

National Capacity Self-Assessment

Stocktake Report

Convention on Biological Diversity

Michelle Lam
Jan McDonald

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Acronyms

BD	Biological diversity
CBD	Convention on Biological Diversity
CBO	Community-based organisations
DFEC	Department of Forests, Environment & Conservation
DSE	Development Services Exchange
ECD	Environment & Conservation Division
FSPI	Foundation for Peoples of the South Pacific
GEF	Global Environment Facility
INGO	International non-government organisation
IUCN	International Union for the Conservation of Nature
NBSAP	National Biodiversity Strategy & Action Plan
NCSA	National Capacity Self Assessment
NEMS	National Environmental Management Strategy
NERRDP	National Economic Reform, Recovery and Development Plan 2003-2007
NGO	Non-government organization
SIBC	Solomon Islands Broadcasting Corporation
SIG	Solomon Islands' Government
SILMMA	Solomon Islands Locally-Managed Marine Area network
TDA	Tetepare Descendants Association
TK	Traditional knowledge
TNC	The Nature Conservancy
UNDP	United Nations Development Program
UNESCO	United Nations Education, Science and Cultural Organisation
WWF	World Wide Fund for Nature – Solomon Islands

1. Introduction

1. 1 The role of the biodiversity stocktake in the NCSA

The National Capacity Self-Assessment is a Global Environment Facility(GEF)-funded initiative currently being undertaken by over 50 developing countries world-wide. It responds to a concern that is raised frequently in the post-project evaluation of GEF-funded projects, namely that activities cease once GEF-funding ends. Most countries point to a lack of national capacity in the core areas of convention obligations – climate change, land degradation and biodiversity - as the key reason why projects have not proved sustainable post-GEF funding. This capacity includes systemic inadequacies such as perverse incentives and poor coordination, institutional weaknesses, and a lack of suitably trained individuals in-country.

In light of these concerns, the GEF Council resolved to provide countries with the opportunity to undertake a systematic assessment of their capacity needs in respect of the three main conventions. Once countries have themselves identified what their critical capacity constraints are, it will be easier to address those constraints. In some cases, this may require no more than internal adjustments to work culture and ethics, but some areas may require long term funding support. The outcomes of the NCSA should include a resource mobilization strategy that will identify the best mechanisms for funding the identified capacity development strategies.

It was strongly felt that only each individual country can reliably identify the critical gaps and needs of that country. Outsiders risk over-simplifying capacity limitations or overlooking critical elements of their context. To be effective, however, the NCSA requires each country to undertake the self-assessment in a rigorous, open, and inclusive manner, that encourages critical appraisal of what the conventions require, the status of convention implementation, and constructive generation of ideas for improvement.

Having articulated the context of the NCSA overall, it is easier to understand the purpose of this stocktake. An assessment is required in the early stages of the project of what obligations each convention imposes on parties and what has been done to date under, or related to, each of the three conventions. The purpose of the stocktake is not to criticize any department, agency or individual for what has or has not taken place in the past. Rather, it is intended to offer an objective and factually-supported summary of past efforts.

Only once participants have a clear picture of past successes and failures and the current status of convention implementation can any meaningful judgment be made about future needs. This stocktake thus guides the identification and assessment of capacity needs under the Convention on Biological Diversity. It should provide the basis for a more systematic assessment of gaps that can then be addressed in the final thematic assessment priority actions. A graphic display of the role of stocktake assessment appears in figure 1.

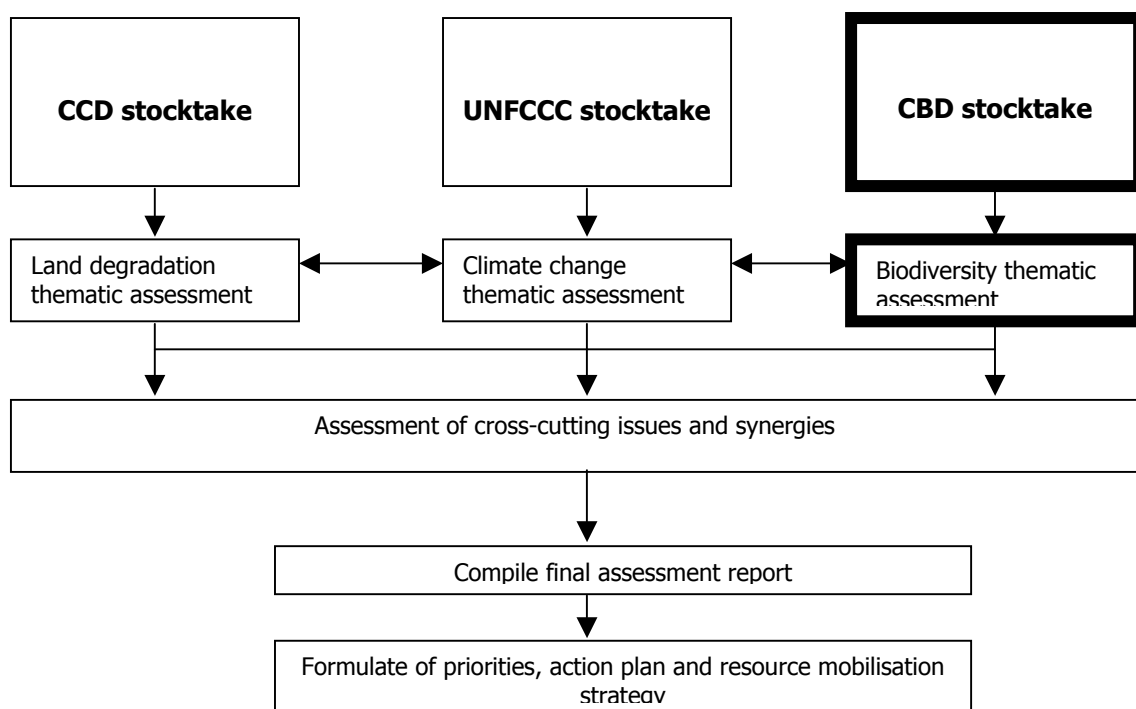


Figure 1. Role of biodiversity stocktake within NCSA process

1.2 Stocktake Methodology

In preparing this stocktake report, the over-arching objectives and approach of the CBD and the Cartagena Protocol on Biosafety were first identified and analysed. Articles 6-20 of the CBD were examined in detail to distil key convention obligations and group them into a smaller number of fundamental requirements. These obligations are discussed in general terms, before considering their implementation in Solomon Islands.

For each obligation or category of obligation, the following information was assembled based on available literature, reports, national and provincial policies and laws, and other documents and partially based on the experience of the consultants in working in Solomon Islands:

1. Institutions and groups involved in, or responsible for, implementing obligation
2. Policy documents, laws and regulations relating to the obligation
3. Projects and other activities relating to the obligation
4. Identification of key capacity issues, including achievements, critical gaps and challenges.

Given that many of the requirements of the CBD were identified as priorities in the 1993 National Environmental Management Strategy, the achievement of the strategies identified as necessary under the NEMS offers a particularly useful insight into where capacity weaknesses lie.

The report attempts to minimize duplication as much as possible. Since many of the capacity issues apply to more than one obligation, the discussion of a common issue is included the first time it arises. Subsequent sections cross-reference that initial discussion.

2. The Convention on Biological Diversity

2.1 Background to the Convention

The CBD was one of the key international environmental agreements agreed at the 1992 United Nations Conference on Environment & Development in Rio de Janeiro. It entered into force in 1993. The CBD is an umbrella convention premised on the notion that biodiversity is a "common concern of humankind". It contains broad obligations in respect of a very wide range of issues affecting the conservation and sustainable use of biodiversity. It applies to species, ecosystems and genetic resources and explicitly recognises the importance of biodiversity conservation in achieving sustainable development. It is the first international agreement to address the potential implications of biotechnology for biodiversity conservation, including in areas of technology transfer, benefit sharing, and biosafety. The Convention recognises the importance of traditional conservation techniques for the sustainable use of biological resources. In recognition of the need to protect the country's rich biological heritage, Solomon Islands ratified the CBD on 3 October 1995.

The 2002 World Summit on Sustainable Development confirmed that the CBD is "the key instrument for the conservation and sustainable use of biodiversity and the fair and equitable sharing of benefits arising out of the utilization of genetic resources."

In addition to the umbrella agreement, the CBD elaborates its obligations relating to biosafety in the Cartagena Protocol on Biosafety ("the Biosafety Protocol"). The CBD and Biosafety Protocol acknowledge the risks to biological diversity posed by living modified organisms (LMOs) resulting from modern biotechnology. The Biosafety Protocol establishes a procedure for ensuring that countries are provided with the information necessary to make informed decisions before agreeing to the import of such organisms into their territory. It adopts a "precautionary approach" to the transboundary movement of products of biotechnology. The Protocol also establishes a Biosafety Clearing-House to facilitate the exchange of information on living modified organisms and to assist countries in the implementation of the Protocol". The Biosafety Protocol was adopted by the CBD COP in 2000, and entered into force on 11 September 2004. Solomon Islands.....(check with Paul Roughan the status of protocol adoption in SI)

2.2 Convention objectives

The objectives of the CBD are:

- the **conservation** of biological diversity
- the **sustainable use** of its components; and
- the **fair and equitable sharing of the benefits** arising out of the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding (CBD Art 1).

The Convention recognizes the right of all parties to exploit their own resources pursuant to their own environmental policies, as well as the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction (Art3). In the case of biodiversity impacts, parties must therefore avoid damage to the nesting, feeding or breeding sites of migratory or pelagic species that are located within Solomon Islands territory, where such damage to species of habitat would affect the health of the species in other countries or in international waters.

2.3 Convention scope

The obligation to conserve biodiversity encompasses genetic, species and ecosystem diversity.

The Convention has extremely broad coverage. "Biological diversity" is defined as the *variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between*

species and of ecosystems. This means that the obligations of conservation of BD encompasses genetic, species and ecosystem diversity – it is not enough to focus on threatened or endangered species: ecologies communities and representative ecosystems must also be conserved, as must the pool of genetic diversity *within* a species.

"*Biological resources*" includes genetic resources, organisms or parts thereof, populations, or any other biotic component of ecosystems with actual or potential use or value for humanity. This means that sustainable use and management of biological resources covers any element or combination of elements of BD.

2.4 Classifying convention obligations

Articles 6-20 set out the key obligations of the CBD. Parties must comply with each obligation "as far as possible and appropriate". This language was included in the convention to soften the onerous nature of the obligations, by accommodating the different conditions and capabilities of countries at varying stages of development. In a strict sense, therefore, it might be said that the convention actually requires very little of its parties, as each one is free to determine whether it is possible or appropriate for it to meet the obligation. It is a long-standing principle of international law, however, that parties will use their best endeavours to comply with treaty requirements, so parties must at least take some measures towards compliance.

The key obligations of the CBD are to:

1. Develop plans for, and to mainstream, the conservation of biodiversity and sustainable use of the components of BD (Article 6).

2. Research, monitoring, education, and awareness, including identification of important elements of BD, assessment of the health and status of BD (Articles 7, 12, 13, 16, 17, 18)..

3. In-situ conservation

Arguably the most important obligation of the convention is to ensure that biological diversity is conserved in its original location. Parties are required to establish and maintain a system of protected areas aimed at conserving significant habitat and ecosystems, regulate land use around protected areas in order to preserve the integrity of the area, and restore degraded areas of conservation importance and control the introduction and spread of alien invasive species. They should also implement a system of environmental impact assessment to prevent or minimize harm to BD arising from development activities (Article 8, 11, 14).

4. Ex-situ conservation.

To complement in-situ conservation efforts for species that are highly threatened or endangered in their natural habitat, the Convention requires parties implement measures ex-situ, for example in zoos, wildlife parks, arboreta, herbaria, and botanical gardens (Article 9).

5. Sustainable use

Where biological resources are used commercially or for subsistence purposes, rather than conserved in situ, parties should establish a regime to ensure that resources are used and managed sustainably (Article 10, 11, 14).

6. Access to genetic resources

The Convention seeks to strike a balance between facilitating access to genetic resources that can contribute to global human well-being through the development of medicines and other applications, and ensuring that centuries-old traditional knowledge is protected and rewarded through equitable arrangements for sharing the benefits of genetic resources.

7. Regulate or control the risks associated with biotechnology

The Convention recognizes that new life forms resulting from modern genetic engineering, have the potential to create new risks to BD. These risks could include the creation of "super weeds" (pesticide resistant plants) and the contamination of natural species, especially in the field of agricultural biodiversity with genetically modified crops and aquaculture with genetically modified fish species. The CBD requires parties to put measures in place to regulate or control the risks associated with biotechnology, and these requirements are elaborated significantly in the Biosafety Protocol (Article 19).

In addition to the basic obligations, the Conference of the Parties, (COP) through its Subsidiary Body on Scientific, Technical and Technological Advice, (SBSTTA), has developed thematic work programmes in key areas and identified certain cross cutting issues to be taken into consideration when implementing these programmes. The following table lists the work programs of special relevant to Solomon Islands are, including the priority status which SIG accorded to them in its second national communication to the CBD.

Marine and coastal BD	High, resources a limiting factor
Agricultural BD	High, resources a severely limiting factor
Forest BD	High, resources a limiting factor
Island BD	Not included in 2001
BD of inland waters.	Low, resources severely limiting

There are also several cross-cutting issues related to Articles 6-20, including:

- Access to genetic resources
- Traditional knowledge innovations and practices
- Indicators
- Public education and awareness
- Economics, trade and incentives
- Alien invasive species
- Biodiversity and tourism
- Climate change and biodiversity
- Ecosystem approach
- Impact assessment
- Sustainable use
- Protected areas
- Technology transfer and cooperation
- Liability and redress.

8. Reporting and participation

As well as the substantive obligations set out above, Parties to any convention are required to meet certain procedural requirements, including attendance at Conferences of the Parties (COPs), participation in expert committees, where necessary, and the preparation of country reports. Parties have so far been required to submit three reports to the Convention's Secretariat, the third national communication initiated in 2005.

Strategic Plan

Attainment of this diverse range of obligations and cross cutting issues is guided by a CBD Strategic Plan, agreed at COP6. The over-arching mission of the Strategic Plan is:

to achieve by 2010 a significant reduction of the current rate of biodiversity loss at the global, regional and national level as a contribution to poverty alleviation and to the benefit of all life on earth.

The Strategic plan emphasizes the development and active implementation of NBSAPs and the integration of biodiversity conservation into relevant sectors. The centrality of NBSAPs for national attainment of CBD obligations was again reaffirmed at COP7. As a Party to the Convention, Solomon Islands has committed to the basic treaty obligations as well as the commitments of the Strategic Plan.

The remainder of this stocktake report looks at each of these categories of obligation in turn, explaining in more detail the requirements before turning to a consideration of what activities towards this obligation Solomon Islands has undertaken as a result of becoming a member of the CBD.

