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South Pacific Regional Environment Programme



REPORT OF THE SECOND EXPERT MEETING ON
A DRAFT CONVENTION FOR THE PROTECTION AND DEVELOPMENT OF
THE NATURAL RESOURCES AND ENVIRONMENT
OF THE SOUTH PACIFIC REGION

Noumea, New Caledonia, 7-16 November 1983

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AND DEVELOPMENT OF THE NATURAL RESOURCES AND ENVIRONMENT OF THE
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(Noumea, New Caledonia, 7 - 16 November 1983)

REPORT

South Pacific Commission
Noumea, New Caledonia
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CONTENTS

REPORT

	<u>Page</u>
1. Introduction	1
2. Opening of the Meeting: Statements from SPREP Co-ordinating Group Members	2
3. Election of Chairman, Vice-chairman and a Drafting Committee	3
4. Adoption of the Agenda	4
5. Review of SPREP Activities by SPREP Co-ordinator	4
6. General Statements by Delegations	4
7. Consideration of Draft Protocol concerning Co-operation in Combating Oil Pollution Emergencies in the South Pacific Region	9
8. Consideration of Draft Protocol for the Prevention of Pollution of the South Pacific Region by Dumping	10
9. Consideration of Draft Convention for the Protection and Development of the Natural Resources and Environment of the South Pacific Region	13
10. Other Business	17
11. Adoption of the Report	17
12. Conclusion	17

<u>APPENDIX 1:</u>	List of Participants	19
<u>APPENDIX 2:</u>	Opening Statement by Mr Francis Bugotu, Secretary-General, South Pacific Commission	31
<u>APPENDIX 3:</u>	Opening Statement by Dr Peter Adams, Deputy Director, South Pacific Bureau for Economic Co-operation	35
<u>APPENDIX 4:</u>	Opening Statement by Ms Patricia Bliss-Guest, Programme Officer, United Nations Environment Programme	37
<u>APPENDIX 5:</u>	Agenda	41
<u>APPENDIX 6:</u>	Opening Statement by Dr Jeremy Carew-Reid, Co-ordinator, South Pacific Regional Environment Programme	43
<u>APPENDIX 7:</u>	Draft Convention for the Protection and Development of the Natural Resources and Environment of the /South Pacific Region/	47
	Annex A	65
	Draft Protocol concerning Co-operation in Combating Pollution Emergencies in the /South Pacific Region/	67
	Draft Protocol for the Prevention of Pollution of the /South Pacific/ by Dumping	75
	Annex I	87
	Annex II	91
	Annex III	93
<u>APPENDIX 8:</u>	Proposed Amendments and Additions to Convention and Protocols not considered at Meeting	95

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1. INTRODUCTION

- 1.1 Arising from recommendations made by the Conference on the Human Environment in the South Pacific held in Rarotonga, Cook Islands, from 8-11 March 1982, the Thirteenth (1982) South Pacific Forum and the Twenty-Second (1982) South Pacific Conference approved the convening of an Expert Meeting to consider a draft Convention for the Protection and Development of the Natural Resources and Environment of the South Pacific Region.
- 1.2 An Expert Meeting on a draft Convention for the Protection and Development of the Natural Resources and Environment of the South Pacific Region was accordingly held at SPC Headquarters, Noumea, from 24-28 January 1983. The meeting made considerable progress but there was not time to finalize negotiations and it was decided to convene a Second Expert Meeting.
- 1.3 The Second Expert Meeting on the draft Convention was held at SPC Headquarters, Noumea, from 7-16 November 1983. Representatives from the following countries and territories attended the meeting: American Samoa, Australia, Cook Islands, Federated States of Micronesia, Fiji, France, French Polynesia, Guam, Kiribati, Nauru, New Caledonia, New Zealand, Niue, Palau, Papua New Guinea, Tonga, United States of America, Vanuatu, Wallis and Futuna and Western Samoa, together with representatives of the Co-ordinating Group for the South Pacific Regional Environment Programme (South Pacific Bureau for Economic Co-operation, South Pacific Commission, United Nations Environment Programme, Economic and Social Commission for Asia and the Pacific), and observers from Japan, Forum Fisheries Agency, International Atomic Energy Agency (IAEA) and International Maritime Organization (IMO). See Appendix I for list of participants.

- 1.4 The objective of the meeting was to consider and agree on provisions to be included in the draft Convention and two draft Protocols, one for the Prevention of Pollution of the South Pacific Region by Dumping, and the other concerning Co-operation in Combating Oil Pollution Emergencies in the South Pacific Region.

2. OPENING OF THE MEETING

- 2.1 Mr Francis Bugotu, Secretary-General of the South Pacific Commission, opened the meeting by welcoming the delegates from participating countries, members of the SPREP Co-ordinating Group, and observers. He gave a particular welcome to Dr Peter Adams, Deputy Director of SPEC and Patricia Bliss-Guest of Regional Seas Programme Activity Centre, UNEP, and, although not present, thanks were also given to ESCAP for contributing to SPREP as a member of the Co-ordinating Group and to Programme activities. He made special mention of the generous and continuing financial and expert assistance given to SPREP by UNEP (See Appendix 2).
- 2.2 Mr Bugotu referred to the concern expressed by many member countries about testing of nuclear weapons and the storage and dumping of nuclear wastes in the South Pacific region and mentioned their deep commitment to SPREP and to a legal regional Convention. He stressed the importance of the relationship between the SPREP Action Plan and the Convention and called on those member countries which have not already done so, to be forthcoming with their financial contribution to the Programme. The Secretary-General emphasized the importance of reaching a satisfactory wording on the sensitive issues still to be finalized so that the Convention could be signed at a plenipotentiary meeting next year.
- 2.3 Dr Peter Adams, Deputy Director, South Pacific Bureau for Economic Co-operation, in his opening statement, referred to the atmosphere of friendship and co-operation provided by the SPC which contributed a great deal to achieving agreement on the serious matters to be discussed (see Appendix 3). He described the Convention as the most important legal document which this region had ever evolved for the protection of the South Pacific environment, and noted that if the meeting was successful, then protocols dealing with other forms of environmental protection could be added subsequently.
- 2.4 In recognizing that the widest possible measure of agreement by those present was desirable, Dr Adams alluded to the need for a spirit of compromise in reaching agreement. However, he stressed that any such compromise would need to recognize the primary interests of the people and governments of the region in their own environment and its protection. He referred to recent developments relating to the subject matter under discussion, in particular the Seventh Meeting of Contracting Parties to the London Dumping Convention in February and the Fourteenth South Pacific Forum in Canberra in August.

