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TOPIC REVIEW

AN OVERVIEW OF ENVIRONMENTAL PROTECTION LEGISLATIONS
IN THE SOUTH PACIFIC COUNTRIES

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IN THE SOUTH PACIFIC COUNTRIES *

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INTRODUCTION

The South Pacific Regional Environment Programme (SPREP) carried out by the South Pacific Commission (SPC), the South Pacific Bureau for Economic Co-operation (SPEC), ESCAP and UNEP evolved out of concerns expressed by countries in the region for a co-ordinated approach in managing the Environment. The ultimate objective of the Programme is to encourage and support an integrated approach to the planning and implementation of the various development activities of the countries of the region, taking fully into account their environmental implications in order to achieve maximum social, economic and environmental benefits on a sustainable basis.

PURPOSE OF STUDY

2. One of the objectives of the South Pacific Environment Programme is to assist the countries and territories of the region in the exchange of information on environmental legislations. This paper attempts to give an overview of the provisions of national and local environmental legislations in the region. International Conventions of relevance to the environment are also examined.

FORMAT

3. The paper will deal with the question under the following headings :

- a) General provisions on the Environment
- b) Water quality
- c) Land use planning
- d) Mining
- e) Industry (other than mining)
- f) Agriculture
- g) Cultural
- h) Conservation
- i) Air quality
- j) Marine environment
- k) Mangrove environment
- l) Environmental impact assessment
- m) Regional and international conventions
- n) Conclusion
- o) Recommendations.

4. Some countries may not be mentioned under some of the headings; this is either because there are no relevant legislations or the study was not able to identify relevant legislations with the methodology used.

(a) General provisions on the environment

5. The Fourth Goal in the National Constitution of Papua New Guinea provides that the country's natural resources is to be conserved and used for the collective benefit of all and future generations and calls for the wide use be made of the natural resources and the environment; the conservation and replenishment of the environment and its sacred, scenic and historical qualities; and adequate protection be given to all valued birds, animals, fish, insects, plants and trees.

6. The Republic of Vanuatu has incorporated in its Constitution a moral duty on every person to protect and safeguard the national wealth and environment in the interests of the present and future generations. The duty can be made legal by law, and public authorities are encouraged to urge compliance with this fundamental duty.

7. The Trust Territory Environmental Quality Protection Act 1972 provides that in recognition of the dependence of the people in TTPI upon the air, land and water resources for water supply, agricultural, industrial and recreational uses and a basis of tourism; it declared as a public policy the achievement and maintaining of such levels of air, land and water quality to protect welfare and safety and to prevent injury to plant, animal life and property, as foster the comfort and convenience of its people and their enjoyment of health, life and property and will promote the economic and social development of TTPI and facilitate enjoyment of its attractions.

(b) Water Quality

8. Legislations to control quality, prevent pollution and protect water supplies exist in various forms in the region. They range from the United State Territories where a host of Federal and local legislations cover the whole field of water quality control to territories like Pitcairn and Tokelau Islands where roof catchment supplies all water requirements, and controls, if any, are embodied in health regulations.

9. In Papua New Guinea, the Environmental Contaminants Act 1978 and the Environmental Planning Act 1978 administered by the Ministry of Environment and Conservation can be used to control water contamination. The Environmental Contaminants Act establishes an Advisory Council to advise on specific issues.

10. Environmental contaminants are not to be discharged except in accordance with a licence issued under the Act. Directions regarding action to be taken to abate any discharge of contaminants may also be issued under the Act. Any approved person can institute proceedings in a court of law for offences against the Act. Protected areas may be declared to protect them from discharge, emission and deposit of contaminants.
11. The Contaminants Act is intended to closely tie in with the Environmental Planning Act. Conditions specified under the Planning Act must be satisfied before an applicant is issued a licence under the Contaminants Act. The Environmental Planning Act provides for an environmental planning procedure to be invoked where it is considered that inadequate consideration has been given to environmental effects of proposed development projects. Guidelines for such environmental planning include, inter alia, alternatives to the proposed project including alternate sites; and areas of the environment that may be expected to be affected directly or indirectly, immediately or in the long term.
12. The more important statutes in Guam relating to water quality are the Clean Water Act 1977, the Federal Safe Drinking Water Act, Environmental Health Act, Water Resources Conservation Act, Water Pollution Control Acts, Guam Safe Drinking Water Act and Primary Safe Drinking Water Regulations.
13. The Federal Safe Drinking Water Act establishes, inter alia, protection for underground water sources that provide the sole water for a community. Federally-funded projects are assessed to ensure that they do not contaminate the ground water sources in any way.
14. In TTPI, under the Trust Territory Code, the Environment Protection Board is responsible for promulgating and enforcing drinking water regulations. Any person discharging waste in violation of the requirements prescribed by the Board, shall be required to submit for Board approval a detailed time schedule of specific actions the discharger shall take in order to correct or prevent a pollution. The Clean Water Act 1977, Public Water Supply Systems Regulations, Safe Drinking Water Act are some of the other relevant statutes.
15. The Water Act 1965 in Western Samoa establishes a Water Supply Committee to control the supply, use and conservation of water. Under the Act, any person who does any act which may pollute any water or watershed supplying any waterworks or allows livestock to trespass on to any waterworks commits an offence. The Committee is empowered to do anything necessary to determine whether any factory, works or business premises is allowing a pollutant to flow into any water, watershed or waterworks.

16. The cutting or removal of bush or trees from the banks of a river or stream or cultivation on the banks of a river or stream may be prohibited for the purpose of conserving the flow of water in any river or stream.

17. Water Catchment areas can be declared under the Takings of Land Act 1964.

18. American Samoa has the State Drinking Water Act, the Water Pollution Control Act, the Health Code and regulations which guide the Local Environmental Quality Commission. These enactments are supplemented by various federal legislations.

19. The water resources and pollution law, established in New Caledonia by resolution No. 105 of 1968 prohibits discharge into surface, underground or seawater of any matter harmful to public health. Regulations drawn up under this law provide for the establishment of protection zones, where potentially polluting activities are controlled.

20. In the Cook Islands, the Public Health Act and Ordinances contain sanitary provisions including provisions to prevent contamination of water. The Conservation Act 1975 also confers the power on the Director of Conservation, established under the Act, to protect, conserve and manage water catchment areas and water resources. The Director is also responsible for the prevention, control and correction of water pollution.

21. Under the Rarotonga Waterworks Ordinance 1960, it is an offence for any person to bathe or washes in any stream or other water leading to waterworks or throws or allows any foul matter into any waterworks.

22. The Public Utilities Ordinance 1977 in Kiribati establishes a Public Utilities Board to control the supply and development of water. The Board has power to declare any area a water supply or water catchment area and control the activities on areas so declared. It is an offence under the Act for any person to do any act which may contaminate water supply reservoirs or water reserves.

