

IMPLEMENTATION AND ENFORCEMENT OF THE *CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA IN THE SOUTH PACIFIC REGION: MANAGEMENT AND SCIENTIFIC AUTHORITIES*

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I WILDLIFE TRADE - THE PROBLEM

Extinction is a natural feature of the evolution of life on earth, however recent human induced extinction is some 100 times faster than natural extinction rates. Many species are declining in number because of loss of habitat, invasion by weeds, ferals and diseases and increased exploitation. The wildlife trade is one factor in this decline, particularly as improvement in transport facilities has made it possible to ship animals and plants and products derived from them anywhere in the world. Wildlife trade is a highly profitable business and involves a wide variety of species with millions of animals and plants traded each year to supply the demand for pets, ornamental plants, furs, skins, leather and timber, and articles manufactured from these materials.¹ Indeed, the wildlife trade is second, in monetary terms, only to the drug trade, and perhaps the

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¹ <www.cites.org>.

arms trade.² The annual average trade in wildlife products is estimated at around five billion US dollars.³

II ENVIRONMENTAL ISSUES IN THE SOUTH PACIFIC

The South Pacific Region is renowned for its marine and terrestrial biodiversity. There are over 2000 ecosystems in the Region,⁴ many of which are ecologically fragile and have high levels of endemism.⁵ A number of these ecosystems are endangered by disturbance due to economic development, over-harvesting of food and commercial species, the impacts of invasive species and by depletion of rare species due to trade.⁶ Trade in threatened species is an issue of considerable concern for the South Pacific, as the Region is a significant source of species whose welfare is, or may be, threatened by trade.⁷ In addition, the highly endemic and unique wildlife from the area is very attractive to international markets. As such, sizeable quantities of wildlife are being traded internationally, both legally and illegally, with trade from the Cook Islands, Fiji, Papua New Guinea and the Solomon Islands being of most concern at this time. Furthermore, the people of the South Pacific rely heavily on biological resources for their economic, social and cultural well-being, therefore it is essential that species and biodiversity protection is considered within the context of sustainable use.⁸ Countries of the Region are often attempting to achieve biodiversity protection in the face of economic difficulties, a limited resource base, vulnerability to global developments due to dependence on international trade, high population density, costly infrastructure and administration, and limited institutional capacities. They often lack opportunities for achieving economies of scale.⁹ In addition, several countries in the region have recently, or are currently, facing civil unrest. It is difficult to see how a country in such a situation can effectively implement and enforce environmental law and this needs to be taken into account in any push to assist these countries with ratification and implementation of CITES. On a more positive note, environmental protection has become an important catalyst for regional cooperation in the South Pacific in recent years.¹⁰ Common interests, based on the expanse of the Pacific Ocean and the establishment of the Exclusive Economic Zone (EEZ) in the late 1970s, initiated this

² D Farve, *International trade in endangered species: a guide to CITES* (Martinus Nijhoff, The Netherlands 1989) 470.

³ D Kueck, *Using international political agreements to protect endangered species: a proposed model* (The University of Chicago Law School Roundtable, 1995) 345.

⁴ South Pacific Regional Environment Programme, *Action plan for managing the environment of the South Pacific Region 1991-1995* (SPREP, Apia, Samoa, 1993) 1.

⁵ South Pacific Regional Environment Programme, *Report to the United Nations Commission on Sustainable Development on activities to implement the Barbados Programme of Action in the Pacific Region* (SPREP and ESCAP, 1996) 37.

⁶ SPREP, above n 4, 1.

⁷ B Boer (ed), *Environmental Law in the South Pacific* (SPREP and IUCN Environmental Law Centre, 1996) 107.

⁸ SPREP, above n 5, 37. The recently released CITES Strategic Plan confirms the recognition by the Parties that sustainable trade in wild fauna and flora can make a major contribution to securing the broader and not incompatible objectives of sustainable development and biodiversity conservation (CITES Strategic Plan, 1).

⁹ SPREP, above n 5, [4]. A more detailed discussion of the obstacles to implementation of CITES in the South Pacific Region is at Section IIIC.

¹⁰ C Giraud-Kinley, 'The effectiveness of international law: sustainable development in the South Pacific Region' (1999) *Georgetown International Environmental Law Review* 12:125, 128.

regional cooperation,¹¹ and there are currently several regional forums through which matters of environmental protection are pursued.¹²

III THE CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA

The *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES) was developed in response to concerns about the detrimental effects on species' survival of high levels of trade in wild animals and plants. It establishes the international legal framework for the prevention of trade in endangered species (including products of or from them) and for effective regulation of trade in certain other species. It relies on a permit system to place trade restrictions on specimens and products associated with categories of threatened and endangered species.¹³ The Convention was concluded in 1973 and entered into force on 1 July 1975. It currently has over 157 signatories.

The CITES system is overseen by a permanent Secretariat located in Switzerland. In addition to its general regulatory duties, the Secretariat convenes meetings of the Conference of the Parties (COP). The COP meets every two years to consider and adopt amendments to the Appendices, to review the progress of restoration and conservation of listed species, and to make recommendations for improving the effectiveness of the Convention.¹⁴ In addition to the COP there is a Standing Committee, which provides general policy and operational direction to the Secretariat concerning implementation and enforcement of the Convention. The Standing Committee gives advice on the preparation of meeting agendas, reviews major country infraction problems, carries out interim activities on behalf of the COP, and drafts resolutions for COP consideration.¹⁵

There are also the Animals and Plants Committees. The Animals Committee reviews technical issues regarding trade in CITES-listed animal species, assists in the development and maintenance of a standardised animal names list, monitors the status and trade of animals that are considered to be significantly affected by trade, determines whether trade is still a threat to their survival, and drafts resolutions on animal matters for consideration by the COP.¹⁶ The Plants Committee has similar responsibilities with respect to plants.¹⁷

CITES regulation of a plant or animal originates from listing a species within one of the Appendices. Appendix I includes those

¹¹ Ibid 127.

¹² See Section IIID.

¹³ Kueck, above n 3, 2.

¹⁴ P Sands and A Bedecarre, 'Convention on International Trade in Endangered Species: the role of public interest non-government organisations in ensuring the effective enforcement of the ivory trade ban' (1990) *Boston College Env'tl. Aff. L. Rev.*, 17:799, 802. Appendices to the Convention are lists of species afforded different levels or types of protection from over-exploitation <www.cites.org>.

¹⁵ G Heinley (ed), *International wildlife trade: a CITES sourcebook* (Island Press, Washington and California, 1994) 2.

¹⁶ Ibid 3.

¹⁷ Ibid.

species threatened with extinction which are or may be affected by trade. Trade in specimens of these species must be subject to particularly strict regulation in order not to endanger further their survival and must only be authorised in exceptional circumstances.¹⁸

Except in very limited circumstances, CITES prohibits all trade in Appendix I species. Any trade that occurs cannot be ‘detrimental to the survival of the species’,¹⁹ and must not be for ‘primarily commercial purposes’.²⁰ Dependent upon these and other inquiries, CITES Article III requires both the exporting and importing Parties to issue permits for proposed trade in Appendix I specimens.²¹ To ensure that both trading parties are aware of and agree to the rules governing the transaction, the import permit must be issued before the export permit can be issued.²²

Appendix II includes species that may not necessarily be threatened with extinction now, but may become so unless trade is subject to regulation.²³ CITES allows commercial trade in Appendix II specimens if it is not ‘detrimental to the survival of the species’.²⁴ No import permit is required, but the importer must present an export permit or re-export certificate before entry is allowed.²⁵

Appendix III includes other species ‘which any Party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the cooperation of other Parties in the control of trade’.²⁶ This Appendix provides an opportunity for Parties to assist each other in enforcing their domestic wildlife legislation. An export permit must be issued for Appendix III specimens based upon somewhat less stringent standards than those for Appendix I and II species.²⁷

A *General Overview of CITES Provisions*

The Convention’s preamble states that Parties to CITES recognise ‘that wild fauna and flora in their many beautiful and varied forms are an irreplaceable part of the natural systems of the earth which must be protected for this and the generations to come’, and that wild fauna and flora has many values, including ‘aesthetic, scientific, cultural, recreational and economic’. CITES Parties also recognise that ‘peoples and States are and should be the best protectors of their own wild fauna and flora’ and ‘that international cooperation is essential for the protection of certain species of wild fauna and flora against over-exploitation through international trade’.²⁸ As such the preamble provides for two key international law principles to be met: the need for greater international cooperation to deal with environmental problems both within and beyond

¹⁸ Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Art. II.2a.

¹⁹ Ibid Arts. III.2a, III.3a and III.5a.

²⁰ Ibid Arts. III.3c and III.5c. In addition Res. Conf. 5.10 further defines ‘primarily non-commercial’.

²¹ Ibid Art. III.

²² Heinley, above n 14, 4.

²³ CITES, above n 17, Art. II.2a.

²⁴ Ibid Art. IV.2a.

²⁵ Ibid Art. IV.

²⁶ Ibid Art. II.3.

²⁷ Ibid Art. V.2 and Sands and Bedecarre, above n 13, 804.

²⁸ Ibid in preamble.

areas of national jurisdiction, and the principle of sustainable development.²⁹ While the text of the Convention does not elaborate on the linkages between trade and sustainable development, the recently released CITES Strategic Plan ‘confirms the recognition by the Parties that sustainable trade in wild fauna and flora can make a major contribution to securing the broader and not incompatible objectives of sustainable development and biodiversity conservation’.³⁰ The reference to greater international cooperation is important in the context of this paper, as the formation of joint Authorities will require cooperation on a regional basis between the countries of the South Pacific and will also require international cooperation through the various CITES forums.