The Forum reached wide agreement on the general principles of the concept of a nuclear-free zone and would be considering the concept further at its 1984 session. The Forum also reiterated that its members would continue to make the strongest protests and condemnations so long as nuclear testing continued in the region. They also reaffirmed their opposition to proposals for the dumping and storage of nuclear waste in the Pacific region. Thus, Dr Adams concluded that the outcome of this meeting would be of direct interest to the Forum and SPEC would lend whatever support required of it to achieve a successful outcome.

- 2.5 Ms Patricia Bliss-Guest, of UNEP's Regional Seas Programme Activity Centre, expressed the sincere appreciation of UNEP for the efforts of the SPC in preparing for the meeting (see Appendix 4). She stated that the meeting clearly demonstrated that the spirit of regional co-operation which inspired SPREP is being increasingly strengthened. She noted that of the eight regional sea areas for which action plans have been adopted, six conventions for protection and development of marine and coastal environment have been adopted. The formula, followed in each of those regions of a general framework Convention supplemented by technical protocols, permitted states to accept a legal obligation to co-operate and manage their shared sea while progressively assuming more specific duties through the protocols as economic and social needs permit. UNEP experience has shown that this formula was most practical and effective, promoting a regular review of all activities, at a senior political level as well as a technical appraisal through expert meetings and studies. She urged the meeting to bear in mind during its discussions the need to reflect in the legal agreements, the comprehensive approach to environmental protection and management embraced in the Action Plan.

3. ELECTION OF CHAIRMAN, VICE-CHAIRMAN AND A DRAFTING COMMITTEE

- 3.1 Mr David Tupou, the delegate for Tonga and Mr Selwyn Leodoro of Vanuatu, were elected as Chairman and Vice-Chairman, respectively. The delegates of Australia, France, French Polynesia, Kiribati, New Zealand, Palau, Papua New Guinea, United States of America and Vanuatu were elected as the core Drafting Committee with the qualification that other delegates could participate with the permission of the Plenary, when provisions were of specific interest to them. The delegation of the Federated States of Micronesia participated in all drafting sessions. The delegate of Papua New Guinea, Mr Camillus Narakobi, was elected as Chairman.

4. ADOPTION OF THE AGENDA

4.1 The agenda was adopted with the following changes:

- the protocols were to be considered before the draft Convention, and,
- the Oil Pollution Protocol to be considered before the Dumping Protocol.

The delegate of New Caledonia joined the general consensus after expressing the view that it would be more logical if the Convention was treated first.

The Agenda is attached as Appendix 5.

5. REVIEW OF SPREP ACTIVITIES BY SPREP CO-ORDINATOR

5.1 The SPREP Co-ordinator, Dr Jeremy Carew-Reid, developed further the theme introduced by the Secretary-General when he pointed to the link between the Action Plan and the Convention and Protocols (see Appendix 6). He went on to illustrate the practical implications of the Convention by describing some of the SPREP activities mounted in 1983. Every provision of the Convention, its preamble and Protocols has its origin in one or more of the objectives set down in the Action Plan. He then reviewed the history of events that give the Action Plan its political authority. Dr Carew-Reid outlined SPREP activities launched this year referring specifically to the First Consultative Meeting of Research and Training Institutions in the South Pacific held in Suva in April which resulted in the establishment of two SPREP Networks, the Research and Monitoring Network and the Education and Training Network. He then described their activities. He expressed the hope that the meeting would resolve the many sensitive issues before it so that the delegates could leave Noumea with the understanding that the Convention would be signed at the Plenipotentiary Meeting next year.

6. GENERAL STATEMENTS BY DELEGATIONS

- 6.1 Various delegations gave country statements during the course of the meeting which they wished to be reflected in the report. These statements are presented in summary form below.
- 6.2 The delegate of American Samoa, as a means of showing the commitment of American Samoa to protection of the environment and to support of SPREP, provided an overview of environmental programmes underway in his country. He urged the meeting to reach consensus on the wording of the Convention and the two Protocols.