23. The Public Health Ordinance 1970 in the Solomon Islands prohibits pollution of any watercourse, stream, lake, pond or reservoir; depositing of refuse into a beach, foreshore, harbour, estuary or creek and depositing of refuse, raw sewage or other noxious or offensive matter into a river, stream or other watercourse which flows through an urban district.

24. The Mining Ordinance 1969 prohibits mining in certain areas of land including any land within 200 feet of any spring in use as a source of water supply or any artificial reservoir, waterworks or water supply building and any Forest Area or Reserve.

25. Under the Mining Regulations 1969, no person carrying out prospecting or mining operations shall allow the discharge of any rubbish, dirt, filth, or debris or any waste matter from any sink, sewer or drain, into any watercourse.
26. Rainfall catchment areas can be declared under the controlled forest provision in the Forestry and Timber Ordinance 1969.
- 27.. In Vanuatu, other than Regulations like the Joint Regulations 6 of 1931 which deals with the control of sanitation in Vila including such matters as the prohibition of drinking of well water and use of certain receptacles for holding water, legislations like the Joint Forestry Regulation No.30 of 1964 and the Decentralisation Act 1980 contain provisions which can affect water catchment areas. The Joint Forestry Regulation No.30 of 1964 lays down restrictions on landowners with regards to tree felling activities on river banks; and the Decentralisation Act 1980 setting up local governments in Vanuatu confers on them the responsibility to construct and maintain water supplies.
28. In Tonga, the Public Health Act makes provisions for the control of Public Health including limited protection of water supplies from contamination. Water catchment areas can be protected by using the Forest Act; and the Parks and Reserves Act can be used to declare as reserves threatened areas.
29. In Fiji, the Public Health Act 1937 establishes a Central Board of Health which is responsible for the control of Public Health. The Act makes it an offence for anybody to pollute or permit drainage or refuse from his land to flow into or be deposited in any watercourse, stream, lake, pond or reservoir forming part of a water supply.
30. The Water Supply Ordinance 1955 provides for the declaration of water catchment areas for the purposes of water supply and makes it an offence for anybody to do anything which may pollute a waterworks or water catchment area.
31. The Land Conservation Board established under the Land Conservation and Improvement Ordinance 1955 is also charged with the responsibility of conserving and improving water resources. Other provisions to protect water resources are contained in the Native Land (Leases and Licence) Regulations (prohibiting clearing and burning of bush or cultivating any land within 24 feet from the bank of a river or stream), the Mining Act 1966 (prohibits mining on any land within 60 metres of any spring used as a source of water supply or any area declared as a water catchment area for water supply purposes, reservoir or waterworks) and the Mining Regulations (makes it an offence for any person to pollute water).

(c) Land use planning

32. Land Use Legislations in the region are mainly in the form of Town and Country Planning Acts. Other Acts passed to control such matters as Conservation, Forests, Mining and Agriculture also contain provisions which can affect land use. In most of the countries, land is held under customary land tenure systems. In some of the countries, use of customary land is controlled by customary rules whilst others have passed specific legislations to regulate the use of customary land. Most Town Planning enactments are either confined to non-customary land or subject to legislations dealing with customary land.

33. In Fiji, land use planning is sought to be achieved through the Town Planning Act 1946. The Act provides for constitution of a Town Planning Board and for formulation of detailed Town Planning Schemes. The matters to be covered in such schemes include the conservation of the natural beauties of the area including lakes and other inland waters, banks of rivers, foreshores, harbours and other parts of the sea, hill slopes, summits and valleys.

34. The proposed legislation to supercede the Town Planning Act 1946 is much wider in scope and is intended to be a land use policy formulating mechanism. The Director of Town Planning will assume the functions now undertaken by the Planning Board. The Act will apply to the whole of Fiji except proclaimed Fijian villages.

35. Another legislation in Fiji is the Native Land Trust Act 1940 which establishes a Native Land Trust Board to administer customary land (comprising 83% of total land in Fiji) on behalf of Fiji owners. The Land Conservation and Improvement Act 1953 also make provision for the conservation and improvement of Land and resources of Fiji. The Sub-division Legislation is also relevant to general land-use controls.

36. In TTPI, the Land Use Planning Act provides for the establishment of planning commissions with authority to adopt master plans and enact zoning and land use laws. Master plans must take into account, amongst other things, the environmental needs, customs and standards of life of the people.

37. Under the Conservation Act 1975 in the Cook Islands, any land or island may be declared a National Park, Reserve, World Park or historic site. The Director of Conservation has to prepare and manage land or island so declared in accordance with an approved management plan. Land zoning orders for various purposes may be made under the Land Use Act 1969. The Local Government Act 1966 confers on Island Councils established under the Act powers to make bylaws regulating such things as parks and reserves vested in or under the control of Island Councils.

38. Guam has an elaborate legislative framework for its land use planning including the Comprehensive Planning Enabling Legislation, Zoning Laws, Guam Land Conservation Act and Land Management Laws.
39. In Tonga, the Land Act 1927 increases the statutory area meant for each Tongan male from 8½ acres of bush land for agricultural purposes to 12 acres in certain cases.
40. The immediate environmental problem faced in Tonga is the taking of sand for construction from the beaches of Tongatapu. This has resulted in loss of aesthetics. Steps are being taken to control the taking of sand from the beach or any other potentially deleterious location.
41. In New Caledonia, Resolution No.315 of 1971 regulates dangerous, noxious and insanitary establishments. In certain municipal districts, urban master plans laying down standards and requirements are prepared. The country feels that in some specific fields, additional regulations (as in Town Planning) would make governmental action more effective.
42. Papua New Guinea hopes to ensure proper land use through its Environmental Planning Act.
43. The Land Ordinance 1959 in Western Samoa regulates the use of freehold and crown land. Customary land (96% of total land) is not subject to the Land Ordinance and its use is determined by a traditional system of land tenure. The National Parks and Reserves Act 1974 can also affect land use by declaring Parks and Reserves.
44. The Land Planning Ordinance 1973 in Kiribati sets up a Central Land Planning Board to control the development and use of urban land. Local boards can be established to be responsible for land use plans in designated areas. All land developments in urban areas must be approved by the Central Board.
45. The Lands Act 1976 in Nauru provides that lessees or grantees with rights to enter on land to remove sand may only remove trees as is reasonably required to carry out the purpose of the licence. Holders of licences to remove sand must rehabilitate the land within one year of termination of a lease or licence.
46. The Town and Country Planning Act 1979 in Solomon Islands establishes a Town and Country Planning Board which is charged with the function of ensuring that non-customary land is developed and used in accordance with properly considered policies formulated on adequate information and directed to promote the welfare of the inhabitants. The Act stipulates that the promotion of the welfare of the people includes the preservation or creation of an environment proper for their needs.

47. In Vanuatu, the Constitution provides for the passing of a national land law and declares all land to belong to the indigenous customary owners and their descendants; and that the rules of custom shall form the basis of use of land.

