementation of US-South Pacific Treaty on Fisheries*, and the 1992 *Niue Treaty on Cooperation in Fisheries Surveillance in South Pacific*.

Table 3: South Pacific Membership of Selected Regional Agreements⁶⁸

Country	Apia Convention	SPFF Convention	Noumea Convention	Protocol 1 Dumping	Protocol 2 Emergencies	Waigani
Australia	✓	✓	✓	s	✓	✓
Cook Islands	✓	✓	✓	✓	✓	✓
Fiji	✓	✓	✓	✓	✓	✓
Kiribati	-	✓	-	-	-	✓
Marshall Islands	-	✓	✓	✓	✓	-
FSM	-	✓	✓	✓	✓	✓
Nauru	-	✓	✓	✓	✓	s
New Zealand	-	✓	✓	✓	✓	✓
Niue	-	✓	-	-	-	✓
Palau	-	✓	s	s	s	s
Papua New Guinea	s	✓	✓	✓	✓	✓
Samoa	✓	✓	✓	✓	✓	✓
Solomon Islands	-	✓	✓	✓	✓	✓
Tonga	-	✓	-	-	-	✓
Tuvalu	-	✓	s	s	s	✓
Vanuatu	-	✓	-	-	-	s

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

⁶⁸ See the list (updated in May 2006) at www.sprep.org.ws/legal/documents/Conventions3SPREP.doc and www.ffa.int/node/14 (both 13 Jun 2006).

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.⁷⁰

Convention on the Protection of Natural Resources and the Environment of the South Pacific

The 1986 *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.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'.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.⁷³ Parties are required to report on the measures adopted by them to implement the Convention.⁷⁴

There are two Protocols to the Noumea Convention. The 1986 *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.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.⁷⁶ The 1986 *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.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.⁷⁸

Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific

The 1989 *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,

⁷⁰ *South Pacific Forum Fisheries Agency Convention*, Art. VII. For information about the Forum Fisheries Agency, visit: www.ffa.int.

⁷¹ *Convention on the Protection of Natural Resources and the Environment of the South Pacific*, Art. 5.

⁷² *Convention on the Protection of Natural Resources and the Environment of the South Pacific*, Art. 15.

⁷³ *Convention on the Protection of Natural Resources and the Environment of the South Pacific*, Art. 16.

⁷⁴ *Convention on the Protection of Natural Resources and the Environment of the South Pacific*, Art. 19.

⁷⁵ *Protocol for the Prevention of Pollution of the South Pacific Region by Dumping* Art. 3.

⁷⁶ *Protocol for the Prevention of Pollution of the South Pacific Region by Dumping* Art. 4.

⁷⁷ *Protocol Concerning Co-operation in Combating Pollution Emergencies in the South Pacific Region* Art. 3.

⁷⁸ *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

⁷⁹ *Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific*, Art. 2, 3.

⁸⁰ *Agreement Establishing the South Pacific Regional Environment Program*, Art. 2. To read about SPREP, visit: www.sprep.org.ws.

⁸¹ Boer, B., Ramsay, R. and Rothwell, D. (1998) ‘Regional Environment Issues and Responses’ in *International Environmental Law in the Asia-Pacific*, Kluwer Law International, London, p. 54.

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.⁸⁶ 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.⁸⁷ 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

⁸⁶ Personal Communication, Peteru, C. SPREP Legal Officer, February 2006.

⁸⁷ Preston, B. (1995) 'The Role of Law in the Protection of Biological Diversity in the Asia-Pacific Region', 12 EPLJ 264 at 271. See also De Klemm, C. et al (1995) 'Conserving Biological Diversity: The Legal and Institutional Issues' in *Biodiversity Conservation in the Asia and Pacific Region: Constraints and Opportunities*, Asian Development Bank, Manila, pp. 402-449.

resource capabilities are the core obstacles to the effective negotiation, ratification and implementation of multilateral environmental agreements.⁸⁸

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.⁸⁹

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.’⁹⁰

The international agreements discussed above contain a range of provisions requiring the development of national policies and subsequent enactment of legislation.⁹¹ For example, the *Convention on Biological Diversity* requires parties to:

- develop national strategies, plans or programs for conservation and sustainable use of biodiversity;⁹²
- develop or maintain legislation for the *in situ* conservation of threatened species and populations;⁹³
- regulate collection of biological resources from natural habitats for *ex situ* conservation;⁹⁴ and

⁸⁸ Velasquez, J., Piest, U. and Mougeot, J. (2002) *Interlinkages: Synergies and Coordination among Multilateral Environmental Agreements – Pacific Islands Case Study*, United Nations University, Tokyo, p. 9.

⁸⁹ Velasquez, J., Piest, U. and Mougeot, J. (2002) *Interlinkages: Synergies and Coordination among Multilateral Environmental Agreements – Pacific Islands Case Study*, United Nations University, Tokyo, p. 13.

⁹⁰ Velasquez, J., Piest, U. and Mougeot, J. (2002) *Interlinkages: Synergies and Coordination among Multilateral Environmental Agreements – Pacific Islands Case Study*, United Nations University, Tokyo, p. 27.

⁹¹ Boer B. ‘Biodiversity Planning’ in Carew-Reid, J. (ed) (2002) *Biodiversity Planning in the Asian Region*, IUCN, p. 540.

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.⁹⁵

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 *National Environmental Management Strategy*: Cook Islands, Fiji, Kiribati, Marshall Islands, Federated States of Micronesia, Niue, Samoa, Solomon Islands, Tonga and Tuvalu.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 *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.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.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.⁹⁹

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:

⁹⁴ *Convention on Biological Diversity*, Art. 8.

⁹⁵ *Convention on Biological Diversity*, Art. 14.

⁹⁶ UNESCAP (2000) *State of the Environment in Asia and the Pacific 2000*, p. 242. Regional and international organisations, including SPREP, IUCN and UNDP, have played a key role in supporting the development of these national strategies. See Boer, B.(ed) (1996) *Environmental Law in the South Pacific: Consolidated Report of the Reviews of Environmental Law in the Cook Islands, Federated States of Micronesia, Kingdom of Tonga, Republic of the Marshall Islands and Solomon Islands*, IUCN, Gland and Cambridge, p. 15.

⁹⁷ Velasquez, J., Piest, U. and Mougeot, J. (2002) *Interlinkages: Synergies and Coordination among Multilateral Environmental Agreements – Pacific Islands Case Study*, United Nations University, Tokyo, p. 28.

⁹⁸ South Pacific Regional Environment Program (2000) *Convention on Biological Diversity: An Information Package for Pacific Island Countries*, SPREP, Apia, p. 3.

⁹⁹ UNESCAP (2000) *State of the Environment in Asia and the Pacific 2000*, p. 73.

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

¹⁰⁰ Preston, B. (1995) 'The Role of Law in the Protection of Biological Diversity in the Asia-Pacific Region', 12 *EPLJ* 264 at 271.

¹⁰¹ Farrier, D. (2003) 'Emerging Patterns in Environmental Legislation in Pacific Island Countries', 20 *Journal of South Pacific Law* 1.

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, ‘[a]lthough 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

¹⁰² Boer, B., Ramsay, R. and Rothwell, D. (1998) ‘Regional Environment Issues and Responses’ in *International Environmental Law in the Asia-Pacific*, Kluwer Law International, London, p. 58.

¹⁰³ Preston, B. (1995) ‘The Role of Law in the Protection of Biological Diversity in the Asia-Pacific Region’, 12 EPLJ 264 at 274.

¹⁰⁴ UNESCAP (2000) *State of the Environment in Asia and the Pacific 2000*, p. 255.

¹⁰⁵ UNESCAP (2000) *State of the Environment in Asia and the Pacific 2000*, p. 367.

¹⁰⁶ UNESCAP (2000) *State of the Environment in Asia and the Pacific 2000*, p. 256.

¹⁰⁷ Boer, B., Ramsay, R. and Rothwell, D. (1998) ‘Regional Environment Issues and Responses’ in *International Environmental Law in the Asia-Pacific*, Kluwer Law International, London, p. 58.

¹⁰⁸ Boer, B., Ramsay, R. and Rothwell, D. (1998) ‘Regional Environment Issues and Responses’ in *International Environmental Law in the Asia-Pacific*, Kluwer Law International, London, p. 49.

¹⁰⁹ Farrier, D. (2003) ‘Emerging Patterns in Environmental Legislation in Pacific Island Countries’, 20 *Journal of South Pacific Law* 1.

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.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:

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.¹¹¹

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.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.

¹¹⁰ Farrier, D. (2003) 'Emerging Patterns in Environmental Legislation in Pacific Island Countries', 20 *Journal of South Pacific Law* 1.

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) *EPLJ* 209 at 222. See also, United Nations Centre on Transnational Corporations (1985) *Environmental Aspects of the Activities of Transnational Corporations: A Survey*.

¹¹² See section 3.5.2 below and the discussion under the heading "National Legislation" in section 3.4.2 above.

Some states, such as Papua New Guinea, also include environmental protection or sustainability objectives in their constitutions, although these provisions are generally not enforceable.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.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.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.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 (*National Environmental Laws and Institutions in Selected South Pacific Countries*) sets out the environmental legislation of those states in more detail.

¹¹³ See Appendix II.

¹¹⁴ Farrier, D. (2003) 'Emerging Patterns in Environmental Legislation in Pacific Island Countries', 20 *Journal of South Pacific Law* 1.

¹¹⁵ Ibid.

¹¹⁶ Ibid.