- 6.3 The delegate of Papua New Guinea expressed the firm support his government gave to the concept of a regional approach to the environment. SPREP and the Convention were crucial elements in this approach. Papua New Guinea looked forward to a successful resolution at the meeting to outstanding issues within the draft agreement.
- 6.4 The delegate of the Federated States of Micronesia expressed his appreciation to SPC for sponsoring the meeting. The delegate expressed his hope that the meeting would lead to an early adoption of a meaningful and adequate regional agreement to protect the precious marine environment of the Pacific. The sea is the hope and indeed the lifeblood of future generations. He pointed out that the regional marine environment is utilized by nations other than the Pacific Island countries and that all users had a responsibility to keep the region free of pollution. He stated that because of the nature of pollution which does not recognize any boundaries, the geographical coverage of the Convention should extend beyond recognized territorial boundaries. Yet he noted that though we must strive to achieve co-operation on environmental protection of our sea resource, we also must recognize that aspects of development and management may not be suitably considered in a regional agreement of this nature.
- 6.5 The delegate of France pointed to France's concern about environmental protection and its readiness to co-operate in realising the goals of protection for the Pacific region. As an example, he mentioned the joint activities now underway between SPREP and ORSTOM. Yet he stated that, on the question of nuclear testing, France was unable to accept any prohibition. France has developed nuclear power as protection and dissuasion and regretted the fact that nuclear disarmament was not at present feasible. France was making every effort to ensure that nuclear testing will not pollute the marine environment, realising that the ocean was the lifeblood of the Pacific peoples. France was committed to furthering the aims of SPREP. The delegate asked the meeting to appreciate the position of the French Government which would do everything possible to co-operate in finalizing the Convention.
- 6.6 The delegate from Guam stated that although the status of his Government as a territory of the United States would not allow it to sign international legal agreements, Guam nevertheless intended to participate actively in negotiations and fully supported the intent of the Convention. The delegate reminded the meeting of his Government's firm stand taken at the 1983 South Pacific Conference in Saipan on nuclear testing and the dumping of radioactive waste.
- 6.7 The delegate from Guam made a further statement prior to his unexpected recall on the sixth day of the meeting to resume his duties in Washington D.C. He assured the meeting of the importance Guam placed on the preservation of the Pacific environment, as evidenced by the strong statements he was directed to make on behalf of the Government of Guam supporting the prohibition of nuclear testing and dumping of radioactive wastes.

- 6.8 The delegate of New Caledonia expressed a hearty welcome to all delegates to Noumea. He pointed out that many island countries were not signatories to major international agreements aimed at environmental protection (for example, the Washington Convention on Endangered Species), and, for this reason, a legal agreement focussed specifically on the region's marine environment was essential.
- 6.9 The delegate of New Caledonia, before the Plenary turned to discussion of the Convention, stressed the need for delegates to take a realistic rather than a utopian stand. He felt that it was not necessary to attempt to regulate everything under this Convention, and that pollution arising from land-based sources, from exploitation of the marine sub-soil, or even relating to nuclear activities, could be dealt with at a future meeting. He underlined the real significance of the amendment to article 9 proposed by Palau. He pointed out that one country, by choosing to keep waste rather than dump it, was creating an unacceptable risk for its own population. The delegate referred to the inclusion of the term "development of the natural resources" in the Convention title and stated that a prohibition on dumping of all waste could sound the death knell for industrial development. New Caledonia was committed to sound environmental management and pollution control but the delegate believed that it was unrealistic to limit development projects by preventing any form of dumping. The delegate stated that Wallis and Futuna had announced their voluntary contributions to SPREP and that New Caledonia would make a grant of the same amount. But he questioned whether countries, who could not accept the conditions of the Convention, could be expected to make financial contributions.
- 6.10 The delegate of Niue stated his country's commitment to environmental protection and added that his government was currently considering physical planning proposals which embraced environmental matters. Niue strongly supported SPREP and looked forward to a successful finalization of the Convention and its Protocols.
- 6.11 The delegate of Australia referred to the vast nature of the region and importance of the sea to the area. In other regions, the health of the sea depends on the land, here, the health of the land depends on the sea. He stated that Australia produces medical radio-isotopes, and mines and exports uranium, but disposes of its wastes on land. He further mentioned that because Australia had other legal commitments which covered much of what was being discussed at the meeting, he would need to keep in mind the need for consistency with these. He expected that Australia could undertake the obligations in the draft in relation to a Convention Area related to the SPC area. He expressed regret at the absence of one state which had previously actively participated and hoped that state would participate in the future.

- 6.12 The delegate of the United States of America welcomed the opportunity to participate in the development of a draft Convention and associated Protocols. The United States emphasized its strong support for the UNEP Regional Seas Programme, indicating it has recently signed the Convention for the Protection and Development of the Marine Environment in the Wider Caribbean Region.
- 6.13 The United States expressed the view that the participating states should endeavour to develop a Convention with the broadest possible support in achieving the goal of protecting the marine environment set forth in the Convention and associated Protocols. The United States also emphasized that there are a variety of environmental issues facing the states of the region and that for a Convention to be effective, it must address them all not just a particular matter of concern. The United States proposed that the oil spill protocol be expanded to include coverage of hazardous substances and further proposed that consideration be given to address land-based sources of marine pollution as soon as possible.
- 6.14 The United States indicated that certain bracketed proposals in the text which would restrict traditional high seas freedoms remained unacceptable and would be contrary to its security obligations. The United States expressed its view that the Action Plan developed by the South Pacific Regional Environment Programme is legally distinct from the Convention in both content and funding and could not agree to a central funding mechanism. The decisions affecting either are to be made by the respective participating states. The United States viewed the proposal by the Secretariat, that funding be on an assessed contribution mechanism as premature, and that final funding mechanisms for purposes of the Convention should be unanimously agreed upon by the Contracting Parties.
- 6.15 The delegate from Wallis and Futuna was required to leave the meeting early. He congratulated the Chairman on his handling of the meeting. He also thanked all his colleagues, and all consultants and experts for their frank collaboration with island countries and for their effective good work in elaboration of the materials considered. He stated that the Territory of Wallis and Futuna strongly supports the SPREP Action Plan by attending all regional conferences, thus expressing their desire to participate fully. He stated that for 1984 his Territory has made a budget commitment of US\$ 2,200 (330,000 CFP), which is the amount recommended by SPREP.
- 6.16 The Wallis and Futuna delegate noticed many difficulties regarding agreement on the draft text for legal and political reasons, as well as due to regional adaptations. He stressed that it would be desirable to not become involved in politics. He had heard the declarations regarding the question of dumping as a political stance of certain governments and stated that the delegates are not charged to express the political leanings of their respective Governments. At the Saipan Conference, the USA and UK, as well as France, made pertinent declarations regarding the disposition of the draft Convention.