48. The Land Reform Regulations 1980 provides the procedures for resolving the question of freehold land which have been deemed by the constitution to be customary land;

(d) Mining

49. In the countries where mining is a major activity legislations do exist mainly in the form of Mining Acts. These legislations lay down procedures and regulations for conducting mining activities including basic environmental protection provisions.

50. According to a UNDP Report, the interests of different member countries of CCOP/SOPAC (December 1975) in the field of mining are identified as under :

Petroleum :	Cook Islands, Fiji, Papua New Guinea, Solomon Islands, Tonga;
Manganese :	Fiji, Kiribati, Tonga, Western Samoa;
Phosphate & Bauxite :	Cook Islands, Fiji, Kiribati, Papua New Guinea, Solomon Islands, Tonga.

51. The legislations in Tonga to regulate mining operations are the Minerals Act to control the mining of other than "common" materials and the Petroleum Mining Act which establishes exploration licensing procedures.

52. In Papua New Guinea, environmental considerations in mining activities are sought to be taken care of through the Environmental Planning Act and the Environmental Contaminants Act.

53. With a view to safeguarding specified areas, a number of protection zones prohibiting or controlling mining activities are established in New Caledonia under decree 54-1110 of 1954. Under this Act, a Mining Pollution Control Commission was set up to determine pollution control measures to be implemented for each mine in operation.

54. The Mining Ordinance 1969 in the Solomon Islands provides power to subject prospecting for specified minerals to such terms and conditions the Minister sees fit to impose. The Ordinance also allows Government protection areas to be declared, and mining in such areas is only allowed with the consent of the Government. The Director can order the prospector to restore the surface of the land where it has been disturbed by prospecting or mining operations.

55. In the Cook Islands, the Conservation Act 1975 contains wide provisions which could encompass the control of mining activities. The territorial Sea and Exclusive Economic Zone Act 1977 also contains power to make regulations to control the exploitation and exploration of the territorial sea for any economic purposes, which could include mining.

56. Joint Regulations No.2 of 1957 provides for the control of mining in Vanuatu by a licensing system. Mining operations are to be conducted according to standard practice and may be subject to other measures such as the conservation of mineral deposits.

57. In Niue, Kiribati and Western Samoa, there are no mining legislations.

58. In Nauru, where the major activity is the mining of phosphate, carried out by the Nauru Phosphate Corporation, there are no legislative controls to protect the environment and mined areas leave gaping holes supporting little life and are uneconomic to level.

59. The Mining Act 1966 in Fiji provides for a licensing system to control mining. The Act prohibits mining in certain areas including any reserved forest declared under the Forests Act and makes provisions for declaration of Government protected areas. The Director of Mines may order the holder of a mining tenement to restore the surface of the land where such surface has been disturbed by prospecting or mining operations.

60. Exploration, production and pipeline licences issued under the Petroleum (Exploration and Exploitation) Act 1978 may be subject to any condition that the Minister may think fit to impose.

(e) Industries (Other than mining)

61. The bulk of industries (other than mining) in the region are agro-based. Legislations do exist in a few of the countries to control potential or actual environmental problems.

62. In New Caledonia, relevant legislations are Decree 77-133/cg of 1977 regarding air pollution caused by metal processing, circular regarding construction of smoke stacks in the case of combustion works and in the case of plants producing fine dust, circular (25/08/71) regarding cement works and circular (24/07/72) concerning iron ore processing. These together with provisions to maintain water quality are relevant in containing industrial pollution.

63. The Conservation Act 1975 in the Cook Islands confers on the Director of Conservation the power to control pollution from any source including industrial pollution of air, water or land.

64. In Tonga, effluents are prohibited from being dumped into the lagoon.

65. Provisions of the Environmental Contaminants Acts and the Environmental Planning Act in Papua New Guinea can be used to control the activities and location of industries to ensure minimum environmental hazards. The Environmental Planning Act which contains a provision that no authority shall grant any licence, permit or lease or provide any loan, grant or guarantee or subsidy in respect of any matter where a requisition has been served under the Act on a party to submit an environmental plan, encourages co-operation amongst other developmental agencies and the environmental authorities in preventing pollution.

66. The Environmental Contaminants Act through its licensing process is a further safeguard against possible industrial pollution.

(f) Agriculture

67. The most important development activity in most of the countries in the region is agriculture; and some of the countries have passed legislations encouraging its development. Apart from Conservation legislations and provisions aimed at preventing unnecessary clearing of land contained in Statutes to control other development activities, there are only a few legislations to control some of the environmental problems associated with agriculture such as soil erosion and indiscriminate use of chemical fertilizers, herbicides or pesticides.

68. A forest area can be declared a controlled forest under the Forest and Timber Ordinance 1969 in the Solomon Islands if it is necessary or desirable to protect the forest or other vegetation; and cutting trees, other than personal or domestic use, clearing or breaking up land, grazing livestock or residing in areas so declared is prohibited.

69. In Vanuatu, forests threatened by the spread of agriculture can be declared forest areas or reserves under the Joint Forestry Regulation No.30 of 1964. Areas so declared are subject to state control and deforestation for agricultural purposes or creation of pastorage is prohibited unless allowed under a permit.

70. In the Cook Islands, the Conservation Act 1975 can be used to control the spread of agriculture by declaring threatened areas as Reserves or by passing regulations to control pollution caused by chemicals used for agricultural purposes.

71. In Western Samoa, the Agriculture, Forests and Fisheries Ordinance 1959 and the Forests Act 1967 established the Agriculture Department and confer on it wide powers to conserve, protect and develop the resources of the country and establish areas of forest adequate to protect the climate, soil and water resources of the country. The National Parks and Reserves Act 1974 and the Takings of Land Act 1964 can also be used to acquire areas threatened by agricultural developments. The control of pesticide usage can be carried out by passing Regulations under the Agriculture, Forests and Fisheries Ordinance 1959 or the Forests Act 1967.

72. In Tonga, regulation of use of pesticides is done through the Pesticide Act.

73. In TTPI, the Federal Insecticide, Fungicide and Rodenticide Act and the Pesticide Regulations control the import, use and disposal of all pesticides.

74. In Papua New Guinea, the Environmental Contaminants Act has the potential to control the problem of pesticide residue. However, mere restriction by licensing may not, by itself, be fully effective.

75. The Pesticides Act 1972 in Fiji regulates the registration and sale of pesticides. The Minister may make regulations to prohibit or control the use of any pesticide.

(g) Cultural

76. A number of countries in the region have general legislations to protect the cultural environment whilst others have passed specific legislations to protect particular places or objects of cultural importance.

77. In Papua New Guinea, places of historic, scientific or social importance are sought to be conserved and managed through the Conservation of Areas Act 1978. The Act establishes a National Conservation Council and provides power to declare conservation areas to be managed in accordance with management plans required under the Act.