Table 4: Summary of principal environmental legislation in selected South Pacific states

State	Summary
Fiji	<p><i>Environmental Management Act 2005</i></p> <ul style="list-style-type: none"> • 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. • Requires preparation of certain environmental reports and plans, including the National State of the Environment Report, National Environment Strategy, Natural Resource Inventory and National Resource Management Plan. • 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	<p><i>Environment Act 1999</i></p> <ul style="list-style-type: none"> • 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. <p><i>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.</i></p>

State	Summary
Samoa	<p data-bbox="291 205 740 232"><i>Lands, Survey and Environment Act 1989</i></p> <ul data-bbox="291 256 1161 1172" style="list-style-type: none"> <li data-bbox="291 256 1161 493">• Establishes the Department of Lands, Surveys and Environment to: (a) advise on all aspects of environmental management and conservation; (b) promote the conservation and protection of natural resources and the environment; (c) advocate environmental management to other government agencies; (d) control pollution and litter; (e) make recommendations regarding national parks and reserves; and (f) promote awareness of the importance of the environment. <li data-bbox="291 520 1161 615">• Empowers Minister to undertake a range of environmental management functions, including assessment of development proposals, monitoring, and establishing environmental management guidelines. <li data-bbox="291 642 1161 737">• Establishes Environment Board to review matters referred to it by the Minister, including informing the Minister of development projects having an adverse effect on the environment. <li data-bbox="291 764 1161 893">• Director of Lands 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'. <li data-bbox="291 920 1161 979">• Offences are created in relation to foreshores, coastal waters, water pollution and littering. <li data-bbox="291 1006 1161 1172">• Regulations may be made in relation to a number of specific matters, including protecting forests, regulating the use of land, protecting and conserving wildlife, regulating or prohibiting pollution, undertaking environmental impact assessments, and preventing and controlling the clearing of trees and plants. <p data-bbox="291 1193 836 1221"><i>See also the Planning and Urban Management Act 2004.</i></p>
Solomon Islands	<p data-bbox="291 1239 534 1266"><i>Environment Act 1998</i></p> <p data-bbox="291 1290 1161 1494">Objectives of the Act 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; and (d) to comply with and give effect to regional and international conventions and obligations relating to the environment.</p> <p data-bbox="291 1517 1161 1576"><i>This Act is marked 'not yet commenced' on the version available on www.pacii.org as at 1 September 2006. The Act commences on the date appointed by the Minister.</i></p>

State	Summary
Vanuatu	<p data-bbox="291 205 897 232"><i>Environmental Management and Conservation Act 2002</i></p> <ul data-bbox="291 256 1154 893" style="list-style-type: none"> <li data-bbox="291 256 1154 356">• 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. <li data-bbox="291 374 1154 693">• 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. <li data-bbox="291 711 1154 811">• 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. <li data-bbox="291 829 1154 893">• 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

¹¹⁷ See Brown, K. ‘Customary Law in the Pacific: An Endangered Species?’ (1999) 3 *Journal of South Pacific Law* Article 2: www.vanuatu.usp.ac.fj/journal_splaw/articles/Brown1.htm (8 Jun 2006).

whose members owed the unit duties of loyalty and contribution to its survival and in return received protection and support, both material and social'.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).¹¹⁹ Many communities in the region have a hierarchical structure, in which chiefs have authority over commoners, males over females, and elders over youths.¹²⁰ The basis of identity tends to be the family unit, or the clan.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].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.¹²³ Apart from ownership, subsidiary and secondary rights of access and other easements can be granted to groups and individuals.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.'¹²⁵

¹¹⁸ See *ibid.*

¹¹⁹ For the Solomon Islands, see Kabutaulaka, T. T. *Pacific Islands Stakeholder Participation in Development: Solomon Islands* (World Bank Pacific Islands Discussion Paper Series No 6, 1998) at 28: http://www-wds.worldbank.org/external/default/WDSContentServer/IW3P/IB/2000/02/24/000094946_99031910570559/Rendered/PDF/multi_page.pdf (7 Jun 2006).

¹²⁰ For Fiji, see Sutherland, W. *Pacific Islands Stakeholder Participation in Development: Fiji* (World Bank Pacific Islands Discussion Paper Series No 7, 1998) at 20: http://www-wds.worldbank.org/external/default/WDSContentServer/IW3P/IB/2000/02/24/000094946_99031910570660/Rendered/PDF/multi_page.pdf; for Kiribati, see Macdonald, B. *Pacific Islands Stakeholder Participation in Development: Kiribati* (World Bank Pacific Islands Discussion Paper Series No 5, 1998) at 22: http://www-wds.worldbank.org/external/default/WDSContentServer/IW3P/IB/2000/02/24/000094946_99031910570558/Rendered/PDF/multi_page.pdf (both 7 Jun 2006).

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 22-23.

¹²² For Kiribati, see *op cit* above at 23-24.

¹²³ For Fiji, see *op cit* above at 21, 24-25; for Kiribati, see *op cit* above at 14, 20; for the Solomon Islands, see *op cit* above at 30.

¹²⁴ See Paterson, D.E. 'Some Thoughts about Customary Land' (2001) 5 *Journal of South Pacific Law* Paper 5: www.paclii.org/journals/jsp/012001Volume5/Paterson.html (8 Jun 2006).

¹²⁵ Waisi, P. 'Melanesian Cosmos Versus Chaos: An Indigenous Perspective', paper presented at the Papua New Guinea Land Symposium, Divine Word University, Madang (June 2001).

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.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.

¹²⁶ See, with a further reference, Ben Boer, 'Solomon Islands – Condensed Version of Legal Review', in: Boer, B. (ed), *Environmental Law in the South Pacific* (1996) at 197.

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’,¹²⁷ 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)**.

¹²⁷ See www.unep.org/documents/About-unep-booklet.pdf (21 Feb 2006).

The 'lead regional organization ... for environmental activities in the Pacific' is the **Secretariat of the Pacific Regional Environment Program (SPREP)**.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.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.

¹²⁸ Asian Development Bank, *Pacific Region Environmental Strategy 2005-2009* (2004) at 78: www.adb.org/Documents/Studies/PRES/default.asp (20 Feb 2006).

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:

Country	National Environmental Agency
Australia	Department of Environment and Heritage www.deh.gov.au/
Cook Islands	Cook Islands National Environment Service www.environment.org.ck/
Fiji	Department of Environment www.fiji.gov.fj/publish/page_630.shtml
Kiribati	Environments & Conservation Division Ministry of Environment, Lands and Agricultural Development www.tskl.net.ki/environment
Marshall Islands	Environmental Protection Authority
FSM	Department of Health, Education and Social Services, Department of Economic Affairs National Environmental Management and Sustainable Development Council www.fsmgov.org/ngovt.html
Nauru	Environment Division, Department of Island Development and Industry
New Zealand	Department of Conservation, Ministry for the Environment www.doc.govt.nz
Niue	Department of Environment and Biodiversity www.niuegov.com/
Palau	Division of Environmental Health, Ministry of Health www.palau.gov.net/minhealth/envirohlth.html
Papua New Guinea	Department of Environment and Conservation www.pngonline.gov.pg/
Samoa	Division of Environment and Conservation Department of Lands, Surveys and Environment Ministry of Natural Resources and Environment www.govt.ws/
Tonga	Environmental Planning and Conservation Section Ministry of Lands, Surveys and Natural Resources www.pmo.gov.to
Tuvalu	Environment Unit, Ministry of Natural Resources, Energy and Environment www.tuvaluislands.com
Vanuatu	Environment Unit Ministry of Lands, Natural Resources, Geology, Energy and Environment www.biodiversity.com.vu

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).

¹³² See www.fspi.org.fj/affiliates/fiji.htm (9 Jun 2006).

¹³³ See www.fspi.org.fj/affiliates/png.htm (9 Jun 2006).

demonstration workers since 1977.¹³⁴ In Tonga, environmental and other community work is conducted by the **Tonga Trust** established in 1979.¹³⁵

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.¹³⁶ 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.¹³⁷ 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.¹³⁸

Other national environmental NGOs, not directly affiliated with FSPI, include the **Environmental Concerns Action Network of Solomon Islands (ECANSI)**, established in 2002,¹³⁹ 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.¹⁴⁰ Under the WTEC umbrella, the **Vanuatu Protected Areas Initiative (VPAI)** supports village-based conservation initiatives.¹⁴¹

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

¹³⁴ See www.fspi.org.fj/affiliates/solomon.htm (9 Jun 2006).

¹³⁵ See www.fspi.org.fj/affiliates/tonga.htm (9 Jun 2006).

¹³⁶ See www.fspi.org.fj/affiliates/kiribati.htm and www.fspi.org.fj/affiliates/vanuatu.htm (both 9 Jun 2006).

¹³⁷ See www.tangotuvalu.org and www.fspi.org.fj/affiliates/tuvalu.htm (both 9 Jun 2006).

¹³⁸ See www.fspi.org.fj/affiliates/samoa.htm (9 Jun 2006).

¹³⁹ This network does not appear to have a website. See the 2004 UN report available at www.un.org/smallislands2005/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.

¹⁴² For an overview, see Corrin Care, J. 'Cultures in Conflict: The Role of the Common Law in the South Pacific' (2002) 6(2) *Journal of South Pacific Law* Article 2: www.pacii.org/journals/jspl/022002Volume6Number2/careart.html (9 Jun 2006).

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.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'.¹⁴⁴

¹⁴³ Johnston, S. (1997) 'The Convention on Biological Diversity: The Next Phase' 6 *RECIEL* 219 at 229.

¹⁴⁴ UNESCAP (2000) 'Review of the Implementation of Agenda 21, International Environmental Conventions, the Regional Action Program for Environmentally Sound and Sustainable Development, and the Program of Action for the Sustainable Development of Small Island States', *Ministerial Conference on Environment and Development in Asia and the Pacific 2000*, Kitakyushu, Japan, 31 August – 5 September 2000. URL: www.unescap.org/mced2000/so3.htm (last accessed 26 May 2005).