Article I of CITES contains definitions applicable to the text. Article II details the fundamental principles regarding the listing of species on the three Appendices, while Articles III, IV and V outline the requirements for trade in species listed in the Appendices.³¹ Article VI sets out the requirements for permits and certificates. Article VII provides for exemptions, for example where an Appendix I listed species was bred in captivity shall be deemed to be a specimen included in Appendix II. Article VII.2 provides that, when a Management Authority of a State of export or re-export determines that a specimen ‘was acquired before the provisions of the present Convention applied to that specimen, the provisions of Articles III, IV and V do not apply’.³² In such a case, the exporting State’s Management Authority issues a pre-Convention specimen certificate upon making such a determination so that the specimen may be traded.³³ Article VIII sets out measures to be taken by the Parties including those for enforcement; confiscation of live specimens; keeping of records of trade, permits and certificates; and reporting mechanisms. It also contains provision to allow Parties to bypass the regulations applicable to particular species in the Appendices.

Under Article VIII.1, Parties are obliged to penalise violators and must establish fines and other penalties as appropriate.³⁴ This Article also includes commitment to maintain records of trade and prepare periodic reports on the Convention’s implementation including an annual report on trade and a biennial report on legislative, regulatory and administrative measures taken to enforce the provisions of the Convention.³⁵

Article IX sets out requirements to establish Management and Scientific Authorities.³⁶ Other articles include those dealing with the Conference of the Parties; the Secretariat; amendments to Appendices and the Convention; ratification and the like. Article XIV states that Parties may adopt stricter domestic measures regarding the conditions of trade, taking, possession or transport of specimens; and Parties may adopt domestic

²⁹ Importantly, the recently developed CITES Strategic Plan elaborates on these and other principles. It states that: ‘The purpose of the Strategic Plan is to improve the working of the Convention so that international trade in wild fauna and flora is increasingly and consistently conducted at sustainable levels. Where uncertainty remains as to whether trade is sustainable, the precautionary principle will prevail as the ultimate safeguard’. (CITES Strategic Plan, 2.)

³⁰ CITES Secretariat, *Strategic Plan* (undated, www.cites.org), 1.

³¹ See Section IIIB.

³² CITES, above n 17, Art. VII.2.

³³ Sands and Bedecarre, above n 13, 804.

³⁴ CITES, above n 17, Art. VIII.1 and Heinley, above n 14, 5.

³⁵ *Ibid* Art. VIII.7. These obligations under the Convention are often difficult for small developing countries to implement. Obstacles to implementation will be discussed in greater detail at Section IIIC.

³⁶ See Section IIIB1 and IIIB2.

measures restricting or prohibiting trade, taking, possession or transport of species not included in Appendix I, II or III. Article XXIII allows Parties to take reservations from the Convention as to particular listed species either at the time of that Party's ratification or upon amendment to an Appendix.³⁷

B *Establishment and Purpose of Management and Scientific Authorities*

Article IX.1 directs each Party to appoint one group or organisation to carry out the role of the Management Authority, which regulates trade, and another to act as the Scientific Authority, to consider scientific issues related to trade and exploitation of species. Specifically, this Article states that:

Each Party shall designate for the purposes of the present Convention:

- (a) one or more Management Authorities competent to grant permits or certificates on behalf of that Party; and
- (b) one or more Scientific Authorities.³⁸

Article I (Definitions) defines Scientific Authority to be a national scientific authority designated in accordance with Article IX,³⁹ and a Management Authority to be a national management authority designated in accordance with Article IX.⁴⁰

The way in which MAs and SAs are designated is left to the discretion of the Parties. The language of the Convention is open enough to allow the appointment of more than one entity within each State and would also allow the appointment of the same entity to be both the Scientific and Management Authorities.⁴¹ Indeed, there is no requirement that the authorities actually be within the signatory Party. For instance, the Management Authority of Switzerland serves as the authority for Liechtenstein. And in some cases Management Authorities may be designated for certain specimens, for example, the Management Authority of the Russian Federation issues permits for *Acipenseriformes* on behalf of Azerbaijan.⁴² For a number of Parties the Scientific Authority is in the form of scientists who are consulted as needed, and these scientists may be in an academic institution and not necessarily a government body.⁴³ In the majority of cases Authorities have been appointed by simple administrative decision. A few Parties, however, have established these Authorities by legislation, for example, Australia, Belgium, Denmark, New Zealand and Switzerland. This official designation, while not a requirement of CITES, has the advantage of identifying clearly the responsibilities for implementing the Convention and, in particular, for issuing permits and providing Authorities with the necessary powers to carry out their responsibilities

³⁷ Reservations may include parts or derivatives in relation to a species in Appendix III. Articles XV and XVI outline the procedures for the amendment of Appendices.

³⁸ This Article further requires that at the time a State deposits an instrument of ratification, acceptance, approval or accession it shall also inform the Depositary Government of the name and address of the Management Authority. Any changes to designations under this Article must be communicated to the Secretariat and a Management Authority should communicate to the Secretariat impressions of stamps, seals and other devices used to authenticate permits or certificates.

³⁹ CITES, above n 17, Art. I.f.

⁴⁰ Ibid Art. I.g.

⁴¹ D Farve, above n 2, 243.

⁴² Stephen Nash <stephen.nash@unep.ch> email (27 June 2001).

⁴³ Ibid.

effectively.⁴⁴ Management Authority responsibilities are often undertaken by a government office while the Scientific Authority is often a mixture of experts from government, academia, zoos, and other institutions. There appears to be nothing in the Convention, or in regard to practical application that would prevent several Parties from each investing in a non- or inter-governmental body with either or both of these responsibilities so long as they make appropriate arrangements to ensure that the duty is properly undertaken.⁴⁵

1 *Scientific Authorities*

Under the Convention, a Scientific Authority has five main tasks:

1. To advise the Management Authority on whether or not a proposed export or introduction from the sea⁴⁶ of an Appendix I or II specimen will be detrimental to the survival of the species involved.⁴⁷
2. In the case of a proposed import of an Appendix I specimen, to advise the Management Authority on whether or not the purposes of the import are detrimental to the survival of the species involved.⁴⁸
3. In the case of a proposed import of a live Appendix I specimen (including an introduction from the sea), to state whether or not it is satisfied that the proposed recipient of the specimen is suitably equipped to house and care for it.⁴⁹
4. To monitor the export permits granted for Appendix II specimens as well as the actual exports of such specimens, and to advise the Management Authority of suitable measures to be taken to limit the grant of export permits when it has determined that this is necessary to maintain that species throughout its range at a level consistent with its role in the ecosystem, and well above the level at which that species might become eligible for Appendix I.⁵⁰
5. To advise the Management Authority on the choice of a rescue centre or other place for the disposal of confiscated specimens.⁵¹

Given that the SAs have such an important role to play in giving advice to the MA on the issuing or refusal of a permit it is crucial that SAs be highly qualified scientific bodies and have a considerable degree of independence. This can best be achieved by a provision to that effect in the CITES implementing legislation of the Party.⁵² However legislation is not necessary, and policy and government process would be able to achieve similar outcomes.⁵³ Several Parties have provided in their legislation for the

⁴⁴ C de Klemm, *Guidelines for legislation to implement CITES*, IUCN Environmental Policy and Law Paper No 26, (Gland Switzerland and Cambridge UK, 1993) 22. However, Resolution Conf 8.4 calls on Parties to have legislative means for designating Authorities.

⁴⁵ Tomme Rosanne Young <TYoung@elc.iucn.org> email (3 August 2001).

⁴⁶ An introduction from the sea is the import into a country of a specimen which was taken from sea which is not within the proclaimed Exclusive Economic Zone of any country (ie from the high seas).

⁴⁷ CITES, above n 17, Arts. III.2, III.5, IV.2 and IV.6.

⁴⁸ Ibid Art. III.3.

⁴⁹ Ibid Art. III.3.

⁵⁰ Ibid Art. IV.3.

⁵¹ Ibid Art. VIII.4.

⁵² de Klemm, above n 41, 22.

⁵³ However, Resolutions taken by the COP, particularly Resolution Conf. 8.4, call for Parties to have legislative means for designating Authorities, prohibiting trade where applicable, penalising illegal trade and providing for the confiscation of illegally traded specimens. Where a Party cannot

appointment of a Scientific Authority or Committee composed of scientists representing the various disciplines concerned, such as zoology, botany and conservation.⁵⁴ For example, New Zealand's *Trade in Endangered Species Act 1989* provides that the Scientific Authorities Committee must consist of representatives of the Department of Conservation, the Department of Scientific and Industrial Research, the Ministry of Agriculture and Fisheries, the Ministry of Forestry and any other person that the Minister determines.⁵⁵ In Australia, CITES is implemented through the recent amendments to the *Environment Protection and Biodiversity Conservation Act 1999*, which came into effect on 11 January 2002. Under this Act, the Secretary of the Department of the Environment and Heritage (known as Environment Australia) carries out the Scientific Authority functions. Some Parties, such as Switzerland, entrust the SA with additional tasks to those mentioned above, including the general task of advising the MA on any matter relating to the implementation of the Convention and of submitting any proposal to that end.⁵⁶

The role of the SA is crucial for the implementation of the Convention and to perform its tasks well it must have at its disposal the results of all relevant scientific research or fieldwork. If the information does not exist, the SA should be able to cause the necessary research work to be undertaken. If it is unable to do that, the Convention cannot really operate in an effective manner.⁵⁷ For countries in the South Pacific the ability to undertake such scientific work is often hampered by lack of resources and technical capacity.⁵⁸

The advice given to the MA by the SA does not bind the MA except in one particularly important case: as the Convention clearly states, when the SA has advised that a proposed export will be detrimental to the survival of a species, the MA is bound in law by that advice. This means that the negotiators of the Convention intended that the SA be given a right of veto on exports of CITES species when such exports may endanger the survival of these species.⁵⁹ It is preferable but not essential that this be reflected in legislation.⁶⁰

Resolution Conf 8.6 provided a number of recommendations regarding the roles and responsibilities of Scientific Authorities. Of particular relevance to this discussion is recommendation (d), which states that:

(d) those Parties that are concerned about whether or not their procedures ensure the appropriate scientific review and Scientific Authority advice, consult with the Secretariat on ways to enhance their scientific assessment necessary for conservation of species listed in the Appendices such as designating **joint** Scientific Authorities and seeking

demonstrate that its domestic legislation meets these requirements actions such as restrictions on commercial trade to and from such Parties may be taken. This resolution does not take into account that the conservation outcomes foreseen by the Convention may still be attained through non-legislative means.