2.5 The Importance of Conserving Biodiversity in Solomon Islands

There are high levels of species diversity and endemism in Solomon Islands. It is the best example in the world of speciation and population variation among islands - more than the Galapagos Islands. Many parts of the scattered archipelago are considered biodiversity "hotspots". Solomon Islanders rely heavily on these biological resources for their economic, social and cultural well being. Together, these features make Solomon Islands an especially important site for implementation of the CBD, yet this terrestrial and marine biodiversity is under threat from a range of sources. Large scale and destructive industrial logging has resulted in widespread forest degradation. Illegal fishing by both foreign and local fishers is increasing, as is the use of destructive fishing methods. Extensive industrial logging, plantations and subsistence farming have made land degradation a major issue. Serious erosion, siltation and declining soil quality threaten terrestrial and marine biodiversity, and seriously undermine

the land's productive potential. As population increases, so too do the pressures from such subsistence uses. Over-harvesting, steep-slope farming and reduced rotation periods are just some of the current patterns of resource usage.

There is a real prospect of widespread poverty unless management of land and sea biodiversity is improved. It is hard to make an accurate assessment of the gravity of these threats with the incomplete and largely outdated information about the status of natural resources. Scientific data and other information is inadequate to make informed environmental management decisions. Available data is scattered amongst various government and non-government organisations, and utilizes several different formats making comparative analysis difficult. Similarly, the level of awareness of most resource owners about the status of and risks to their resources is generally poor. From existing data, however, it can be confidently predicted that BD resources will continue to decline in quantity and quality without meaningful management at both local and ecoregional levels. Many of the direct stresses that come from human activities will be exacerbated in the future by the effects of climate change, including coral bleaching, coastal zone erosion and saltwater inundation.

The conservation of biodiversity brings with it numerous economic and social benefits – both direct and indirect. At a global scale, strong stable ecosystems and ecological communities reduce the impact of climate change in a range of ways. They provide a buffer against extreme floods and droughts by stabilising natural water catchments & hydrological cycles. They cycle and store nutrients and build the stock of food and energy by transforming solar energy through photosynthesis. Ecosystem health also reduces air and water pollution and produce rich healthy soils. At the local user level, biodiversity provides opportunities for commercial fishing and forestry, recreation and tourism, fuelwood, building materials, pastures for grazing, soils for agriculture, food plants, and the potential for pharmaceutical and industrial applications.

In light of this range of economic benefits, and the heavy reliance of rural Solomon Islanders on their land and sea resources, the conservation of biodiversity should be a high and urgent priority.

3. Plans, programs and policies for conserving BD

Article 5 of the CBD requires parties to:

1. Develop national strategies, plans or programmes for the conservation and sustainable use of BD; and
2. Integrate conservation and sustainable use of biological diversity into relevant sectoral or cross-sectoral plans, programmes and policies.

This obligation recognizes the basic proposition that conservation of BD is unlikely to occur in the absence of a clearly articulated national commitment to doing so, and a developed action plan for achieving that commitment. It also recognizes that sustainable use of BD will not happen if it is left solely with the environment portfolio, since most of the major decisions affecting BD occur in natural resource sectors such as forestry, logging, mining, tourism, and agriculture. This is particularly true in Solomon Islands. Regardless of how well resourced or committed the ECD may be, it does not control decisions over the exploitation of resources that are critically important to attaining convention objectives.

In its second national communication to the CBD, SIG reported that this obligation was a high priority but was severely limited by resources constraints.

3.1 National Strategies

3.1.1 Who is responsible?

As the site of the CBD focal point, ECD has over-arching responsibility for meeting all CBD objectives. This does not necessarily mean that it must actually undertake all of the activities itself – only that it plans and coordinate with other government agencies and non-government actors to ensure that obligations are being met.

The ECD is probably the most appropriate agency to coordinate the preparation of national policies and strategies, such as the national biodiversity strategy, but there are several other entities (such as some of the major environment NGOs) that are capable of fulfilling this role in close consultation with the ECD. It would remain ECD's responsibility to shepherd the strategy through formal government endorsement processes.

3.1.2 Policies and laws

There is currently no national biodiversity strategy or action plan. The principal policy document is the now-outdated National Environmental Management Strategy 1993, which drew on the national assessments generated in preparation for the United Nations Conference on Environment and Development (the Earth Summit) in 1992. The NEMS contains numerous goals aimed at biodiversity conservation and sustainable use. Its focus is broader, however, than the objectives of the CBD, encompassing pollution control, non-biological resources, planning etc. Like those in many countries, very few of the recommendations and strategies contained in the Solomon Islands NEMS have been implemented, in large part because the process was not undertaken in conjunction with budget planning process that would guarantee the availability of funds or with a review of the broader enabling environment. As a result, the NEMS became something of a "wish list", rather than a clear roadmap for action. In addition, very few people actually hold copies of the NEMS, which also reduces its influence as a guiding policy document.

3.1.3 Activities undertaken

Solomon Islands is yet to prepare the National Biodiversity Strategy and Action Plan (NBSAP). The SIG SNR (2001) to the CBD indicated that the NBSAP was in the early stages of development.

It is understood that a biodiversity working group or task force was established in 1997 to guide the preparation of the NBSAP, with a series of sub-groups focussing on particular aspects of BD (i.e. freshwater, forest, fisheries etc). Approximately 3 meetings of the task force were held, but there are no records of these meetings and no documented outcomes. A project coordinator was appointed for a short time, but was not replaced when he resigned. The collation and storage of notes, meeting minutes, reports and other useful information has not occurred. The only document remaining from the first iteration of the NBSAP project appears to be the original project document.

The ECD received funding for the NBSAP in 1997, under a UNEP-GEF grant for a 9-month project. USD\$40000 of a total of about 120000 was disbursed to ECD. This amount was spent over the first year or so on the activities outlined above. Additional advances were conditional on receipt of financial acquittals and activity reports for the first tranche of funding. This has not yet been provided. UNEP remains open to a request for the release of the remaining funds (about USD80 000), but is still bound by financial accountability requirements. The civil tensions disrupted progress to some extent, but no actions have been taken since the return of political stability with the arrival of RAMSI in late 2003. The process remains suspended.

So far, attempts to revive the NBSAP process have been unsuccessful. There is no biodiversity working group in the country. Several INGOs have made offers of technical assistance and funding. ECD appears keen to maintain control of the NBSAP process, but a lack of capacity within the Division, exacerbated by the inability to access GEF funds until financial accounts are provided, acts as a barrier to progress. This appears to be a combination of individual and institutional capacity limitations to prioritise, plan and follow through on required actions.

There are several NGO-led conservation projects underway that include BD planning components (for example the WWF BSSE initiative). Although these lack the coherent and unifying force of a national strategy, they may prove useful when the NBSAP process is actually revived.

At a regional level, Solomon Islands participated in the development of the regional strategy response for biodiversity conservation – the SPREP *Action Strategy for Nature Conservation in the Pacific Island Region* (2003-2007). This document has not yet been expressly incorporated into national policy, law or activities. The action strategy is implemented regionally by the Roundtable for Nature Conservation with support from SPREP, but outcomes require that these regional initiatives be translated into domestic action. While it does not address Solomons Islands' specific circumstances, the Strategy may provide another useful foundation document for when the NBSAP is restarted.

3.1.4 Capacity Issues

Little progress is likely to occur on systematic CBD implementation without an NBSAP to anchor and guide a BD work program and involve natural resources sectors such as forestry and fisheries.

There is very strong support for the completion of the NBSAP and significant opportunities to enhance capacity in relation to the preparation of a national plan. Many see it as a foundation for future action on conservation. Major INGOs such as Conservation International (CI), The Nature Conservancy (TNC), and World Wide Fund for Nature (WWF) have all made offers of financial and technical support. Financial support from GEF and other donors to not only complete the NBSAP, but to undertake "add-on" activities aimed at implementing NBSAP recommendations is also available subject to compliance with good financial governance requirements. In addition, several provincial governments have recently demonstrated a strong commitment to BD conservation and sustainable resource management. Engagement with these more decentralised governments will share the burden of BD planning, as well as enhancing the quality and relevance of national planning documents.

The institutional and systemic capacity constraints that have prevented progress in this critical area need to be investigated thoroughly during the BD thematic assessment.

3.2 Mainstreaming biodiversity into sectoral and financial planning

3.2.1 Who is responsible?

Ultimately responsibility and impetus for mainstreaming biodiversity considerations into other sectors of the economy rests with the office of Prime Minister and Cabinet. That said, however, each sector-specific agency could take more direct responsibility for ensuring that biodiversity factors are considered in their planning processes. Key agencies here are Finance, National Reform & Planning, Forestry Division, Department of Fisheries, Department of Mines & Energy, and the Department of Agriculture & Lands. Provincial Governments should also ensure that biodiversity is considered in the development and execution of provincial plans.

The Solomon Islands Sustainable Development Advisory Council was established in 2005 but has not yet been convened. Provided it attracts suitable recognition and endorsement from the Prime Minister and Cabinet, it has the potential to raise awareness and engage all stakeholders in the mainstreaming function. This is by no means guaranteed, as early indications suggest a lack of government interest. Its terms of reference are set out in Appendix 1 of this stocktake report.

ECD retains a crucial advocacy role in stating the case for mainstreaming to each of these other agencies and ensuring that biodiversity is constantly "on the agenda". It is also the agency responsible for administering the Environment Act, described below.

3.2.2 Policies and laws

The SIG Second National Report to the CBD states that:

"all resource based sector agencies have taken into account the need to conserve and sustainably use biological resources on which the country depends. New legislation have taken on board these essential requirements." This stocktake concludes that this may be true of legislation relating to minerals development and fisheries (discussed in section 5 below), but is overly optimistic in relation to other sectors and economic planning more generally.

A review of the economic and development policies currently in place suggests that BD is not mainstreamed in those documents, suggesting a lack of commitment to biodiversity conservation at higher government levels. The current national development strategy, the *National Economic Reform, Recovery and Development Plan 2003-2006* makes virtually no reference to the exhaustibility of the country's natural resource (and economic) base.¹ The National Forests Policy 2002 pays lip service to ecological sustainability but the *Forest Resources and Timber Utilization Act* itself is focussed on commercial resource management. Weak regulation and administration has seen rates of industrial logging rise to five times the estimated sustainable yield,² with minimal oversight of actual logging operations which are frequently conducted in disregard of the Code of Logging Practice.³ Attempts at reform have been consistently thwarted.

Fisheries legislation has the potential to allow for conservation of marine biological resources. These laudable principles are not realised, however, as its implementation is very limited. No fisheries management plans have been implemented and there has been no reported enforcement of breaches of the Act or of licences granted thereunder since its commencement. It is understood that some prosecutions may take place in 2006.

The *Environment Act 1998* requires persons undertaken developments that are likely to affect the environment to obtain approval from the ECD. This includes logging, mining, fisheries, agriculture, tourism and infrastructure developments, but does not include national plans, fiscal policy and development programmes. The approval process involves an environmental impact assessment, which would include consideration of impacts on biodiversity. If properly implemented, these provisions of the Environment Act would "force" biodiversity factors to be mainstreamed into the decisions of other agencies, by acting as a barrier to approval. It does not, however, require more strategic mainstreaming of BD. The provisions of the Act are not currently being used to full effect and there is very low awareness among government officers about their obligations to refer matters to ECD for approval.

3.2.3 Activities undertaken

The 1993 NEMS endorsed mainstreaming of sustainability into government policy. This included enhancing the capacity of the government for environmental impact assessment. Apart from the development of the *Environment Act 1998*, described above, and the postgraduate training of an ECD officer in environmental impact assessment, no further actions were taken to implement the NEMS priorities.

Other mainstreaming activities?

3.2.4 Capacity issues

The absence of BD from the national budget and planning agenda may be because the NBSAP has not been completed and there is therefore no guiding policy statement. There are, however, numerous national strategies in other areas that also lack government attention and funding so it cannot be assumed that an NBSAP would necessarily alter the current situation. It fair to say that over-reliance by government on the revenues from logging and fisheries mean that BD conservation will always conflict with more fundamental priorities.

¹ This is acknowledged in the NERRDP Implementation Report 2005.

² NERRDP Implementation Report 2005, at 8.

³ URS, *National Forest Resource Assessment 2003* (2003) Canberra: AusAid-Solomon Islands Government, Solomon Islands Forest Management Project Phase 6; NERRDP Implementation 2005, at 8.

There is significant under-capacity in the ECD which is already well documented. Not only is there a small core of staff (3) at the time of writing, the ECD work program appears not to be driven by an over-arching strategy for achieving domestic goals and international obligations. Instead, most work is devoted to activities for which the ECD obtains external funding. For example, during 2004-5, one officer out of the then-total of 4, was assigned almost exclusively to undertaking monitoring of marine sites throughout the country.

The result of this is that core national priorities, such as environmental education, establishment of a protected area system, and compliance with national laws etc are not done. Several officers have a limited understanding of the breadth of the ECD's statutory role, outlined in the *Environment Act* 1998. In addition, there is an out-migration of staff from the department to NGOs or project work. There are few incentives to remain in the department due to what are perceived to be relatively unattractive terms and conditions.

The capacity of the ECD (or whatever body is entrusted with CBD implementation) needs to be analysed and assess in three critical respects:

1. legal capacity to insist upon consideration of BD in national planning and budgeting (this means requiring EIA at a higher more strategic level, before the development proposal stage);
2. human resources (in numbers, skill-levels and commitment/work ethic) of staff to make informed contributions to policy development;
3. willingness to actively engage with other departments such as finance, national reform and planning, and (most importantly) forestry and fisheries to advance the BD agenda.

At the same time, training in environmental accounting and economics is required for staff in fisheries, forestry, and finance. A thorough review is required of government policies that operate as incentives for unsustainable resource exploitation.

4. Identification, monitoring, research, education, & awareness

4.1 Identify and monitor important BD and threatening processes

Article 7 requires parties to:

1. Identify important BD
2. Monitor important BD and BD requiring urgent conservation
3. ID threatening activities and processes, and monitor the effects of those activities; and
4. Maintain and organize data.

4.1.1 Who is responsible?

As the site of the CBD focal point, ECD has over-arching responsibility to identify and monitor important and threatened biodiversity and the activities that threaten it. ECD's role, however, is best seen as planner and collector of information, rather than undertaking the on-the-ground collection of data. It should determine what data is to be collected and the best form for that data to ensure that it is comparable and consistent. The actual identification and monitoring activities are best left to local communities who know and understand their local resources, NGOs and NGO networks (such as SILMMA – the Solomon Islands Locally Managed Marine Area Network) and, where appropriate, research scientists.

Sectoral agencies such as forestry, agriculture and fisheries also have an important role in data collection and monitoring, with ECD retaining the coordination and clearing-house function.

4.1.2 Policies and laws

Other than the NEMS described below, there are no policies or laws relating to identification and monitoring. There is no national strategic plan about *what* should be monitored. Activities currently focus on flagship species like turtles, but do not necessarily examine indicator species of more fundamental ecosystem change.