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

¹⁴⁵ Asian Development Bank, *Pacific Region Environmental Strategy 2005-2009* (2004) at 81: www.adb.org/Documents/Studies/PRES/default.asp (20 Feb 2006).

¹⁴⁶ Asian Development Bank, *Pacific Region Environmental Strategy 2005-2009* (2004) at 81: www.adb.org/Documents/Studies/PRES/default.asp (20 Feb 2006).

¹⁴⁷ CBD Conference of the Parties (2002) *Strategic Plan for the Convention on Biological Diversity*, Part C: Strategic Goals and Objectives. See also Appendix 1: Obstacles to the Implementation of the Convention on Biological Diversity.

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.

¹⁴⁹ Velasquez, J., Piest, U. and Mougeot, J. (2002) *Interlinkages: Synergies and Coordination among Multilateral Environmental Agreements – Pacific Islands Case Study*, United Nations University, Tokyo, p. 31.

Case Study – Regional Biodiversity and Climate Change Capacity Building¹⁵⁰

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.¹⁵¹

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.¹⁵² 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.

¹⁵⁰ See Clarke, P. *Strengthening Civil Society Legal Strategies for Biodiversity Conservation in the South Pacific*, speech and slides presented at IUCN Conference, Sydney, July 2005: www.edo.org.au/edonsw/site/pdf/iucn_conf_pc.pdf (21 Mar 2006).

¹⁵¹ www.field.org.uk/biodiversity_pg2.php (28 Feb 2006).

¹⁵² See, for example: Boer, B. (ed) (1996) *Environmental Law in the South Pacific: Consolidated Report of the Reviews of Environmental Law in the Cook Islands, Federated States of Micronesia, Kingdom of Tonga, Republic of the Marshall Islands and Solomon Islands*, IUCN, Gland and Cambridge, p. 243.

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.

¹⁵³ Asian Development Bank, *Pacific Region Environmental Strategy 2005-2009* (2004) at 67-68: www.adb.org/Documents/Studies/PRES/default.asp (20 Feb 2006).

*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.

¹⁵⁴ Asian Development Bank, *Pacific Region Environmental Strategy 2005-2009* (2004) at 78 (Box 11); www.adb.org/Documents/Studies/PRES/default.asp (20 Feb 2006); for an in-depth analysis of the SPBCP see the various UNDP publications at www.undp.org/ws/spbcp.htm (28 Feb 2006).

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.’¹⁵⁵

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.¹⁵⁶

Civil society organisations play a ‘vital role in the identification of weaknesses and gaps in current policy or legal frameworks’.¹⁵⁷ 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.¹⁵⁸ 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.¹⁵⁹

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’.¹⁶⁰

¹⁵⁵ CBD Conference of the Parties (2002) *Strategic Plan for the Convention on Biological Diversity*, Part C: Strategic Goals and Objectives. See also Appendix 1: Obstacles to the Implementation of the Convention on Biological Diversity.

¹⁵⁶ See Asian Development Bank, *Pacific Region Environmental Strategy 2005-2009* (2004) at 91: www.adb.org/Documents/Studies/PRES/default.asp (20 Feb 2006).

¹⁵⁷ UNESCO (2000) *State of the Environment in Asia and the Pacific 2000*, p. 304.

¹⁵⁸ See, with regard to biodiversity, Preston, B. (1995) ‘The Role of Law in the Protection of Biological Diversity in the Asia-Pacific Region’, 12 EPLJ 264 at 270.

¹⁵⁹ Preston, B. (1995) ‘The Role of Law in the Protection of Biological Diversity in the Asia-Pacific Region’, 12 EPLJ 264 at 275.

¹⁶⁰ Velasquez, J., Piest, U. and Mougeot, J. (2002) *Interlinkages: Synergies and Coordination among Multilateral Environmental Agreements – Pacific Islands Case Study*, United Nations University, Tokyo, p. 2.

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.

¹⁶¹ Robinson, D. (1992) 'Endangered Species Protection and Environmental Management in the Solomon Islands', 9 *EPLJ* 51, at 51.

¹⁶² Environmental Defender's Office (1993) *Legal and Institutional Models for Conservation Areas*, Environmental Defender's Office Ltd, Sydney, p. 1.

¹⁶³ Farrier, D. (2003) 'Emerging Patterns in Environmental Legislation in Pacific Island Countries', 20 *Journal of South Pacific Law* 1.

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 ELP 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,

¹⁶⁴ ESCAP (2000) *State of the Environment in Asia and the Pacific 2000*, p. 368.

¹⁶⁵ In 1996, a review of environmental laws in selected South Pacific countries, commissioned by the IUCN and SPREP, highlighted 'the need for more awareness within government departments, conservation organisations and the general community of the role and potential for environmental law in addressing the local and national environmental issues faced by each country'. Boer, B.(ed)(1996) *Environmental Law in the South Pacific: Consolidated Report of the Reviews of Environmental Law in the Cook Islands, Federated States of Micronesia, Kingdom of Tonga, Republic of the Marshall Islands and Solomon Islands*, IUCN, Gland and Cambridge, p. 19.

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 Islands*¹⁶⁷

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.

¹⁶⁶ See Asian Development Bank, *Pacific Region Environmental Strategy 2005-2009* (2004) at 82: www.adb.org/Documents/Studies/PRES/default.asp (20 Feb 2006).

¹⁶⁷ See www.fsfi.org.fj/program/governance/iucn.htm (14 Mar 2006).

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 *Forestry 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.’

¹⁷¹ Hunter, D., Salzman, J. and Zaelke, D. (1998) *International Environmental Law and Policy*, Foundation Press, New York, p. 1352.

¹⁷² Anderson, M. (1996) ‘Human Rights Approaches to Environmental Protection: An Overview’, in Hunter, D., Salzman, J. and Zaelke, D. (1998) *International Environmental Law and Policy*, Foundation Press, New York, p. 1352.

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.¹⁷³ 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),

¹⁷⁴ Hunter, D., Salzman, J. and Zaelke, D. (1998) *International Environmental Law and Policy*, Foundation Press, New York, p. 424.

¹⁷⁵ Environmental Law Institute (1998) *Networking in the Americas: Environmental Law Implementation and Enforcement (Draft for Review)*, Environmental Law Institute, Washington D.C., pp. 1-2.

¹⁷⁶ For more information about E-LAW, see the corresponding paragraph and links in Appendix I.

the Environmental Law Network International, and the International Council of Environmental Law.¹⁷⁷

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.¹⁷⁸

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.¹⁷⁹ To date, interactions with public interest environmental lawyers in New Zealand have remained limited.¹⁸⁰

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.

¹⁷⁷ Environmental Law Institute (1998) *Networking in the Americas: Environmental Law Implementation and Enforcement (Draft for Review)*, Environmental Law Institute, Washington D.C., p. 6; see Appendix I for more information on these networks.

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.¹⁸¹ 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.’¹⁸²

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.¹⁸³

¹⁸¹ Environmental Law Institute (1998) *Networking in the Americas: Environmental Law Implementation and Enforcement (Draft for Review)*, Environmental Law Institute, Washington D.C., p. 12.

¹⁸² Environmental Law Institute (1998) *Networking in the Americas: Environmental Law Implementation and Enforcement (Draft for Review)*, Environmental Law Institute, Washington D.C., p. 15.

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).

¹⁸⁶ Hunter, D., Salzman, J. and Zaelke, D. (1998) *International Environmental Law and Policy*, Foundation Press, New York, p. 429. See discussion of civil society involvement in monitoring CITES compliance.

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

¹⁸⁷ Malone, L. and Pasternak, S. (2004) *Defending the Environment: Civil Society Strategies to Enforce International Environmental Law*, Transnational Publishers, New York, p. 155-156.

¹⁸⁸ Oxfam (2004) *Mining Ombudsman Annual Report 2004*, Oxfam, Melbourne, pp. 1-15; for more information about Oxfam see the corresponding paragraph and links in Appendix I.

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.

¹⁹⁰ Detailed discussion of human rights strategies is beyond the scope of this paper. For a practical guide to the use of human rights complaints mechanisms, see Malone, L. and Pasternak, S. (2004) *Defending the Environment*, pp. 9-100.

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.¹⁹¹ Through their lending practices and policies, international financial institutions have a significant impact on development activities in the region.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.¹⁹³

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.

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.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.¹⁹⁵ In some cases, civil society

¹⁹¹ For more information about the World Bank and the Asian Development Bank, see the corresponding paragraphs and links in Appendix I.

¹⁹² Boer, B., Ramsay, R. and Rothwell, D. (1998) ‘Regional Environment Issues and Responses’ in *International Environmental Law in the Asia-Pacific*, Kluwer Law International, London, p. 56.

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) *Defending the Environment: Civil Society Strategies to Enforce International Environmental Law*, pp. 100-7.

¹⁹⁴ Malone, L. and Pasternak, S. (2004) *Defending the Environment*, pp. 158-9.

¹⁹⁵ Hunter, D., Salzman, J. and Zaelke, D. (1998) *International Environmental Law and Policy*, Foundation Press, New York, p. 427.

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.¹⁹⁶

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.¹⁹⁷ 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.¹⁹⁸ 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.

¹⁹⁶ Hunter, D., Salzman, J. and Zaelke, D. (1998) *International Environmental Law and Policy*, Foundation Press, New York, p. 427.

¹⁹⁷ Asian Development Bank, *Pacific Region Environmental Strategy 2005-2009* (2004) at 80: www.adb.org/Documents/Studies/PRES/default.asp (20 Feb 2006)

¹⁹⁸ Malone, L. and Pasternak, S. (2004) *Defending the Environment*, p. 157.