They then declared their opposition to signing the original form, referring to certain dispositions relating to international jurisdiction. With this history, the Wallis and Futuna delegate predicted that the work of the meeting would be long and difficult and concluded by wishing the meeting success.

- 6.17 The delegate from Palau brought a letter from President Remeliik which expressed full support for the activities, projects and programmes, including this meeting, of SPREP, along with a pledge for their budget commitment for the coming year. He stated that the Palau Constitution is known as a "nuclear free constitution". The following is an excerpt from their Constitution: "Harmful substances such as nuclear, chemical, gas or biological weapons intended for use in warfare, nuclear power plants, and waste materials therefrom, shall not be used, tested, stored or disposed of within the territorial jurisdiction of Palau without express approval of NOT LESS than three-fourths (3/4) of the votes cast in a referendum submitted on this specific question." The Palauan people have declared it a nuclear free constitution twice in referenda.
- 6.18 A Palauan plebiscite approved a compact of Free Association by 62% vote on 10 February 1983, accompanied by a subsidiary nuclear agreement. The latter, which would have prohibited nuclear weapon use or storage, while allowing transit or overflight within the Republic, was not approved because it received less than 75% of the vote. The Supreme Court threw out this voting result, and there will be another plebiscite, this time without any nuclear subsidiary agreement. This is because on 1 July Palau entered into an agreement with the United States of America to have the subsidiary agreement withdrawn. Palau cannot sign any provision of a Convention which allows dumping of radioactive materials or nuclear testing. To do so would require a third referendum with 75% approval. Their position is to prohibit testing and nuclear waste dumping totally.
- 6.19 The delegate of Vanuatu referred specifically to articles 2, 10 and 11 of the draft Convention in his statement. The delegate, while stressing that the Convention was a moral obligation of utmost importance, stated that Vanuatu would only accept the Convention if it prohibited any form of nuclear activity; that is storage, disposal, carriage and dumping of radioactive matters as well as the prohibition of nuclear testing. The delegate referred also to the fact that Vanuatu, as the only non-aligned nation in the region, was able to be vocal on the two related issues of nuclear testing and decolonization. Vanuatu supported a very wide definition of "Convention Area", covering the present SPC area including the 200 miles EEZ and high seas areas. In addition, the delegate called on the meeting to adopt the Vanuatu proposal which is presented in the report of the First Expert Meeting for prohibition of testing and dumping, a proposal which combines articles 10 and 11 of the draft Convention. Bearing in mind that certain countries may have reservation on the Vanuatu proposed article 11, Vanuatu would like to suggest that these countries make their reservations regarding their interests under this article.

6.20 The observer from the Forum Fisheries Agency, conveyed the good wishes of his Director, who sincerely hoped that this meeting is successful in producing a draft for the protection of the Pacific Ocean environment. He stressed the importance of the as yet largely untapped vast fisheries resources in the area. Years of negotiations, delicately balancing political and other factors, have led to the present Agency. He stressed that they support the Law of the Sea and that articles 56, 62, 118, 119 and 193 thereof represented difficult compromises between utilization and conservation (or protection). There are two instruments for Pacific Fisheries: (a) the FFA Convention, ratified by thirteen governments in the South Pacific, and FSM, the Marshalls and Palau (participating as non-voting members), and (b) the Nauru Agreement, ratified by seven countries of the Central and Western Pacific. The first encourages tuna fisheries development while the latter confers more detailed obligations for particular management objectives. Conservation is taken into account in both, as well as research and surveillance.

6.21 The FFA programmes are working well and consequently the observer suggested that it was not necessary to include, in the current draft Convention, provisions covering the management and development of tuna.

7. CONSIDERATION OF DRAFT PROTOCOL CONCERNING CO-OPERATION IN
COMBATING OIL POLLUTION EMERGENCIES IN THE SOUTH PACIFIC REGION

7.1 Those articles which were agreed appear within Appendix 7. Where consensus on articles could not be reached, the alternative proposals have been bracketed. Regarding bracketed articles, some delegates wished to have their views represented in the report. These are presented below in addition to certain explanatory remarks which the meeting requested be included in the report.

7.2 The meeting agreed to extend the scope of the Protocol to include hazardous substances other than oil. Before agreeing with the wish expressed by other delegations that the scope of the Protocol be extended to include dangerous substances other than oil, the delegate of France expressed some reservation about doing so, particularly with regard to the operational provisions of the Protocol, for he considered that the techniques and technology currently available in the area were such that the Parties to the Protocol would not be able to fulfil such extensive obligations.

- 7.3 Title. All references to South Pacific Region are bracketed because the meeting wished to pursue further the possibility of finding an appropriate name for the region which would accurately reflect its geographic coverage.
- 7.4 Article 2 was bracketed because it is integrally linked to the definition of Convention Area and can only be resolved once that definition is settled. All subsequent references to the Protocol Area appear in brackets for this reason.
- 7.5 There are two alternatives provided for paragraph 1 of article 5 because consensus could not be reached on whether or not a Contracting Party should require masters of vessels flying its flag, and persons in charge of off-shore facilities operating under its jurisdiction, to report pollution incidents to coastal states likely to be affected or only to their flag state or government. One delegation expressed the view that a requirement to report to the coastal state could not be effectively and practically implemented and that it would be inconsistent with the global approach established under the recently entered into force Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships. On the other hand, some delegations expressed concern over the potential time lag between notification of the flag state and the coastal states likely to be affected.