78. In Western Samoa, any public land which may be of a national historical legendary or archaeological significance and is not used for any other purpose may be declared a Historic Reserve under the National Parks and Reserves Act 1974.

79. In the Cook Islands, any land or place may be declared a historic site under the Conservation Act 1975 and the Director of Conservation is charged with the responsibility of managing and controlling sites so declared.

80. The Joint Regulations No.11 of 1965 in Vanuatu provides for the preservation of sites and objects of historical, ethnological or artistic interest which is in the possession of any person or body corporate in Vanuatu. Exportation of classified objects is prohibited unless it is destined for a body of genuine cultural nature or the exporter can certify that the object is his personal property and will not be sold.

81. The Protection of Wrecks and War Relics Act 1980 in the Solomon Islands provides power to declare a restricted area any site in Solomon Islands water which may contain war relics; and makes it an offence for any person who without authority interferes with wrecked vessels and aircrafts on war relics in restricted areas.

82. The Makira and Ulawa Council established under the Solomon Islands Local Government Ordinance passed bylaws in 1977 prohibiting the sale of traditional artifacts other than to the Solomon Islands Museum or in accordance with customary procedures and making it an offence to disturb or in any way interfere with historical remains in a protected area.

83. In Tonga, the Preservation of Archaeological Interest Act and Traditional Legislations exist to protect from harassment ancient archaeological sites and historical landmarks.

84. The Historical Objects and Sites Act Law No.56-1106 (Guam), Resolution No.225 (New Caledonia) and the National Historical Preservation Act 1966 (TTPI) are other legislations in the region for the protection of historical sites and monuments.

(h) Conservation

85. Only Cook Islands and Papua New Guinea in the region have passed specific legislations to provide for conservation and management of the environment whilst other countries and territories have passed laws for other purposes which have conservation implications and specific legislations to protect certain living things or conserve particular resources.

86. The Papua New Guinea Conservation Areas Act 1978 provides for the conservation and management of sites and areas having particular biological, topographical, geological, historical, scientific or social importance. The Act establishes a National Conservation Council to advise the Ministry of Environment and Conservation, which is responsible for administering the Act, on matters relating to conservation areas, establish criteria for areas to be conserved, consider proposals for developments affecting conservation areas and encouraging public interest in and knowledge of conservation areas and conservation generally.

87. A Conservation area may be declared only after certain requirements laid down in the Act, including the opportunity for the public to examine a proposed conservation area, are fulfilled. The Minister may after consulting various bodies and owners of the land within a conservation area make rules for the protection, development, land use activities, management and control of a conservation area.
88. For the protection of wild life in Papua New Guinea, the Fauna (protection and control) Act 1974 is one of the more important statutes. Provision exists under this Act for the formulation of Wildlife Management Areas Committees. The Act also provides for promulgation of detailed rules for protection, propagation, encouragement, management, control, harvesting of fauna in wildlife management areas. A licensing system is envisaged for taking or killing of fauna. Provision also exists for declaration of such things as Sanctuaries and Protected Areas.
89. The "Crocodile Trade (protection) Act 1974" is another legislation in Papua New Guinea to protect and develop the endangered species of crocodiles. This Act imposes restrictions, by means of a licensing system on killing or taking, acquisition or disposal of crocodiles. For the conservation and development of crocodiles, there is provision to establish crocodile farms. There are restrictions on crocodile skin buyers regarding the size and number of scales on skins bought.
90. There are in addition a number of other miscellaneous statutes designed for protection of birds and animals, establishment of National Park, Reserves, etc.
91. The timber extraction permits issued in Papua New Guinea bind contractors to adopt sound environmental protection measures. According to one typical forestry permit, the company should within 12 months of grant of a permit, submit a re-forestation programme providing for re-forestation, regeneration and enrichment planting. The company is also bound to devote a sum equal to three per cent of gross revenue from its operations in the preceding year to re-forestation programmes. A number of carefully-devised restrictions are also imposed to ensure minimising of environmental damage.
92. The Conservation Act 1975 in the Cook Islands establishing the Director of Conservation states as its object the making of provisions for the protection and conservation of the natural resources of the Cook Islands and the territorial sea and to establish national and world parks, reserves and historic sites.
93. The Director has been conferred wide powers in carrying out his functions to protect, conserve, manage and control parks, wildlife, forests, water catchments and resources, soil, air and pollution. He also has a duty to train people to carry out the above functions,

and to carry out investigations and research relevant to the carrying out of his functions.

94. Under the Act, any land, lagoon, reef or island or portion of the seabed and its superjacent waters in the territorial sea of the Cook Islands may be declared a National Park, Reserve or World Park. The Director has to prepare a management plan for any National Park or Reserve declared under the Act and after approval shall manage the facility in accordance with the plan.

95. Regulations may be passed which are necessary or expedient, inter alia, to protect and conserve wildlife, control soil erosion and siltation, and the taking of such things as gravel, sand, soil, rock or coral.

96. The Trochus Act 1975 establishes three Fishing Reserves at Aitutaki, Palmerston and Manuae and prohibits diving and fishing for Trochus shells within the reserves without a licence.

97. Island Councils established under the Cook Islands Local Government Act 1966 are conferred powers to make bylaws including such things as the regulating the use of any reserve or park vested in or under the control of the Island Councils.

98. In Tonga, one of the causes of concern is the rapidly diminishing stocks of important culture trees used in the making of handicrafts, cosmetic oils, folk medicines and traditional dance costumes. Aware of this problem, the Government of Tonga has taken steps to create a national park with the last remaining rainforest on the island of Tongatapu. It is also considering the establishment of a whale sanitarium in Tongan waters.

99. For the protection of marine living resources, certain specific bans are imposed. In 1978, an indefinite moratorium was imposed on the catching of humpback whales, one of whose identified breeding places lies within Tongan waters. Also, a total ban on turtle catching during the designated breeding season has existed for many years. Tonga has five designated marine national parks, in which all lagoon life, coral and beach sands are fully protected.

100. Other relevant legislations in Tonga are the Forest Act (providing for forest reserves), the Whale Industry Act (protecting whales from being caught, wounded, killed or taken) and the Fish and Bird Preservation Act.

101. In TTPI, the Endangered Species Act 1975 gives the Director of Resources the authority to set up conservation programmes to conserve endangered and threatened species. The Act also declares as a public policy the fostering of the well being of endangered plants and animals

to prevent their extinction by whatever means necessary; and makes it an offence to possess or engage in any commercial activity in the notified endangered species except in accordance with prescribed rules.

102. The forest policy of New Caledonia is governed by Decree No.405 of 1910 (as amended) prohibiting deforestation of certain hill slopes and river banks, and other similar decrees. For the protection of fauna and flora, sanctuaries or special nature reserves are set up. Local regulations to administer these reserves are brought in line with relevant international conventions (Decree 1504 of 1980).