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.

¹⁹⁹ 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 225.

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.

²⁰¹ Malone, L. and Pasternak, S. (2004) *Defending the Environment*, p. 195.

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 (listserve) 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

²⁰² See the latest IUCN Environmental Law Program news message of 24 Feb 2006 at www.iucn.org/themes/law/index.html (30 Mar 2006).

Worldwide (E-LAW).²⁰³ 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,²⁰⁴ 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.

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.

Development from Australia (VIDA) Program, Australian Volunteers International (AVI), and the Australian Development Scholarships Program.²⁰⁶

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 (DEC), 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.

²⁰⁷ AYAD Exchange Newsletter 1/2005 at 3: www.ayad.com.au/publications/Exchange2005Vol01.pdf (3 Apr 2006). Other government environmental agencies have similar exchange programs. For example, the New South Wales Department of Environment and Conservation (DEC) has established an International Programs Unit, and undertakes projects within an export services program, which provides opportunities for its own staff to participate in international conservation projects. See NPWS, *Annual Report 2001/2002* (2002) at 76-77: www.nationalparks.nsw.gov.au/PDFs/annual_report_0102_fullreport.pdf (3 Apr 2006).

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

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).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.²¹¹

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

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’,²¹² 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’.²¹³ 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.²¹⁴ 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.²¹⁵ 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,²¹⁶ and the Division of Environmental Policy Implementation.²¹⁷ Within the latter, a Capacity Building Branch, and therein, an Environmental 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

²¹² See www.unep.org/documents/About-unep-booklet.pdf (21 Feb 2006).

²¹³ *Ibid.*

²¹⁴ *Ibid.*

²¹⁵ For an overview, see UNEP, *Capacity Building for Sustainable Development: An overview of UNEP environmental capacity development initiatives* (2002): www.unep.org/Pdf/Capacity_building.pdf (21 Feb 2006).

²¹⁶ www.unep.org/dpdl/.

²¹⁷ www.unep.org/DEPI/.

convention secretariats, and supports a growing number of centres of excellence.²¹⁸ It is one of three implementing agencies of the Global Environment Facility (GEF), which provides considerable funding for environmental projects.²¹⁹ The UNEP Regional Office for Asia and the Pacific (ROAP),²²⁰ as well as the UNEP Regional Resource Center for Asia and the Pacific (RRCAP),²²¹ is located in Bangkok (Thailand). ROAP runs several regional programs for Asia and the Pacific. In 1993, it established the Network for Environmental Training at Tertiary Level in 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,²²² but also helps developing countries to plan and implement their own capacity building activities.²²³ Another forum, the Pacific Youth Environmental Network (PYEN),²²⁴ recently established by UNEP and linked to SPREP,²²⁵ aims to assist, train, resource and support youth to have meaningful input into the management of the environment they will soon have responsibility for.²²⁶ 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.²²⁷ 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,²²⁸ provides (together with IUCN and FAO) an internet based environmental law information service (ECOLEX),²²⁹ and disseminates a number of environmental law publications.²³⁰ 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

²¹⁸ See www.unep.org/documents/About-unep-booklet.pdf (21 Feb 2006).

²¹⁹ For a more detailed description of the Global Environment Facility (GEF) see Section 5.1.1.3. below.

²²⁰ www.roap.unep.org.

²²¹ www.rrcap.unep.org.

²²² Available at: www.ens.gu.edu.au/ciree/LSE/ (21 Feb 2006).

²²³ See UNEP, *Capacity Building for Sustainable Development: An overview of UNEP environmental capacity development initiatives* (2002) at 148-149: www.unep.org/Pdf/Capacity_building.pdf; also see www.roap.unep.org/program/edu.cfm.

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).

²²⁶ See www.rrcap.unep.org/projects/youth/net/PYEN_intro.pdf (21 Feb 2006).

²²⁷ See UNEP, *Capacity Building for Sustainable Development: An overview of UNEP environmental capacity development initiatives* (2002) at 149: www.unep.org/Pdf/Capacity_building.pdf (21 Feb 2006).

²²⁸ See UNEP, *Capacity Building for Sustainable Development: An overview of UNEP environmental capacity development initiatives* (2002) at 30-32: www.unep.org/Pdf/Capacity_building.pdf; also see www.roap.unep.org/program/law.cfm (both 21 Feb 2006).

²²⁹ www.ecolex.org.

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

²³¹ See Rose, G. 'Report on Pacific Islands Judges Symposium on Sustainable Development' (2003) 7(1) *Journal of South Pacific Law*: <http://law.vanuatu.usp.ac.fj/jspl/2003%20Volume7Number1/rep1>; also see UNEP, *Capacity Building for Sustainable Development: An overview of UNEP environmental capacity development initiatives* (2002) at 31: www.unep.org/Pdf/Capacity_building.pdf, and www.unep.org/dpdl/Law/Program_work/Judges_program/judges_prog_regional.asp (all 21 Feb 2006).

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).

²³⁴ See www.undp.org/energyandenvironment/ (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).

²³⁷ www.undp.org/rbap/.

²³⁸ See www.undp.org/energyandenvironment/eecountry.htm (21 Feb 2006).

²³⁹ See www.undp.org/rbap/Country_Office/CP/MCP_PIC.pdf (22 Feb 2006).

²⁴⁰ See www.undp.org/annualreports/2004/english/asia.pdf (22 Feb 2006).

(i.e. to establish and/or enhance general and equal access to effective legal protection and formal policy systems).²⁴¹

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’.²⁴² 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 2006.²⁴³ 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’.²⁴⁴

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.²⁴⁵ 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.²⁴⁶

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.²⁴⁷ 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).²⁴⁸ A high priority in the World Bank’s mission to reduce poverty is placed on environmental

²⁴¹ See <http://legalempowerment.undp.org/html/mission.html> (22 Feb 2006).

²⁴² See www.unescap.org/about/index.asp (22 Feb 2006).

²⁴³ See www.unescap.org/esd/environment/soe/ (22 Feb 2006).

²⁴⁴ See www.unescap.org/esd/environment/cap/ (22 Feb 2006).

²⁴⁵ For more information, see the UNESCO World Heritage Centre site: <http://whc.unesco.org/> (28 Jul 2006).

²⁴⁶ See http://portal.unesco.org/en/ev.php-URL_ID=11735&URL_DO=DO_TOPIC&URL_SECTION=201.html (28 Jul 2006).

²⁴⁷ See <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/EASTASIAPACIFICEXT/PACIFICISLANDSIXTN/0,,contentMDK:20212778~menuPK:441895~pagePK:141137~piPK:217854~theSitePK:441883,00.html> (22 Feb 2006).

²⁴⁸ For a more detailed description of the Global Environment Facility (GEF) see Section 5.1.1.3. below.

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

²⁴⁹ See www.worldbank.org/tenthings/five.html (22 Feb 2006).

²⁵⁰ For the World Bank engagement in small states, see Allison Berg & Olga Jonas (eds), *The World Bank in Action in Small States* (2005): [http://wbln0018.worldbank.org/html/smallstates.nsf/\(attachmentweb\)/SmallStates/\\$FILE/SmallStates.pdf](http://wbln0018.worldbank.org/html/smallstates.nsf/(attachmentweb)/SmallStates/$FILE/SmallStates.pdf) (22 Feb 2006).

²⁵¹ This and more information about the World Bank's engagement in the Pacific Islands can be found at: www.worldbank.org/pi.

²⁵² All five reports are available at: <http://web.worldbank.org/wbsite/external/countries/eastasiapacificext/pacificislandsextrn/0,,contentmdk:20218238~pagepk:141137~pipk:141127~thesitepk:441883,00.html> (22 Feb 2006).

²⁵³ See World Bank, *Regional Engagement Framework 2006-2009 for Pacific Islands* (2005) at 12: <http://siteresources.worldbank.org/INTPACIFICISLANDS/Resources/PI-Strategy-05.pdf> (22 Feb 2006).

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

²⁵⁵ For a general overview of the GEF, see Hager, M. (ed), *A Guide to the Global Environment Facility for NGOs* (2005): www.gefweb.org/Partners/partners-Nongovernmental_Organ/ngo_guide/documents/The%20A%20to%20Z%20of%20the%20GEF.pdf; also see www.gefweb.org/What_is_the_GEF/what_is_the_gef.html (both 22 Feb 2006).

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).

²⁵⁷ See Asian Development Bank, *Pacific Region Environmental Strategy 2005-2009* (2004) at 76: www.adb.org/Documents/Studies/PRES/default.asp (20 Feb 2006).

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,²⁶¹ 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.²⁶² 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’,²⁶³ 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.²⁶⁴ 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.²⁶⁵ 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’.²⁶⁶ 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.²⁶⁷

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.²⁶⁸ 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

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).

²⁶² Binger, A. *Capacity Development Initiative: Country Capacity Development Needs and Priorities – Report for Small Island Developing States* (2000): www.gefweb.org/Site_Index/CDI/SIDS_Assessment.doc (23 Feb 2006).

²⁶³ Ibid at 163.

²⁶⁴ See, for example, Lafontaine, A. *Capacity Development Initiative: Assessment of Capacity Development Efforts of Other Development Cooperation Agencies* (2000) at 93: www.gefweb.org/Site_Index/CDI/CD_Efforts.doc (23 Feb 2006).

²⁶⁵ See GEF, *Strategic Approach to Enhance Capacity Building* (2003) at 4 and Annex at 15-17: www.gefweb.org/Documents/Enabling_Activity_Projects/CDI/documents/Strategic_Approach_to_Enhance_Capacity_Building_FINAL.doc (24 Feb 2006).