8. CONSIDERATION OF DRAFT PROTOCOL FOR THE PREVENTION OF POLLUTION OF THE SOUTH PACIFIC REGION BY DUMPING

- 8.1 The Protocol was revised taking fully into account the provisions of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, London 1972.
- 8.2 Title. Consensus was not reached on the title for the same reasons as referred to in paragraph 7.3 above.
- 8.3 Two alternatives are proposed for article 1(b) concerning the definition of dumping. The first alternative is the definition given in article 1 of the United Nations Convention on the Law of the Sea which is based on the definition of dumping in the London Dumping Convention. The second proposal, while based on the London Dumping Convention definition, elaborates on that definition by specifying that dumping means any deliberate disposal at sea including its seabed and subsoil of waste or other matter. A view was expressed that addition of these words may or may not be significant depending upon how one interprets "at sea". In this regard, a view was expressed that the definition of dumping is internationally recognized and should not be modified. Although there was a general consensus that, where for this region, the meeting could improve upon formulations in existing international agreements, it would do so. In addition the second alternative specifies that dumping includes the temporary storage of wastes or other matter at sea, including its seabed and subsoil.

- 8.4 The definition of Protocol Area under article 2 has been bracketed as it is integrally linked with the definition of the Convention Area.
- 8.5 Paragraph 3, of article 3 is bracketed as there was a proposal to expand this provision by including a reference to the Protocol's relationship to the London Dumping Convention which the experts considered could be dealt with effectively within subsequent provisions of the Protocol. However, they wished to draw to the attention of the meeting that it would require further consideration at the Third Expert Meeting.
- 8.6 Paragraph 2 of article 9 was bracketed for two reasons: first, because consensus could not be reached on whether or not certain substances should be excluded from the scope of article 9; secondly, because of the view that a final decision could only be taken on the provision once agreement had been reached on the text of Annex I of the Protocol. Island delegations expressed strong concern that article 9 whether as initially drafted or as in the amended London Dumping Convention text was an exception to article 4 of the Protocol which totally prohibits dumping of Annex I substances. Some delegations stated their countries' inability to accept any such exception. The IMO observer explained that article 9 was not necessarily an exception to dumping at sea but a requirement of consultation in cases of emergencies. Such an emergency has yet to arise under the London Dumping Convention. The stricter text of the London Dumping Convention was preferred although certain island delegations still had reservations with respect to the application of article IX to items 6 and 7 of Annex I.
- 8.7 A consensus could not be reached on whether to adopt the text of paragraph 1 of article 11 as proposed in the draft or whether to adopt a similar text as contained in paragraph 1 of article VII of the Convention on the Prevention of Marine Pollution by Dumping of Waste and Other Matter. Two proposals were maintained for paragraph 4 of article 11 concerning sovereign immunity, but there was agreement by the experts that such a provision should be included in the Protocol. The first proposal is from the London Dumping Convention as it appeared in the Secretariat paper, the second is based on article 236 of the United Nations Convention on the Law of the Sea.
- 8.8 In considering article 15 the meeting could not reach consensus on considerations to be taken into account when amending the Annexes to the Protocol.

- 8.9 Annex I involved lengthy discussion and time did not allow for a complete discussion of this Annex. Items 1 through 5 and 7 were generally accepted but there were divergent views concerning item 6. Proposals were submitted by the Federated States of Micronesia, the SPREP Secretariat, Papua New Guinea, Australia and United States of America. Regarding Annex I.A item 6, the Federated States of Micronesia proposed a total ban on dumping of radioactive wastes and advocated the rights of Contracting Parties to make the ultimate decision even in exceptional cases. Australia proposed the inclusion of a de minimis provision. One delegation stated that an appropriate alternative to item 6 would be to use a formulation based on the London Dumping Convention Annex I item 6.
- 8.10 The representative from the IAEA pointed out that there were considerable problems in administering the de minimis concept for radioactive material. For example, the concept could be applicable if dredge spoils contain radionuclides from such uses as medical sources, or uranium mining wastes released into rivers. If there is a prohibition on the dumping of all radioactive wastes and no de minimis exemption, problems could also arise for the disposal of wastes from certain other operations such as phosphate mining and the deep seabed mining of nodules since such operations could potentially enrich the naturally occurring radionuclide content in the wastes. In discussing the subject of radioactive waste dumping, the IAEA observer pointed out that the Agency's definition of radioactive waste unsuitable for dumping (i.e. high-level waste under the London Dumping Convention) should not be taken to mean that wastes under that limit are automatically suitable for dumping and that the Agency does not as a matter of policy encourage the dumping of radioactive wastes into the sea. She also pointed out that certain radioactive wastes with relatively short half-lives and low radioactivity and extreme solubility such as tritium could be dumped safely in limited amounts.
- 8.11 Australia requested inclusion within Annex I.A of organophosphorous compounds and organosilicon compounds so that these could be considered by authorities prior to the next meeting.
- 8.12 Several countries expressed a wish to begin discussion on the Convention before the meeting closed. Consequently, the meeting deferred consideration of Annexes II and III and the Preamble to the Protocol in favour of proceeding with discussion of the Convention under the next agenda item.