103. The relevant conservation legislations in Guam are the Game and Fish Laws, Forestry and Conservation Laws and the Parks and Recreation Enabling Legislation.

104. In Solomon Islands, the National Parks Ordinance 1954 provides power to declare any area of land to be a National Park and imposes restrictions on the use of National Parks.

105. The Wild Birds Protection Ordinance 1914 makes it an offence to kill, wound or take certain specified birds and imposes a seasonal restriction on other specified birds. The Ordinance also makes provision to declare sanctuaries for birds, and any interference with birds in a sanctuary is an offence under the Ordinance.

106. The Forestry and Timber Ordinance 1969 provides for the appointment of a Conservator of Forests responsible for carrying out the provisions of the Ordinance which includes licensing felling of trees for sale, declaration of freehold and leasehold land as State and controlled forests. A forest area can be declared a controlled forest if it is necessary or desirable to protect the forest or other vegetation; and it is an offence to carry out certain specified activities on forests so declared.

107. The Town and Country Planning Act 1979 gives the Town and Country Planning Board, established under the Act, power, if it appears expedient in the interest of amenity, to make an order on such terms and conditions it sees fit preserving any tree, trees or woodland in any area.

108. The corporation established under the North New Georgia Timber Corporation Act 1979 in the Solomon Islands to promote the utilization of the timber resources of North New Georgia has the responsibility to grant licences for the felling, harvesting and extracting timber for sale on such terms and conditions it shall think fit. The Corporation is also charged with the duty of encouraging the replanting of timber in areas where trees have been felled, harvested and extracted.

109. In Western Samoa, the Agriculture Forests and Fisheries Ordinance 1959 and the Forests Act 1967 establishes the Agriculture Department to be responsible for the conservation, protection and development of the resources of the country, especially soil, water and forest and to maintain and establish areas of forest adequate to protect the climate, soil and water resources of the country, to provide on a sustained yield basis the forest produce requirements of the people and the industries of the country and to ensure the best use of all forest lands for the general benefit of the country.

110. The National Parks and Reserves Act 1974 provides for the establishment, preservation and administration of national parks and reserves. National parks can be declared under the Act and activities which may damage flora and fauna, soil, water and forest conservation are prohibited. Any public land or territorial sea not set aside for other public purposes, may be declared a Nature Reserve for the protection of flora, fauna or aquatic life, or the habitat of fauna or aquatic life.

111. In Vanuatu, the Joint Forestry Regulation No.30 of 1964 provides authority to declare forest land forest areas or forest reserves which the public interest requires should be protected, exploited, developed or utilized in accordance with the principles of good forestry practice or in need of re-forestation. Power is also given to declare any species of tree to be valuable timber. The Regulation lays down certain requirements which the landowners must satisfy with regard to activities that can be carried out within the forest areas.

112. Tree felling in forest areas is subject to licensing and licences issued under the Regulation may contain, amongst other things, the re-forestation and regeneration of areas upon which timber has been felled. The Regulation also prohibits the de-forestation of any forest area for certain specified purposes without a de-forestation permit.

113. The Joint Wild Life and Bird Protection Regulation No.5 of 1967 protects certain specified species of birds by licensing or seasonal prohibition of hunting; prohibiting export or sale of named birds; and prohibiting night hunting for all species of birds.

114. The control of catching of crayfish in the coastal waters of the Republic, defined in the Regulation, is provided in the Joint Regulation No.17 of 1968 by seasonal prohibition and prohibiting the catching of female crayfish carrying eggs and crayfish under a certain length.

115. The Joint Regulation No.7 of 1963 prohibits night underwater fishing on the coast of the island of Efate.

116. In Kiribati, a legislation which can be used for conservation purpose is the Prohibited Areas Ordinance 1957 under which any island in Kiribati and its territorial waters may be declared a prohibited area. Article 14(1) of the Constitution, in guaranteeing freedom of

movement, provides that any restrictions of movement within Kiribati reasonably required in the interests of environmental conservation shall not be in contravention of the Article.

117. Any bird may be declared a protected bird under the Wildlife Conservation Ordinance 1971 in Kiribati; and hunting or killing such bird is an offence. Hunting of wild turtles is also prohibited under the Ordinance. In the interests of preserving wild life, any area can be declared a wild life sanctuary; and an area within a wild life sanctuary can also be declared a closed area under the Act.

118. Island Councils established under the Local Government Ordinance 1966 can regulate such matters as fishing and related industries and erosion of land.

119. The Land Conservation and Improvement Ordinance 1953 in Fiji establishes a Land Conservation Board comprising, among others, the Directors of Agriculture, Public Works and Lands, and the Conservator of Forests. The functions of the Board includes exercise of general supervision over land and water resources, stimulate public interest in the conservation and improvement of land and water resources, recommend legislation necessary for the proper conservation and improvement of land and water resources and to issue conservation orders.

120. The Board may issue Conservation Orders to prohibit, regulate and control the breaking up or clearing of land for any purpose; prohibit, regulate and control the grazing and watering of livestock; prohibit, restrict or regulate cultivation or method of cultivation. Closing orders may also be issued where any land is being or has become despoiled.

121. The Forests Act 1953 provides power to declare any unalienated Crown land or land leased to the Crown a reserved forest. It may also declare any area in a reserved forest a nature reserve or silvicultural area. The Minister with the consent of the Native Land Trust Board may declare any native land not being a reserved forest or alienated land, to be a protected forest or declare any area in a protected forest a silvicultural area. The Native Land Trust Board is also empowered under the Native Land Trust Act 1940 to set aside any portion of native land as a native reserve.

122. The Birds and Game Protection Ordinance 1923 provides for the protection of birds, game and fish, by means of a permit system or seasonal prohibition. A Wildlife Island Reserve for the protection of the habitat of the Fiji Crested Iguana has been established.

(i) Air Quality

123. With the exception of the Territories and Papua New Guinea, other countries in the region have very few legislations on controlling pollution of air.

124. In Fiji, the Traffic Act and the Traffic Regulations 1974 include provisions for controlling emissions from vehicles. It is an offence under the Act for any person who uses, causes or permits to be used on a road any motor vehicle which discharges smoke, visible vapour, grit, sparks, ashes, cinders or oily substance which is likely to cause damage to any property or danger, injury, nuisance or annoyance to anyone.

125. In Papua New Guinea, the Environmental Contaminants Act contains the framework for controlling air quality. The definition of contaminants includes any substance whether liquid, solid, gaseous or radioactive or any form of electro-magnetic or thermal energy and environmental contaminants are not to be discharged, emitted except in accordance with a licence issued under the Act.

126. Another statute in Papua New Guinea which contains complementary provisions to control air quality is the Environmental Planning Act. Any proposed project which has significant environmental implications may be served a requisition to submit a detailed environment plan for approval which has to comply with described guidelines.