⁵⁴ de Klemm, above n 41, 22.

⁵⁵ Section 7(1), *Trade in Endangered Species Act 1989* (NZ).

⁵⁶ de Klemm, above n 41, 23.

⁵⁷ Ibid 23.

⁵⁸ See s IIIC.

⁵⁹ Ibid 23.

⁶⁰ Ibid 23-24.

information from **regional conservation centres**, within-country experts, and international specialist groups;⁶¹ [author's emphasis]

In addition, Resolution Conf 10.3 makes several recommendations regarding SAs. In particular:

- (d) Parties enlist the assistance of Scientific Authorities of other Parties, as appropriate;
- (e) neighbouring Parties consider sharing their resources by supporting **common scientific institutions** to provide the scientific findings required under the Convention,⁶² [author's emphasis]

These Resolutions are significant and encourage joint Scientific Authorities especially for the sharing of limited resources. As such, there is a great potential for forming a joint Scientific Authority at a regional level in the South Pacific. Of the impediments to the implementation of CITES in the South Pacific Region, lack of technical and scientific expertise at the local level, and lack of financial resources are key issues. However, there is a significant level of expertise at the regional level regarding this aspect of CITES.⁶³ A regional SA would have the five main tasks as set out above and may also take on additional tasks such as:

- monitoring and reporting on trade;
- monitoring and reporting on survival and conservation status of species; and
- carrying out research on species that are the subject of trade in the Region.

Such an SA would require a thorough understanding of the meaning of 'non-detriment' in the Convention, and the means of either determining non-detriment findings and/or accessing information to do this.

Given the encouragement by the CITES Secretariat and the need for countries in the South Pacific to share their limited resources it is highly recommended that a joint approach be discussed more fully in appropriate regional forums. Australia, as the Oceania representative on the CITES Standing Committee, is in an excellent position to initiate such discussion.

⁶¹ Resolution Conf. 8.6.

⁶² Resolution Conf. 10.3.

⁶³ Mary Power <MaryP@sprep.org.ws> email (27 June 2001).

Recommendation 1

- 1. Approach South Pacific nations with the idea of forming a joint regional CITES Scientific Authority.**
- 2. Discuss the idea at other appropriate forums such as the CITES Standing Committee, Conference of the Parties and with the Secretariat.**
- 3. A regional agreement will be required to put this into effect. Such an agreement must make allowance for new CITES members to access the advice and expertise of the Authority and to have representation on the Authority. Funding for the Authority should also be addressed in such an agreement.**
- 4. Appropriate legislation in each jurisdiction would be the preferred way to implement such a scheme, however, government policy, MOUs between parties and government processes may be sufficient (however see earlier note regarding Resolution Conf 8.4). In either case parties must have the means to implement CITES effectively and must have adequate processes in place for the establishment of the regional body.**

2 *Management Authorities*

Management Authorities, on the advice of Scientific Authorities, are the bodies responsible for deciding whether or not to issue import and export permits and certificates. It would be difficult for such a body to operate at the regional level in the South Pacific. The main difficulty involved here is sovereignty given that the Management Authority is the ultimate decision-making body on CITES imports and exports. Countries in the Region are very protective of their autonomy and would not willingly give up their decision-making power. It is possible that administrative functions such as printing and dealing with permits, preparation of the CITES annual report and the like could be outsourced to an external or joint body. Alternatively, a more developed country such as New Zealand or Australia could take on this role or these tasks could be outsourced on a contract basis. However, the decision making power must rest with the permitting country, and any such administrative body must not issue permits without the advice and approval of the MA. Another option may be the appointment of a Regional Management Authority Coordinator that could provide policy, technical and administrative assistance and support to national MAs, liaise between the MAs and the SA and be the main contact point on CITES issues internationally as well as regionally.⁶⁴ That person could also play a pivotal role in encouraging more countries to become Parties to CITES and raising awareness about CITES issues in the Region.⁶⁵

⁶⁴ Ibid email (11 October 2001).

⁶⁵ Ibid.

Recommendation 2

- 1. Approach South Pacific nations with the idea of appointing a Regional Management Authority Coordinator.**
- 2. Discuss the idea at other appropriate forums such as the CITES Standing Committee, Conference of the Parties and with the Secretariat.**
- 3. If the idea were accepted then a similar process of implementation as for Scientific Authorities would be required (refer to Recommendation 1).**
- 4. If the idea were not accepted then each participating country would require a Management Authority, which carried out administrative tasks as well as decision-making. This will require financial resources to operate successfully.**

C Obstacles to Implementation of CITES in the South Pacific

Implementation and enforcement are the most significant issues facing international treaties, and CITES is no exception. Although the Convention text itself does not specifically require legislation, after a country joins CITES it is expected to be able to take appropriate, usually legislative, measures to implement the Convention. This is elaborated in resolutions and decisions, particularly Resolution Conf 8.4. Should a country choose to enact CITES implementing legislation, such legislation should commit the country to abide by all CITES requirements.⁶⁶ At present, less than fifteen percent of all Parties to the Convention have adequate legislation for implementing the Convention. Various reasons have been given to explain this continuing problem, with inadequate experience, insufficient staffing and lack of resources among the most often referred to.⁶⁷ The membership of CITES amongst Pacific countries is a matter of particular concern. Very few Pacific Island countries are Party to the Convention, with only Australia, New Zealand, Papua New Guinea, Fiji and Vanuatu currently being Parties.⁶⁸ There are twelve non-Party nations in the Region: including the Cook Islands, Kiribati, the Marshall Islands, Nauru, Niue, Palau, the Solomon Islands, Tokelau, Tonga, Tuvalu and Samoa. A further seven territories are covered by the accession of other Parties (France, the United Kingdom and the United States of America (USA)) (Attachment 1).⁶⁹ The principal difficulty for many Pacific Island countries is that administrative structures, legislative developments and enforcement mechanisms are required in order for Parties to implement CITES obligations. This requires significant resources. CITES obligations include not only the creation of Scientific and Management Authorities but also the existence or creation of an effective customs control and enforcement service. These definite obligations imposed on Parties by CITES can act to deter membership by small and resource-poor countries.⁷⁰ The CITES Standing Committee is aware of the problems involved in implementation of CITES by small island countries. The ninth meeting of the Conference of the Parties (COP) directed the Committee to investigate ways of facilitating participation in and accession to, the Convention by Small Island Developing States (SIDS).⁷¹ As a result, the forty-

⁶⁶ Heinley, above n 14, 5.

⁶⁷ de Klemm, above n 41, Preface.

⁶⁸ Boer, above n 7, 107-108. In addition, there is currently a move by the CITES Secretariat to remove Fiji and Papua New Guinea from membership due to these countries having no appropriate implementing legislation in place.

⁶⁹ Forty-second meeting of the Standing Committee (Doc.SC.42.9 (Rev)).

⁷⁰ Boer, above n 7, 107-108.

⁷¹ The ninth COP meeting was held in Ford Lauderdale, United States of America, 7 – 18 November 1994.

second meeting of the Standing Committee developed a number of actions to be taken by the Secretariat regarding SIDS.⁷² Some of these actions include:

1. continue efforts to strengthen presence in Oceania and provide assistance to SIDS;
2. prepare a package of information about CITES for SIDS;
3. extend the assessment of training needs for Parties to non-Parties in Oceania;
4. organise a training seminar on CITES for SIDS in Oceania;
5. provide technical assistance to SIDS Parties to strengthen their capabilities to fully implement the Convention; and
6. designate a SIDS coordinator within the Secretariat.⁷³

In addition, at the tenth meeting of the COP⁷⁴ a Decision was passed by the Parties which recognised that many SIDS lacked the technical and financial resources to adequately implement CITES. Decision 10.112 called on the CITES Secretariat to take a number of actions, including:

- continue to strengthen its presence in Oceania, and provide strong support for SIDS for the next triennium;
- extend its planned assessment of training needs to non-Party States in Oceania, and organise a training seminar for SIDS in the Caribbean and Oceania, if external funding is available;
- seek external funding to assist SIDS in the Caribbean and Oceania in their undertaking of the process of accession to CITES, according to the results of assessments of in-country needs;
- provide technical assistance to SIDS Parties to the Convention to strengthen their capabilities to fully implement the Convention, within available resources;
- recommend to non-Party SIDS to carry out an in-country assessment of strategic needs to clearly define the assistance required to enable compliance with CITES requirements for non-Parties, or obligations of Parties should they wish to accede to the Convention.