9. CONSIDERATION OF DRAFT CONVENTION FOR THE PROTECTION AND DEVELOPMENT OF THE NATURAL RESOURCES AND ENVIRONMENT OF THE SOUTH PACIFIC REGION

- 9.1 There were divergent views on article 2(a) concerning the Convention Area. Experts from most countries favoured the inclusion of high seas areas beyond 200 nautical miles. The Papua New Guinea delegates proposed that the Convention Area should be delimited in such a manner so as to include the exclusive economic zones of all the states and territories within and near the South Pacific Commission region. The area is to include the high seas within the exclusive economic zones and that the area be delimited by straight lines linking agreed co-ordinates. Kiribati proposed a new set of co-ordinates which would expand the coverage of the Convention Area. The delegate from Tonga expressed difficulty in accepting the geographical co-ordinates of the area of the South Pacific Commission drafted by the Secretariat proposal. The New Zealand expert indicated agreement in principle with the inclusion of its EEZ in the Convention Area. The experts from the United States of America and France stated that their position with respect to the inclusion of an expanded Convention Area beyond 200 nautical mile zones of states and territories within the region was contingent upon the satisfactory resolution of other articles of the Convention.
- 9.2 For article 2(b): delegates opted for the definition of "Pollution" contained in the United Nations Convention on the Law of the Sea. The delegate of France, while not opposing the adoption of that definition, said that he favoured adoption of the GESAMP definition of "pollution", for in his opinion it would facilitate, from the technical point of view, the actual implementation of the provisions of the Convention and its Protocols.
- 9.3 The experts from Kiribati and the Federated States of Micronesia requested that articles 3 and 4 be given further consideration at the Third Expert Meeting with respect to implications of the Convention for the development of commercial fishery resources. The delegate from Kiribati proposed that a new paragraph be added to article 4 which would read: "the obligations imposed under this article relating to the management or development of resources shall not affect any rights or obligations of the Contracting Parties in relation to the management or development of off-shore commercial fisheries".
- 9.4 The delegate of the United States of America suggested that the phrase "..... and related processing at sea" be included at the end of article 7 so as to make clear that the article extends to related shipboard processing.

- 9.5 In the course of discussion of articles 10 and 11, the SPREP Co-ordinator gave a brief summary of the conclusions regarding nuclear testing that had been reached by the Technical Group on Radioactivity in the South Pacific set up by SPREP.
- 9.6 The meeting agreed to base its future discussions of articles 9, 10 and 11 on the text proposed on page 10 of the information document SPREP/Expert Meeting 2/WP.1.
- 9.7 In discussion of articles 9, 10 and 11, delegates from Australia, Palau, Papua New Guinea, Vanuatu, Cook Islands, Fiji, Kiribati and the Federated States of Micronesia expressed strong opposition to nuclear waste dumping, storage and testing activities within the South Pacific region. Subsequently, the delegates from New Zealand, Niue, Western Samoa, Guam and Tonga lent their support to this stand.
- 9.8 The delegate of New Caledonia considered that nuclear matters should be distinguished from the question of other pollutants. He therefore proposed that article 9, which had been approved by the first meeting of experts, should be left as it was and that the dumping of radioactive waste be covered by article 10.
- 9.9 In reviewing articles 9 and 10, the delegate from Palau proposed that the phrase "in the Convention Area" be inserted at the end of each article.
- 9.10 Regarding article 9, the delegate of the United States of America informed the meeting that the United States of America is not dumping radioactive waste at this time nor has it since 1970 and has no intention to dump low level radioactive waste in the South Pacific, something it has stated often in the past. As a Party to the London Dumping Convention and pursuant to its law, the United States of America cannot dump high level radioactive waste. The delegation of the United States further stated that at present, they, as indicated at the first meeting of experts in January, are currently in the midst of a two-year moratorium on the dumping of low level radioactive waste. After the end of this moratorium, before a permit could be issued for the dumping of any low level radioactive waste, the approval of both Houses of Congress, through a government resolution is required. The delegation of the United States of America also stated that it believed the interests of the island states were adequately protected by their ability to control all forms of dumping within their EEZ's as long as dumping is properly defined and the exercise of such jurisdiction is consistent with international law. Additionally, the delegation stated that consideration of radioactive waste disposal and storage issues should be conducted in the context of the dumping protocol and a possible land-based sources of marine pollution protocol so as to retain a general convention with the broadest possible support.

In its view, there was no scientific or technical justification to warrant the total prohibitions contained in the present draft text of the Convention, prohibitions the United States could therefore not agree to. Such prohibitions on a regional basis, without an appropriate scientific and technical justification, could prejudice the current study underway on the London Dumping Convention and eventual resolution of the global issue. In this regard, the United States delegation encouraged the experts to carefully review the SPREP Technical Report on Radioactivity as soon as it is completed. Finally the United States delegation noted that it was prepared to accept an obligation to take all appropriate measures to prevent, reduce and control pollution that might result from the dumping of radioactive waste.

- 9.11 The delegate of France, also referring to article 9, and to articles 10 and 11, stated that there was no scientific proof that low-level radioactive waste dumped in accordance with IAEA recommendations was harmful to man or the environment. He added that, in order to be consistent, the outcome of the studies currently being conducted should be awaited before a decision was taken on the matter. He also stated that France did not at the present time carry out any dumping of radioactive waste nor did she intend ever to dump such waste in the South Pacific. In regard to article 11, the French delegate again stated his Government's view that the present forum was not the appropriate place to discuss the banning of nuclear tests. He assured the meeting that France respected the anti-nuclear stand adopted by Vanuatu and Palau and he stressed the fact that his country kept an open mind on the subject of nuclear testing. As examples of that attitude, he observed that France had conveyed information to the United Nations Scientific Committee on the Effects of Atomic Radiation and to the SPREP Technical Group on Radioactivity. He referred also to the recent visit by experts from various South Pacific countries to the Mururoa site. Lastly, he repeated that the clause prohibiting nuclear tests, put forward as an option for article 11, was totally unacceptable to his Government.
- 9.12 The delegate of Papua New Guinea thanked the French delegate for the understanding his Government has for the position of the people of the island states. He also thanked the French delegate for respecting the nuclear-free Pacific positions taken by the island countries and the laws and constitutions of the various island states.
- 9.13 The delegate of French Polynesia stated that the territorial Government of French Polynesia, too, was anxious to protect the health of its people and had accordingly requested that a team of foreign scientists should visit the nuclear testing site on Mururoa.