4.1.3 Activities undertaken

Identification

There is currently no systematic identification of biodiversity in Solomon Islands, but there have been numerous initiatives in particular areas. The State of Environment Report 1992 did not undertake new research or identification, but did compile information existing in 1992. The NEMS 1993 emphasised the importance of strengthening the database of information about resources, including by undertaking an ecological survey of terrestrial vertebrate fauna (ECD tasked with this role), a systematic botanical survey (Forestry the lead agency), a dugong survey (ECD and fisheries combined), and a survey of reef, lagoon and estuary resources (fisheries). While these strategies were not addressed or followed up expressly, the following activities have occurred:

- An assessment of the need for a representative system of terrestrial protected areas (Lees, A Representative Protected Forests system for Solomon Islands). This study is not based on a full survey or on the importance of BD in specific places study, but identifies specific areas for conservation. It assumes that a range of ecosystems are preconditions to BD conservation.
- A short survey of mammals and birds in Choiseul and Isabel was undertaken in 2000 (Pita & Leary) and there have been several research teams who have surveyed particular locations (e.g. Roger James, CI; Guy Dutson Birdlife International), but there has been no systematic identification of terrestrial fauna. James has prepared a preliminary listing of IUCN red-listed species facing immediate endangerment, by species and by province.
- The Forestry Division undertook a Forest Resource Assessment in 2003, funded by AusAid. This did not constitute a comprehensive botanical survey of the kind contemplated in the NEMS, however. Rather, it focussed only on commercial forestry supply.
- The TNC/WWF Rapid Ecological Assessment 2004. The REA included a seagrass component that examined the status of dugong, but did not undertake a systematic survey of the mammal, as contemplated in the NEMS. The Rapid Ecological Assessment of Marine Environment 2004 also included reefs and lagoons, but conducted no estuarine surveys.
- Turtle monitoring activities take place in several areas that are the subject of NGO conservation initiatives, including Arnavons, Choiseul, Isabel, Tetepare.

- Monitoring of status and trends in marine ecosystems in the areas included in the Roviana-Vona Vona Lagoon Marine Conservation Program (RVL MCP).
- A survey of freshwater biodiversity was undertaken in 2005.

These data do not adopt a uniform or systematic approach to classifying “important” biodiversity or data collection, making it hard to use it as a baseline for measuring trends. Some information results from highly site-specific survey over short periods of time, others over longer periods. They are useful in providing a “snapshot” of what is out there, but do not offer a clear picture of its status and the impact of threatening processes and activities, including land clearing for logging and gardening, hunting or harvesting for food or trade, climate change related alterations to habitat etc.

Monitoring

The SIG Second National report to the CBD indicated that Solomons has an ongoing monitoring program as a species level for key groups and for a comprehensive range of species. Monitoring usually occurs in conjunction with the management of the established protected areas, especially in Arnavons, Tetepare, and VonaVona/Roviana lagoons. In addition, it is understood that the United States National Oceanographic and Atmospheric Agency (NOAA) has provided funding for the monitoring of turtle nesting sites on the north-western coast of Isabel. There is, however, no nation-wide systematic monitoring of single species or communities of species.

Threatening processes

Many of the threatening processes are well understood. These include logging, over-harvesting of target species for cash (such as beche de mer) or food, land clearing for agriculture, coral bleaching, the use of poisons and explosives in harvesting marine resources. Understanding of others, especially coral bleaching, is still evolving. There is no comprehensive or systematic monitoring of the impacts of these processes.

ICRI?

Data collation

The data from these various surveys is not easily accessible. It has not been collated or maintained in a single location.

4.1.4 Capacity issues

The capacity issues relating to identification and monitoring of BD are in many ways a sub-set of those relating to development of national plans and mainstreaming of BD. Funding is a major limitation, and the absence of a national platform for external funding requests exacerbates this limitation.

In addition there is a very small scientific and research community and virtually no research facilities based in Solomons, although there are several researchers based elsewhere that focus on Solomon Islands’ BD. Against this, it is important to note the critical role of local communities and resource owners in identifying and monitoring BD in their area. In addition, numerous INGOs have significant research capacity that could be tapped. A network like SILMMA could pool knowledge and assist in developing a monitoring program. There are significant opportunities for an effective national research plan to build upon these resources and alleviate the need for government funding or staffing for identification and monitoring activities.

Much of the information that had been collected and stored was destroyed or transferred out of the country during the civil conflict. There is therefore a need to rebuild the physical infrastructure that would support identification and monitoring. This requires government commitment to re-establishing a research institution in-country and supporting a strategic approach to identification and monitoring.

There is some donor support for addressing this need (check with paul roughan).

4.2 Research and training

Article 12 requires parties to:

1. Establish & maintain scientific and education programs to support BD conservation
2. Promote research that contributes to BD conservation
3. promote cooperation in the use of science.

Article 18 requires parties to:

1. promote international technical and scientific cooperation
2. develop or implement appropriate policies and support to national technical and scientific capacities

3. establish a clearing house mechanism
4. promote cooperation and joint research programs
5. develop methods for conservation & sustainable use and use of technologies, including traditional knowledge.

4.2.1 Who is responsible?

In addition to the ECD, the Department of Education, Solomon Islands College of Higher Education and the University of the South Pacific all have a role to play in establishing research and education programs. That said, one of the key capacity issues is the *absence* of an organization with the mandate and resource to conduct or at least coordinate the performance of research in a systematic way that responds to national priorities.

4.2.3 Policies and laws

There are no discrete policies and laws relating to research and education. No research priorities are articulated. check with education

External researchers wishing to conduct research in Solomon Islands must obtain the approval of the Department of Education, or in some cases, the ECD. This approval typically requires the preparation of an MOU between the department and the research organisation.

Given the system of customary landownership that prevails in Solomon Islands, researchers must also obtain the consent of land owners before entering and conducting research. Depending on the community and land-owning group, this may involve payment of a fee or other benefit.

4.2.2 Activities undertaken

Most externally funded project have some kind of research and/or training component, either preparatory to the funding proposal being completed or as part of the project itself. The RVL MCP operates in conjunction with a substantial research program through the University of California, Santa Barbara. There is also a University of Queensland project based in Western Province. Numerous research activities have taken place in the past, as is reflected in the long list of scientific and other publications in the bibliography.

The 2001 SIG Second National Communication to the CBD also noted a Forest Genetic Research Joint Initiative that was underway with Australia, but no further information is known about this initiative.

4.2.4 Capacity issues

The absence of a university campus with in-country researchers, or a scientific society or council largely explains the absence of any clearly articulated research agenda. This gives local researchers very little opportunity or incentive to remain in-country. Libraries in Solomons are poorly resourced most parts of the country lack internet access. In places where internet access is technically available, it is too costly for most Solomon Islanders to access.

Despite these limitations, there are significant opportunities for funding, collaboration and mentorship with American Museum of Natural History, U. Cal Santa Barbara (through the RVMRMP), and other institutions internationally. Active engagement and promotion of existing collaborations is worth exploring.

4.3 Public education and awareness

Article 13 requires parties to:

1. Promote understanding of importance of BD conservation and sustainable use through media and education
2. Cooperate with international organizations to develop education programs

4.3.1 Who is responsible?

A range of entities are responsible for this obligation. As CBD focal point, it is ECD who must ultimately account for the country's compliance. Its partners in achieving this obligation are:

- Department of Education
- INGOs and funded projects
- SIBC & Solomon Star
- Churches and SICA.

4.3.3 Policies and laws

There are no policies or laws dealing specifically with public education and awareness.

4.3.3 Activities undertaken

The 1993 NEMS also had a priority of improving environmental awareness & education, including preservation of traditional knowledge. The key strategies and progress in achieving those strategies is set out below.

1. Establish an environmental education and information unit in the ECD.	This has not yet been established. A resource library was set up for the purpose of providing public access to information and resource regarding, inter alia, BD. Its existence is not well known and the ECD does not promote the resource, not does it have trained staff maintaining this resource. It lacks systematic classification and maintenance and its location at the top of Lengakiki is inconvenient to the general public. There are no easy online methods for accessing information about biodiversity from a single web location.
2. Undertake provincial and district environmental awareness workshops.	There has already been significant cooperation with NGO and GEF-funded projects to develop public education programs. These include the WWF Integrated Conservation and Development program in Marovo Lagoon, the UNDP-GEF International Waters and SPBCP projects, and numerous initiatives of FSPI and Live and Learn Environmental Education. In general these awareness programs are done on an ad hoc basis, depending on where the groups work and the organisation's own interests and priorities.
3. Curriculum development in primary and secondary schools.	This was to be a joint initiative of the Ministry of Education and ECD, but has not yet occurred.
4. Curriculum development for religious seminaries, to be undertaken by the churches.	This has not occurred.
5. Development of environmental fact sheets, resources etc, a responsibility of the ECD and Department of Education.	ECD prepared an EIA information sheet in the mid-1990s, but this requires updating in light of the introduction of the <i>Environment Act</i> 1998. Other information sheets have been prepared on an <i>ad hoc</i> basis, for example the Malaita Provincial Government has a fact sheet outlining the main environmental laws affecting landowners. There are frequent broadcasts about environmental issues on SIBC and stories in the Solomon Star daily newspaper.
6. Environmental awareness training for government extension officers, to be done by the ECD.	This has not occurred, and is especially important in relation to the <i>Environment Act</i> 1998.
7. Document traditional knowledge and management systems, to be done by the National Museum.	The Museum has been working on a project dealing with recording and preserving local languages. Some NGOs and projects, especially the RVL MCP, have recorded traditional knowledge and used this as the basis for local management systems. Apart from these activities, there has been no systematic follow-up of this priority strategy.
8. Apply traditional knowledge and management systems, a responsibility of the national museum.	This strategy has also been pursued by certain NGO programs, but neither the Museum nor any other agency has a formal or systematic program in place.

Regional activities

The SPREP Environmental Education and Awareness Action Strategy 2005-2009 (preliminary) updates to 2000-2004 Strategy. It brings together regional efforts of the Council of Regional Organisations of the Pacific (CROP) agencies, led by SPREP, the South Pacific Applied Geosciences Commission (SOPAC) and the University of the South Pacific. It also incorporates support for networking, such as capacity development for NGOs including Youth Networks.

SPREP is also finalizing a regional GEF project concerning **alien invasive species** that will contain a significant research and community education/awareness component.

4.3.4 Capacity issues

In relation to education and awareness of the general public, the ECD's resources and centralised location in Honiara mean it is poorly placed to conduct community-level outreach in such a widely dispersed rural society. This again highlights the need for ECD to assume a strategic coordinating role, rather than to attempt to undertake activities directly.

The extensive list of strategies pertaining to the public education and awareness priority set out in NEMS remains largely unfulfilled. This in itself highlights a key issue for this capacity assessment – the temptation to prepare “wish lists” of capacity needs that are not realistic or backed by meaningful action plans that will be followed up and reviewed regularly. One of the difficulties is the problem of “issue overload”: BD conservation and environmental awareness more generally must compete for awareness campaign funding with HIV and other health issues, civic education, gender and human rights training, and a wide range of other important issues. In the post-conflict period, the attention of the government and many donors is on the restoration of law and order and economic stability, so the difficulty of competing for attention, priority and funding should not be understated. BD awareness should therefore be piggybacked on, or incorporated into other initiatives as much as possible. It is especially important that the strategy of incorporating BD into the school curriculum be actively pursued.

There are already a number of NGOs and church groups undertaking awareness and education activities. Many such activities do not relate to BD conservation, for example the BLESS project, civic education program, and RRRT. They still represent an important potential vehicle and opportunity for spreading BD messages.

The CBD's focus on mass media also raises issues in Solomon Islands. The two national newspapers – the national Express (weekly) and Solomon Star (weekdays) are available only in a very small number of towns – Honiara, Auki and Gizo. To focus awareness campaigns on print media will therefore fail to reach the majority of the population. SIBC, on the other hand, has very broad coverage and is the preferred medium for communicating with the wider rural population. While the wide audience of SIBC creates significant opportunities for reaching a large number of citizens, broadcast does cost more which brings its own limitations.

4.4 Technology transfer

Article 16 requires parties to provide or facilitate access and transfer of technologies to promote conservation and sustainable use and benefit sharing.

The issues discussed in the foregoing subsections apply equally to this obligation. Despite the second national communication listing this as a high priority, here are very few activities underway. The AusAid Forest Management Project community forestry program?

There is a strong need to adapt, promote, protect local level and traditional technologies as part of this requirement. There is very limited research into what kinds of technologies are needed, and how they can best be developed from traditional knowledge and methods. There is virtually no private sector involvement.

4.5 Information exchange and technical cooperation

Art 17 requires parties to facilitate information exchange from all publicly available sources regarding conservation & sustainable use of BD.

Article 18 requires parties to promote technical and scientific cooperation and to establish a clearing house mechanism for scientific information about BD.

4.5.1 Who is responsible?

The facilitative and coordinating role rests with ECD, but requires participation and cooperation from NGOs, donors and government agencies who hold information regarding the conservation and sustainable use of BD. The SISDAC could serve an important role in this regard.

4.5.2 Policies and Laws

There are no relevant policies or laws.

4.5.3 Activities

The Second National Communication to the CBD states that Solomon Islands has established a clearing house mechanism but that it is too expensive for the government to host it on a long term basis. SIG received a funding allocation for the establishment of the CHM as part of its NBSAP, but it is not known whether the CHM was ever established.

There have been countless roundtables and workshops at which information is shared and experiences discussed. In addition, SILMMA holds regular meetings at which members provide updates on their experience in locally managed marine protected areas. The SISDAC was established in 2005 but has not yet commenced operation.

4.5.4 Capacity issues

Despite the various processes that have taken place in the past, there remains a strong compartmentalising of government departments with very few formal processes for information exchange. This means that information and data gathering efforts are often duplicated, and that existing information is not used to full effect. This is partly a result of poor government structures and processes generally, but may also be attributable to a phenomenon that is described in the literature dealing with governance in Melanesia. That is, the tendency *not* to share information, in order to retain power and control. The impediments to information sharing need to be investigated more fully.

If there are few formal mechanisms for information sharing across government departments horizontally, there are virtually no mechanisms for passing information downwards to provincial governments. Even if there were systems in place for passing reports and information to the provinces, the resources to do so are limited. Telecommunications infrastructure in many provinces is still poor, with very limited internet access and infrequent postal deliveries. Moreover, there is no budget within national departments for the costs of duplicating and posting materials. PFNet stations beginning to spread, with reported increases in usage but more needs to be done.