A capacity building workshop was conducted by the CITES Secretariat for the Caribbean SIDS in March 2000. An Action Plan was developed and focussed on improving legislation, training for SAs, training for law enforcement, training for CITES implementation, management planning for key resources, and raising publicity on CITES issues.⁷⁵ These issues are fairly general recommendations applicable to most Parties, and they could easily be adapted to suit the needs of the South Pacific. The materials prepared for this workshop could be used as a basis for capacity building in the Oceania area.⁷⁶

⁷² The forty-second Standing Committee meeting was held in Lisbon, Portugal, 28 September – 1 October 1999.

⁷³ Forty-second meeting of the Standing Committee (Doc.SC.42.9 (Rev)).

⁷⁴ Held in Harare, Zimbabwe, 9 – 20 June 1997.

⁷⁵ Stephen Nash <stephen.nash@unep.ch> email (25 September 2001).

⁷⁶ Australia is currently investigating holding a capacity building workshop for the Oceania region in early 2002. The proposed topics for the workshop include communication, legislation, permitting, reporting, enforcement and the requirements for Scientific Authorities. Utilisation of resources and materials already prepared for the Caribbean workshop is highly recommended.

Some of the specific issues operating to deter ratification and/or implementation of CITES, and in particular the formation of Authorities, in the South Pacific are discussed below.

1 *Geography and Communications*

The countries of the South Pacific are spread over a vast area with large expanses of ocean between them. This can make regionalisation of complex bureaucratic processes extremely difficult, particularly because the vast distances and lack of financial resources make communication unreliable at best. Telephone services and related communications such as e-mail and facsimile are renowned for being erratic, and the great distances between countries makes face-to-face communications difficult and financially burdensome. Such communication issues make it difficult for institutions in the Region to remain up-to-date on CITES issues and exchange scientific information in an efficient manner. A regional structure such as a Scientific Authority, and the appointment of a Regional Management Authority Coordinator would facilitate information exchange and be the first points of contact on CITES and other trade related issues.

Recommendation 3

It is recommended that a dedicated officer be appointed (possibly within SPREP) to be the main point of contact in the Region on CITES issues. This person could also act as the Regional Management Authority Coordinator should it be decided that this is an appropriate approach. They would facilitate communication on CITES issues including the dissemination of the outcomes of COP and Standing Committee meetings, notifications to the Parties, information on implementation issues in other countries and the like. Such a person could also provide policy, technical and administrative support to State Management Authorities.

2 *Legal and Political Frameworks*

The existing legal and political frameworks in the region impact upon the development and implementation of international environmental law within the Pacific Region. One of the main explanations for this is the history of colonisation in a Region where nearly all of the islands have at some time been the subjects of colonial settlement.⁷⁷ Most islands in the area were colonised in the latter half of the nineteenth century, principally by England, Germany, France and the USA, as they competed for trading empires in the Pacific. Island societies began to regain their independence in the 1960s. For most, the path to independence has been a gradual process of political development toward a western model, and most have adopted a governmental structure similar to that of their primary colonising power.⁷⁸ Varying degrees of autonomy, ranging from limited self-government to full independence currently exist. However, autonomy brings with it the tasks of developing stable governments and economies and formulating new legal systems appropriate to the circumstances of each country or territory.⁷⁹ Where colonial

⁷⁷ Boer, above n 7, 53.

⁷⁸ M Ntuny (ed), *South Pacific Islands legal systems* (University of Hawaii Press, Honolulu, 1993) xviii.

⁷⁹ Ibid.

powers still retain a presence in the Pacific they can exert considerable influence.⁸⁰ In particular France, and to a lesser extent the USA, retain extensive interests. An important consequence of the continuing interests of former colonial powers in the Pacific is that they have retained substantial financial involvement throughout the Region. For this reason, such nations can have a significant impact on the conduct of development and related activities,⁸¹ and may be persuaded to provide capacity building assistance.

With respect to legal regimes, the contrasting Anglo-Saxon and French colonial backgrounds had a substantial impact on shaping the current legal systems of the various South Pacific States and resulted in remarkable diversity amongst the Region's nations. For example, New Caledonia, French Polynesia, and Wallis and Futuna Islands, which remain overseas territories, are governed by civil law systems. The other countries in the Region have been more influenced by Anglo-Saxon common law systems.⁸² In addition, the cultural identities of countries in the Region are also extremely varied. In some instances they consist of a western culture, which is predominant in Australia, New Zealand, and New Caledonia. In countries in the west of the Region, such as Papua New Guinea, Vanuatu, and the Solomon Islands the older Melanesian oceanian culture predominates and in northern countries, such as the Marshall Islands and Kiribati, a Micronesian culture dominates. In eastern countries, such as the Cook Islands, French Polynesia, Tonga and Samoa there is a Polynesian culture.⁸³

Meshing traditional approaches with a modern environmental protection and law regime is complex. In many cases, countries in the Region are attempting to incorporate their traditional customary law into their more recent 'westernised' legislation.⁸⁴ Customary laws and practices may be codified or can be a process for solving and providing alternatives to problems based on principles of morality. As such, it is often not possible to simply superimpose one system over the other. The potential conflicts between the two systems need to be recognised and reconciled.⁸⁵ The best of both approaches needs to be identified and drawn together. Some of the most important concepts with regard to customary law include: the importance of land, in particular land ownership, taboos, apportionment of resources and restriction on harvest, and customary sanctions.⁸⁶ Many of these concepts rely on a community-oriented approach, and this is extremely important with regard not only to pooling resources within one country but also the sharing of resources throughout the region. To develop a regional Authority of any kind will require that any agreement or legislation take into account

⁸⁰ Boer, above n 7, 54.

⁸¹ Ibid 55.

⁸² Giraud-Kinley, above n 10, 129.

⁸³ Ibid 130.

⁸⁴ I Reti and N Wendt, *Traditional approaches to protecting the environment in the South Pacific region and their role and effectiveness in the modern development regime*, in Proceedings of the International Conference on Environmental Law 14-18 June 1989 Sydney, Australia, The National Environmental Law Association of Australia and the Law Association for Asia and the Pacific, 136.

⁸⁵ Ibid.

⁸⁶ Ibid 138-140. See also for example: Illa *The role of traditional conservation practice in the Nature Conservation Strategy for Papua New Guinea* (Centre for Resource Management, University of Canterbury, 1986); and M Pulea, *Customary law relating to the environment* (SPREP Topic Review No 21), South Pacific Commission (1985).

these traditional practices. To go against these practices is likely to result in failure and conflict. To work with these traditional approaches will assist in ensuring that new legislative or policy measures are embraced and accepted by each community.

As such, implementation of conventions generally, and CITES specifically, on a regional basis poses significant challenges for governments in the South Pacific. The customary law issues and differences in culture and language as well as small bureaucracies lacking expertise in international law and its implementation, make any attempts for regional approaches challenging. In addition, many States in the Region do not have the infrastructure, staff, resources or political motivation to adequately ensure convention provisions are implemented and complied with. Giving full effect to CITES requires (under the previously mentioned Resolutions) legislation to be drafted and enacted.⁸⁷ This is particularly pertinent for CITES. The CITES Standing Committee has initiated moves to penalise Parties to the Convention which have not enacted appropriate legislation. Specifically, Decision 11.16 provides that:

All Parties should, from 31 October 2001, if so advised by the Standing Committee, refuse any import of specimens from, and any export or re-export of such specimens to, the Parties listed in Decision 11.15, if, in spite of the assistance [requested of and provided by the Secretariat], the Parties concerned do not adopt the legislation required under the text of the Convention.

Fiji is one the countries recently subject to such a notification as they do not have legislation, approval for which has been obtained from the CITES Secretariat, currently in place.⁸⁸

Recommendation 4

- 1. Investigate the option of using existing CITES-implementing legislation (such as Australia's or New Zealand's) and adapting it to take into account the government and legal structures and customary law regimes of each participating South Pacific country. Provision would have to be made for any joint authorities to be formed. Alternatively the existing model legislation drafted by and available from the CITES Secretariat could be utilised.**
- 2. Non-legislative means of meeting CITES requirements could also be explored including government policy and processes which meet the conservation outcomes required by CITES. This would have to be agreed with the CITES Secretariat given their current moves to issue notifications against Parties without appropriate legislation.**

3 International Relations – Australia and the South Pacific

International relations in the Region are particularly important when considering joint or regional approaches to environmental protection. The South Pacific is where Australia has some of its most long-standing and comfortable diplomatic relationships and where

⁸⁷ Boer, above n 7, 307.

