

South Pacific Regional Environmental Law Capacity Building Project

Scoping Report



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4.2.1 Government Agencies.....	41
4.2.2 Non-Government Organisations	43
4.2.3 Academic Institutions.....	44
4.2.4 Judiciary.....	45
5 Proposed Capacity Building Strategy and Activities	47
5.1 Capacity-Building Strategies.....	47
5.1.1 Domestic Capacity-Building Strategies	48
5.1.1.1 Building Government Legal Capacity	48
5.1.1.2 Policy and Law Reform.....	53
5.1.1.3 Community Legal Education	56
5.1.1.4 Public Interest Environmental Litigation	58
5.1.1.5 Building Civil Society Legal Capacity	60
5.1.1.6 Building Academic Capacity.....	64
5.1.1.7 Building Judicial Capacity	64
5.1.2 Regional Capacity Building Strategies	64
5.1.2.1 Monitoring and Reporting.....	64
5.1.2.2 Formal Complaint Mechanisms	65

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 Secretar5T(r30I0(ern)-7.0.0028 T31 Tc 0.00

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

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Suva, Fiji

Alejandro Iza

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Foreword

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.

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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* (-0.0032 Tc (p)JTJs.)-5(0012Ra)5. 0followr

- 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**

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

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

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,

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

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

Table 1: South Pacific Membership of Multilateral Biodiversity Agreements

Country	IWC	Ramsey	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

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,

protection in the field of safe transfer, handling and use of living modified organisms (LMOs), taking

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*

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 on 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 Preven*

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

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

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

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

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

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.

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 Enfo cemen

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 Recen En i onmen al Legi la ion

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 O e ie of Ke En i onmen al La

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. •

S a e	S_e mma
Samoa	<i>Lands, Survey and Environment Act</i>

Vanuatu

Environmental Management and Conservation Act 2002

- Provides for the conservation, sustainable development and management of the environment of Vanuatu. A Director is appointed to develop, co-ordinate and implement the Government's environmental policies and programs.
- The Director's duties include: (a) administering the Environmental Registry; (b) preparing State of the Environment Reports; (c) preparing National Policies and National Plans; (d) administering the Environmental Impact Assessment procedure; (e) preparing guidelines, standards, codes of practice and procedures; (f) preparing advice on international environmental treaties, including implementation strategies; (g) undertaking environmental research, assessment, monitoring, and iron

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-

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 Organizations in the Pacific (CROP)**.

Other members of CROP have a direct role in environmental matters, including the **153 T 1 1**

Co n
Australia

National Environmental Agency
Department of Environment and Heritage

National government aid agencies also play a key role in environment protection in the South Pacific. The **Australian Agency for International Development (AID)**, **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 Organisation

A number of national environmental law organisations are active in the region. The **Australian Network of Environmental Defence's Office (EDO Network)** is made up of nine independently constituted community legal centres. The **Environmental Defence'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-Forest 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

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 **Fundation of the People of the South Pacific International (FSP)**. Two national FSP organisations, the **Fundation of the**

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 **Judicial**

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.paclii.org/journals/jspl/022002Volume6Number2/careart.html (9 Jun 2006).

5 Proposed Capacity Building Strategy and Activities

5.1 Capacity Building Strategy

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's lack of response to environmental issues, the

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



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

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;

-

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

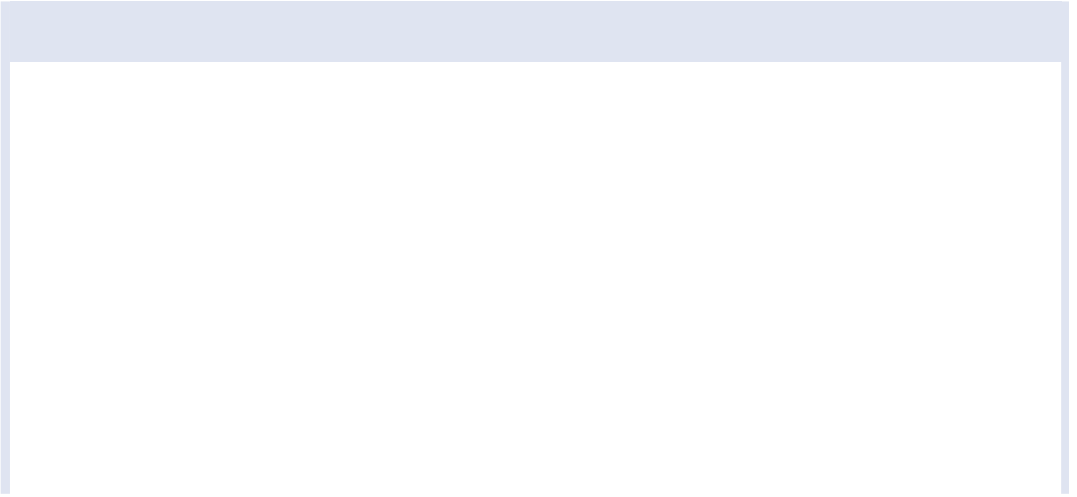
Civil society organisations play a ‘vital role in the identification of weaknesses and gaps in current policy or legal frameworks’.¹⁵⁷ In particular, they must work to ensure that each country has adequate and effective legal instruments, administrative policies and executive institutions for the management 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:

In this regard, civil society organisations may assist by directly drafting proposed legislation, or by



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

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

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

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

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

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 individual07(n)-7(c

Regional networks require thoughtful design in order to achieve their objectives. Key network

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

World Bank to send a team to the Western Province

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

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 Quality and Collaboration

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

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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

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.

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

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

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

5.2.8 Establishment of Civil Society Environmental Law Program

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 –

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

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 Programme (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 environm every tg.(e)

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 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 Programme (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

(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 Organization (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/env

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

Against this background, it is regrettable that the GEF-UNDP Capacity Development Initiative has

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

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

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).

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

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

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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

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

in partnerships with national and regional organisations. The Agency's environment policy

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)**

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 Environmental 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](http://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

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.

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 Resource Institute (WRI)**

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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 Farme

The **Pacific Island Association of NGO (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

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 **Federation of the People 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,^{2 Tc 0 Twavtri1 Tc jc r7iese13(of S)-5((aci)-}

integrating environmental, human, cultural and peace concepts. It holds local ownership, open participation and equality as the foundation of its work.⁴²⁶

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 **Alian Network of Environmental Defender's Office 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

rights and equitable access to and control of natural resource use and promote community based

D. Environmental Law Association

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

e n f o c u e r e n e n ,] n d

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

Appendix II

National Environmental Laws and Institutions in Selected South Pacific Countries

Fiji: Overview of Environmental Law 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*

(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

Kiribati: Overview of National Environmental Law 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:

- 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(* h)

- 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

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.

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 in

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

(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 Legislation

(a) Governmental Departments and Authorities

(i) Department of Environm

Samoa: Overview of National Environmental Law and Legislation

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,

Solomon Islands : Overview of National Environmental Law and Institution

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.pacilii.org. The Act commences on the date appointed by the Minister (section 1).

C. Non-Government Organisation

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:

-

-
- 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.

(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 Law and Legislation

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, muni1mTJsg

(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)

- 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

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
Type of Activity :	Community Development; Education; Environment; Health; Water resources
Constitute :	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)
Affiliation :	ELCI, IUCN, SPREP, NGO Coalitions, Ecowoman, Sustainable Development Network, Keep Fiji Beautiful Assn, South Pacific Peoples Foundation.
Resource :	Publications, Audio-Visuals, Library, Training Centre, Resource Centre.
Publication :	Newsletters, Brochures, Annual Reports.
Core :	Community Based environment awareness workshops, resource management workshops, women and environment, human resource development (eg EIA workshops), consultancies.
Personnel Paid :	2
Fulltime :	
Personnel Paid :	2
Part-time :	
Personnel Unpaid :	3
Part-time :	
Members :	150
Completed On :	1998-04-05

Name : Partners in Community Development Fiji

Name :

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

Type of Activities : Agriculture; Community Development; Environment; Food Supply; Forestry; Health; Women and gender

Country : Kiribati

Principle

FSPK has recently initiated a local NGO capacity building project to stimulate the involvement of civil society in compl

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.fsfi.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>

Type of Activities : Community Development; Education; Environment; Tourism; Mission is to conserve biodiversity.

Country : Papua New Guinea

Principle : English

Language:

Approach To Development :

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

Type of Activity : Community Development; Environment; Women and gender; Awareness (Critical Literacy): Environmental, social justice and cultural affirmation issues.

Country : 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.