5. *In-situ* conservation of biodiversity

Article 8 requires parties to:

1. Establish a system of protected areas
2. Develop guidelines for selection & management of protected areas
3. Regulate or manage biological resources for conservation and sustainable use
4. Promote protection of ecosystems, natural habitats and viable populations in nature
5. Promote environmentally sound and sustainable development adjacent to protected areas
6. Rehabilitate and restore degraded ecosystems and promote the recovery of threatened species
7. Regulate, manage or control the risks of use/release of biotechnology organisms
8. Prevent introduction of, control or eradicate alien species
9. Compatibility between present uses and the conservation of BD & sustainable use of its components
10. Indigenous knowledge
11. Develop legal regime for threatened species protection
12. Regulate and manage threatening processes/activities
13. Co-op in providing financial support
14. Adopt economically and socially sound incentives for in-situ conservation.

In addition, Article 14 requires parties:

1. to develop and implement procedures for EIA of projects likely to have significant impacts on BD
2. Make arrangements to ensure that BD is considered in programmes and policies
3. Introduce measures for notification/exchange of info on transboundary impacts through agreements
4. Give immediate notice to potentially affected countries of imminent or grave threat to BD originating in Sols
5. National emergency responses to such threats.

The obligation to conduct EIA can be seen as integral to Article 6's mainstreaming obligation and Article 10's requirement of sustainable resource use. It is discussed in detail in this section, as an important part of the broader discussion of the legal and policy framework for conservation.

5.1 Overview

The obligation to ensure in situ biodiversity conservation is the **key substantive requirement** of the CBD. "*In-situ conservation*" means the conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species **in their natural surroundings** and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties. The CBD gives high priority to in situ conservation, recognizing that species and ecological communities are most likely to thrive in their original location and recognizing the limitations of human-created "habitat".

Given the importance of this requirement, the following part of the stocktake considers the current status of conservation efforts in some detail. It assesses the Article 5 requirements as a whole, rather than assessing progress on each of the 14 sub-articles, except where convention obligations or national activities justify sub-categorisation.

5.2 Who is responsible?

Initiatives to conserve biodiversity *in situ* require commitment and cooperation from a range of stakeholders. This section canvasses the potential roles, responsibilities and powers of landowners, the state and NGOs in promoting compliance with Article 8.

5.2.1 Customary owners

The influence of customary forms of land ownership in Solomon Islands profoundly affects the powers of the state. More than 85% of the population still lives in rural villages, their livelihoods predominantly supported by subsistence gardening and fishing activity on customary land. The national government is geographically removed from the lives of most rural Solomon Islanders and has minimal influence on their day-to-day lives. It is widely believed that customary owners of land and marine resources have the primary and overriding rights over their resources, including BD. The corollary of that belief is that the government's legal power to regulate activities on customary land is necessarily very limited, as well as being hampered by a severe lack of enforcement capability. Regardless of whether this belief is well-founded, its pervasiveness cannot be over-stated; it is held from the level of the village to the highest echelons of national government. This poses a challenge for policy and legal interventions aimed at promoting *in situ* biodiversity conservation.

For centuries, communities throughout Solomon Islands and the Pacific Islands more generally have practised traditional models of resource stewardship. Chiefs and village leaders have agreed on seasonal closures or “tabus” of certain areas or resources, based on the health of stocks and community needs. In recent years, however, traditional approaches have been applied and enforced in an increasingly *ad hoc* manner, depending on the commitment, capacity, and personal authority of the chiefs and village leaders. Many chiefs speak of the need to revive, update and supervise these systems, but only a few have taken action to do so.

A number of interrelated factors may explain the decline in traditional systems, including declining authority of traditional leaders, the inability of traditional knowledge to address new levels of resource depletion and heightened pressures, a desire to maintain community harmony. In some cases, corrupt or weak chiefly leadership is responsible. Market forces are being imposed upon the village-based population with the imperatives of school fees, housing and other financial expenses and the influence of western “development” aspirations. This, too, has placed increased pressure on both natural resources and the traditional systems for managing those resources. Neither traditional nor modern systems are fully effective, and both have diminished credibility. These factors mean that traditional approaches need to be informed by new understandings from both conservation biology and ecological anthropology. But ultimately they can only work if they are actually used and enforced by the traditional leaders themselves.

Despite the breakdown in traditional approaches, any attempt by government to impose constraints on land and resources, albeit based on an holistic ecological approach, risks resistance from landowners who are suspicious of government motives. Ultimate power over natural resource management thus remains in the hands of landowners, but also leaves them vulnerable to exploitation by loggers and mining companies and means that individual decisions are taken without regard for their impact on regional and national ecosystem integrity. These risks represent the key challenges for capacity development for in situ biodiversity conservation: ***to engage and equip local communities to develop their own strategies for long-term sustainable resource management, whilst coordinating and guiding those strategies so that together they can achieve overall ecological sustainability.***⁴

5.2.2 The role of NGOs

At present, support for local community resource management in Solomon Islands is provided primarily by non-government initiatives or financial and technical support from externally-funded projects. Several NGO, church-based, and research projects are assisting communities to establish protected areas and prepare plans for their management. The current status of the major initiatives are discussed below, outlining the program’s objectives and scope, management and governance arrangements, and resourcing.

In the current context, therefore, NGOs play a critical role in *in situ* biodiversity conservation. They provide scientific and technical support to communities; assist in the creation of inclusive and participatory decision-making structures such as community resource management committees; and in some cases provide equipment and training in alternative sustainable livelihoods, or direct funding for schools and clinics.

The SILMMA network

The groups engaged in such initiatives have formed the Solomon Islands’ Locally-Managed Marine Area (SILMMA) network, through which to exchange information and experiences. The SILMMA network can enhance the activities of each member and can serve as a useful vehicle for advocacy and policy work. Yet members’ activities are still limited to specific sites and are led by the interests and priorities of individual member organisations, often determined in head offices overseas. They are not coordinated or guided by over-arching national strategies that can safeguard bioregional ecological integrity, in large part because the NBSAP is yet to be prepared. They also focus on marine conservation, leaving terrestrial conservation largely unaddressed by either the network or its members.

Despite the leadership shown by civil society groups in supporting community conservation initiatives, therefore, the state still retains an important role in in-situ biodiversity conservation in Solomon Islands. This role involves determining bioregional ecosystem demands, formulating guiding strategies, and

⁴ UNDP et al 2004, above n12, at 93; Larmour 1997, above n24; Hunnam P, *Lessons in Conservation for People and Projects in the Pacific Islands Region* (2002) New York, UNDP; Aswani S & Hamilton R, “The value of many small vs. few large marine protected areas in Western Solomon Islands (2004) 16 *SPC Traditional Marine Resource Management and Knowledge Information Bulletin* 3 (Aswani & Hamilton 2004b); Kabutaulaka above n21, at 24; McDonald 2006 (in press).

promoting coordinated resource conservation initiatives that can be sustained once external support ends.

5.2.3 The role of government

The social and political centrality of landowner rights has already been outlined. This fundamentally affects the role of the state in biodiversity conservation, even though in a strict legal sense the government has the power to regulate for conservation. The Constitution of Solomon Islands conveys inconsistent messages about the power of the state to control or influence how landowners may use their land. It expressly recognises customary landowners' rights over their land (ss8, 112), which is in line with landowner perceptions of the absoluteness of their customary rights. But a closer reading suggests that the extent of this recognition and protection is comparable only to that formally given to private property under any Common Law system of land ownership. It merely provides that any government acquisition of customary land must be preceded by consultation with landowners and must be compensated (s8). The only concession to the special status of customary tenure is that the alienation or acquisition should be for as short a time as possible to achieve the public purpose being sought (s112).

The legal right of the State to interfere with property rights to promote the broader public good is supported by s8(2) of the Constitution, which lists the conditions for such interference as:

- (a) the taking of possession or acquisition is necessary or expedient in the interests of defence, public safety, public order, public morality, public health, *town or country planning* or the *development or utilisation of any property in such a manner as to promote the public benefit*; and
- (b) there is reasonable justification for the causing of any hardship that may result to any person having an interest in or right over the property (*emphasis added*).

The *Mines and Minerals Act 1987* uses this Constitutional power to permit the compulsory acquisition of land for the establishment of a commercial mine, the public interest presumably being the gains that will flow to the national economy from the mine (s33). Theoretically, therefore, it would also be possible to acquire land for inclusion in a national park or government-administered protected area system, the public interest being served by conserving nationally or internationally significant ecosystems of habitat. There are, of course, obvious financial and cultural impediments to adopting this approach, but the point is made here simply to dispel the strict legal claim that the government lacks the legal power.

The state should still be free to regulate land uses – for example by restricting activities that would compromise biodiversity values – without actually acquiring the land. This may eliminate the need for compensation. In other countries, the scope of the right to compensation has been clarified in cases where land is not wholly acquired but where use of the land for certain purposes is restricted, for example to protect habitat, conserve species, or protect watersheds. Judicial decisions in other countries vary greatly: some say that only a complete resumption/acquisition of property requires compensation, while others have decided that any major restriction on the commercially-valuable uses of land also requires compensation.

The state's legal regulatory power is confirmed by the legal hierarchy provisions of the Solomon Islands' Constitution, which make clear that a valid statute prevails over both common law and customary law (s75 and sch3). This is the case regardless of whether it is an enactment of the national parliament or the province. Provided a law is valid, therefore, it will prevail over any customary laws applying to the use of an area or resource.

The preferable approach is to avoid legal conflict altogether, by promoting a system of protected areas that reflects the connection between Solomon Islanders and their land, a system in which landowners participate fully in the management and use of the land. This is a role that can arguably best be performed by the level of government closest to the people and their land – the provinces. The national government might maintain over-arching responsibility for national strategic policy development and coordination, to ensure that the disparate provincial, community and NGO activities are collectively capable of achieving national needs and priorities. Beyond that, however, it is too far removed from the lives of rural communities.

5.3 Policies and Laws

There is a notable absence of national legislation dealing with the establishment of protected areas, protection of endangered species or conservation of biodiversity. The NEMS listed this as a priority area, and the 2001 Second National Communication to the CBD suggested that legislation was being prepared. In the period since 2001, there has been no activity towards developing or drafting such

legislation at the national level. There is nothing that requires national legislation, however, and there are several useful legislative models at the provincial level. Enhancement of these existing laws may well prove to be more efficient and ultimately more effective than a centralised model at the national level, with all the implementation challenges that that entails.

With this in mind, it is useful to consider briefly the legal power of the provinces before moving to a consideration of the laws themselves. Provincial legislative authority derives from a combination of the *Provincial Government Act 1997* (PGA) and the accompanying devolution orders (PGA s33). Regulatory or executive powers derive from valid provincial ordinances or may be delegated to the province under national statutes, devolution orders, or by negotiation between the province and responsible national authority (s31(1)).⁵

The Devolution Orders made in respect of each province give them legislative competence over a range of matters of direct relevance to natural resource management. Schedule 4 of the *Provincial Government Act 1997* lists the following areas of legitimate provincial legislative authority of direct relevance to environmental protection and natural resource management:

- licensing of professions, trades and businesses
- protection of wild creatures
- coastal and lagoon shipping
- management of agricultural lands
- protection, improvement and maintenance of freshwater and reef fisheries
- codification and amendment of existing customary law about land
- registration of customary rights in respect of land including customary fishing rights
- physical planning
- control and use of river waters
- pollution of water.

Each province is thus empowered to make ordinances in respect of any or all of the issues listed, either alone or in combination. Moreover, additional devolutions may be made by the Minister for Provincial Government, with the consent of the Minister having subject-matter competence (for example fisheries, mines and energy, or environment), and with an affirmative resolution of national parliament (PGA s28).

The provinces are free to introduce laws and procedures that complement and enhance national natural resource laws, provided that they neither contradict them, nor intrude upon or interfere with a *comprehensive* national regime. While forestry and mining might appear to be all-encompassing at first glance, the fact that their operation is expressly affected by the *Environment Act 1998* (discussed below) suggests that they can not be considered exclusive regimes.

Provincial ordinances can thus enhance national regimes for forestry, fisheries and mining in order to safeguard biodiversity values using their legislative powers over related areas such as protecting wild animals, managing agricultural land, and physical planning. This could be done with enhanced use of business licensing powers to impose conservation conditions on logging and mining operations. This is considered further below.

5.3.1 Protected areas

National law

There is no national law dealing with the establishment or management of protected areas. For over a decade, the establishment of a system of protected areas has been a stated priority of the SIG (NEMS 1993). Many reasons are cited for the slow progress towards this goal, including funding limitations and the constraints imposed by customary tenure.

The Code of Logging Practice allows for the set aside of areas for conservation purposes, but specifically provides that these must be set aside under discrete legislation. There is not provisions in the COLP itself for establishing protected areas. The forestry legislation allows for the establishment of protected areas for watershed management, not biodiversity conservation.

⁵ Arrangements of this sort have no effect on the ultimate responsibility of the authority on whose behalf the functions are discharged and no such arrangements have yet been made. All executive functions under the *River Waters Act 1964*, concerned with the equitable distribution of river waters and protection of river flows, are devolved to the provinces under their First Devolution Orders. The significance of this devolution this limited, however, because the Act only applies to declared rivers and only four rivers have been declared.

Provincial law

Most provinces have enacted some form of ordinance relating to the establishment or recognition of terrestrial, freshwater or marine protected areas. There are:

Choiseul Province Resource Management Ordinance 1997 (CRMO);

Guadalcanal (sic: Guadalcanal) Province Wildlife Management Area Ordinance 1990 (GPWMAO) (refers to the establishment of wildlife "areas", which given the definition of wildlife would include both terrestrial and marine areas);

Isabel Province Marine and Freshwater Areas Ordinance 1993 (IPMFAO);

Isabel Province Conservation Areas Ordinance 1993 (IPCAO);

Isabel Province Wildlife Sanctuary Ordinance 1995 (IPWSO); Makira Province Preservation of Culture and Wildlife Ordinance 1984 (MakPPCWO) (application to marine areas is uncertain – references to soil and vegetation in the offence sections suggest protected sites are limited to land);

Malaita Province Management Area Ordinance 1990

Malaita Province Wildlife Management and Licensing Ordinance 1995 (MalPWMLO) (refers to the establishment of wildlife "areas", which given the definition of wildlife would include both terrestrial and marine areas) Temotu Province Environmental Protection Ordinance 1994 (TPEPO) (applies to "any area" and would therefore include both land and marine areas)

Western Province Simbo Megapode Management Area Ordinance 1990

Western Province Resource Management Ordinance 1994 (WPRMO) (land is expressly defined to include marine areas).

Central Province or Rennell-Bellona have no ordinances relating to wildlife or environmental protection or resource management. At the time of writing, the Isabel Provincial Executive had endorsed a new ordinance to consolidate the three statutes dealing with land, marine and wildlife conservation areas, but it had yet to be passed by the legislative assembly or presented to National Parliament. A draft of this ordinance is attached to this report in Appendix 2.