⁸⁸ Australia is of the belief that measures currently being undertaken by Fiji to administer trade in CITES specimens is sufficient to realise the necessary conservation outcomes envisaged by the Convention. At present, the current political situation in Fiji is such that it is unlikely legislation will be in place in the near future.

it has economic, political, development and defence connections.⁸⁹ When providing assistance to South Pacific nations Australia must appreciate that however small or impecunious a State might be it wants to be and remain genuinely independent.⁹⁰ To a certain extent the best option for Australia in the South Pacific is what has been termed “constructive commitment”. This requires maintaining and developing partnerships with Pacific Island countries that promote regional stability.⁹¹ This approach includes promotion of broadly based bilateral relations with all Pacific Island countries; promotion of regional cooperation, especially through the Pacific Islands Forum and other regional organisations like the Secretariat of the Pacific Community and the South Pacific Regional Environment Programme; respect for the full sovereignty of all Pacific Island States; and laying the basis for a regional approach to situations which may put regional stability at risk, including the state of the environment.⁹²

Australia is in a position to provide assistance through direct aid support, connections with multilateral agencies, and willingness to raise regional concerns bilaterally and in multilateral forums.⁹³ With regard to CITES, Australia is best placed to do this as the Oceania representative on the CITES Standing Committee. However, while Australia retains a commitment to assist South Pacific countries to secure their future, the leading role in achieving sustainable development and environmental protection must be taken by the island nations themselves to foster their self-determination and capacity.⁹⁴

Australia is in a position to greatly influence the South Pacific, however Australia has to proceed with caution. If Australia chooses to exercise such influence, and is successful, then it is exposed to criticism on the grounds of insensitivity, neo-colonialism or, given Australia’s professed commitment to internationalist principles, hypocrisy. On the other hand if Australia chooses not to seek to impose any particular outcome upon the situation, it is exposed to allegations of neglect. Further, if Australia seeks to exert influence in any overt way, and does not succeed, then it is exposed to embarrassment and a reduced capacity to exert any influence in the future.⁹⁵ This is of significance for providing assistance for the implementation of CITES. Australia should ensure, before stepping in and “throwing its weight around”, that the Region wants its help and advice.

⁸⁹ G Evans and B Grant, *Australia’s Foreign Affairs in the World of the 1990s* (Melbourne University Press, Victoria, 2nd ed, 1995) 173.

⁹⁰ Ibid 174.

⁹¹ Ibid 175.

⁹² Ibid.

⁹³ Ibid 176.

⁹⁴ Ibid.

⁹⁵ Ibid 173.

Recommendation 5

Undertake consultation through appropriate forums to: ensure ownership of issues and ideas, agreement between all relevant countries, cooperation where appropriate, an overall understanding of the issues and avoid alienation. Such forums may include the Secretariat of the Pacific Community and the Pacific Islands Forum as well as the South Pacific Regional Environment Programme. It is also important that Australia offers ideas and assistance, and questions what it is that each country requires rather than imposing ideas in a unilateral way.

4 *Expertise*

As we have seen, the South Pacific Region faces the challenge of ensuring greater compliance with both existing and emerging environmental laws. To this end, there is a need for States within the Pacific to review their capacity to give effect to environmental obligations and the need throughout the Region for enhanced capacity building in this area. This not only extends to lawyers and policy makers, but also scientists, enforcement officers and others who have and will have an involvement in implementation of international environmental laws.⁹⁶ CITES is certainly no exception.

(a) Scientific Authority

Local scientific communities are limited in their capacity to investigate and report on environmental issues. This is a significant problem in some States within the Region where the scientific community is small. A characteristic of the Region is that scientists from outside often conduct environmental scientific research through foreign aid programs.⁹⁷ It is important that where such research is undertaken by outside experts, information is fed back to relevant countries. The formation of a joint Scientific Authority could facilitate such cooperation and coordination, ensuring that results of scientific research are collected in a central location and are available to those countries that require it, in a timely and effective manner.

In addition, the Authority must have the necessary human resources and expertise to carry out or facilitate this type of work. Regionally based training programs would be an essential component of setting up a regional Authority. Where the Authority is composed of international and regional scientists who come together on an ad hoc basis, a central coordination point would be required. If the Authority was to be a standing Authority, each member must be trained as required in the collection and dissemination of scientific research, statistical analysis, and the meaning of non-detriment in terms of the Convention. Another alternative is that the Authority is formed of people from the Region with international representation in the initial stages until local people have sufficient expertise and experience to carry on the required responsibilities.

(b) Management Authority

A Regional Management Authority Coordinator would require good communication skills particularly given the range of cultures, languages and legal regimes in the South

⁹⁶ Boer, above n 7, 321.

⁹⁷ Ibid 57.

Pacific, a sound knowledge of CITES and good administrative skills. Training may be required to ensure the person is adequately equipped to undertake this role.

Recommendation 6

- 1. Appropriate training programs for staff of a joint Scientific Authority to be undertaken to ensure they are equipped with the necessary knowledge base to carry out their role in an effective manner. This will require not only scientific skills but also knowledge of the Convention and the roles and responsibilities of the Scientific Authority. This could be achieved by a central training program or by membership of the Authority having international representation in the initial stages to provide support, expertise and training.**
- 2. Appropriate training of the Regional Management Authority Coordinator may also be required.**

5 *Enforcement*

Having established an adequate legal and administrative framework for the implementation of CITES, it is important to ensure that the legislative principles and administrative guidelines are put into operation and enforced.⁹⁸ In fact, enforcement and implementation of international environmental law present a considerable challenge for international law. Some international environment conventions have been able to utilise existing enforcement mechanisms to give greater effect to their provisions. CITES is the most prominent in this regard and relies upon trading and customs law at the national level to promote enforcement.⁹⁹ Indeed, CITES can only be enforced by its individual members, therefore the Convention's success depends on the national and political will and capability of each Party. This of course is the inherent problem for South Pacific nations where legislative, economic and political capacity is often limited.

CITES Parties are committed to confiscation of smuggled or contraband goods and to return these back to the country of origin, where possible and appropriate.¹⁰⁰ However, South Pacific countries frequently lack the resources to enforce these provisions. It is essential that enforcement measures are tailored to meet the needs of Pacific Island countries otherwise many are unlikely to become Parties to the Convention, or should they do so they may be unable to enforce it effectively.

Effective enforcement of environmental legislation is contingent upon the availability of adequate staff and financial resources, the administrative and political will of the enforcement agencies and the level of awareness of environmental laws.¹⁰¹ While it is beyond the scope of this paper to look in any detail at the problems with, and options for, enforcement of CITES in the South Pacific, is it a crucial issue. A regional Scientific Authority can provide the necessary advice on the issue of CITES permits and can collect, collate and disseminate essential scientific information, and Management

⁹⁸ B Preston, 'The role of law in the protection of biodiversity in the Asian Pacific Region' (1995) 12 *Environment and Planning Law Journal*, 275. Preston provides more detailed information on these issues including the need for legislation to be clear in its description of the responsibilities of key players such as institutions, private persons and non-governmental organisations.

⁹⁹ Boer, above n 7, 17. Enforcement will be a major issue in the South Pacific and means will have to be investigated and implemented to assist this process (see Section IIIC).

¹⁰⁰ Heinley, above n 14, 5.

¹⁰¹ ESCAP (2000) *State of the Environment in Asia and the Pacific 2000*, ESCAP, Vanuatu, at 255.

Authorities can issue permits and certificates, but without a suitably equipped and resourced enforcement system, these Authorities will in many respects be toothless tigers.

Recommendation 7

- 1. Investigate and discuss current enforcement mechanisms.**
- 2. Put forward options for how enforcement and customs processes can be effectively implemented in the South Pacific.**

6 *Institutional Strengthening*

An adequate legal framework is regarded as necessary, and is certainly the preferred approach, for effective implementation of CITES. However, it will be insufficient unless there are also adequate institutions to implement the legal principles and administrative policies established by that framework.¹⁰² Indeed with appropriate institutional mechanisms it may still be possible to implement CITES through other, non-legislative means.¹⁰³ It is crucial that States of the South Pacific have adequate bureaucratic capacity to cope with the developments taking place in international environmental law. This is often not the case. Some of the smaller States 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 reporting requirements.¹⁰⁴ This applies to the implementation of CITES in a number of countries at the present time. While this has in the past imposed a limitation on the capacity of these States to respond to developments in international environmental law, it has also presented an opportunity for enhanced Regional cooperation through agreements such as South Pacific Regional Environment Programme (SPREP).¹⁰⁵

Even so, the Pacific requires strengthened institutions in order to assist all States within the Region to meet their environmental obligations. Currently, certain institutions such as United Nations Environment Programme (UNEP), United Nations Development Programme (UNDP) and Economic and Social Commission for Asia and the Pacific (ESCAP) operate in the area and assist States in implementing their treaty-based obligations.¹⁰⁶ Of course, having appropriate institutions does not mitigate the need for staff training, establishment of a comprehensive legal framework that meets national needs, and ongoing support to island countries to meet their obligations under CITES.¹⁰⁷

The formation of a Regional Scientific Authority may go some way towards institutional strengthening. At the least, the functions of the SA can be housed within one institution and have a greater chance of gaining the expertise and financial resources to operate effectively. In addition, the appointment of a Regional

¹⁰² Preston, above n 98, 274. Preston provides greater detail on this issue including the importance of ensuring that the institutional structure is effective; institutions are adequately resourced; staff are adequately trained and kept informed of significant and current research and developments; and that institutions have the support of the executive arm of government.

¹⁰³ As long as the CITES Secretariat can be persuaded that this is acceptable.

¹⁰⁴ Boer, above n 7, 56-57.

¹⁰⁵ SPREP and other regional cooperation initiatives will be discussed in more detail at Section IIID.

¹⁰⁶ Boer, above n 7, 321.

¹⁰⁷ South Pacific Regional Environment Programme, *Action plan for managing the environment of the South Pacific Region 1997-2000* (SPREP, Apia, Samoa, 1997) 20.

Management Authority Coordinator to facilitate the work of individual State MAs, could also assist with institutional strengthening, coordination of CITES administrative functions and enhanced information flow on CITES issues. However, if countries currently signatory to CITES, and those wishing to become so in the near future, do not have the capacity to carry out the required decision-making processes, undertake compliance and enforcement activities and fulfil the other necessary obligations of CITES, the formation of joint structures may become an unnecessary administrative and financial burden. It will be essential for each State Party to the Convention to have sufficient institutional capacity to undertake the abovementioned activities, in liaison with the established institutions, for them to fulfil their obligations.