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

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

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

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

Personnel Unpaid : 2

Expenditure :

Personnel Unpaid : 6

Period :

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

Type of Activities : Community Development; Environment; Forestry; Information Technology; Project Design and Management; Small business; Tourism; Women and gender.

Country : Papua New Guinea

Resource : 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

Type of Activities : Community Development; Disaster relief; Education; Environment; Tourism.

Country : Papua New Guinea

Principle Language: English

Funding : Bread for the World; German Development Service (GDS)

Affiliation : WWF; Conservation International; Conservation Melanesia PNG Trust; Melanesian Environment Foundation; DTZ PNG Programme; Provincial Forest Management Committee.

Cooperation : Coastal Zone Rangers

Completed On : 1998-07-23

Name : Pacific Heritage Foundation

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-Forest 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 **Bismark Range 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 :

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

Type of Activities : Agriculture; Community Development; Disaster relief; Education; Environment; Health; Project Design and Management; Small business; Women and gender.

Country : Samoa

Principle : English and Samoan

Language:

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.

Affiliation : Pacific Islands Association of NGOs (PIANGO).

Resource : Information Centre to be set up soon.

Publicity : Newsletter.

Core : Program design - proposal writing and any course needed by NGOs.

Personnel Unpaid : 1

Fulltime :

Members : 40

Completed On : 1998-03-31

Solomon I land

Name :	Solomon Islands Development Trust
T pe :	Development Consultant; NGO.
Po al :	PO Box 147, Honiara, Guadalcanal, Solomon Islands
Ph ical :	New China Town, Honiara, Solomon Islands
Phone :	+677 21 130
Fac imile :	+677 21 131
Email :	sidtcid@welkam.solomon.com.sb
URL :	www.fspi.org.fj/affiliates/solomon.htm
T pe of Ac i i :	Community Development; Education; Environment; Forestry; Health; Information Technology; Population; Water resources.
Cq n ie :	Solomon Islands
P inciple	English; Pidgin English
Lang age:	
App oach To De elopmen :	Development is about people. SIDT does not fund projects but focuses on the development context and strengthening the quality of village life.
F nding :	Other NGOs, own work.
Affilia ion :	<ul style="list-style-type: none">- Aus Foundation Asia Project- Foundation of the Peoples of Pacific Inc
Re q ce :	Publications; conference centre; training centre; accommodation; headquarters; staff.
P blica ion :	Link komik in Pigin English; Link Magazine published bi-monthly; Monthly News page; Annual Report; Pijin comics; calendar.
Pe onnel Paid	36
F ll ime :	
Pe onnel Paid	270
Pa - ime :	
Pe onnel Paid	2
Pa - ime :	
Comple ed On :	2001-07-01

Under the umbrella of the Foundation for the Peoples of the South Pacific International, the **Solomon I land De elopmen T (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

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

Type of Activities : Agriculture; Community Development; Disaster relief; Education; Environment; Health; Information Technology; Population; Project Design and Management; Small business; Women and gender.

Country : 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.

Publication : Newsletters, annual reports.

Core : Planning and management.

Personnel Paid Full time : 4

Personnel Paid Part-time : 1

Members : 60

Completed On : 1998-06-03

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

492

Its aims are to:

- protect and conserve the environment and natural resources;
- foster environmental education awareness;
-

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

Type of Activities : Community Development; Disaster relief; Economy; Education; Environment; Health; Project Design and Management; Small business; Women and gender; Information dissemination.

Country : Tuvalu

Principle

Language:

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 : :

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

The **Foundation for the People 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.

O he elec ed cō n ie

Name : Tonga Trust

T pe : NGO

Po al : PO Box 519, Nuku'alofa, Tonga

Phone : +676 21 494 / 23 478

Fac imile : +676 24 898

Email : tcdt@candw.to

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

T pe of Ac i i : Agriculture; Community Development; Education; Environment; Project Design and Management; Small business; Water resources.

Cō n ie : Tonga

P inciple Tongan

Lang age:

App oach To De elopmen : 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.

Affilia ion : Networks with Langafonua, Tongan Government, FSP International and various local, regional and international agencies.

Cō e : Training.

Pe onnel Paid 2

F ll ime :

Membe : 2600

Comple ed 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

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

Country : Palau

Principle : English

Language:

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

Publication : 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

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

Country : Federated States of Micronesia

Principle English

Language:

Approach To Development : We help provide environmental guidelines.

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

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

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

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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