With some variations, the purpose of most is to assist the owners of customary land and adjacent marine areas to protect and sustainably manage the use of these resources, usually for conservation, custom, spiritual and amenity purposes.⁶ The Western and Choiseul Province *Resource Management Ordinances* (the WPRMO and CPRMO) - virtually identical in key provisions - are the only instruments to refer explicitly to the objective of preserving biodiversity values and to acknowledge a broader ecosystem approach to conservation.⁷

Each ordinance stipulates its own process for approving and declaring the establishment of a conservation, wildlife or resource management area. Typically, approval follows a request from customary owners.⁸ Some envisage a more proactive approach from the provincial executive in identifying high-priority areas, engaging affected communities and obtaining their approval.⁹ None of the provinces currently has a proactive approach to identifying and supporting landowners to develop conservation or resource management areas.

Only Makira permits the declaration of an area *without* the consent of the landowners, although the focus of that law appears to be protection of cultural and spiritual sites, rather than resource management (MakPPCWO, s4). In Choiseul and Western Province, applications must come from the landowners, but the Province must also satisfy itself that the management order would be consistent with the "national interest", a term which is left undefined.¹⁰ Presumably anything that promoted national compliance with the CBD would be considered to be in the national interest.

Some form of public notice and comment either precedes or follows the approval of an application or declaration of an area.¹¹ In Choiseul and Western Province, there is a process for challenging the entitlement of the parties applying for the order. It allows for determination of disputes through an established local committee with customary respect and knowledge of traditional and customary usage of customary land, such as a council of chiefs, or village committee.¹² **In Guadalcanal and Isabel**

⁶ GPWMAO, purpose; IPMFAO s3; IPCAO s3; MakPPCWO, purpose; MalPWMLO; TPEPO, purpose; WPRMO s2. The Malaita Ordinance also regulates wildlife traders within the province.

⁷ CPRMO, s2; WPMRO, s2

⁸ CPRMO s12(3); GPWMAO s3(1); IPMFAO s4(1); IPCAO s4(1); MalPWMLO s4(1)-(2); TPEPO s5(b); WPRMO s12(3).

⁹ GPWMAO s3(1); MakPPCWO s4-5; MalPWMLO s4.

¹⁰ CPRMO s12(3); WPRMO S12(3). It raises an interesting question about whether the Province might refrain from approving a plan despite the wishes of the owners where it identifies a higher national interest in keeping an area free for commercial logging.

¹¹ GPWMAO s3(1); IPMFAO s8; IPCAO s8; MakPPCWO, s4; MalPWMLO s4(2), 7(c); WPRMO s12(3), s13.

¹² CPRMO, ss4,13(5)-(10); WPRMO, ss4, 13(5)-(10).

provinces, the process for declaring or approving areas is probably unusable as it still involves local area councils, despite the abolition of these entities in 1997.¹³

The focus on community-led proposals means that most areas will prioritise sustainable utilisation of specific resources for human use, rather than conservation of ecosystem or biodiversity values. This is far more appropriate in a Solomon Islands context, provided BD values can also be addressed. There is only one provincial ordinance that expressly contemplates the kind of exclusionary protected area that limits human occupation and extractive uses. The *Isabel Province Wildlife Sanctuary Ordinance 1995* (IPWSO) does not specify its objectives, but they are clearly to designate the “Arnavons Marine Conservation Area” as a wildlife sanctuary (ss3-4). The term “wildlife sanctuary” is not defined and no management objectives are articulated, although it may be assumed that they are to provide a place where wildlife is relatively safe from human exploitation. The IPWSO prescribes no process or criteria for determining whether new areas should be declared and would require amendment if it were to be used as a broad-based framework for identifying and promoting the establishment of wildlife sanctuaries. The protective provisions of the IPWSO include the development of a management plan and prohibitions on damaging activities such as bushfires (IPWSO, ss6-7). In addition, the Executive Regulations to the Ordinance regulate who may be admitted to a sanctuary, permissible activities, and the management of natural resources within the sanctuary. The establishment of wildlife sanctuaries is an important, albeit limited, tool for conserving valuable BD in situ and can serve as a model for other provinces to follow. There is no obvious reason, however, why a separate ordinance was promulgated when the Isabel Conservation Areas Ordinance could have served these functions.

Landowners prepare their own rules for managing an area and agree on area boundaries.¹⁴ Since local communities are responsible for drafting, amending or suspending the rules applicable to their own resource management areas, it is possible for them to permit traditional and subsistence uses should they wish to do so. Some ordinances expressly entrench this right,¹⁵ while others leave it to the community to decide how it will be applied.¹⁶ In Malaita and Guadalcanal, landowners must consider customary management practices and should consult with provincial agriculture, forestry or fisheries officers.¹⁷ Were provinces to take a more proactive facilitative role, these officers would visit communities to promote and inform the development of resource management plans and rules for each area, rather than await requests for assistance from landowners.

Some ordinances contain rules that apply as a default where no other site-specific management arrangements have been agreed.¹⁸ For example, the *Isabel Province Conservation Areas Ordinance* prohibits cutting trees for any purpose other than traditional house-building; clearing or cultivation of land for any purpose; access for mineral reconnaissance, prospecting or mining; and earthworks (IPCAO, sch2). The *Simbo Megapode Management Area Ordinance 1990* prohibits injuring or killing megapode birds, regulates the harvesting of eggs, and restricts the removal of vegetation from the management area (ss3). The Choiseul and Western Province Ordinances prescribe the form that a resource management order must take (Sch3). This form is expressed in prohibitive terms, and although it is open to applicants to modify it as appropriate, the style of the form could narrow the management options that communities consider.

The Provinces must gazette declared areas and most must ensure that the orders governing their management are placed in a publicly accessible register.¹⁹ In Isabel, these community-management rules are purported to prevail over “any statute, ordinance, regulation, or under Common Law or Customary Law”.²⁰ But since the Constitution of Solomon Islands places national statutes higher in the legal hierarchy than both provincial ordinances and customary law, this provision is probably invalid.

Consistent with their landowner-driven approach, most ordinances stipulate that primary responsibility for enforcing conservation or resource management areas rests with the landowners themselves.²¹ In Guadalcanal and Malaita, the Province may appoint a special constable recommended by the

¹³ GPWMAO s3(2); IPMFAO s4; IPCAO s4.

¹⁴ GPWMAO s6; IPMFAO s4; IPCAO s4; MalPWMLLO ss5, 7; WPRMO s13(2), Sch3.

¹⁵ GPWMAO s8; MalPWMLLO s9(b); TEPO s6(2).

¹⁶ WPRMO s13(13).

¹⁷ GPWMAO s6; MalPWMLLO s6.

¹⁸ IPCAO sch 2; MakPPCWO s6; TEPO ss6-7.

¹⁹ GPWMAO s5; IPMFAO s9; IPCAO s9; MalPWMLLO ss5, 6; TEPO s9; WPRMO s13A. Makira does not provide for a register of declared places. The Choiseul Resource Management Ordinance makes no provision for the establishment of registers.

²⁰ IPMFAO s19; IPCAO s19.

²¹ GPWMAO s7; IPCAO s14(1); IPFMAO s14(1); MalPWMLLO s8; Simbo Megapode Management Area Ordinance 1990 s6.

landowners to perform this function, but any landowner or other provincial officer is allowed to make inquiries to investigate a potential breach of the area's rules.²² The *Simbo Megapode Ordinance* contemplates the appointment of honorary wardens with key responsibilities to enforce the ordinance in particular villages.²³ Other instruments suffer from a lack of specificity or clarity about what "primary responsibility for enforcement" entails.²⁴ They are all silent on who bears "secondary" responsibility for enforcement, although it might also be fair to assume that this rests with conventional law enforcers, such as the police or provincial fisheries, forestry or environment officers.²⁵ Despite these ambiguities, the emphasis on landowners at least enables the community to develop and apply its own arrangements, in accordance with customary practice.

Provinces generally retain the right to nominate other authorised enforcement officers,²⁶ but no ordinance seems to contemplate the use of a committee decision-making process. This omission may need to be addressed since most of current suite of community-managed areas discussed earlier have established such management committees in order to ensure greater participation and accountability in decision-making affecting an area. Makira is the only province to place enforcement responsibility solely with police and provincial officers.²⁷ The exclusion of landowners from enforcement is not surprising, however, given that it does not require landowner approval for the declaration of a protected area in the first place.

In addition to the general statements about who bears primary responsibility, a wide range of people are authorised to investigate possible offences. This list usually includes landowners, police officers, provincial employees, chiefs, and in some cases officers of the national museum, or national forestry, fisheries or environment departments.²⁸ Authorised officers are given significant investigative powers in Western Province, including to enter buildings, board vessels, and stop and search vehicles and belongings, make arrests and seize gear, equipment, vessel or resources.²⁹

5.3.2 Wildlife Protection

National law

The 2001 Second National Communication to the CBD indicated that legislation or other pmeasures were in place for threatened species protection. Despite the generality of its title, however, the *Wildlife Management and Protection Act 1998* (WMPA) does not establish a legal regime for wildlife or threatened species protection. Its primary purpose is to regulate the export of listed species of wildlife, and thereby enable Solomon Islands to comply with the *Convention on International Trade in Endangered Species of Flora and Fauna* (CITES)(WMPA, s3). The impact of wildlife trade on local biodiversity is unknown, as there has been no baseline assessment of species abundance or monitoring of population health in areas where capture for trade occurs. While the effects may be significant for target species, they are unlikely to compare with the impacts of large-scale habitat destruction caused by forestry and agriculture. **The Act has no provisions to cover the protection of endangered species *in situ* and is therefore incapable of meeting broader biodiversity conservation goals by protecting habitat.** The Act contemplates the Minister approving management programs for certain species, and this includes *in situ* protection and conservation (s6). Reading the Act as a whole, however, it is clear that the purpose of such approved management programs is to satisfy the scientific requirements regarding the impact of trade in species. Moreover, like the *Environment Act 1998*, the WMPA has never been enforced, permits being issued without following the procedures required under the Act. It now requires updating to ensure coverage of all CITES-listed species.

Provincial law

²² GPWMAO ss7,9; MalPWML0 s8.

²³ Simbo Megapode Management Area Ordinance 1990 s6.

²⁴ GPWMAO s7; IPCAO s14(1); IPFMAO s14(1); MalPWML0 s8.

²⁵ "Protection and management" of Isabel wildlife sanctuaries is said to be the responsibility of sanctuary wardens. Isabel Province Wildlife Sanctuary Ordinance 1995, s5(2). There is some uncertainty over what powers wardens have, though, given that the ordinance also provides that *enforcement* is left to police officers (s11). The Ordinance also refers to area constables, but these were abolished along with local area councils in 1997. Wardens may make inquiries to ascertain whether any breach of the ordinance has been committed, but they appear to have been given no other enforcement powers.

²⁶ CPRMO s4; GPWMAO s9(a); IPMFAO s14(c); IPCAO s14(c); MakPPCWO s9; MalPWML0 s3(1); TPEPO s11; WPRMO s4.

²⁷ MakPPCWO s9.

²⁸ TPEPO cl11(2); WPRMO s4. The Choiseul Ordinance which in most other respects is the same as the WPRMO completely omits any provisions regarding enforcement. This was probably not intentional (Hamilton L, pers comm, 25 November 2005).

²⁹ WPRMO ss22-23.

The *Wildlife Management and Protection Act 1998* stipulates a limited role for provincial governments: an export permit may only be granted in cases where the applicant holds a valid provincial business licence for wildlife trade (s14(2)). Only one province has tailored its licensing process to make specific provision for wildlife trade. The *Malaita Province Wildlife Management and Licensing Ordinance 1995* establishes a specific process for licensing wildlife trade activities, but the process does not contemplate the prior undertaking of any evaluation of whether a species can withstand the pressures of trade. The provincial executive could certainly require such an assessment, as part of its discretion to approve or deny a permit, but would need to set licence fees at a level high enough to cover the cost of such research. While a provincial licence is necessary, it is not sufficient to make trade legal. For that, a permit under the national law is required.

In August 2005, the national Minister for Environment announced a moratorium on all wildlife exports pending implementation of the Act and necessary regulations. This decision was taken without any prior consultation with the provinces, who only learned of it via the national media, and apparently without regard for how it might affect traders licensed under valid provincial mechanisms. This is an area in which the provinces need to insist upon appropriate and timely consultation and coordination from the national agency.

The earlier discussion outlined the way in which provincial laws facilitate community-driven resource management or conservation areas. Only Temotu, Choiseul and Western Province Ordinances facilitate broader biodiversity conservation, by placing restrictions on resource owners even where a management area has not been established. The *Temotu Province Environmental Protection Ordinance 1994* empowers the province to declare a species of animal, plant, fish, reptile, bird, fungus, crustacean or insect to be a protected species and to declare their habitat or breeding ground a protected place (ss4-5). The declaration of a protected place requires the written request or consent of the land owners, but that is not the case for the declaration of protected species. It is an offence to undertake activities other than traditional practices that have the effect of disturbing or damaging a protected species inside a protected place (s6). It is also an offence to disturb the nest, offspring or habitat of any protected species wherever they may be located, and there is no defence available for traditional practices (s7). Interestingly, the 1994 Ordinance repeals and replaces an early version that was almost identical, as well as all of the regulations and listings made under that earlier law, but does not replace them with new lists or restrictions, so the species protection provisions are currently inoperative (s12).

The Choiseul and Western Province Resource Management Ordinances prohibit the use or taking of listed marine, forest and wildlife resources and other environmentally-harmful activities anywhere in the province, regardless of whether it occurs on customary land (CRMO ss6-8; WPRMO ss6-8). Indigenous or permanent residents of Western Province have a defence to this otherwise interventionist prohibition on taking species if the specimen was taken for personal or family consumption where no monetary reward was received or intended to be received (CRMO s11; WPRMO s11). It is also a defence to take prohibited resources for building, personal adornment or for a customary use, or to make souvenirs. The scope of this defence enlarges considerably when read with the definition of "customary use",³⁰ which covers usage "obtaining ... at the time when that question arises, regardless of whether that usage has obtained from time immemorial or any lesser period." (WPRMO s4). Without appropriate monitoring of the status of the species and the impact of taking for subsistence or traditional use, rather than commercial exploitation, it is difficult to assess whether this defence undermines the prohibition.

The prohibited activities include removing live coral (CRMO s16; WPRMO s16.); dropping anchor near a permanent or secure mooring (CRMO s17; WPRMO s17); and the use of certain harmful methods of marine resource harvesting, namely scuba gear, poisons and dynamite (CRMO s19; WPRMO s19). There are also provisions governing the size of harvestable resources and permissible times for harvesting.³¹ The Makira Province ordinance includes an eclectic collection of specific provisions relating to wildlife that are additional to the declaration of particular areas. These include prohibitions on importing or transporting toads, killing wild ducks and eagles and spear fishing in certain areas (s7). These provisions may assist biodiversity conservation by addressing very specific threats, but do not contribute to a cohesive or coordinated framework for in situ protection.

5.3.3 Marine biodiversity

National law

The *Fisheries Act 1998* (FA) provides the legal basis for a comprehensive and responsive national fisheries management regime. It promotes a precautionary approach to fisheries management and

³⁰ This definition is absent from the Choiseul Ordinance.