Recommendation 8

- 1. Investigate current institutional capacity.**
- 2. Propose actions to be taken to improve this capacity.**
- 3. Provide assistance where required to increase capacity for countries wishing to become signatory to CITES (and those that are already) to build and maintain appropriate institutions to carry out roles (other than those of the SA) required to implement CITES.**

7 *Financial Issues*

Both the taking of necessary conservation measures, such as setting aside conservation reserves and mitigation or rehabilitation of environmental impacts, and the non-exploitation of wildlife can have adverse economic consequences, especially serious for developing States. As with most countries the identification of the necessary funds to support sustainable development and conservation is a major challenge facing the nations of the South Pacific.¹⁰⁸ For conservation and sustainable development activities to function effectively *in the long-term*, reliable and continuing sources of financing must be found.¹⁰⁹ The establishment, training requirements, and ongoing functioning of a Regional Scientific Authority and the appointment and training of a Regional Management Authority Coordinator will be costly exercises, particularly in the initial establishment phase. Those countries in the Region wishing to utilise the expertise on the SA should be required to make some financial contribution, however this may not be possible in some cases and other funding options could be required. Of particular importance would be the establishment of cost recovery regimes, for example fees for import and export permits. A suitable regime could cover the costs of the ongoing management of authorities. It is not the purpose of this paper to discuss funding options in great detail, however a few options are briefly canvassed below.¹¹⁰

¹⁰⁸ P Lucas, *Funding options to support sustainable development and conservation in Pacific Island countries* (SPREP, Apia, Samoa, 1996) iii.

¹⁰⁹ Ibid 3.

¹¹⁰ Other options for funding include:

- Internally generated funding options such as Government funding, user pays, donations and corporate sponsorship, targeted taxes, bonds and the like.
- Externally generated funding options including from organisations such as the World Bank, the Global Environment Facility, United Nations Development Programme, United Nations Environment Programme, United Nations Educational, Scientific and Cultural Organisation, regional development banks, non-government organisations and bilateral agencies. For more information see, for example, P Lucas, *Funding options to support sustainable development and conservation in Pacific Island countries* (South Pacific Regional Environment Programme, Apia, Samoa, 1996).

(c) *CITES Trust Fund*

A CITES Trust Fund has been established to assist countries in the implementation of the Convention. Unfortunately the current level of funding in the Trust barely covers the Convention's primary expenditures. Program expenditure on capacity building, scientific research and other projects in support of the aims of the Convention largely depends on voluntary contributions by donors. The uncertain and limited levels of funding that this provides inhibits an extension to these roles.¹¹¹ Unless the Trust Fund is increased in the near future this will not be a funding option.

(d) *Economic and Social Commission for Asia and the Pacific*

Established by the United Nations General Assembly in 1947, the formal aim of the Economic and Social Commission for Asia and the Pacific (ESCAP) is to carry out the commitment of the Economic and Social Council of the United Nations to promote economic development. In recent years, ESCAP has adopted the policy principle of 'environmental sound and sustainable development'.¹¹² ESCAP plays a unique role as the only intergovernmental forum for all countries of the Asia and Pacific region. The ESCAP Pacific Operations Centre is based in Vanuatu and provides technical assistance to Pacific Island countries. Consideration should be given to applying for funding from ESCAP.

(e) *Asian Development Bank*

The Asian Development Bank was established in 1966. It is jointly owned by 40 countries in the Asia-Pacific Region and 16 countries outside the Region. It promotes economic and social development in its developing member countries. Its main functions are:

- to make loans and equity investments for economic and social advancements;
- to provide technical assistance for the preparation and execution of development projects and advisory services;
- to promote investment of public and private capital for development purposes;
- to respond to requests for assistance in coordinating development policies and plans of developing member countries.¹¹³

The Bank is also required under its charter to give special attention to the needs of smaller and less developed countries, and to give priority to regional, sub-regional and national projects and programs that contribute to the harmonious economic growth of the Region as a whole.¹¹⁴ Application could be made to the Bank for financial assistance noting that funds are provided in the form of loans. Therefore this may only be suitable for the establishment of joint authorities - not ongoing expenditure.

¹¹¹ CITES Secretariat, above n 29.

¹¹² Boer, above n 7, 44.

¹¹³ Ibid 44-45.

¹¹⁴ Ibid 45.

Recommendation 9

- 1. Investigate and apply for financial assistance – for example, Australia (AusAID), Global Environment Fund, UNEP, UNDP, World Conservation Union (IUCN), Swedish International Development Authority trust fund for environmental legal assistance, Asian Development Bank, donations and non-government organisations. Assistance should be sought not just for the initial preparation and establishment of joint Authorities but also for the required training and ongoing support to ensure that these institutions remain viable and function effectively for the long-term. Cost recovery through permitting fees will be an important step in ensuring long-term viability and requires further investigation.**

D Potential Cooperative CITES Forums

The politics that have existed throughout the South Pacific have often acted against the development of cooperative environmental frameworks. Many newly independent States throughout the Pacific have, in the past, been primarily concerned with their internal security following independence. With an increase in regional and subregional cooperation beginning in the 1970s, this has changed. Initially many of the cooperative initiatives took place at the subregional level with the Association of South East Asian Nations (ASEAN) being the most substantive example. Other institutions, such as the Secretariat of the Pacific Community and later, the Pacific Islands Forum, also played a role and there has been a gradual development of subregional and regional environmental cooperation.¹¹⁵ There are currently four major international organisations that provide forums for economic and environmental decision making in the South Pacific Region.

E Secretariat of the Pacific Community (Previously the South Pacific Commission)

The Secretariat of the Pacific Community (SPC) is the oldest and largest regional organisation in the Pacific. It was established in 1947 as a mechanism to promote economic and social development in the Pacific Island territories. The SPC is a non-political organisation, delivering technical development assistance to the Region through advisory and consultative activities. The SPC's work program consists of five main sectors: fisheries, health, agriculture, community education and socio-economic and statistical services. Australia is the largest individual donor to the SPC, providing, for example, approximately 38 per cent of the core budget in 1997 and substantial extra-budgetary funding for various priority program activities.¹¹⁶ While it would be appropriate to consult the SPC on forming Regional Authorities, because of their areas of interest they would not be the ideal choice to perform the functions of either a Scientific Authority or a Regional Management Authority Coordinator. It would however be advantageous to gain their support for such initiatives and they may also be approached for funding assistance.

¹¹⁵ Ibid 54.

¹¹⁶ <www.dfat.gov.au/spc/background.htm>.

1 *Pacific Islands Forum (Previously the South Pacific Forum)*

The Pacific Islands Forum (PIF) consists of all of the independent and freely associated countries of the Pacific Region. Established in 1971, it is essentially an annual meeting of Heads of State of the member countries. It is made up of the Prime Ministers and Presidents of the 15 independent and self-governing Island States of the South Pacific and the Prime Ministers of Australia and New Zealand. The Forum seeks to encourage and promote regional cooperation in trade and economic development of Pacific Island countries and also focuses on various major environmental issues.¹¹⁷ The Forum Secretariat's (ForSec) current programs are aimed at promoting regional cooperation among member States through trade, investment, economic development, and political and international affairs. Australia and New Zealand are among the donors that fund ForSec. The Secretary-General of ForSec chairs the Council of Regional Organisations in the Pacific (CROP), which brings together eight main regional organisations in the Pacific Region including SPREP. At the 26th Forum in 1995, support was recorded for the initiative undertaken by CITES to facilitate Small Island State involvement in and accession to CITES, and urged members to consider accession.¹¹⁸ As such it seems imperative that the PIF be involved in the development of Regional CITES bodies. Given their support for countries to accede to the Convention it is likely they will support any initiative that assists in this process and may be able to provide funding.

2 *South Pacific Regional Environment Programme*

The South Pacific Regional Environment Programme (SPREP) is a regional organisation established by the governments and administrations of the Pacific Region to promote conservation and protection of the Pacific environment.¹¹⁹ Its Mission Statement 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'. SPREP's members total 26, consisting of all 22 Pacific Island countries and territories, and four developed countries with direct interests in the Region: Australia, France, New Zealand and the United States of America.¹²⁰

SPREP was envisioned at a nature conservation workshop in 1969. The workshop resulted in a program for the conservation of nature being included within the Secretariat of the Pacific Community in 1973. Establishment of SPREP occurred in 1982. Since SPREP's establishment as a separate body in Samoa in 1992, the Secretariat has increased its involvement in environmental issues and its development of international relationships to this end. Such expansion has not been possible without significant financial assistance and other inputs from the four developed member States, in particular, Australia and New Zealand.¹²¹

¹¹⁷ Boer, above n 7, 40.

¹¹⁸ <www.forumsec.org>.

¹¹⁹ In 1993, the members of SPREP were: American Samoa, Australia, Cook Islands, Federated States of Micronesia, Fiji, French Polynesia, French Republic, Guam, Kiribati, Marshall Islands, Nauru, New Caledonia, New Zealand, Niue, Northern Mariana Islands, Palau, Papua New Guinea, Pitcairn Islands, Solomon Islands, Tokelau, Tonga, Tuvalu, United Kingdom of Great Britain and Northern Island, United States of America, Vanuatu, Wallis and Futuna and Samoa (from SPREP Action Plan 1991-1995, 1).

¹²⁰ <www.sprep.org.ws>.

¹²¹ Ibid.