The French Government has authorized the visit, which took place at the beginning of November and lasted one week; the leader of the team was Dr Atkinson, a New Zealand expert. Dr Atkinson's initial statements regarding the level of radioactivity were reassuring. A report would be available in three months' time.

- 9.14 With regard to article 11, the delegate from Kiribati proposed the following wording: "for the purposes of this article, the Convention Area shall include internal waters".
- 9.15 Also with regard to article 11, the delegate from France said that he favoured the first phrase between square brackets, subject to an amendment consisting of substitution of the phrase "that may result" for the word "resulting".
- 9.16 A consensus could not be reached on the final drafting of articles 9, 10 and 11.
- 9.17 The Cook Islands delegate with regard to article 11 informed the meeting of the strong stand his Government had taken against nuclear weapons testing and dumping of nuclear wastes in the South Pacific region, and strongly supported the prohibition of nuclear weapons testing in the Convention Area. He considered that such testing is polluting the region from leakage to the marine environment and other forms of radioactive contamination. The delegate believed that the visit by an expert group to the testing site at Mururoa would probably raise more questions than it solved if, as reported in the Cook Islands and New Zealand press, the scientists were not permitted to examine restricted areas at the test site.
- 9.18 With regard to paragraph 2 of article 15, the delegate from the United States of America expressed a reservation to the text of the paragraph as revised by the meeting. With regard to paragraph 2 of article 15, the United States of America proposed that consultation be conducted among Parties as appropriate. Following proposals by France to accommodate U.S. concerns, the United States delegation preferred to reserve its position, citing the need to consult with the Government of the United States of America.
- 9.19 The meeting agreed to amend the text of paragraph 1 of article 20, leaving between brackets a reference to the SPREP Secretariat as agreement could not be reached on whether it was appropriate to include such a reference in the Convention given the question of the legal status of SPREP Secretariat.

- 9.20 The Convention and its Protocols including agreed and bracketed provisions are given in Appendix 7. A number of proposals relating to the Convention and its Protocols were not considered due to lack of time during the Plenary discussions. These include proposals by the United States of America, Kiribati, and Guam, as well as an amalgamated draft from the Federated States of Micronesia and Australia. They are recorded in Appendix 8 for consideration at the Third Expert Meeting.
- 9.21 Regarding the Convention, only those articles referred to in the text of this report were considered at the meeting.

10. OTHER BUSINESS

- 10.1 No other business was discussed.

11. ADOPTION OF THE REPORT

- 11.1 The meeting adopted its report.

12. CONCLUSION

- 12.1 The meeting expressed its appreciation to the Chairman, Mr David Tupou, for the efficient manner in which he conducted the meeting, and expressed the hope that the Government of Tonga would consider the possibility of Mr Tupou continuing his role as Chairman for the reconvened meeting to be held in July 1984. The meeting expressed its appreciation for the work of the Drafting Committee Chairman, Mr Camillus Narakobi, and hoped he too could continue in this role at the Third Expert Meeting.

APPENDIX 1

SOUTH PACIFIC REGIONAL ENVIRONMENT PROGRAMME

SECOND EXPERT MEETING ON A DRAFT CONVENTION
FOR THE PROTECTION AND DEVELOPMENT OF THE NATURAL RESOURCES
AND ENVIRONMENT OF THE SOUTH PACIFIC REGION

(Noumea, New Caledonia, 7-16 November 1983)

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APPENDIX 2

SOUTH PACIFIC REGIONAL ENVIRONMENT PROGRAMME

SECOND EXPERT MEETING ON A DRAFT CONVENTION
FOR THE PROTECTION AND DEVELOPMENT OF THE NATURAL RESOURCES
AND ENVIRONMENT OF THE SOUTH PACIFIC REGION

(Noumea, New Caledonia, 7-16 November 1983)

OPENING STATEMENT

by

Mr Francis Bugotu
Secretary-General
South Pacific Commission

I have great pleasure in welcoming you all to this important meeting and to the South Pacific Commission Headquarters.

I would particularly like to welcome Dr Peter Adams, Deputy Director of the South Pacific Bureau for Economic Co-operation, and Patricia Bliss-Guest of the Regional Seas Programme Activity Centre, United Nations Environment Programme. They represent their organizations as members of the SPREP Co-ordinating Group along with the South Pacific Commission and Economic and Social Commission for Asia and the Pacific. As you know, the Co-ordinating Group provides policy guidance on the implementation of this joint programme to the SPREP Secretariat which is hosted by the South Pacific Commission. I would like to make special mention of the generous and continuing contribution that UNEP has made to SPREP. In this first year of the implementation phase, UNEP provided 42% of the funding while 50% has come from member countries of the South Pacific Conference and the South Pacific Forum, either through direct voluntary contributions or through the involvement of the SPC and SPEC. Also we are grateful to UNEP for the expert assistance and information it is providing the Programme through the Regional Seas Programme Activity Centre.

The draft Convention and Protocols considered at the First Expert Meeting were prepared by Mrs Mere Pulea and Mr Saleimoa Va'ai. The background documents for their work were prepared by Ms Patricia Bliss-Guest of UNEP and I am very happy that we will have at this meeting the advice and guidance of both Patricia and Mere who will be assisting as members of the SPREP Secretariat.

The Governments of our region have a deep commitment to the South Pacific Regional Environment Programme and to a legal regional convention as basis for its implementation. This commitment is reflected in the senior level representation expected at this meeting of all twenty-two SPREP countries. It was demonstrated with greatest effect at the ministerial level Conference on the Human Environment in the South Pacific, held in Rarotonga in March 1982, at which the SPREP Action Plan was agreed. This commitment was reaffirmed at the 1982 South Pacific Conference and South Pacific Forum and again, most recently, at the 1983 South Pacific Conference in Saipan.