³¹ CRMO s7, Sch2; WPRMO s7, Sch 2.

encourages the long-term sustainable management of fish stocks (FA ss3-4). While it makes no explicit mention of marine biodiversity, it has a range of provisions capable of advancing the conservation of Solomon Islands' significant marine resources. The most important of these are the management plans and licensing requirements. Properly implemented, these provisions are more than able to allow for conservation and sustainable use of marine biodiversity. At present, however, their implementation is severely constrained.

The reasons for this limited implementation need to be closely examined in the NCSA biodiversity thematic assessment.

Provincial law

The roles and powers devolved to provinces under the *Fisheries Act* are extensive. They permit significant provincial leadership in the area of marine resource management and provide an excellent model for the development of terrestrial conservation legislation (provided the provinces are adequately resourced to fulfil their mandates). Each provincial government "is responsible for" the proper management and development of the reef, inshore, and freshwater fisheries within its provincial waters (FA s9). This means that the province is both empowered and dutibound to take the lead on management of resources within reef and inshore waters and in freshwaters. To do this, the provinces are all required to prepare and review a plan for the management and development of fisheries in provincial waters (FA s7(2)). The plan may cover all fisheries or may contain special provisions regarding a single fishery or fishery management area, such as licensing programmes or limitations of catch or effort.³² The province is entitled to obtain assistance from the Department of Fisheries in the preparation and review of fisheries management and development plans, but this entitlement is limited to cases where it is practicable for the Department to provide assistance (FA s7(b)). Not surprisingly, a proviso of this sort renders the "entitlement" to assistance virtually meaningless: the Fisheries Department can easily claim that lack of resources makes assistance "impracticable". It is not known whether any province has requested the assistance of the department to test this question.

Provincial governments and the national department may enact ordinances and regulations covering a wide range of matters related to inshore fisheries. These include fisheries development, customary fishing rights, open or closed seasons, restrictions on harvesting specific species or using particular gear or fishing techniques, establishment and protection of marine reserves, and mangrove protection (FA s10(3)). A province may also develop ordinances regulating the local use of explosives, poisons or other noxious substances in fishing (FA s30(1)). Only Choiseul and Western Province have enacted legislation in furtherance of these powers.³³

5.3.4 Forest biodiversity

National law

Both the scale and destructive style of industrial logging pose massive threats to in-situ terrestrial biodiversity conservation. Commercial forestry in Solomon Islands is governed by the *Forest Resources and Timber Utilization Act 1997* (FRTUA). The FRTUA establishes the procedures for approval of commercial forestry activities, including on customary land. Since more than 80% of industrial logging occurs on customary land, the role of the state is politically constrained by the strong sovereignty claims of customary landowners and the Act embodies this political constraint. Accordingly, under the current FRTUA if an applicant satisfies the procedural requirements of the Act and obtains the approval of the landowners, they must be granted a licence. Cases abound of landowner exploitation by both logging companies and unscrupulous trustees.

The limitations of the forestry legislation are well-documented and have been the subject of numerous attempts at reform over the past three decades.³⁴ The Act contains no mechanism for controlling the overall harvesting rate or volume at either the provincial or national level. Attempts to impose moratoria have failed.³⁵ The scale of logging remains at over three times the sustainable limits for commercial exploitation; this figure does not reflect the *ecologically* sustainable limit and there is considerable disagreement over what level of logging can preserve *in situ* conservation values, especially in the absence of a functioning protected areas network.

³² A "fisheries management area" in respect of reef or inshore fisheries is an area that can be treated as a unit for purposes of conservation and management, and may encompass areas, including reef area subject to customary fishing rights, extending beyond the waters of a single province: *Fisheries Act 1998*, s7(5).

³³ *Western Province Resource Management Ordinance 1995*; *Choiseul Province Resource Management Ordinance 1997*.

³⁴ For a history of these efforts, see Bennett J, 2000, at 249-253.

³⁵ Bennett, 2000 at 249; *Success Company Ltd v Isabel Provincial Government*, High Court of Solomon Islands, 4 August 2004, Brown J.

The principal mechanism for minimising the harmful environmental impacts of logging activities is the Code of Logging Practice 2000 (COLP). The Code does not restrict the overall location and scale of logging operations; it merely stipulates good practices in roading, steep slope operations and so on i.e. to minimise the destruction caused by logging activities once they commence. Its enforcement has been extremely limited so far and reports of serious breaches abound. Compliance with the code was made mandatory in late 2005,³⁶ and the Commissioner was empowered to specify maximum logging volumes and require the preparation of annual harvesting plans and individual coupe plans.³⁷

The implementation and enforcement of these new regulations will determine their efficacy. They have the potential to significantly enhance the operation of what has until now been an environmentally and socially damaging industry. This will require a fundamental change in the culture of the Forestry Division and a significant boost in monitoring and enforcement capacity.

The identification of the core barriers to capacity building in the area of forest biodiversity conservation represent a significant challenge for the NCSA self-assessment process.

Provincial law

The new forestry regulations make clear that licensees must pay all licence fees and other charges payable to the provincial government and to comply with the provisions of any applicable provincial ordinance.³⁸ Moreover, the Solomon Islands' Court of Appeal has recently made clear that a Province may validly require logging companies to obtain and comply with a business licence before commencing operations within that province.³⁹ Usually implied into the power to grant a licence is the power to attach conditions regarding the manner in which the licensee conducts their operation. **It is therefore open to a Province to use its business licensing powers to impose significant conditions on the operations of licensed businesses,** including demonstrable compliance with the Code of Logging Practice or BD conservation requirements.

This kind of regulatory device would not place too heavy a burden on the limited resources of the province, since it could be drafted to place responsibility on the licensee itself to show compliance. Provinces can also demand a licence fee that is commensurate with the costs incurred by the province in attending timber rights hearings and other duties associated with regulating the licensed activity.⁴⁰

5.3.5 BD conservation in minerals development

National law

Like the FRTUA for forestry, the *Mines and Minerals Act* 1987 (MMA) establishes the procedures for approving new prospecting (called reconnaissance), exploration (called prospecting), and mining activities. It vests property in minerals in the Crown: landowners do not own the mineral wealth located below their land (MMA s2). The holder of a permit must obtain landowner approval to enter the area (MMA s17), and a formal access agreement and fee must be negotiated with landowners at the prospecting and mining lease stages (MMA ss25, 32). Landowners may therefore derive some income from the presence of minerals below their land. Benefits are limited, however, because the access fee is not calculated on the value of the minerals located sub-surface, only on the value of the land itself and any damage caused to assets located on the land (MMA ss21, 25(3)). Moreover, once commercially valuable deposits are located, the national government has the power to compulsorily acquire property for the purposes of granting access where landowners do not approve surface access (MMA s33).

The Act contains stronger environmental safeguards than for forestry. At the prospecting stage, environmental impacts are not a factor that the Minister must take into account, although he has the power to include environmental safeguards as a permit condition (MMA s6). Otherwise, environmental protection will have to be the subject of negotiation with landowners. This limitation is not well-understood by the landowners themselves, who assume that the government will make adequate provision for environmental controls at all stages. The exploration and mining stages require clearer environmental management plans and undertakings,⁴¹ but only the national Minerals Board has formal supervision of how well this requirement is fulfilled. It appears that the focus of these controls is

³⁶ *Forest Resources and Timber Utilisation Regulations 2005*.

³⁷ *Forest Resources and Timber Utilisation Regulations 2005*, cl10 (n), (o).

³⁸ *Forest Resources and Timber Utilization Regulations 2005*, cl10(zb).

³⁹ *Earthmovers Group (t/a Eastern Development Company Ltd) v Premier of Isabel Province (representing the Isabel Provincial Executive of the Isabel Provincial Assembly*, Appeal No005 of 2005, Lord Slynn of Hadley, President, Adams & Kabui JJA, 4 August 2005.

⁴⁰ *Ibid*, at 20.

⁴¹ *Mines & Minerals Act 1987*, ss20(1), 22(g); ss 31(h) & 36(b)(ii).

pollution control and mine site rehabilitation. There is no explicit mention of the need to preserve the biodiversity values of an area, something that would be virtually impossible with large scale mining activities if they are established without first identifying sites of high biodiversity value and conservation need. Without proper identification and mapping of high conservation value areas in the earliest stages of mine site planning, the MMA is not adequate to support in situ terrestrial BD conservation.

Provincial law

There is no provincial law dealing with or controlling minerals development. The business licensing procedure can, however, be used to require strong environmental controls on mining operations in the same way as outlined previously for forestry activities.

5.3.5 Environmental Impact Assessment

National law

The *Environment Act* 1998 (EA) establishes a national framework for development control and environmental impact assessment. The system adopts a classic formula, widely used in the United States and Australia, whereby developments with likely adverse environmental impacts require consent before they may proceed (EA sch2). Consent may only be granted after full consideration of the environmental impacts of the proposed development or activity (EA s15), which typically requires the preparation of some form of environmental impact assessment (EA s19). The Act includes a list of presumptively injurious activities, including forestry, mining, tourism resorts, large scale agriculture, infrastructure developments and waste management systems. The Act does not cover strategic environmental impact assessment – of government policies and programmes. While the EIA framework does nothing to establish a system for biodiversity conservation and protected areas, it does create a mechanism for considering BD conservation in mainstream development.

The development consent and environmental assessment requirements are an important opportunity to impose conditions on harmful or unsustainable activities to minimise the impact of those activities on biodiversity (EA s19). They could theoretically cure some of the defects and limitations of the resource legislation outlined above since both logging and mining are covered. **The Act expressly applies over and above the provisions of any other Act, and prevails to the extent of any inconsistency (EA s4). This means that the Environment Act procedures are additional to all other requirements.** In the case of logging and mining activities, development consent conditions could be used at the individual logging activity stage to require the conservation of critical habitat, addressing this critical gap in the FRTUA (EA s25). To date, these provisions of the *Environment Act* have not been used on logging or mining activities at all, so their power remains completely untested.

The *Environment Act* also makes no saving for customary rights. It must therefore be construed to prevail over the development wishes and rights of landowners where environmental concerns suggest modification or abandonment of a development activity. The Director of Environment could potentially withhold consent for a controversial project that is supported by the landowners themselves. The implications of this aspect of the Act remain poorly understood. It will probably prove extremely unpopular if it is ever invoked. It is noteworthy, however, that the Act has no application to subsistence activities, even when these may have significant **cumulative** impacts.

Despite its potential, and although it was enacted seven years ago and gazetted over two years ago, there is still no real enforcement or awareness of the Act. Regulations are in the process of being promulgated, but the vast majority of the EIA requirements are contained in the Act itself, and do not require regulations. There is general awareness of the existence of the Act, but very limited understanding of its detail and the scope of its obligations. Awareness programs for departments, agencies, and industries affected by the Act have not yet been held. Two developers have voluntarily submitted proposals for development consent, but this represents only a tiny portion of the activities that should undergo the approval process.

The history of the Environment Act highlights the dangers of simply developing legislative responses to capacity shortfalls. While legal power is important, it can do nothing if it is never enforced. Indeed, having laws on the books that remain unimplemented undermines their long-term potential, as developers continue to operate in disregard of legal requirements.

5.3.6 Summary

Were it to be properly implemented, the national legislative framework would address many of the adverse impacts on biodiversity of current resource extraction activities. The forestry laws are in urgent need of review, but both the fisheries and mining regimes are theoretically capable of achieving long-term resource sustainability. Were the EIA provisions of the *Environment Act 1998* fully utilised, even

forestry activities could be rendered more sympathetic to in situ BD conservation. Achieving this potential would require a massive increase in resources and commitment, to ensure an appropriate level of localization, stakeholder engagement and information. This is extremely unlikely to occur in the foreseeable future.

Even with an increase in resources, there remains a gap in national law dealing with biodiversity conservation, threatened species protection and protected area establishment and management. Nothing in the national framework facilitates planning and management by customary landowners to address the cumulative impacts on biodiversity of subsistence practices. Nor does it encourage the protection of biodiversity on either customary or alienated land. The *Town and Country Planning Act* 1979 could have provided the foundation for planning schemes, development control, and vegetation protection, especially if its powers were devolved to the provinces. It allows for the preparation and enforcement of planning schemes and the issuing of tree preservation orders for trees or woodlands "in the interests of amenity",⁴² but its potential is lost because of the exclusion of customary land from its regulatory reach.⁴³ The *Lands and Titles Act* 1968 makes provision for preservation orders to be applied to land of "historic, architectural, traditional, artistic, archaeological, botanical or religious interest", and permits the establishment of nature reserves,⁴⁴ but these provisions have never been used and could not be expected to address sites of local value or significance.

There is nothing that requires the national government to introduce BD laws if it is more appropriate and more workable for provincial government to perform the role of facilitating community-based *in situ* BD conservation. Most provinces already have laws with which to support and lend legal authority to community conservation arrangements and fill the gaps identified at the national level. Some of their provisions are outdated, and penalties may be too small to act as meaningful deterrents, but as with the national regime, the biggest weakness in the provincial resource management regimes is the complete absence of any implementation or enforcement. Only one province has actually registered a protected area,⁴⁵ although two protected areas in Western Province⁴⁶ and one in Malaita⁴⁷ are currently being negotiated with the provincial executives. Provincial governments are yet to encourage and promote the importance of resource management or assist communities to develop local management plans. Nor is there any enforcement of the generic prohibitions contained in several laws on taking certain species or undertaking harmful activities.

Public and government awareness of the laws is extremely low. Most provincial officers and executive members are unaware of the existence, let alone the content, of their own laws. Several provinces do not even hold copies of their ordinances, so it is hardly surprising that landowners have not pursued the establishment and registration of areas under their provisions. Despite having the most sophisticated legal regime for resource management of all the provinces, Western Province has no designated officer with responsibility for administering its resource management ordinance. Indeed, Malaita's appointment of an environment officer in June 2005 was a first for any provincial government.

5.4 Activities undertaken

5.4.1 NEMS priorities concerning BD conservation

The protection of areas of high ecological wilderness and cultural value was a priority of the 1993 NEMS. The table below lists the various strategies aimed at achieving this priority, and the progress since 1993 towards achieving this goal.

Strategy	Responsible agency & progress
1. Develop conservation areas system, in consultation with provincial govts and landowners in protected area sites	ECD Consultations in 1996, cabinet paper prepared?, no further progress
2. Participate in regional and international biodiversity programs	ECD On-going participation and attendance

⁴² *Town and Country Planning Act* 1979, Pts III & IV.

⁴³ *Town and Country Planning Act* 1979, s13.

⁴⁴ *Lands and Titles Act* 1968, s250.

⁴⁵ The Arnavons Marine Conservation Area in Isabel province.

⁴⁶ Tetepare Island, managed by the Tetepare Descendants' Association with assistance from WWF, and Gizo Island MPA.