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.²⁶⁹ Until mid-2005, ADB's engagement in its Pacific Developing Member Countries (PDMCs) amounted to roughly US\$ 1.9 billion.²⁷⁰

ADB's environment-related technical assistance, grants and loans to its PDMCs amounted to approximately US\$ 149 million between 1992 and 2002,²⁷¹ 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.²⁷² 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.²⁷³ 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.²⁷⁴ 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.²⁷⁵ 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.²⁷⁶

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.²⁷⁷

²⁶⁹ See www.adb.org/About/field.asp (24 Feb 2006).

²⁷⁰ See www.adb.org/Pacific/projects.asp (24 Feb 2006).

²⁷¹ Asian Development Bank, *Pacific Region Environmental Strategy 2005-2009* (2004) at 59 (Table 26): www.adb.org/Documents/Studies/PRES/default.asp (20 Feb 2006).

²⁷² Ibid at 62-66 (Tables 27-30); for specific examples see ibid Appendix 5 at 131-146.

²⁷³ See ibid at 134-135.

²⁷⁴ See ibid at 136.

²⁷⁵ See ibid at 143.

²⁷⁶ See www.adb.org/Projects/Leadership-Enhancement/default.asp (24 Feb 2006).

²⁷⁷ Asian Development Bank, *Pacific Region Environmental Strategy 2005-2009* (2004) at 61-68 (also see the lessons ADB learned from other assistance agencies at 80-82): www.adb.org/Documents/Studies/PRES/default.asp (20 Feb 2006).

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

*Case Study – Civil Society Representation of Small Island States in Climate Change Negotiations*²⁸⁰

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

²⁷⁸ See www.sidsnet.org/aosis/index.html (24 Feb 2006).

²⁷⁹ See www.sidsnet.org/aosis/members.html (27 Feb 2006).

²⁸⁰ See Clarke, P. *Strengthening Civil Society Legal Strategies for Biodiversity Conservation in the South Pacific*, speech and slides presented at IUCN Conference, Sydney, July 2005: www.edo.org.au/edonsw/site/pdf/iucn_conf_pc.pdf (21 Mar 2006).

²⁸¹ Asian Development Bank, *Pacific Region Environmental Strategy 2005-2009* (2004) at 80: www.adb.org/Documents/Studies/PRES/default.asp (20 Feb 2006).

²⁸² For more information about the SDNP see www.sdnf.undp.org/docs/whatis/backgroundunder98.html (27 Feb 2006).

²⁸³ See www.un.org/ohrls/ (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).

²⁸⁵ See www.sidsnet.org/successtories/index.html (27 Feb 2006).

²⁸⁶ www.sidsnetpacific.org/ (27 Feb 2006).

²⁸⁷ See Report of the Alliance of Small Island States Meeting of Experts on capacity development for sustainable development through training, education and public awareness, USP Suva (Fiji), 3-9 December 2003, at 12: www.usp.ac.fj/pace/ (2 Mar 2006).

²⁸⁸ Asian Development Bank, *Pacific Region Environmental Strategy 2005-2009* (2004) at 78: www.adb.org/Documents/Studies/PRES/default.asp (20 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).

²⁹¹ 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, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu, Vanuatu, Wallis and Futuna.

²⁹² Australia, France, New Zealand, United States of America.

²⁹³ See www.sprep.org.ws/sprep/about.htm (27 Feb 2006).

²⁹⁴ Art. 2(1) *Agreement Establishing the South Pacific Regional Environment Program*: www.sprep.org.ws/legal/documents/IIAgreementEstablishingtheSouthPacificRegionalEnvironm_002.pdf (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.²⁹⁵ The directions of the five year Action Plan itself are outlined in ten year Strategic Programs.²⁹⁶

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.²⁹⁷ 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.²⁹⁸ Examples of such projects are the assistance in building National Environmental Management Strategies,²⁹⁹ the Action Strategy for Nature Conservation in the Pacific Islands Region 2003-2007,³⁰⁰ the Pacific Islands Climate Change Assistance Program (PICCAP),³⁰¹ the operation of an Information Resource Centre (IRC),³⁰² and the compilation of the Pacific Sub-Regional Report for the World Summit on Sustainable Development (WSSD).³⁰³ Furthermore, SPREP is in charge of the secretariat duties for the three regional Apia, Noumea and Waigani conventions,³⁰⁴ 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.³⁰⁵

²⁹⁵ Art. 2(2) Agreement Establishing the South Pacific Regional Environment Program: *ibid*; currently see SPREP, *Action Plan for Managing the Environment of the Pacific Islands Region 2005-2009* (2005) at www.sprep.org.ws/att/publication/000382_ActionPlan2005_2009.pdf (27 Feb 2006).

²⁹⁶ SPREP, *Strategic Programs 2004-2013* (2005): www.sprep.org.ws/legal/documents/SPREPStrategicProgra.pdf (28 Feb 2006).

²⁹⁷ See www.sprep.org.ws/program/program.htm (27 Feb 2006).

²⁹⁸ See www.sprep.org.ws/sprep/projects.htm, www.sprep.org.ws/legal/index.asp, www.sprep.org.ws/legal/Plans.htm, and SPREP, *Annual Report 2004: Working with Pacific Communities for our Environment* (2005): www.sprep.org.ws/att/publication/000422_AR2004F.pdf (all 27 Feb 2006).

²⁹⁹ See Asian Development Bank, *Pacific Region Environmental Strategy 2005-2009* (2004) at 80: www.adb.org/Documents/Studies/PRES/default.asp (20 Feb 2006).

³⁰⁰ See www.sprep.org.ws/publication/webpage/002sprep14th/14SM_Off_WP_8_1_1_Att_1.pdf (7 Mar 2006).

³⁰¹ See www.undp.org/energy/prodocs/rbap/regclimate.htm (28 Feb 2006).

³⁰² See www.sprep.org.ws/projects/irc_pein.htm (27 Feb 2006).

³⁰³ Task Force for the Preparation of WSSD in Asia and the Pacific, *Pacific Sub-Regional Report for the World Summit on Sustainable Development* (2001): www.rrcap.unep.org/wssd/documents/01%20SP%20Report.pdf (20 Feb 2006).

³⁰⁴ 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).

³⁰⁵ See www.sprep.org.ws/legal/index.asp (27 Feb 2006).

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).³⁰⁶ 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.³⁰⁷ The Pacific Islands Forum Secretariat (PIFS), a CROP member based in Suva (Fiji), acts as CROP's permanent chair and provides secretariat support.³⁰⁸ CROP member organisations have several common missions:³⁰⁹ '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:³¹⁰

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.³¹¹ It was established in 1971 and has now 16 independent and self-governing member countries,³¹² as well as four observers.³¹³ It is in contact with key dialogue and assistance partners – currently 13 – at ministerial level.³¹⁴ 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

³⁰⁶ In 1988 the South Pacific Forum established the South Pacific Organisations Coordinating Committee (SPOCC). In 1999 SPOCC changed its name to the Council of Regional Organisations in the Pacific (CROP): www.dfat.gov.au/geo/spacific/regional_orgs/crop.html (28 Feb 2006).

³⁰⁷ Asian Development Bank, *Pacific Region Environmental Strategy 2005-2009* (2004) at 50: www.adb.org/Documents/Studies/PRES/default.asp (20 Feb 2006).

³⁰⁸ See www.forumsec.org.fj/ (28 Feb 2006).

³⁰⁹ See Asian Development Bank, *Pacific Region Environmental Strategy 2005-2009* (2004) at 50: www.adb.org/Documents/Studies/PRES/default.asp (20 Feb 2006).

³¹⁰ See *ibid* at 51 (Box 8) for a short presentation of 8 of 10 CROP members.

³¹¹ See www.forumsec.org.fj/ (28 Feb 2006).

³¹² 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.

³¹³ French Polynesia, New Caledonia, Tokelau, and Timor Leste as a Special Observer.

³¹⁴ 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,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.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.³¹⁷ A particular emphasis is placed on information and communications technologies.

The **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.³¹⁸ The intergovernmental organisation is based in Honiara (Solomon Islands) and comprises 17 member governments.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.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.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’.³²²

³¹⁵ PIFS, *Pacific Plan for Strengthening Regional Cooperation and Integration* (2005): www.pacificplan.org/ (1 Mar 2006).

³¹⁶ *Ibid* at 3.

³¹⁷ *Ibid* at 6.

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).

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.

³²⁰ See www.ffa.int/node/12 (1 Mar 2006).

³²¹ See the overview at www.unescap.org/mced2000/pacific/background/sapiw.htm; also see SPREP, *Annual Report 2002: Sustaining Pacific Resources and Development* (2003) at 12-13: www.sprep.org/ws/publication/webpage/001annual_report_2002/SPREP_Annual_Report_2002_English_corrected.pdf (both 1 Mar 2006).

³²² See www.gefweb.org/Documents/Project_Proposals_for_Endorsement/Regional_-_Pacific_Islands_Oceanic_Fisheries.pdf (21 Mar 2006).

The **South Pacific Applied Geoscience Commission (SOPAC)**,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.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.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.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.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.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,³²⁹ bringing together all 22 Pacific island countries and territories,³³⁰ as well as the four remaining founding powers of the Commission.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

³²³ For a general introduction see www.sopac.org/ (1 Mar 2006).

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.

³²⁵ See www.sopac.org/tiki/tiki-index.php (1 Mar 2006).

³²⁶ See www.sopac.org/tiki/tiki-index.php?page=CLP+Pacific+Partnership (1 Mar 2006).

³²⁷ See www.gpa.unep.org/ and www.sopac.org/tiki/tiki-index.php?page=Wastewater (both 1 Mar 2006).