127. Decree No.77-134/CG of 1977 in New Caledonia deals with air pollution caused by power plants. Similarly, Decree No.79-082/CG regulates air pollution from the Nickel Company's smelting works at Doniambo. There are corresponding circulars concerning the construction of smoke stacks in the case of combustion works and also plants producing fine dust, cement works and iron ore processing establishments.

128. In Guam, the Federal Clean Air Act ensures that all activities and uses comply with air pollution regulations and quality standards. The Guam Environment Protection Agency has an Air Pollution Programme which basically covers vehicles, power plants, dust and open burning.

129. In TTPI, Air Pollution Control Regulations 1980 set standards for all stationary and mobile air pollution sources and also specify testing requirements. The Trust Territory Code authorizes and empowers Environmental Protection Board to establish criteria for classifying air, land and water in accordance with the present and future uses.

130. The Director of Conservation established under the Conservation Act 1975 in the Cook Islands has as one of its functions the prevention, control and correction of air pollution. The Act also provides power to make regulations to control or prohibit the pollution of air.

(j) Marine Environment

131. Legislations to protect the Marine Environment from pollution and other damaging activities exist in various forms in the region. Most of the fisheries legislations are aimed at controlling the taking of fish. Oil pollution legislations in existence are, in the main, Acts of former colonial powers extended prior to independence to some of the countries.

132. In Papua New Guinea, regulations to control marine pollution have been promulgated under the Merchant Shipping Act. Legislation is being drafted dealing with pollution on the high seas and introducing the principle of strict liability for pollution. The Environmental Contaminants Act covers spills from off-shore oil wells. An oil spill contingency plan is "in effect" but it is felt that a much more sophisticated plan is required.

133. In TTPI, the USA Coast Guard is responsible for the control of oil and hazardous substance spills into the sea, under the USA Clean Water Act.

134. In New Caledonia, law No.73-447 (of 1973) prohibits sea water pollution by hydrocarbons. Similarly, control of marine pollution by way of dumping from ships and aircrafts or by accidental marine pollution is sought to be achieved through law 76-599 (1976).

135. American Samoa derives its powers under the Coastal Zone Management Act. In pursuance, it has drawn up a Coastal Zone Management Plan (CZMP). It is reportedly interested in regional contingency planning for oil spill control and other disasters.

136. One of the chief concerns for coastal area management in Tonga is the erosion resulting from heavy sand-mining to meet the local requirements of concrete products. This has led to the imposition of specific bans by the local government. The country's Petroleum Mining Act 1969 envisages a licensing system for undertaking exploration, prospecting or mining of petroleum. No environmental provisions are included. However, the Continental Shelf Act 1970 prohibits pollution of the sea by oil either from ships or offshore operations.

137. The Conservation Act 1975 in the Cook Islands confers on the Director of Conservation the responsibility to prevent, control and correct water pollution and to pass regulations necessary or expedient to regulate or prohibit pollution of water.

138. The Harbour Control Act 1971 prohibits and makes it an offence for any person to deposit any rubbish, dead animal or filth below the high water mark within any harbour or on any land belonging to the Crown adjacent to any harbour. A similar provision is contained in the Rarotonga Harbour Control Regulation 1974.

139. The Territorial Sea and Exclusive Economic Zone Act 1979 prohibits fishing by foreign fishing crafts within the Cook Islands Exclusive Economic Zone without a licence issued under the Act which may specify certain conditions laid down in the Act including such matters necessary or expedient for the conservation or management of fisheries resources within the zone. Regulations may also be promulgated under the Act to control activities in the Cook Islands Territorial Sea including measures for the protection and preservation of the marine environment of the territorial sea and regulating the exploitation and exploration of the territorial sea for any economic purpose.

140. Regulations may be passed which may, inter alia, prescribe measures for the conservation and management of fisheries resources within the zone.

141. The Fisheries Act 1942 prohibits fishing in Fiji fisheries waters and native customary fishing grounds for commercial purposes, without a licence. Regulation making power is given to make regulations to conserve, protect and maintain stocks of fish.

142. The Fisheries Regulations 1965-1972 controls the use of such things as fish fences, nets, poison; protects turtles, crabs, shells, porpoise and dolphins; and prohibits the export of live fish or turtle flesh.

143. Under the Continental Shelf Act 1970, it is an offence, if in any designated area, oil is discharged into any part of the sea from a pipeline or as a result of any operations for the exploration of the seabed or subsoil or the exploitation of the natural resources thereof in a designated area.

144. The Harbour Act (1974) provides for heavy penalties for pollution of harbour and coastal waters.

145. The Merchant Shipping (Oil Pollution) Act 1971 (UK) enabling effect to be given to the International Convention on Civil Liability for Oil Pollution Damage 1969 and the Merchant Shipping Act 1974 (UK) enabling effect to be given to the International Convention on the establishment of an International Fund for Compensation for Oil Pollution Damage 1971 applies to Kiribati, Tuvalu and Solomon Islands.

146. The Exclusive Economic Zone Act 1977 in Western Samoa prohibits fishing by unlicensed vessels within the Exclusive Economic Zone without a licence. Licences may be subject to various conditions to control the activities of vessels including any condition necessary or expedient for the conservation of fisheries resources within the zone. The Fisheries Protection Act 1972 prohibits fishing by foreign fishing vessels unless allowed under an agreement or convention to which Western Samoa is a party or by the Minister.
147. The Fish Dynamiting Act 1972 makes it an offence to catch, sell or possess fish caught by dynamite. It is also an offence to supply dynamite to catch fish.
148. The Fisheries Ordinance 1959 in Kiribati contains provisions to regulate fishing and fisheries industries in Kiribati and its fisheries limits. No foreign fishing vessel is allowed to fish in the fisheries limits without a licence. The Act prohibits the use of explosive, poison or other noxious substance for catching fish; and ancient customary fishing grounds are protected under the Act, from poaching by others. Matters which may be controlled by Regulations passed under the Act include the control and conservation of fish.
149. The Harbours Ordinance 1957 prohibits the discharge into a harbour of any night soil, sewage or other filth without permission. Harbour Regulations passed under the Ordinance makes it an offence for a master or owner of any vessel or shore installation to discharge or allow oil to escape into a harbour.
150. The Marine Resources Act 1978 in Nauru establishes the Exclusive Fisheries Zone and provides for the exploitation, conservation and management of the resources of fish and aquatic mammals in the territorial waters and the zone. Fishing within the zone is only permitted under licence except fishing by Nauruan residents in small crafts. Licences may be subject to various conditions aimed at controlling the activities of licensees including any matters which may be necessary or expedient for the conservation or management of fish resources.
151. In Tuvalu, the Fisheries Ordinance 1977 is directed primarily to the control of deep-sea fishing by foreign-owned vessels. Fishing without a licence is an offence carrying heavy penalties. The Act also forbids the use of explosives for fishing. Detailed regulations may be passed to protect all species of fish.
152. The Clean Water Act gives the responsibility to the U.S. Coast Guard in co-ordination with TTPI to control oil and hazardous oil spills in the waters of TTPI.