⁴⁷ A community in Langa Langa Lagoon has established a small MPA with assistance from the Foundation for Peoples of the South Pacific (FSPI). FSPI is working with several other communities in Langa Langa, Gela (Central Province) and Marau (East Guadalcanal).

3. Identify areas of conservation significance	ECD Many areas identified as part of NGO-led conservation activities (see above) and existing local and expert knowledge, although no systematic studies or inventory undertaken
4. Develop a model conservation area with full landowner participation (originally earmarked to be Komarindi)	ECD -Komarindi (SPBCP) did not progress (why?) -Tetepare and Arnavons (WWF/TDA & TNC) both useful models, although neither area has large resident population. - Chea IWP project aiming to establish model – process on-going. - Langa Langa
5. Promote eco-tourism 5.1 develop nature sites in Lauvi Lagoon, South Guadalcanal, Savo Islands & Vihona Falls, Guadalacanal highland 5.2 promote Te Nggano & Marovo WH listing	MTA, TCSP 5.1 Small guesthouse on Savo, no other facilities/sites developed. MTA, ECD 5.2 Lake Tenggano listed, lodge funded, but no tourism development activity pursued. Marovo not listed
6 Protect & Manage wildlife 6.1 Legislation drafted for regulation and monitoring of wildlife trade 6.2 Implement better record keeping 6.3 insect farming feasibility study 6.4 feasibility study of farming other species 6.5 population survey of traded parrots	ECD, AG 6.1 <i>Wildlife Protection & Management Act</i> 1998 gazetted 2003, still not operational; no permitting process currently in place MCTPI, MAL 6.2 No record keeping currently undertaken MCTPI, ECD 6.3, 6.4 Status unknown 6.5 No survey undertaken, but required
7 Assess costs and benefits of biodiversity conservation 7.1 level and value of biodiversity 7.2 costs & benefits of national programme 7.3 specific costs and benefits of conservation area system	ECD, SPREP UNEP assessment undertaken (Mandis & Roberts), but not systematic as insufficient data available.

5.4.2 NGO initiatives

There are a significant number of initiatives aimed at promoting in situ conservation.

Arnavons Marine Conservation Area

Tetepare MPA

Roviana and Vonavona Lagoons Marine Resource Management Program

One initiative has established a network of small marine protected areas (MPAs) throughout Roviana and Vona Vona Lagoons in Western Province.⁴⁸ While the project is still in early stages, it is one of the best examples of a more strategic bioregional approach to community-level initiatives that accommodates the social, economic and governance realities of resource conservation. Traditional knowledge is incorporated into Roviana /Vona Vona MPA network design and development.

Langa Langa

UQ project in WP

Gizo MPA

Makira

5.4.3 Development projects

In addition to these NGO-led initiatives, a number of donor funded projects have focussed on BD conservation:

- SPBCP
- IWP
- EU Forestry Isabel

⁴⁸ Aswani S, *Roviana and Vonavona Lagoons Marine Resource Management Program Final Report Phases 1 & II, 2000-2004* (copy on file with author), Aswani & Hamilton 2004b, above n30.

- UNDP is about to commence a Community Conservation Project in Isabel Province aimed at building the capacity of Provincial Government personnel and local community members to manage their resources for sustainable use and conservation purposes.

A key element of Article 8 is the prevention of spread and eradication of alien invasive species. The impact of invasive alien species on BD in Solomon Islands is unknown, but believed to be high. SPREP is finalising a UNDP-GEF project proposal for a full-sized regional project aimed at addressing IAS. The over-arching objective of the project is to establish a strengthened and effective biosecurity system in the Pacific, focussing on the region's most critical biodiversity needs; and to build capacity to sustain initiatives into the future. It will adopt a community-based approach to eradicate and control invasive species and to control the new invasions.

5.5 Financing *in situ* conservation

Article 20 of the CBD requires parties to allocate sufficient financial resources to achieving convention objectives. Responsibility for these objectives rests primarily with the Solomon Islands government – the Departments of Prime Minister and Cabinet, Finance and National Reform and Planning. These are the agencies who have the capacity to build BD objectives into planning frameworks and make the case to development partners for more funding for priority areas. Indeed, the NEMS recognised this need over a decade ago, when it prioritised the need for resource pricing in national accounting and other economic policy.

To date, no steps have been made towards accounting for resource degradation and budgeting for protection or conservation. Budget allocations to the ECD and provinces remain very low. The immediate priorities of several major donors are focussed on economic rebuilding, law and order, and health and education. The majority of conservation funding comes from project work, which profoundly limits its long-term potential.

Within the ECD, it is fair to say that scarce departmental resources (including personnel) and funds are not allocated in line with convention obligations and priorities. As noted earlier, the work of the department is focussed on areas where external funding is available, even though the purpose of external project funding should be to allow for activities that would not otherwise take place because of financial limitations.

The EU and INGO Conservation International have both expressed strong interest in contributing to a conservation trust fund that would greatly enhance the funds available for *in situ* activities. In addition, there is support for the establishment of a GEF small grants program in Solomon Islands.

Art 11 requires parties to adopt economically and socially sound incentives for conservation and sustainable use. Some NGOs are experimenting with incentives to encourage local communities to protect certain areas or species. This is occurring on an ad hoc basis. Assessment of their success requires further research. The government currently offers no incentives for sustainable use of BD resources. In fact, there are strong systemic disincentives to attempting small-scale conservation activities. For example, the country's poor transport infrastructure makes tourism more difficult, which in turn makes it an unattractive alternative to logging. More fundamentally, however, the national government's heavy reliance on logging and foreign fishing for export revenues seriously compromises its ability to develop alternatives.

5.6 Capacity issues

Previous GEF projects aimed at biodiversity conservation the Pacific have revealed some important lessons about the types of capacity building that are needed. Solomon Islander life and livelihoods and the complexities of customary land and sea tenure and use rights mean that protected areas can only be achieved through sustainable resource management approaches in a landscape context in which people's needs are addressed (Hunnam 2002, 5). Proper mainstreaming of biodiversity considerations into economic and social planning are the best methods of ensuring *in situ* conservation.

The primary stakeholders in conservation projects and thus the primary focus of capacity building must be local people and resource owners (Hunnam 2002, 8). Their rights and interest should be the starting point for conservation efforts and capacity building efforts must address the priorities of those communities (Hunnam, 8).

Systemic

No protected area system yet established, although some good starting points, no guidelines on selection & management, no systemic approach to PA planning (ad hoc depending on the interests and identified priorities of NGOs).

No regime for threatened species protection

Wildlife Protection and Mgt Act not enforced – gaps in coverage

Lack of integrated land use planning

Forest resources not regulated and managed for conservation and sust use. – current forestry activities incompatible with cons/sust use

Fisheries - inshore fisheries over-harvested, esp key commercial species

Environment Act not yet operational in proactive sense

Lack of research and info

No plan for strategic funding of protected areas

Institutional

DEC lacks resources to coordinate, design, develop and implement national PA system – better to work with provinces and NGOs.

Customary land ownership and strong focus on local management may make provincial govt more appropriate location for coordinating in-situ conservation

No committee or group with ongoing commitment to establishing and maintaining protected area network – SILMMA for marine, but v/ltd interest in terrestrial cons (CI)

Very few (if any) conservation biologists, ltd expertise in how to transfer TK to modern conservation needs

Forestry dept lacks institutional focus on biodiversity conservation

Individual

Several community leaders and NGO staff active in designing and managing protected areas, but more required

Ltd recognition of intrinsic value of BD – need to find economic incentives for BDC

Institutional capacity bottlenecks hamper effective mgt. Continued “project” mentality – can only do it with project funding.

Arnavons, Tetepare legal recognition under provincial legislation

Other local MPAs to follow – Langa Langa, Roviana-Vona Vona, Chea

Rennell WHA established, but needs comprehensive management plan and implementation resources

Significant history of attempted conservation – large body of lessons learnt, but often not referenced in new project design

Many provinces have legislative framework that could support community-based conservation and land management – needs to be promoted and utilised – also have legislative power to make laws for protection of wild creatures. But community/local level outreach and initiatives are expensive

Potential for nature-based tourism if connected with significant protected areas (large enough to yield tourism benefit)

6. *Ex-situ* conservation

Article 9 requires parties to promote *ex situ* conservation, preferably within the country that is the original habitat of the species:

1. Adopt measures for ex-situ conservation
2. Establish and maintain facilities for ex-situ conservation
3. Adopt measures for the recovery and rehabilitation of threatened species
4. Regulate and manage collection of biological resources from natural habitats for ex-situ conservation so as not to threaten ecosystems and in-situ populations
5. Cooperate in providing financial support for ex-situ conservation.

6.1 Who is responsible?

Several agencies have a potential role in achieving ex situ conservation. ECD retains overall responsibility, especially in the absence of a designated alternative, such as a national zoo or research facility. It is also the implementing agency for the legislation governing the export of species.

The Museum can also play a role in ????????

The Department of Agriculture may also assist in the ex situ conservation of agricultural biodiversity. for example in the establishment of seed banks. Who managed dodo creek?

6.2 Policies and laws

The only relevant law is the *Wildlife Management and Protection Act 1998*, discussed at 5.4.2 above. What legislation governs the Botanical gardens? Check with Honiara Beautification Committee

6.3 Activities undertaken

Michelle to complete
dodo Creek – many specimens sent away, others destroyed

6.4 Capacity issues

There is no national strategy, policy, funding, nor any national facilities for the housing of BD resources ex situ. No institution has been given responsibility for ex situ conservation and there is limited knowledge of what specimens are held elsewhere.

7. Sustainable use of components of BD

Article 10 requires parties to:

1. Integrate conservation and sustainable use factors into national decision-making.
2. Adopt sustainable use measures to avoid or minimize adverse impacts on biological diversity.
3. Protect and encourage customary use of biological resources in accordance with traditional cultural practices that conserve or use sustainably.
4. Support local populations to develop and implement remedial action where BD has been reduced
5. Encourage cooperation between governmental authorities and private sector in developing methods for sustainable use.
6. Adopt economically and socially sound incentives for sustainable use.

Many of the issues raised by this obligation were canvassed in depth in section 5, dealing with in situ conservation, especially in relation to 10.3.

7.1 Who is responsible?

Responsibility for this obligation falls on the same entities who must mainstream BD. Only if forestry, fisheries, agriculture and mining activities are all informed by the need to ensure sustainability of biological resources can this obligation be achieved.

7.2 Activities Undertaken

Sustainable use is not new. The NEMS saw this as a key priority in relation to forest resources and fisheries resources. The strategies it proposed and the progress towards implementing those strategies since 1993 is set out in the table below.

Priority	Strategies	Responsible agency & progress
NEMS Sustainable use of forest resources	Customary landowner forestry awareness & traditional knowledge program - Devt of landowner awareness programme on forest mgt, processes and values - Documentation of tradition knowledge on silviculture & forest use & incorporation into practice	FD -Awareness programs run as part of extension activities, supported by AusAid FMP. -No documentation of TK
	Provincial and national govt forestry awareness program - awareness of roles and responsibilities	FD Still considerable confusion about relationship between provincial roles regarding conservation and national powers over forestry. Litigation has clarified right of province to require business licences with conditions
	Expand customary land reforestation - apply reforestation levy to reforestation purposes	FD Some done under FD activities and AusAid FMP ????
Sustainable use of marine resources	Ensure equitable and sustainable ec return to nation from commercial fishing	Fisheries Fisheries Act 1993 creates legal framework to achieve this goal, but poor enforcement and border policing Tuna Convention implementation should address returns and harvesting levels
	Guidelines for controlled harvest of reefs and lagoons	Fisheries Few guidelines exist, still considerable work to be done

	Promote aquaculture and mariculture efforts	Fisheries, ICLARM ICLARM, Nusatupe Some local beche-de-mere operations, but mangrove clearance offsets environmental benefits Others - TBC
	Conservation of marine turtles - ban shell exports - continue participation in SPREP programs - establish Arnavons as protected area	Fisheries, ECD - 2002 –National Turtle Strategy - Arnavons Conservation area established with assistance from TNC, but no controls on taking of turtles immediately outside AMCA. - shell souvenirs still sold widely, despite this breaching national policy - turtle meat available for sale form fastfood outlets in Honiara
	Monitor crocodile populations - educate about critical status - ban export of skins until population demonstrably recovers - annual monitoring	Fisheries, ECD No monitoring?
	Create marine reserves	Fisheries, ECD Some established - See <i>in situ</i> conservation, 5.3 above
	Implement reef management systems, learning from elsewhere	Fisheries No systems implemented to date

Fisheries – management plans
World fish
Marovo tourism UNESCO/NZ Aid

Agriculture – no activities
Forestry
SIDT ecoforestry
EU eco-forestry

7.3 Policies and laws

The NEMS remains the principal policy document dealing with sustainable resource use. Its provisions were discussed above.

The *National Forest Policy* 2003 recognises conservation of BD as one of the non-consumptive uses of forests (SIG 2003, 2). The policy provides that decisions about forestry will be made in the national interest. This may conflict with landowner interest where landowners wish to allow forestry on their land. The first priority for forest use is:

“To ensure the long term social and economic security of Solomon Islands by:

- protecting the contribution the natural forests make to the living standards of the majority of the nation’s population who live in small rural village communities. This concerns primarily the ecological functions of the forest. This priority is considered to be of national strategic importance as the loss of these forest benefits will cause significant poverty and result in serious public health problems and social disruption.

- managing the harvesting of the natural forest resources towards a more sustainable level of cut (NFP, 2003, 4).”

Commercial logging is only a second priority and must not compromise the first priority. Despite this laudable policy, however, the evidence overwhelmingly shows that use of the forest resource is currently at unsustainable levels. As the legal review in section 5.3 suggested, the existing legal regime for forest exploitation is inadequate to achieve the objectives of sustainable use. There is also a lack of clear criteria on what is “sustainable” for key resources from a BD conservation perspective. Commercial sustainability has been assessed, but requires modification in light of the recent accelerated depletion of forests. There have been no systematic assessments of what is required to maintain ecosystem and BD integrity.

The *Fisheries Act* 1998 contains all the elements necessary to promote sustainable use of marine BD resources, but awaits proper implementation.

As noted in 5.3 above, the EIA provisions of the *Environment Act* 1998 have the potential to set resource exploitation on a sustainable footing, but an absence of enforcement means that this potential has not been realised.

7.4 Capacity issues

Systemic

Forestry regime promotes unsustainable practices, despite policy.

Legal capacity to control rates of forestry ltd under current legislation

Need incentives to promote sustainable use

Ltd recognition of sustainable resource use and conservation in national development plans

Devolution of power dealing with NRM needs to be supported by financial allocations and training of provincial governments in their resps and how to fulfil them

Ecological sustainability of local economic development unproven (Hunnam 2002, 3)

Institutional

Forestry Department culture – strong emphasis on resource exploitation and sustainable commercial yield (cf BD conservation)

Ltd enforcement capacity (funding, expertise, personal commitment of officers)

Ltd resources and capacity to evaluate EISs or enforcement non-compliance with requirements

Individual

Many landowners lack scientific understanding of sustainable use requirements for their resources

Need for capacity devt in local level capacity to monitor resource health

Concept of sustainable use is understood, but poorly implemented and practised

Many local initiatives designed to raise awareness and establish systems.