³²⁸ See www.sopac.org/tiki/tiki-index.php?page=Water+Safety+Plan (1 Mar 2006).

³²⁹ For a general introduction see www.spc.org.nc/AC/history.htm (1 Mar 2006).

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.

³³¹ Australia, France, New Zealand, United States of America.

training body, mainly working in land, marine and social development.³³² 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,³³³ 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.³³⁴ 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.³³⁵ 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'.³³⁶

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,³³⁷ and is mainly funded by the US government.³³⁸ PIDP conducts a broad range of

³³² See www.spc.org.nc/AC/Vision.htm (1 Mar 2006).

³³³ Cook Islands, Fiji, Kiribati, Marshall Islands, Nauru, Niue, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu, Vanuatu.

³³⁴ For a general introduction see www.usp.ac.fj/index.php?id=usp_introduction (2 Mar 2006).

³³⁵ See www.usp.ac.fj/pace/ (2 Mar 2006).

³³⁶ See Report of the Alliance of Small Island States (AOSIS) Meeting of Experts on capacity development for sustainable development through training, education and public awareness, USP Suva (Fiji), 3-9 December 2003, at 13: 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.³³⁹ 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

³³⁸ East-West Center, *Annual Report 2003, Supplemental Information* (2004): www.eastwestcenter.org/stored/misc/EWCfin2003.pdf (2 Mar 2006).

³³⁹ See www.eastwestcenter.org/pidp-ab.asp (2 Mar 2006).

³⁴⁰ See id for links to the Talanoa, Fiji Futures and Navigating Solomon Islands Future Projects.

³⁴¹ For a general introduction see www.spto.org/spto/export/sites/SPTO/spto/profile.shtml (1 Mar 2006).

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.

³⁴³ SPTO, *Regional Tourism Strategy for the Central and South Pacific* (2003): www.spto.org/spto/export/sites/SPTO/public/rts/reserved/SPTO_rts.pdf (1 Mar 2006).

³⁴⁴ See www.spto.org/spto/export/sites/SPTO/spto/sustainabletourism.shtml (1 Mar 2006).

³⁴⁵ See www.fsm.ac.fj/New_web/vision.htm (2 Mar 2006).

³⁴⁶ See http://europa.eu.int/comm/development/body/csp_rsp/reviews/2004/KI_final_2004.pdf (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

³⁴⁷ See www.spbea.org.fj/about_spbea.html (2 Mar 2006).

³⁴⁸ Asian Development Bank, *Pacific Region Environmental Strategy 2005-2009* (2004) at 80: www.adb.org/Documents/Studies/PRES/default.asp (20 Feb 2006).

³⁴⁹ *Ibid* at 86.

³⁵⁰ See www.ausaid.gov.au/about/default.cfm (2 Mar 2006).

³⁵¹ See www.ausaid.gov.au/keyaid/envt.cfm (2 Mar 2006).

³⁵² AusAID, *Pacific Regional Aid Strategy 2004-2009* (2004): www.ausaid.gov.au/publications/pdf/pacific_regional_strategy.pdf; a further outlook, the *Pacific 2020* report, is in preparation: www.ausaid.gov.au/hottopics/ (both 2 Mar 2006).

regional organisations.³⁵³ 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.³⁵⁴

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.³⁵⁵ AusAID is currently supporting legal reform programs in Fiji, Papua New Guinea, Tonga and Vanuatu.³⁵⁶ 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.³⁵⁷

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.³⁵⁸ The programs are administered by Austraining International Pty Ltd, a South Australian Government owned international consulting and project management company.³⁵⁹ 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.³⁶⁰ 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.³⁶¹ While eliminating poverty is central to NZAID's mission, high priority is placed on achieving environmental sustainability, with programs carried out

³⁵³ See www.ausaid.gov.au/country/southpacific.cfm (2 Mar 2006).

³⁵⁴ See AusAID, *The Australian Overseas Aid Program and the Challenge of Global Warming* (2000): www.ausaid.gov.au/publications/pdf/globalwarming2000.pdf and the fact sheet links at: www.ausaid.gov.au/keyaid/envt.cfm (both 2 Mar 2006).

³⁵⁵ See AusAID, *Pacific Regional Aid Strategy 2004-2009* (2004): www.ausaid.gov.au/publications/pdf/pacific_regional_strategy.pdf at 39; also see www.ausaid.gov.au/country/southpacific.cfm (both 2 Mar 2006).

³⁵⁶ See www.ausaid.gov.au/keyaid/gover.cfm (2 Mar 2006).

³⁵⁷ See www.ausaid.gov.au/projects/vanuatu_legal.cfm (2 Mar 2006).

³⁵⁸ See www.ausaid.gov.au/youtham/default.cfm and www.ausaid.gov.au/makediff/volunteer.cfm (both 3 Mar 2006).

³⁵⁹ www.austraining.com.au/ (2 Mar 2006).

³⁶⁰ See www.australianvolunteers.com/about and www.australianvolunteers.com/where/pacific (both 5 Apr 2006).

³⁶¹ See www.nzaid.govt.nz/about/index.html (3 Mar 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.³⁶² 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.³⁶³

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,³⁶⁴ 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.³⁶⁵

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'.³⁶⁶ 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.³⁶⁷ 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.³⁶⁸ 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.³⁶⁹ 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,

³⁶² See www.nzaid.govt.nz/about/environment.html (3 Mar 2006).

³⁶³ See www.nzaid.govt.nz/programs/r-pac-environment.html (3 Mar 2006).

³⁶⁴ Particularly by means of the Pacific Island Countries Participation Fund; see www.nzaid.govt.nz/programs/r-pic.html (3 Mar 2006).

³⁶⁵ See www.nzaid.govt.nz/programs/r-pac-environment.html (3 Mar 2006).

³⁶⁶ See www.usaid.gov/about_usaid/ (28 Jul 2006).

³⁶⁷ See www.usaid.gov/our_work/environment/ (28 Jul 2006).

³⁶⁸ See www.peacecorps.gov/index.cfm?shell=learn.whatispc.mission (28 Jul 2006).

³⁶⁹ See www.peacecorps.gov/index.cfm?shell=learn.wherepc.pacificislands.fiji.workarea (28 Jul 2006).

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

³⁷⁰ See www.peacecorps.gov/index.cfm?shell=learn.wherepc.pacificislands.vanuatu.workarea (28 Jul 2006).

³⁷¹ See www.deh.gov.au/commitments/index.html (3 Mar 2006).

³⁷² See www.deh.gov.au/heritage/programs/rnhp (3 Mar 2006).

³⁷³ See www.mfat.govt.nz/about/oppu/divisions/divisions.html#Environment%20Division (3 Mar 2006).

³⁷⁴ See www.mfe.govt.nz/laws/trade/trade.html (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.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.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.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.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.³⁷⁹

ii. Non-Governmental Institutions

A. Global Non-Governmental Environment Organisations

The **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

³⁷⁵ See www.inece.org/overview.html (7 Mar 2006).

³⁷⁶ See id and www.inece.org/overview/structure.html (7 Mar 2006).

³⁷⁷ See www.inece.org/forums.html (7 Mar 2006).

³⁷⁸ See www.inece.org/library/capacity.html (7 Mar 2006).

³⁷⁹ See www.inece.org/region_asia.html; www.inece.org/aecen/ (both 7 Mar 2006).

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

³⁸⁰ IUCN, *The IUCN Program 2005-2008: Many voices, one earth* (2004): www.iucn.org/program/files/Program_English.pdf (7 Mar 2006).

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.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.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.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).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.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.³⁹² In pursuing its mission, TNC is also building capacity in the Pacific region: In Papua New Guinea, TNC helped, together with several local, national and international partners, 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.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.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.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.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).³⁹⁷ In Papua New Guinea and the Solomon Islands, Greenpeace has launched a campaign called Paradise Forest: It is supporting local

³⁸⁷ See www.nature.org/aboutus/ (8 Mar 2006).

³⁸⁸ See www.nature.org/aboutus/howwework/ (8 Mar 2006).

³⁸⁹ See www.nature.org/aboutus/howwework/cbd/ (8 Mar 2006).

³⁹⁰ See www.nature.org/wherewework/asiapacific/ (8 Mar 2006).

³⁹¹ See www.nature.org/wherewework/asiapacific/papuanewguinea/ (8 Mar 2006).

³⁹² See www.nature.org/wherewework/asiapacific/solomonislands/ (8 Mar 2006).

³⁹³ See www.nature.org/aboutus/campaign/success/art1652.html (8 Mar 2006).

³⁹⁴ See www.nature.org/wherewework/asiapacific/palau/work/ (8 Mar 2006).

³⁹⁵ See www.greenpeace.org.au/aboutus/mission.html (8 Mar 2006).

³⁹⁶ See www.greenpeace.org.au/aboutus/structure.html (8 Mar 2006).

³⁹⁷ See www.greenpeace.org.au/resources/factsheets/pdfs/Saving_Whales.pdf (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).³⁹⁸ 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.³⁹⁹

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.⁴⁰⁰ In the South Pacific, WRI is active via its Reefs at Risk project series,⁴⁰¹ which not only provided a detailed analysis of (mainly humanly induced) threats to coral reefs,⁴⁰² 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).⁴⁰³ 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.⁴⁰⁴

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.⁴⁰⁵ Both Oxfam Australia and Oxfam New Zealand have projects in Fiji, Papua New Guinea, the Solomon Islands and

³⁹⁸ See www.paradiseforest.org/defending_paradise/achievements.php (9 Mar 2006).

³⁹⁹ See www.greenpeace.org.au/getactive/index.html (9 Mar 2006).

⁴⁰⁰ See <http://about.wri.org/goals.cfm> (9 Mar 2006).

⁴⁰¹ See <http://reefsatrisk.wri.org/> (9 Mar 2006).