153. The Public Law 4C-65 in TTPI prohibits fishing with explosives, poisons, chemicals or other substances in TTPI waters.

154. The Fish and Wildlife Co-ordination Act (P.L.85-624) provides assistance to public and private agencies and organizations to improve conditions for the management of wildlife resources. The Fish and Wildlife Service which administers the Act is authorized to carry out any function necessary to minimize the impact of development projects on the marine environment.

(k) Mangrove Environment

155. Mangrove and Coral Reserves in the region are steadily getting depleted due to various causes such as urban growth reclamation, demand for building materials, sewage out falls, etc.

156. In Fiji, the value of mangroves has been built into the government policy (DP 7 Chapter 9), Licences for small scale commercial exploitation of mangroves and coral sand dredging are issued. Monitoring and research into mangrove habitat are said to be lacking.

157. Export of shells and reef products require licensing from appropriate authorities in Papua New Guinea and a few other states. Guam has its Coral Harvesting Laws. In American Samoa, certain mangrove forests have been designated as areas for special attention in the Coastal Zone Management Plan.

(l) Environmental Impact Assessment

158. Environmental impact assessment of projects is carried out in the region mainly as a matter of policy. Although not spelt out in explicit terms most of the legislations regulating development activities by way of licensing can be used to assess environmental impact.

159. In Papua New Guinea, the Environmental Planning Act provides the framework for undertaking prior environmental impact assessments. Submission of an environmental plan is voluntary; otherwise, the Minister may require a project to submit an "environmental plan".

160. In Fiji, applications for production licences for petroleum mining are to be accompanied by an environmental impact statement of the programme and possible safeguards. Also, the proposed new Town Planning Act is expected to ensure that environmental impacts of particular proposals are adequately assessed during the decision making process.

161. In American Samoa and TTPI, environmental assessments are made for projects involving Federal funding.

162. In Tonga, all development projects in Nuku'Alofa, Vava'u, Pangai are assessed for environmental impact under the Building Regulations 1941. The Regulations require the Departments of Public Health and Lands and Survey to be satisfied before a permit to proceed is issued.

(m) Regional and International Conventions

163. There are only two Conventions of limited scope in the region relevant to the protection and preservation of the environment. A small number of the countries have acceded to a few international conventions either dealing with particular problems or containing general provisions to promote the protection and conservation of the environment.

164. The Convention on the Conservation of Nature in the South Pacific is the first attempt by the region to co-operate on environmental matters. The Convention appoints the South Pacific Commission as the Co-ordinating body and provides for such things as encouraging the creation of protected areas to protect indigenous fauna and flora, discourage certain acts in national parks and encourage co-operation in the region in promoting the objectives of the Convention. The Convention is not yet in force as it requires four countries to accept the Convention before it can come into force; and only Papua New Guinea, New Caledonia and Western Samoa have accepted the Convention.

165. The South Pacific Forum Fisheries Agency Convention establishing the Forum Fisheries Agency does include authority for the Agency to undertake measures to conserve fisheries resources. The region is presently involved in developing a Fisheries Research and Development Programme, through the Forum Fisheries Agency, with the possibility of establishing an institutional framework to ensure conservation and promoting optimum utilization of fisheries resources of the region. Cook Islands, Fiji, Kiribati, Nauru, Niue, Papua New Guinea, Solomon Islands, Tonga, Tuvalu, Vanuatu and Western Samoa have accepted the Convention.

166. The International Convention for the Prevention of Pollution of the sea by oil, 1954 (Oilpol) with its amendment of 1969 provide permissible rates of discharge of oily mixtures subject to restrictions regarding, inter alia, oil content and location of discharge. The "load-on-top" system has the potential to control total oil spillage. The Convention requires that vessels are properly equipped and requisite shore facilities are available for the discharge of oil residues. The constructional standards for new tankers have been written into this Convention, by way of the amendments of 1971. Countries of the region which have acceded to the Convention are Fiji, Papua New Guinea and TTPI.

167. The Convention for Prevention of Pollution from ships 1973 ("Marpol") breaks away from the traditional flag-state principle and extends the rights of coastal states regarding prevention of pollution. It consists of 5 annexes and comprehensively deals with regulations for the prevention of pollution by oil, the control of pollution by noxious substances in bulk, the prevention of pollution by harmful substances carried by sea in packaged forms, and the prevention of pollution by garbage from ships. No country in the region has acceded to this Convention and on its coming into force supercedes the "Oilpol" Convention.

168. The International Convention on Civil Liability for Oil Pollution Damage 1969 seeks to establish a uniform international regime under which owners of ships carrying oil in bulk as cargo have strict liability for pollution damage resulting from the escape or discharge of oil. Fiji, Kiribati, Papua New Guinea, Solomon Islands, and Tuvalu are parties to this Convention.

169. The Convention on the establishment of an international fund for compensation for oil pollution damage 1971 supplements the Civil Liability Convention to assure adequate compensation to parties suffering pollution damage. It provides for additional compensation for oil pollution damage in excess of the amount covered by the 1969 Civil Liability Convention. Kiribati, Papua New Guinea, Solomon Islands and Tuvalu have acceded to this Convention.

170. The International Convention relating to Intervention on High Seas in cases of oil pollution casualties 1969 and its Protocol covering instances of pollution by substances other than oil recognize the rights of contracting states to take effective action against a ship which by reason of a marine accident, is threatening to pollute the coast or other interests of that state. The State may take such measures on high seas as necessary to prevent, mitigate or eliminate such grave or imminent danger or threat of pollution. Fiji and TTPI are parties to the Convention.

171. The Convention on the Prevention of Marine Pollution by Dumping of Wastes and other matter 1972 classifies wastes into different categories according to potential threat. Dumping of first category wastes is prohibited, whilst second category wastes can be dumped with a special permit. Before issuing such permits, certain factors must be taken into account including the effects of dumping on other legitimate uses of the sea. Papua New Guinea has acceded to this Convention.

172. Only Fiji has acceded to the Nuclear Test Ban Treaty 1963 where parties agree to ban nuclear explosions at any place under their jurisdiction or control; and the Treaty on the Non-Proliferation of Nuclear Weapons 1968.

173. Other relevant international conventions which some countries have acceded to include Fishing and Conservation of the Living Resources of the High Seas 1958 (Fiji and Tonga), International Trade in Endangered Species of Wild Flora and Fauna (Papua New Guinea and New Caledonia), International Plant Protection Conventions, Plant Protection Agreement for the South Asia and Pacific Region (Fiji). Territorial Sea and the Contiguous Zone 1958 (Fiji and Tonga), High Seas 1958 (Fiji and Tonga), Continental Shelf 1958 (Fiji and Tonga), Prevention of Collision at Sea 1960 (Fiji, Papua New Guinea and Tonga), International Regulations for Preventing Collisions at Sea 1972 (Papua New Guinea, Tonga and TTPI), Prohibition of the Development Production and Stockpiling of Bacteriological (biological) and Toxic Weapons and on Their Destruction 1972 (Fiji).