8. Access to genetic resources

Art 15 requires parties to:

1. Create conditions for access to genetic resources for environmentally sound uses on mutually agreed terms, including prior informed consent
2. support scientific research based on genetic resources
3. Adopt legislative, administrative & policy measures to share fairly and equitably results of research and development and their benefits.

Ensuring access to genetic resources and the equitable sharing of benefits (ABS measures) from biodiversity is a key mechanism for addressing the loss of customary practices and of biodiversity. Countries need to provide an environment that nurtures the development of these skills in order to negotiate fair bioprospecting deals and develop new uses for their biodiversity or benefit from the biotechnology revolution. It is therefore considered necessary to develop a framework for regulating access to genetic resources and associated traditional knowledge and to create the conditions for equitable sharing of benefits deriving from these genetic resources, and thereby ensuring that benefits accrue to countries and communities and not solely to users in other countries. The 2001 Second National Communication to the CBD indicated that implementation of ABS measures in Solomon Islands was a major part of the medium term development strategy for the country.

8.1 Who is responsible?

Within Solomon Islands, there is no agency explicitly entrusted with development access and benefit sharing arrangements. Responsibility must therefore be assumed to fall equally on ECD, as the CBD focal point, and the A-G's department as the principal legal office of the Solomon Islands' government.

The Secretariat of the Pacific Community (SPC) has facilitated the development of draft model laws on (1) protection of traditional knowledge and (2) access to genetic resources and benefit sharing. The Draft Model Law for the Protection of Traditional Knowledge and Expressions of Culture was approved by an SPC Working Group of Legal Experts in June 2002. It creates new rights for owners of traditional knowledge and expressions of culture (e.g. music, dance, art, stories) and contains provisions on prior informed consent and benefit-sharing. The Draft Model Law on Access to Genetic Resources and Benefit Sharing has yet to be finalized and will then go to the Pacific Islands Forum for consideration.

8.2 Policies and laws

There are no policies or laws relating to ABS at present. Nor has there been any assessment of the risks and lost opportunities arising from the absence of legislation. That is to say, the extent to which biopiracy is currently a problem in Solomon Islands is unknown.

8.3 Activities

No activities have yet been undertaken at a national level. Solomon Islands has recognized the benefits of a regional approach to developing ABS frameworks and has requested the South Pacific Regional Environment Programme (SPREP) to consider the need to revise the Apia Convention with a view to promoting more effective ABS measures. In addition, a GEF medium-sized project is currently being prepared. The proposed regional project would be aimed at Implementing the Bonn Guidelines on ABS in the Pacific Island Countries. The overall goal of this project is to assist countries of the region to implement the CBD's Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising out of their Utilization. It would build appropriate policy, institutional and human capacities at the regional, national and local levels in Pacific Island Countries or Territories (PICTs) for the implementation of the Bonn Guidelines and for the development of national ABS measures. Fred knows about this – he went to the meeting to discuss it in cairns

8.4 Capacity issues

Systemic

Not a priority under current framework

Poor understanding of what Art 15 requires and importance of conserving genetic resources

Supporting policies and legislation not in place.

No resources to effectively control "bio-piracy", especially as widely believed that customary landowners control resources.

No baseline assessment of biotrade or potential for commercialising bd

Institutional

No lawyers or economists within ECD to design/implement framework

Problems with common property and distribution of benefits

UNESCO project with Museum looking at traditional knowledge

Potential GEF project to help develop ABS legislation

Strong traditional knowledge held by elders, under threat as languages die out and elders die before transmitting information

9. Biosafety

Article 19 requires parties to adopt:

1. Legislative, administrative & policy measures for effective participation in biotech research
2. Measures to facilitate access & benefit sharing
3. Information regarding use & safety regulations in handling living modified organisms (LMOs)

These requirements are elaborated in the Cartagena Protocol.

9.1 Who is responsible?

As the focal point for the Biosafety Protocol, the ECD bears over-arching responsibility to ensure that the obligations of the Protocol are met. It is the national executing agency for the Biosafety Framework Project, described below. A National Co-ordinating Committee (NCC) advises and guides the preparation of a National Biosafety Framework. (check with Paul Roughan who is on that committee)

A number of government agencies perform functions that are relevant to the issues addressed in the Biosafety Protocol. In particular, the Solomon Islands Agricultural Quarantine Service (SIAQS), a division of the Ministry of Agriculture and Primary Industries, has primary responsibility for regulating the entry into Solomon Islands of organisms that may pose a threat to human health or environmental safety.

The statutory functions of the SIAQS are:

- a) to prevent the introduction of exotic pests that may be imported through plant/plant materials and animal/animal products into the Solomon Islands;
- b) to provide an inspection and certification service for exports and imports of agricultural commodities;
- c) to facilitate the introduction of plant, plant products and animal and animal products into the Solomon Islands for the purpose of enhancing trade and commerce; and
- d) to apply sound scientific principles to the Quarantine decision making process.

Other agencies whose activities may affect compliance are the Department of Forests, Environment and Conservation, the Ministry of Fisheries and Marine Resources, and the Customs and Excise Division of the Ministry of Finance. Imports of exotic marine species for the purposes of aquaculture and genetically modified tree species for plantation are within the regulatory purview of both SIAQS and the relevant department.

9.2 Policies and laws

Solomon Islands currently has no legislation dealing specifically with biological safety as covered under the Biosafety protocol. The Forests and Timber Utilisation Act 1969 places some control over what tree or timber species can be imported from abroad for forestry purposes. At present, the EIA provisions of the *Environment Act* 1998 are not triggered by the importation of GMOs, so the list of designated developments likely to have a significant impact on the environment (and therefore requiring development approval) will need to be amended. Quarantine laws exist, but are not rigorously enforced.

It is not possible to assess the extent to which this legislation has allowed for any scrutiny of what goods are imported into the country.

9.3 Activities

Biotechnology is a new issue in Solomon Islands. A comprehensive awareness campaign will be required to educate the public about the potential threats to biodiversity, fisheries, and agricultural health. There is currently no information about whether any GMOs or LMOs are already in the country for use as crops, food or feed. A national biosafety framework project is currently underway to address these critical gaps. It commenced in 2001 with GEF funding, but has only recently been revived following the suspension of funding pending completion of financial acquittals for the first period of funding and the replacement of the national project coordinator.

The components of the original project have been altered due to the compressed timeframes and reduced budget, but provide a useful guide to the activities:

Phase One (Months 1-6) Preparatory activities:

1. Inventories of :

Current use of modern biotechnology as defined in the Cartagena Protocol on Biosafety (including those techniques that are covered in the Protocol but excluded from the Advanced Informed Agreement procedure e.g. contained use, veterinary use and possibly human pharmaceuticals) ;
 Existing legislation or legal instruments related to biotechnology/biosafety, etc. ;
 Active or planned National Projects for capacity building related to the safe use of biotechnology.

2. A report on existing sub-regional biosafety frameworks and mechanisms for harmonization of risk assessment/management.
3. Rosters of relevant experts within the country, identifying their experience and expertise so that adequate coverage in all areas of expertise is obtained and potential gaps can be identified.

Phase Two (Months 7-12) Analysis:

1. Access to relevant information for all stakeholders in accordance with the requirements of the Cartagena Protocol on Biosafety.
2. Development of National Biosafety Database and linkages to the Biosafety Clearing House.
3. Mechanisms for adequate involvement of all stakeholders, including public and private sectors, on issues related to biosafety.
4. Identification of the components of the national Biosafety Framework, in consultation with all relevant stakeholders.

Phase Three (Months 13-18) Preparation of draft NBF:

1. Draft legal instruments, including guidelines, as appropriate.
 2. Systems for risk assessment and management, including audit, which take into account national and sub-regional/regional needs.
 3. Administrative system for compliance with the Cartagena Protocol on Biosafety
 4. Mechanisms for public consultation in decision-making processes regarding LMOs.
 5. Mechanisms for sharing of scientific assessments at sub-regional levels, whilst allowing for decision-making at the national level.
 6. Identification of country needs and mechanisms for participation in the Biosafety Clearing House.
 7. Publication of inventories, reports of national meetings, draft and/or final National Biosafety Framework, relevant regulations and guidelines.
- Need to check status of this

9.4 Capacity Issues

Systemic

- No policy
- No legislation
- Issues not well-understood by public, govt or the env't community

Institutional

Very limited human resources for implementation of recommendations of biosafety framework

Individual

Lack of expertise/concentrated

- biosafety framework project re-started after long hiatus
- Potential to raise awareness and gain funding by highlighting linkages with agriculture/aquaculture and food security

10. Reporting and participation

In addition to the substantive obligations of conservation and sustainable use that have been outlined above, parties to the CBD are required to participate in meetings of the CBD parties – including expert meetings where relevant - and prepare periodic reports on implementation.

10.1 Who is responsible?

ECD is responsible for ensuring that Solomon Islands attends COPs and provides reports to the Secretariat. This does not mean that it is legally required to itself attend or write the reports. Where ECD is unable to attend, it is free to nominate NGO representatives to attend meetings. Similarly, it can engage to services of external individuals or groups to assist in the preparation and writing of reports.

10.2 Activities undertaken

Solomon Islands has attended most of the CBD COPS and the regional preparatory meetings. It did not prepare a first national communication, but did complete the survey-style second national communication in 2001.

10.3 Policies and laws

There are no policies or laws relating to these procedural obligations.

10.4 Capacity issues

Systemic

Lack of full understanding convention processes
No oversight of performance of CBD focal point role

Institutional

- Convention activities concentrated in very small number of individuals
- Limited transmission of convention activities/meeting outcomes to broader conservation community
- Reporting lacks specificity and no external scrutiny – inaccuracies go undetected.
- Pool of experienced practitioners within NGO community who can participate in expert meetings etc regional cooperation

11. Conclusions (TBC)

2001 Second National Communication listed the following as "direct results" joining the CBD:

- 2 new conservation areas established under the SPBCP (membership of CBD was a condition of participation)
- new legislation (Wildlife and Environment Act – highly unlikely since WMPA is CITES and Env Act has no BD components)
- participation in regional programs (membership of SPREP prompts this, not the CBD)
- Increased NGO activities (?)
- Formulated and implemented regional strategies(?)
- Promote sustainable use through income generating activity (?)
- Active participation in regional prep meeting (3rd ref to regional work – all centred around SPREP, and not on CBD)
- tuna Mgt Plan formulated (result of CBD?)
- ForestryCode of Practice (definitely not related to CBD!)

11.1 Systemic issues

- System of customary ownership makes conservation more complicated
- Information gaps
- Gaps in legal framework
- Insufficient staff, resources or will to enforce existing laws
- Lack of recognition of value of species that do not have direct use

Large number of islands means that severe localised impacts can lose whole species, plus transport and communications difficult

Reliance on revenues

Virtually no mainstreaming

Corruption – machinery of government

Bottom-up/top down

Post conflict

11.2 Institutional issues

Over-centralised – need to move to decentralised model where ECD coordinates and compiles, but actual activities are allocated and shared, and as much as possible streamlined with existing activities instead of new ones. There will never be enough staff to do the field work, so it is a better use of ltd resources for them to work on the policy/planning/ coordination roles.

Poor funding and poor financial management (don't get best outcome for funds). Over reliance on funding – belief that nothing can happen without funding. Underestimates the capacity of existing staff to achieve outcomes.

Unaccountable – poor structures. No one ever checks the accuracy of ECD claims.

Inertia/inability to move forward

Try to control, instead of facilitate – misses capacity available in NGOs/CBOs and inappropriate in regulation-averse society

Very poor leadership at highest levels – both politically and public service – partly a function of the public serves as a whole, but ECD could dig deep and examine its own operation. Opportunity to do so following SPREP review of its structure and division of responsibilities but this document was completely ignored. Recent recruitments follow model that does not reflect the statutory responsibilities of the dept or the priorities set for the dept as part of the nems process.

Tendency to put a huge amount of stock in legislative responses. ("nothing's been done about this in the past, but we're working on a law"). Especially ridiculous given how poorly existing legislation has been used and how few people are aware of existing legislation at both national and provincial level.

Goodwill of (some) provinces.

11. Individual capacity issues

Many highly skilled individuals, but general skills shortage – high migration

Corruption

Tendency to undertake activities only if additional funding is attached, e.g. sitting fees.

Attitudinal change

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Appendix 1

Solomon Islands Sustainable Development Advisory Council (SISDAC) Terms of Reference

Functions

1. Serve as the national Project steering committee for all GEF-funded projects, in order to:
 - Streamline meeting requirements for each project
 - Enhance coordination and cooperation between projects
 - Improve awareness and understanding of projects, and the connections between them, among government and NGO stakeholders
 - Provide high-quality input to the design and on-going implementation of projects
 - Ensure the outcomes of projects are fully incorporated in wider government activities and policies
 - Identify cross-cutting issues relevant to all projects
 - Identify opportunities for follow-up activities
 - Identify and respond to “gaps” in project activities that could be pursued as part of the national sustainable development agenda
2. Oversee other externally funded projects relating to environmental protection or sustainable resource use, as they arise
3. Provide high-level advice to government and donors, as appropriate, in relation to national sustainable development policies and priorities
4. Perform other functions, as determined from time to time.

Guiding Principles

In all its work, SISDAC should:

- practise the highest standards of good governance, including transparency, accountability and participation;
- consider the way in which impacts on the environment and environment-related projects affect women and men differently, and should explicitly consider the gender dimension of projects, plans and policies;
- consider the influence of, and impacts on, culture of projects, plans and proposals;
- seek to identify ways in which the outcomes of resource stewardship or sustainable development can be mainstreamed projects into broader governmental policies and activities;
- strive for balance in the gender and provincial background of its Members.

Composition

- Under-Secretary National Reform and Planning &
- PS Forestry, Environment & Conservation (one of these two officers will act as co-chair)
- Senior delegate from:
 - Foreign Affairs
 - Agriculture & Lands
 - Fisheries
 - Mines & Energy
 - Communication, Aviation & Meteorology
 - Culture, Sport & Tourism

Provincial Government
Health

- 4 representatives of NGOs, preferably with at least two representatives from groups whose focus is environment/conservation/sustainable livelihoods. Representatives should be nominated from within the NGO community, using the process developed and agreed by the Development Services Exchange members, and implemented by the DSE office.
- 1 representative SI Chamber of Commerce
- 1 representative of research institution.
- 1 representative of the Solomon Islands Christian Association Commission
- Ad hoc members: Additional members may be required for representation on steering committees of specific projects, to deal with project-specific subject matter.

Activities

Meet on the first Tuesday of every month, from 8.30-2.00 (meeting end time to be determined by agenda).