⁴⁰² For the South Pacific see Burke, L. et al, *Reefs at Risk in Southeast Asia* (2002): http://marine.wri.org/pubs_description.cfm?PubID=3144 (9 Mar 2006).

⁴⁰³ See http://pubs.wri.org/pubs_content_print.cfm?ContentID=3798 (9 Mar 2006).

⁴⁰⁴ See www.accessinitiative.org/about.html (9 Mar 2006).

⁴⁰⁵ See www.oxfam.org/en/about/ (22 Mar 2006).

Vanuatu, Oxfam New Zealand is also active in Samoa.⁴⁰⁶ 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.⁴⁰⁷ 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.⁴⁰⁸ 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.⁴⁰⁹

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.⁴¹⁰ 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.⁴¹¹ 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.

⁴⁰⁶ See www.oxfam.org/en/programs/development/pacific/ (22 Mar 2006).

⁴⁰⁷ See www.oxfam.org.au/campaigns/mining/ombudsman/2004/cases/tolukuma/index.html (22 Mar 2006).

⁴⁰⁸ See www.oxfam.org.au/world/pacific/solomons/index.html (22 Mar 2006).

⁴⁰⁹ See *id.*

⁴¹⁰ See www.pcrc.org.fj/pcrc_aboutus.htm (9 Mar 2006).

⁴¹¹ See www.pcrc.org.fj/pcrc_environment.htm (9 Mar 2006).

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).

⁴¹⁷ See www.dev-zone.org/pdd/index.php (14 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.⁴¹⁸ PIANGO also provides a list of national, regional and global governmental and non-governmental organisations on its homepage.⁴¹⁹

The **Foundation of the Peoples of the South Pacific International (FSPI)** is a network of South Pacific island NGOs and overseas affiliates,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,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.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.⁴²³ FSPI is currently considering recruiting a lawyer to assist with its programs in the region.

The **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.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 2003-2007.⁴²⁵ 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.

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

⁴¹⁸ www.dev-zone.org/pdd/search.php (14 Mar 2006).

⁴¹⁹ See www.piango.org/PIANGO%20Links.htm (14 Mar 2006).

⁴²⁰ The latter are the Australian Foundation of the Peoples of Asia and the Pacific, Just World Partners (UK) and Counterpart International (USA).

⁴²¹ Fiji, Kiribati, Papua New Guinea, Samoa, Solomon Islands, Timor-Leste, Tonga, Tuvalu, and Vanuatu.

⁴²² See www.fspi.org.fj/aboutus/index.htm (14 Mar 2006).

⁴²³ See www.fspi.org.fj/programs.htm (14 Mar 2006).

⁴²⁴ See www.dev-zone.org/pirnc/ (14 Mar 2006).

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.⁴²⁶ 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).⁴²⁷ 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.⁴²⁸ 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.⁴²⁹ 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).⁴³⁰ 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.⁴³¹ 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.⁴³² 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.⁴³³ 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,⁴³⁴ 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.⁴³⁵ An example of local and regional capacity building

⁴²⁶ See www.idea.org.au/liveandlearn/who/ (15 Mar 2006).

⁴²⁷ Another country office is located in Phnom Penh (Cambodia); see www.idea.org.au/liveandlearn/structure/.

⁴²⁸ See www.idea.org.au/liveandlearn/activities/ (15 Mar 2006).

⁴²⁹ See www.idea.org.au/liveandlearn/activities/past.asp (15 Mar 2006).

⁴³⁰ See www.iucn.org/themes/law/elc01.html (8 Mar 2006).

⁴³¹ See www.iucn.org/themes/law/elp01.html (8 Mar 2006).

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).

⁴³⁴ www.ecolex.org (8 Mar 2006).

⁴³⁵ See www.iucn.org/themes/law/elp03.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 With regard to further environmental law capacity building in the

⁴³⁶ See *id.*

⁴³⁷ See the latest news message of 24 Feb 2006 at www.iucn.org/themes/law/index.html (8 Mar 2006).

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).

⁴⁴⁰ See www.elaw.org/custom/custompages/regionalPartners.asp?Region=Pacific (22 Mar 2006).

⁴⁴¹ See www.elaw.org/news/impact/text.asp?id=1401 (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 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

⁴⁴² See www.edo.org.au/ (22 Mar 2006).

⁴⁴³ See www.edo.org.au/edonsw/site/default.php and www.edo.org.au/edonsw/site/pdf/aboutus.pdf (both 15 Mar 2006).

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 (CIEL)** 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

⁴⁴⁵ See www.eds.org.nz/aboutus.cfm (15 Mar 2006).

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.⁴⁴⁸ 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.⁴⁴⁹ 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.⁴⁵⁰

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.⁴⁵¹

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.⁴⁵² 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.⁴⁵³ 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 Greengrants Fund.⁴⁵⁴

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.⁴⁵⁵ 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.⁴⁵⁶ 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.⁴⁵⁷

⁴⁵² See www.celcor.org.pg/about.html (23 Mar 2006).

⁴⁵³ See www.celcor.org.pg/programs.html (23 Mar 2006).

⁴⁵⁴ See www.greengrants.org (23 Mar 2006).

⁴⁵⁵ See www.rrrt.org (23 Mar 2006).

⁴⁵⁶ See www.rrrt.org/page.asp?active_page_id=88 and www.rrrt.org/page.asp?active_page_id=90 (both 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

⁴⁵⁸ See www.nela.org.au/about/ (4 Apr 2006).

⁴⁵⁹ See NELA, *Strategic Plan 2006-2008* at 3: www.nela.org.au/plan/NELA_strategic_Plan_2006_21Nov05.doc (4 Apr 2006).

⁴⁶⁰ See www.rmla.org.nz/ (4 Apr 2006).

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

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*.

⁴⁶⁵ See www.law.mq.edu.au/MUCEL/ (5 Apr 2006).

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).

⁴⁶⁹ See www.uow.edu.au/law/nrl/intronatrescentre.html (24 Jul 2006).

⁴⁷⁰ See www.uow.edu.au/law/nrl/staffnrlcentre.html and www.uow.edu.au/law/staff/david.html (24 Jul 2006).

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.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 **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.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.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 **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).

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 **Australian Council for International Development (ACFID)** is representing some 80 Australia-based NGOs involved with international aid and development.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.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

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

⁴⁷² See <http://law.nus.edu.sg/apcel/aboutus.htm> (5 Apr 2006).

⁴⁷³ See <http://law.nus.edu.sg/apcel/aboutus/objective.htm> (5 Apr 2006).

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

⁴⁷⁵ See www.acfid.asn.au/campaigns/advocacy_policy.htm (5 Apr 2006).

Pacific.⁴⁷⁶ 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.⁴⁷⁷

The Council for International Development (CID) is New Zealand's umbrella organisation for some 80 NGOs involved with international aid and development.⁴⁷⁸ 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.⁴⁷⁹ 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.⁴⁸⁰

⁴⁷⁶ See www.acfid.asn.au/campaigns/pacific.htm (5 Apr 2006).

⁴⁷⁷ See www.acfid.asn.au/code/code.htm (5 Apr 2006).

⁴⁷⁸ See the list of CID members at www.cid.org.nz/cid-members/index.html (5Apr 2006).

⁴⁷⁹ See www.cid.org.nz/about-cid/index.html (5 Apr 2006).

⁴⁸⁰ See www.cid.org.nz/about-cid/code-of-ethics.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.⁴⁸¹

The Department of Environment clearly is the central institution addressing environmental management. With the introduction of the *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 *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 *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 **Appendix III**.

⁴⁸¹ www.fiji.gov.fj/publish/m_housing.shtml (12 Mar 2006).

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).*
- (g) **British Acts of Parliament, Orders of the Queen in Council and subsidiary legislation** - *in force in Kiribati immediately before 12 July 1979 until repealed by Act of the Maneaba ni Maungatabu (s.7 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) Environment Act 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.

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 Profile⁴⁸²

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.

⁴⁸² Source: www.nationsencyclopedia.com/Asia-and-Oceania/Kiribati-ENVIRONMENT.html.

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.

B. The Constitution of the Independent State of Papua New Guinea

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*

An Act to implement Vanuatu's obligations as a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora signed at Washington on 3 March 1973, by controlling and regulating the exportation and importation of certain species of fauna and flora.

(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;
- 1978 Protocol to the International Convention for the Prevention of Pollution from Ships, 1973;
- 1976 Protocol to the International Convention on Civil Liability for Oil Pollution Damage, 1969.

(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**.

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.

⁴⁸⁴ See www.dev-zone.org/pdd/index.php (28 Jul 2006).

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_I@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.
Resources :	Publications, Audio-Visuals, Library, Training Centre, Resource Centre.
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.

Publications : Leaflets. Brochures.

Courses : Environment. Institutional strengthening.

Personnel Paid 3
Fulltime :

Personnel Unpaid 3
Fulltime :

Personnel Paid 5
Part-time :

Completed On : 1998-05-28

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

⁴⁸⁵ See www.fspl.org.fj/affiliates/kiribati.htm (28 Jul 2006).

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.fsipi.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

⁴⁸⁶ See www.fspi.org.fj/affiliates/png.htm (28 Jul 2006).