SPREP is perhaps the most effective example of an environmentally centred regional organisation in the South Pacific.¹²² It operates according to an Action Plan, and draws as much as possible on local knowledge and people.¹²³ SPREP has an important range of roles relating to sustainable development. It sponsors a number of major programs including biodiversity conservation, environmental education, and pollution and waste management. These programs are supported by country contributions and by bodies such as the Asian Development Bank, UNDP and UNEP.¹²⁴ SPREP is mandated to some extent to “speak” for member countries on environmental matters, however it does not, at this stage, assume operational tasks for them.¹²⁵ In fact, the essence of environmental management in the South Pacific is a regional, cooperative approach. The concept of regionalism is recognised in the Preamble to the 1993 *Agreement Establishing the South Pacific Regional Environment Programme*:

Recognising the need for cooperation within the Region and with competent international, regional and subregional organisations in order to ensure coordination and cooperation in efforts to protect the environment and use of natural resources of the Region on a sustainable basis.¹²⁶

SPREP began adopting Action Plans in the 1980s, with the aim of putting in place specific guidelines for nature conservation, while taking into account the particular needs of the countries in the Region.¹²⁷ The *Action Plan for Managing the Environment of the South Pacific Region 1997-2000* sets out the objectives and strategies of SPREP and provides the framework for a regional approach to address environmental issues.¹²⁸ Since the adoption of the first Action Plan in 1982, there has been significant progress to realise the SPREP vision of a community of Pacific Island countries and territories with the capacity and commitment to implement programs for environmental management and conservation. Pacific Island countries have strengthened government environment institutions, developed regional agreements and effective means of collaborating on environmental matters, established coordinating services within the Secretariat and improved negotiating skills at regional and international levels. This has generated widespread respect for the ability of the Region to draw on limited financial and human resources to maximum effect in the protection of the environment of the South Pacific.¹²⁹

In implementing its work program, SPREP operates in collaboration with a wide range of organisations from within and outside the Region. These include the South Pacific Applied Geoscience Commission, the Forum Fisheries Agency, the University of the South Pacific, the South Pacific Development Program, the International Maritime Organisation, the World Meteorological Organisation, the World Conservation Union (IUCN), and the Worldwide Fund for Nature (WWF). These organisations provide support through provision of funds and technical expertise and could be called upon to provide assistance for the initiatives discussed in this paper.

¹²² Boer, above n 7, 54.

¹²³ Ibid 41.

¹²⁴ Ibid 43.

¹²⁵ Mary Power <MaryP@sprep.org.ws> email (23 June 2001).

¹²⁶ Boer, above n 7, 248.

¹²⁷ Giraud-Kinley, above n 10, 148.

¹²⁸ SPREP, above n 107, 2.

¹²⁹ Ibid 3.

A major initiative of SPREP in the early 1990s was a program to develop National Environmental Management Strategies in twelve Pacific Island countries.¹³⁰ All of the Strategies have implications for environmental law reform on a national basis. For this reason, most of these projects included the completion of legal reviews of environmental law for each country (a summary is provided at Attachment 1). These reviews contained a wide range of specific recommendations to governments on the enactment of legislation and other legal and administrative reforms. In particular, the reviews commented on the uptake of international environmental conventions, including CITES, for each country, with recommendations, where appropriate, in relation to accession and ratification. As a result of the reviews, as well as the obligations arising from, and reforms stimulated by the involvement of SPREP and its members in the Rio Declaration,¹³¹ some SPREP countries have begun to draft new environment protection legislation to cover a range of environmental matters. However, a common difficulty in further development of environmental law in the Pacific Island Region is the lack of sufficient financial resources and environmental and legal expertise, not to mention the lack of administrative and legal structures.¹³²

The current role that SPREP has in the coordination of environmental law services in the Pacific Region is a crucial one. Presently, SPREP has two legal officers responsible for international treaties and conventions and assisting countries to develop their own legislation.¹³³ The need for environmental law and related services exists at several levels. Firstly, it is necessary at the domestic level to assist in the process of financial and technical capacity building within environmental administrations. Secondly, building on this increased administrative capacity, there is a requirement to update and integrate all environment and natural resource-related legislation. And thirdly, there is a need for these countries to pay closer attention to the implementation of international treaties, both global and regional.¹³⁴

For these three developments to occur, better integration of national and international environmental law is required. In other words, any new legislation should incorporate the specific international obligations and terminology, as appropriate for each country, while at the same time recognising the need to be sensitive to the particular cultural, social and historical context of each jurisdiction.

A more adequate mechanism for the implementation of all major conventions affecting the Pacific Island Region is required. One strategy would be for a Treaty Implementation Officer position to be established at SPREP headquarters as recommended in the legal reviews. The Treaty Implementation Officer would be responsible for conducting training programs on a regional and national basis to assist in capacity building in order to encourage adherence to relevant conventions by a greater number of countries. In addition, this officer would be responsible for giving specific legal and policy advice on the requirement for legislative and administrative

¹³⁰ The Cook Islands, the Marshall Islands, the Federated States of Micronesia, Niue, the Solomon Islands, Tonga and Tuvulu have National Environmental Management Strategies (ESCAP) *State of the Environment in Asia and the Pacific 2000* (ESCAP, Vanuatu, 2000) 242).

¹³¹ The United Nations Conference on Environment and Development, 3-14 June 1992, Rio de Janeiro.

¹³² Boer, above n 7, 249. (A summary of some of the relevant outcomes and recommendations of the legal reviews is at Attachment 1).

¹³³ Ibid.

¹³⁴ Mary Power <MaryP@sprep.org.ws> email (11 October 2001).

mechanisms for the implementation of conventions.¹³⁵ The role of the current SPREP Legal Officers, together with other environmental law experts in the Region, and possibly the appointment of a Treaty Implementation Officer, would be vital in assisting with implementation of CITES in the Region.¹³⁶

Recommendation 10

1. Investigate possible need for additional legal staff resources within SPREP as SPREP legal staff may be required to assist with the development of a regional agreement to establish joint institutions and then to assist with the establishment and on-going functions of such institutions.
2. The appointment of a Treaty Implementation Officer could also assist with these tasks.
3. Raise the formation of a joint Scientific Authority with the SPC and the PIF to gain support and possible financial assistance.
4. Refer also to Recommendation 6 (training) and Recommendation 9 (finances).

Given SPREP's already established major role as the chief environmental body in the Region, and the expertise available within the organisation, it seems appropriate that any discussions regarding the formation of regional CITES bodies be channelled through the SPREP network and that serious consideration is given to SPREP acting as the Scientific Authority and possibly also the Regional Management Authority Coordinator. SPREP has a sound knowledge of the South Pacific environment and other trade related issues. It is also well established and recognised throughout the Region. It would be necessary for further resources, both human and financial, to be provided to SPREP to carry out additional roles, however this could significantly reduce the financial and institutional burden of island countries, while still allowing them to retain their sovereign decision making rights and powers.

Recommendation 11

1. Investigate SPREP taking on the role of Scientific Authority and Regional Management Authority Coordinator.
2. Approach SPREP.
3. Refer also to Recommendations 6 (training), 8 (institutional capacity) and 9 (finances).

IV CONCLUSION

Despite the relatively underdeveloped economies of the South Pacific States, they have been able to make significant progress on a number of major environmental issues through the adoption of a regionalist strategy. Through regional cooperation, the South Pacific States have acknowledged that their respective territories are part of a larger environmental system that requires a coordinated approach.¹³⁷ This regional focus

¹³⁵ Boer, above n 7, 245.

¹³⁶ Ibid 244.

¹³⁷ M Tsamenyi, 'Regional cooperation in international environmental law in the South Pacific Region' (1991) *Queensland University of Technology Law Journal*, 155.

should be built upon to facilitate regional cooperation for the successful implementation of CITES. As this paper has shown, it is legally possible, and indeed encouraged, at the level of international law to form joint CITES Scientific Authorities. The formation of joint institutions to undertake Management Authority administrative tasks is also legally possible. The formation of such institutions will require significant discussion and resourcing, but in the long-term may lead to decreased administrative and financial burdens for the countries involved, and therefore a greater degree of accession to, and implementation of CITES in the Region.

Specifically, the appointment of a Regional Management Authority Coordinator would greatly enhance communication on CITES and related issues and provide a mechanism for administrative tasks to be carried out on behalf of countries. This reduces the administrative burden on countries and ensures that they are kept up-to-date on CITES developments through one focal point. The Coordinator could also provide policy and technical advice to State Management Authorities and liaise between the Scientific Authority and countries on CITES issues of a regional and international nature.

The formation of a joint Scientific Authority would assist countries in the non-detriment findings required by CITES before trade can be permitted. Expertise would be housed in one institution, with strong links to the Regional Management Authority Coordinator, again facilitating communication and information exchange, and the collection, collation and dissemination of scientific research findings.

It is recommended that SPREP be approached to carry out these roles. They are ideally situated to do so, having a sound knowledge of the Region, being an already established and respected environmental body with strong regional links.

V RECOMMENDATIONS

Recommendation 1

1. Approach South Pacific nations with the idea of forming a joint regional CITES Scientific Authority.
2. Discuss the idea at other appropriate forums such as the CITES Standing Committee, Conference of the Parties and with the Secretariat.
3. A regional agreement will be required to put this into effect. Such an agreement must make allowance for new CITES members to access the advice and expertise of the Authority and to have representation on the Authority. Funding for the Authority should also be addressed in such an agreement.
4. Appropriate legislation in each jurisdiction would be the preferred way to implement such a scheme, however, government policy, MOUs between parties and government processes may be sufficient (however see earlier note regarding Resolution Conf 8.4). In either case parties must have the means to implement CITES effectively and must have adequate processes in place for the establishment of the regional body.