174. The International Composite Negotiating Text of the United Nations Conference on the Law of the Sea contains a part on protection and preservation of the environment. States are under an obligation to take all measures necessary including passing of national legislations, to prevent, reduce and control pollution of the marine environment from land based sources, seabed activities, activities in the area, dumping, vessels, atmosphere or any other source. The draft Convention also provides for global and regional co-operation in protecting and preserving the environment.

CONCLUSION

175. Only Cook Islands and Papua New Guinea have passed comprehensive and general legislations aimed specifically at protection and conservation of the environment, whilst colonial legislations inherited by the other countries still serve as the basis of environmental control; and in the case of the Territories, most of the metropolitan environmental legislations apply to them as a matter of course; and sometimes with appropriate amendments.

176. Generally basic provisions to protect and conserve the environment are scattered across the various development legislations in each country and the authorities responsible for administering the particular activities are also responsible for their enforcement.

177. Legislations in the region also reflect the levels of development and often legislations in some areas apply only to town areas, customary lands and customary rights are exempted from certain legislations, or legislative controls are subject to customary controls. In the majority of countries, which are largely rural, environmental control programmes must not only as far as possible, blend in with customary practices but must also depend to a large extent on customary institutions to enforce them.

178. Some form of control in the use of pesticides and industrial pollution is said to be required in some countries in the region. What is not apparent is that the control should be in the form of legislations. Governments in most countries in the region are either the main partners in development activities or can control the supply and source of such things as pesticides and herbicides. Furthermore, it is not an uncommon practice for governments to pass legislations which they are not bound by.

179. Most of the island states in the region are among the least-developed countries in the world and economic development is their first priority providing the basic needs of the people. The pace of economic development, accelerated by such factors as rapid increases in population, dependence on imports and balance of payments problems, to meet the aspirations of the people, has also contributed to the neglect of the environment.

180. Papua New Guinea, having more national resources and the potential for major development projects, has passed environmental legislations which should at least ensure adequate consideration being given to the environmental effects of development projects. The Cook Islands Conservation Act as another example of an attempt to provide a comprehensive legislation also has the potential to promote conservation and protect the environment.

181. The advantage of comprehensive legislations either to control a particular activity or the protection of the environment as a whole is the potential of one body being responsible for its enforcement and a more conscientious effort could be made to enforce controls, drawing attention to potential environmental contaminants and creating awareness amongst the public of the need to protect the environment. However, in most of the small island states, diversion of scarce manpower resources to an activity, which is quite often seen as an obstacle to economic development, does not receive sympathetic treatment in determining and executing national priorities. Consequently, most of existing legislations are either ignored, are not enforced, or are difficult to enforce.

182. Absence of specific and comprehensive environmental protection legislations does not appear to be the problem. The main problem is one of enforcement due to such things as conflict with national priorities, insufficient staffing, conflict with customary practices, immunity of governments and co-ordination.

183. With the exception of Papua New Guinea, which can justify, and has set up a Ministry of the Environment, the other island states in the region should in their endeavours to protect and conserve their environments, within the constraints of scarce resources and economic development, devise a suitable method to consolidate and co-ordinate the various controls and efforts aimed at protecting the environment.

184. Co-ordination could be carried out by a small unit situated at the appropriate organ of government where it can carry out its role in the most effective way. The co-ordination procedure could entail identifying existing legislative controls, liaise with the authorities responsible for enforcing such controls to encourage and assist in enforcement; encouraging inter departmental discussion and exchanges on the need to protect and conserve the environment and to take into account environmental considerations in development activities; and promote awareness on the importance of protecting and conserving the environment.

185. The only regional convention in an effort to co-operate in protecting and conserving the environment is the Conservation of Nature in the South Pacific and to a limited extent the South Pacific Forum Fisheries Agency Convention. Only a few of the countries are parties to some of the major institutional conventions on the environment.

186. For most of the countries in the region, their major potential resources lie in their coastal waters, territorial seas and exclusive economic zones. Control of the exploitation of these resources will require a major regional effort to ensure that activities in these areas are properly controlled.

RECOMMENDATIONS

1. Identify existing customary controls, local bylaws and national legislations relevant to the protection and conservation of the environment. This can be done by national administrations.
2. Examine and determine the most appropriate mechanism to harmonize the implementation of controls to ensure maximum effectiveness including examination of the need or otherwise to update, amend or pass new legislations. This can be done by national administrations with assistance from the programme.
3. Most of the countries are small island states, largely rural and still practise customary controls. For legislations to be effective, they must, as far as possible, be harmonized with customary practices to ensure that they are effective and can be enforced.
4. The Conservation of Nature in the South Pacific Convention should serve as a legal basis for regional co-operation on environmental matters in the region. The Convention probably needs to be revamped and administrative arrangements require reconsideration.

5. Examine the advantages of participation by countries in international conventions on the environment with particular emphasis on conventions on pollution of the marine environment by any source including the International Composite Negotiating Text of the United Nations Conference on the Law of the Sea. Such examination to be undertaken in close co-operation with the South Pacific Forum Fisheries Agency.

6. Expertise to undertake studies should, as far as possible, be recruited from the region and have the requisite knowledge of traditional customs of the region. In that respect, the programme should keep in close contact with the Regional Advisory Services being established in the region by the Commonwealth Secretariat.

FOOTNOTE :

1. Due to time constraints and distance, the first draft was compiled by Mr. S. Venkatesh, an ESCAP Consultant, and sent to SPEC where Mr. S. Va'ai, the SPEC Legal Officer, prepared the final version.

The input by Mr. S. Venkatesh is primarily based on a detailed study of the various documents and other similar material readily available with ESCAP - such as available texts of national legislations of South Pacific countries, reports of missions undertaken by UN bodies to the region, country papers presented at the Second Co-ordinating Group Meeting of SPREP (Fiji, November 1980), relevant papers prepared in connection with ESCAP regional project for the Protection of Marine Environment and Related Ecosystems in Asia and Pacific, Status Report of Environmental Legislations of the ESCAP countries as presented at the meeting of experts (ESCAP/UNEP Intergovernmental Meeting, Bangkok 4-8 July 1978). The documents brought out by IMCO regarding status of ratification of various international conventions on marine environment, UNEP/Governing Council papers, UNCSTD regional/national papers, UN legislative series, and IUCN documents, among others, were also very helpful. Discussions with representatives of South Pacific countries who happened to be in Bangkok for various meetings also proved helpful.

Mr. S. Va'ai examined the country reports and visited Cook Islands, Fiji, Kiribati, Nauru, Solomon Islands, Vanuatu and Western Samoa, and examined relevant legislations and had discussions with government representatives in some of these countries.