Name :	Research and Conservation Foundation Acronym: RCF
Type :	NGO
Postal :	PO Box 1261, Goroka, EHP, Papua New Guinea
Physical :	Airport Road, next to Mountain Motors, Papua New Guinea
Phone :	+675 732 3211
Facsimile :	+675 732 1123
Email :	rcf@dg.com.pg
URL :	http://crater.lehman.cuny.edu/crater
Types of Activity :	Community Development; Education; Environment; Tourism; Mission is to conserve biodiversity.
Countries :	Papua New Guinea
Principle Language:	English
Approach To Development :	An integrated conservation and development project (ICASD). Believe conservation and development can go hand in hand.
Funding :	Various donors across the world eg. Macarthur Foundation.
Resources :	Publications. Library. Small library – developing it into more curriculum support.
Publications :	Singavt bi-monthly newsletter.
Courses :	Leadership, resource management, tourism awareness, basic money management etc.
Personnel Paid Fulltime :	11
Personnel Unpaid Fulltime :	6
Personnel Paid Part-time :	1
Members :	26
Completed On :	1998-07-13

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 Ngolan Lov

Language:

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.

Affiliations : Papua New Guinea integral human development trust (Papua New Guinea Trust). Melanesian Trust.

Resources : Human Resources only: i.e, awareness trainers (on environmental, social justice, and cultural affirmation issues).

Publications : Take part in production of Melanesian Trust awareness manuals (Vol.I & II).

Courses : Training of Awareness Trainers: Seminars/Workshops on environmental, Social Justice and Cultural Affirmation Issues in Melanesia.

Personnel Unpaid 2

Fulltime :

Personnel Unpaid 6

Part-time :

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

Name : Pacific Heritage Foundation
Acronym: PHF

Type : NGO

Postal : PO Box 546, Rabaul, East New Britain, Papua New Guinea

Phone : +675 982 1316

Facsimile : +675 982 1317

Types of Activity : Community Development; Education; Environment; Forestry; Small business; Women and gender.

Countries : Papua New Guinea

Principle Language: English

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.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.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.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.⁴⁹⁰ ELC-PNG and Greenpeace both work closely with BRG on community education projects.

⁴⁸⁷ See www.celcor.org.pg/about.html (23 Mar 2006).

⁴⁸⁸ See www.celcor.org.pg/programs.html (23 Mar 2006).

⁴⁸⁹ See www.ecoforestry.org.pg/about.html (9 Jun 2006).

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 Samoan

Language:

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 1

Fulltime :

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 :	<ul style="list-style-type: none">- 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

Personnel Paid Part-time : 1

Members : 60

Completed On : 1998-06-03

Environmental Concerns Action Network of Solomon Islands (ECANSI)⁴⁹² was established in May 2002 by local professional and technical volunteers with a strong multidisciplinary composition.

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.⁴⁹⁴

⁴⁹⁴ See www.tangotuvalu.org (28 Jul 2006).

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.

Publications : FSP Annual Report.

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	Bislama
Language:	
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.

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 Tongan

Language:

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 2

Fulltime :

Members : 2600

Completed On : 0000-00-00

Name : Palau Conservation Society
Acronym: PCS

Type : NGO

Postal : PO Box 1811, Koror, PW 96940, Republic of Palau

Physical : Koror, Republic of Palau, Republic of Palau

Phone : +680 488 3993

Facsimile : +680 488 3990

Email : Pcs@Palaunet.com

Types of Activity : Community Development; Economy; Environment; Forestry; Population; Tourism; Marine resources and fisheries.

Countries : Palau

Principle Language: English

Affiliations : Partnership with the Nature Conservancy; various informal networks and partnerships.

Publications : Ngerel a Biib; Newsletter of the Palau Conservation Society

Completed On : 1998-03-10

Name : Micronesian Island Conservation
Acronym: MIC

Type : NGO

Postal : PO Box 159, Kolonia, Pohnpei, 96941, Federated States of Micronesia

Physical : Palikir, Pohnpei, 96941, Federated States of Micronesia

Phone : +691 320 2480

Facsimile : +691 320 2479

Email : Aedward@mail.fm

Types of Activity : Environment; Health; Population; Tourism; Water resources.

Countries : Federated States of Micronesia

Principle Language: English

Approach To Development : We help provide environmental guidelines.

Funding : Sales of posters; remaining funds from research projects, for example, a bird survey project.

Affiliations : PIANGO; COM-FSM (College)

Resources : Quarterly newsletter; bird manuals; bird and fish posters.

Publications : MIC News letter; Birds of Pohnpei

Members : 40

Completed On : 1998-11-26

Abbreviations

AfDB	African Development Bank
ADB	Asian Development Bank
AECEN	Asian Environmental Compliance and Enforcement Network
ANEDO	Australian Network of Environmental Defender's Offices Inc
AusAID	Australian Agency for International Development
AYAD	Australian Youth Ambassadors for Development (AusAID)
CASO	conservation area support officer (SPBCP)
CBD	Convention on Biological Diversity (1992)
CDM	Clean Development Mechanism (UNFCCC, Kyoto Protocol)
CEL	Commission on Environmental Law (IUCN)
CELCOR	Centre for Environmental Law and Community Rights (Papua New Guinea)
CERD	Centre for Environmental Research and Development (Papua New Guinea)
CFC	Chlorofluorocarbons
CIEL	Center for International Environmental Law
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora (1973)
CLEC	Community Legal Education Centre (Cambodia)
CMS	Convention on the Conservation of Migratory Species of Wild Animals (1979)
CROP	Council of Regional Organizations in the Pacific
DEH	Australian Department of the Environment and Heritage
DESA	Department of Economic and Social Affairs (United Nations)
DEV-zone	Development Resource Centre
DTP	Diplomacy Training Program (University of New South Wales)
EBRD	European Bank for Reconstruction and Development
ECANSI	Environmental Concerns Action Network of Solomon Islands
ECOSOC	United Nations Economic and Social Council
EDS	Environmental Defence Society (New Zealand)
EEATAP	Environmental Education, Awareness and Training in Asia and the Pacific (ROAP)
EETU	Environmental Education and Training Unit (UNEP)
EIA	environmental impact assessment

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
IWC	International Whaling Commission / International Convention on the Regulation of Whaling (1946)
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
MARPOL	International Convention for the Prevention of Pollution from Ships (1973/1978)

MEA	multilateral environmental agreement
MFAT	Ministry of Foreign Affairs and Trade (New Zealand)
MFE	Ministry for the Environment (New Zealand)
NCSA	National Capacity Self Assessment (GEF-UNDP)
NETTLAP	Network for Environmental Training at Tertiary Level in Asia and the Pacific (ROAP)
NGO	non-government organisation
NLU	National Liaison Units (PIANGO)
NPWS	National Park and Wildlife Service (New South Wales)
NZAID	New Zealand's International Aid and Development Agency
OECD	Organisation for Economic Cooperation and Development
OLSSI	O Le Siosiomaga Society Inc (National Environment Society, Samoa)
OPRC	International Convention on Oil Pollution Preparedness, Response and Cooperation (1990)
PACE-SD	Pacific Centre for Environment and Sustainable Development (USP)
PCDF	Partners in Community Development Fiji
PCRC	Pacific Concerns Resource Centre
PDMC	Pacific Developing Member Country (ADB)
PIANGO	Pacific Islands Association of NGOs
PICCAP	Pacific Islands Climate Change Assistance Program
PIDP	Pacific Islands Development Program of the East-West Center
PIF	Pacific Islands Forum
PIFS	Pacific Islands Forum Secretariat
PIRNC	Pacific Islands Roundtable for Nature Conservation
PLA	Participatory Learning and Action (FSPI)
PNG	Papua New Guinea
POPs	persistent organic pollutants
PSO	Solomon Islands' Public Solicitor's Office
PYEN	Pacific Youth Environmental Network
RBAP	Regional Bureau for Asia and the Pacific (UNDP)
RNHP	Regional Natural Heritage Program (DEH)
ROAP	UNEP Regional Office for Asia and the Pacific
RRCAP	UNEP Regional Resource Center for Asia and the Pacific

RRRT	Pacific Regional Rights Resource Team
SDNP	Sustainable Development Networking Program (UNDP)
SGP	Small Grants Program (GEF)
SIDS	small island developing state(s)
SIDSnet	Small Island Developing States Network
SIDT	Solomon Islands Development Trust
SOPAC	South Pacific Applied Geoscience Commission
SPBCP	South Pacific Biodiversity Conservation Program
SPBEA	South Pacific Board for Educational Assessment
SPC	Secretariat of the Pacific Community (former South Pacific Commission)
SPOCC	South Pacific Organisations Coordinating Committee (now CROP)
SPREP	(Secretariat of the) Pacific Regional Environment Program
SPTO	South Pacific Tourism Organisation
TAI	The Access Initiative (convened by WRI)
TANGO	Tuvalu Association of Non-Government Organisations
TNC	The Nature Conservancy
UK	United Kingdom
UN	United Nations
UNCCD	United Nations Convention to Combat Drought and Desertification (1994)
UNCED	United Nations Conference on Environment and Development
UNCLOS	United Nations Convention on the Law of the Sea (1982)
UNDP	United Nations Development Program
UNEP	United Nations Environment Program
UNESCAP	United Nations Economic and Social Commission for Asia and the Pacific
UNESCO	United Nations Educational, Scientific, and Cultural Organisation
UNFCCC	United Nations Framework Convention on Climate Change (1992)
UNIDO	United Nations Industrial Development Organization
US/USA	United States of America
USP	University of the South Pacific
VIDA	Volunteers for International Development from Australia (AusAID)
VPAI	Vanuatu Protected Areas Initiative
WCMC	World Conservation Monitoring Centre (UNEP)

WHC	Convention Concerning the Protection of the World Cultural and Natural Heritage (1972)
WHO	World Health Organization
WRI	World Resources Institute
WRM	World Rainforest Movement
WSSD	World Summit on Sustainable Development (Johannesburg Earth Summit)
WTEC	Wantok Environment Centre (Vanuatu)
WWF	World Wide Fund for Nature
WWF-SPP	World Wide Fund for Nature South Pacific Program

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