Recommendation 2

1. Approach South Pacific nations with the idea of appointing a Regional Management Authority Coordinator.
2. Discuss the idea at other appropriate forums such as the CITES Standing Committee, Conference of the Parties and with the Secretariat.
3. If the idea were accepted then a similar process of implementation as for Scientific Authorities would be required (refer to Recommendation 1).
4. If the idea were not accepted then each participating country would require a Management Authority, which carried out administrative tasks as well as decision-making. This will require financial resources to operate successfully.

Recommendation 3

It is recommended that a dedicated officer be appointed (possibly within SPREP) to be the main point of contact in the Region on CITES issues. This person could also act as the Regional Management Authority Coordinator should it be decided that this is an appropriate approach. They would facilitate communication on CITES issues including the dissemination of the outcomes of COP and Standing Committee meetings, notifications to the Parties, information on implementation issues in other countries and the like. Such a person could also provide policy, technical and administrative support to State Management Authorities.

Recommendation 4

1. Investigate the option of using existing CITES-implementing legislation (such as Australia's or New Zealand's) and adapting it to take into account the government and legal structures and customary law regimes of each participating South Pacific country. Provision would have to be made for any joint authorities to be formed. Alternatively the existing model legislation drafted by and available from the CITES Secretariat could be utilised.
2. Non-legislative means of meeting CITES requirements could also be explored including government policy and processes which meet the conservation outcomes required by CITES. This would have to be agreed with the CITES Secretariat given their current moves to issue notifications against Parties without appropriate legislation.

Recommendation 5

Undertake consultation through appropriate forums to: ensure ownership of issues and ideas, agreement between all relevant countries, cooperation where appropriate, an overall understanding of the issues and avoid alienation. Such forums may include the Secretariat of the Pacific Community and the Pacific Islands Forum as well as the South Pacific Regional Environment Programme. It is also important that Australia offers

ideas and assistance, and questions what it is that each country requires rather than imposing our ideas in a unilateral way.

Recommendation 6

1. Appropriate training programs for staff of a joint Scientific Authority to be undertaken to ensure they are equipped with the necessary knowledge base to undertake their role in an effective manner. This will require not only scientific skills but also knowledge of the Convention and the roles and responsibilities of the Scientific Authority. This could be achieved by a central training program or by membership of the Authority having international representation in the initial stages to provide support, expertise and training.
2. Appropriate training of the Regional Management Authority Coordinator may also be required.

Recommendation 7

1. Investigate and discuss current enforcement mechanisms.
2. Put forward options for how enforcement and customs processes can be effectively implemented in the South Pacific.

Recommendation 8

1. Investigate current institutional capacity.
2. Propose actions to be taken to improve this capacity.
3. Provide assistance where required to increase capacity for countries wishing to become signatory to CITES (and those that are already) to build and maintain appropriate institutions to carry out roles (other than those of the SA) required to implement CITES.

Recommendation 9

Investigate and apply for financial assistance – for example, Australia (AusAID), Global Environment Fund, UNEP, UNDP, World Environment Union (IUCN), Swedish International Development Authority trust fund for environmental legal assistance, Asian Development Bank, donations and non-government organisations. Assistance should be sought not just for the initial preparation and establishment of joint Authorities but also for the required training and ongoing support to ensure that these institutions remain viable and function effectively for the long-term. Cost recovery through permitting fees will be an important step in ensuring long-term viability and requires further investigation.

Recommendation 10

1. Investigate possible need for additional legal staff resources within SPREP as SPREP legal staff may be required to assist with the development of a regional agreement to establish joint institutions and then to assist with the establishment and on-going functions of such institutions.
2. The appointment of a Treaty Implementation Officer could also assist with these tasks.
3. Raise the formation of a joint Scientific Authority with the SPC and the PIF to gain support and possible financial assistance.
4. Refer also to Recommendation 6 (training) and Recommendation 9 (finances).

Recommendation 11

1. Investigate SPREP taking on the role of Scientific Authority and Regional Management Authority Coordinator.
2. Approach SPREP.
3. Refer also to Recommendations 6 (training), 8 (institutional capacity) and 9 finances.

VI ATTACHMENT I

Country	Party to CITES	Environment institution(s)	Relevant legislation	Recommendations
American Samoa	Covered by American accession	Environment Protection Agency; Parks and Recreation Department. Department of Lands, Surveys and Environment. ¹³⁸	Unknown	Unknown
Cook Islands	No	Cook Islands Conservation Service	<i>Conservation Act 1987</i>	Specific wildlife legislation required; or adequate measures incorporated in the Environment Bill 1992.
Fiji	Yes (but CITES Secretariat looking to exclude them due to lack of appropriate legislation)	Environment Management Committee	There are at least 54 Acts that have relevant provisions for environmental management. Lack of enforcement of environmental provisions due to lack of resources is a major concern. The 54 Acts are administered by at least 14 different government ministries and statutory bodies. ¹³⁹	Most of the laws are old and ineffective in terms of contemporary environmental management practices. ¹⁴¹ Enforcement will need significant increases in funding and professionally trained personnel such as environmental inspectors and auditors. ¹⁴²
Kiribati	No	Ministry of Environment and Natural Resources. ¹⁴³	Sustainable Development Bill. ¹⁴⁰ Environment Act 2000. ¹⁴⁴	Unknown
Marshall Islands	No	Environment Protection Authority	Marshall Islands Marine and Natural Resources Act 1988; National Environment Protection Act 1984; Marine Mammal Protection Act 1990; Endangered Species Act (in anticipation of ratification this act prohibits imports	Provide additional funding and training to promote effective management and enforcement of living resources legal protection; coordinate legislative efforts to conserve living resources; redraft and

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ESCAP, above n 97, 242.

¹³⁹ 'Country Report: Fiji' (1999) 4(1) *Asia Pacific Journal of Environmental Law*, 63.

¹⁴⁰ ESCAP, above n 101, 242.

¹⁴¹ Country report: Fiji, above n 139, 63.

¹⁴² Ibid 68.

¹⁴³ ESCAP, above n 101, 242.

¹⁴⁴ Ibid.

Country	Party to CITES	Environment institution(s)	Relevant legislation	Recommendations
Nauru	No	Unknown	Unknown	Unknown
New Caledonia (France)	Covered by France	Mining and forestry pollution prevention committee	[all in French]	
Niue	No	Mostly by custom and local tradition; also Conservation Council. ¹⁴⁵	Conservation Bill 1992; Wildlife Act 1960 (protects wild animals)	Need list of endangered species in the Wildlife Ordinance and trade provisions.
Palau	No	Environmental Quality Protection Board	PNC Title 24 incorporates the <i>Endangered Species Act 1975</i> under the framework of Wildlife Protection (Division 2) – importation of CITES species prohibited. In 1993 proposed amendments were drafted although these were not trade related.	Need trade provisions.
Papua New Guinea	Yes	Department of Environment Conservation	Fauna (Protection and Control) Act 1966 – to establish protected areas, not trade related. International Trade (Fauna and Flora) Act 1979 – gives effect to CITES.	On the whole, PNG is well placed in the field of environmental policy and law. Its difficulties in this arena are mostly to do with lack of political will, finance, expertise, lack of consultation and coordination between agencies, and lack of prosecutory powers. These are problems which are pertinent in many of the developing countries within the Region. ¹⁴⁶ In addition, recent civil unrest inhibits the implementation and enforcement of environmental laws.
Samoa	No	National Parks Section, Department of Agriculture	National Parks and Reserves Act 1974.	

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Ibid.

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‘Country Report: Papua New Guinea’ (1999) 3(4) *Asia Pacific Journal of Environmental Law*, 338.

Country	Party to CITES	Environment institution(s)	Relevant legislation	Recommendations
Solomon Islands	No	Land, Energy and Natural Resources. ¹⁴⁷	<i>National Parks Act 1954</i> ; <i>Wild Birds Protection Act 1914</i> . Nothing for trade. The wildlife trade from the Solomons is a relatively big business – beneficiaries largely foreign interests. Exports include frogs, geckos, skinks, lizards, snakes, butterflies, coconut crabs, crocodiles, turtle shells and parrots.	Draft legislation has been drawn up (the Wildlife (Import and Export) Regulations Act).
Tonga	No	Ministry of Land, Survey and Natural Resources. ¹⁴⁸	Unknown	
Vanuatu	Yes	Ministry of Home Affairs. ¹⁴⁹	The Wildlife Protection (Birds) Regulations (not trade); International Trade (Fauna and Flora) Act 1991.	
Wallis and Futuna (France)	Covered by France			
Federated States of Micronesia	No – but there is political interest in doing so	Board of Environment and Sustainable Development. ¹⁵⁰	Resource Conservation, Chapter 2: <i>Trust Territory Endangered Species Act</i> of 1975 – prohibits taking, engaging in commercial activity, possessing, or exporting threatened or endangered species. Prohibits imports of CITES listed species. Permits required for import of exotic species	Need additional funding and training to promote effective management and enforcement; coordinate legislative efforts; revise the <i>Endangered Species Act</i> including list of threatened species.
Tokelau (New Zealand)	Covered by New Zealand			
Tuvalu	No	Office of the Prime Minister. ¹⁵¹	Unknown although they have a National Environmental Management Strategy. ¹⁵²	

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¹⁴⁸ Ibid.

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

¹⁵¹ Ibid.

¹⁵² Ibid.