The Saipan Conference stressed the desirability of Governments and Administrations providing financial and other support to the Programme. Even so a number of countries have not made a financial contribution to SPREP in 1983 or a pledge to contribute in 1984. I strongly urge delegates of the countries concerned to take the opportunity provided by this meeting to seek the approval of their Governments to announce a contribution for 1983 and 1984 according to the formula for contributions agreed at the South Pacific Conference.

The Saipan Conference also noted the concerns of many member countries with respect to the testing of nuclear weapons and the storage and the dumping of nuclear wastes in the South Pacific Region, and, it endorsed the importance of the draft Convention for the Protection and Development of the Natural Resources and Environment of the South Pacific Region.

It is crucial to bear in mind the direct relationship between the SPREP Action Plan and the Convention on which we are about to continue negotiations. The Action Plan identifies some 60 areas of environmental assessment, management and law in which SPREP has a mandate to mount activities. All components for the Action Plan are interdependent and together provide a framework for comprehensive action which should contribute both to the protection and sustainable development of the region. Each activity is intended to assist governments and regional organizations to improve the quality of the information on which environmental management policies are based. The field of activities identified in the Action Plan provide the guidelines for the SPREP Secretariat and Co-ordinating Group to settle on projects which comprise the Programme's work plan. We are attempting to provide a legal footing for this activity in the form of the draft Convention before us and through the elaboration of a series of specific protocols dealing with management problems included in the Action Plan. The Convention will act to further unite our countries in working towards the shared goals of sustainable resource development. Also it provides the opportunity for countries outside the region to join us in ensuring that our environment is properly managed for present and future generations.

This is the Second Expert Meeting intended to finalize the specific wording of the Convention and the two protocols on oil pollution and hazardous wastes. Great progress was made at the First Expert Meeting, yet as we are all aware, it left a number of sensitive provisions still to be finalized. These include geographic coverage of the Convention and the provisions dealing with the testing of nuclear weapons and the dumping of radioactive wastes within our region. I have stressed the importance of the Convention to all of our Governments. Consequently, we need to work hard at reaching a satisfactory wording on these Convention issues, so that the document will be ready for signing at a plenipotentiary meeting next year. I know that you are as concerned as I am that we work in a spirit of co-operation in reaching substantive agreement on the Convention by the end of the meeting next week. I am confident that we will achieve our objective.

APPENDIX 3

SOUTH PACIFIC REGIONAL ENVIRONMENT PROGRAMME

SECOND EXPERT MEETING ON A DRAFT CONVENTION
FOR THE PROTECTION AND DEVELOPMENT OF THE NATURAL RESOURCES
AND ENVIRONMENT OF THE SOUTH PACIFIC REGION

(Noumea, New Caledonia, 7-16 November 1983)

OPENING STATEMENT

by

Dr Peter Adams

Deputy Director

South Pacific Bureau for Economic Co-operation

Mr Secretary-General,
Distinguished Delegates,

First of all, Mr Secretary-General, may I thank you for your warm words of welcome. Many of us around this table have been to meetings at SPC Headquarters before. We know that you and your staff leave no stone unturned in running meetings efficiently, and in providing a warmth of hospitality outside formal conference hours. That in itself constitutes a great deal to creating an atmosphere of friendship and co-operation which is fundamental to achieving agreement on the serious matters before us.

In the next week and a half, we will be seeking agreement on the most important legal document which this region has ever evolved for the protection of the South Pacific environment. Indeed we already have, following the First Expert Meeting in January, substantial agreement on the shape and content of the Convention. A number of unagreed articles remain for our attention, as well as the two draft protocols which will give teeth to the Convention in the prevention of pollution by dumping and in combating oil spill emergencies. If we are successful in our task, then protocols dealing with other forms of environmental protection may be added subsequently.

Clearly, the widest possible measure of agreement by the countries and administrators represented here is desirable. No doubt that we will require a spirit of compromise in certain areas. To have meaning though, it will need to be the sort of compromise that recognizes the primary interest of the people and governments of the region in their own environment and its protection.

Since our last meeting in January, a number of developments of interest have taken place regarding the subject matter of our discussions. One of the most significant was the meeting of the Contracting Parties to the London Dumping Convention in February. Perhaps, we shall hear more of that from those who attended. Another major event of significance was the Fourteenth South Pacific Forum which took place in Canberra in August. The Forum held extensive discussions on nuclear matters as they affect the region, and received a report on progress in the negotiation of this Convention. The Forum reached wide agreement on the general principles of the concept of a nuclear free zone and will be considering the concept further at its 1984 session.

The Canberra Forum also reiterated that its members would continue to make the strongest protests and considerations so long as nuclear testing by France or any other country continued in the South Pacific region. Forum Leaders also reaffirmed their opposition to proposals for the dumping and storage of nuclear waste in the Pacific area.

Thus, the outcome of our deliberations will be of direct interest to the Forum. The finalization of an effective Convention and protocols and their adoption by all member Governments of SPREP will represent considerable progress towards achieving the region's long-standing goals in the protection of the South Pacific environment from pollution.

Mr Secretary-General, SPEC as Chairman of the Co-ordinating Group of SPREP and as Secretariat to the Forum is keenly interested in seeing a successful outcome to this meeting and will tend whatever assistance Governments may require of it in achieving that end.

APPENDIX 4

SOUTH PACIFIC REGIONAL ENVIRONMENT PROGRAMME

SECOND EXPERT MEETING ON A DRAFT CONVENTION
FOR THE PROTECTION AND DEVELOPMENT OF THE NATURAL RESOURCES
AND ENVIRONMENT OF THE SOUTH PACIFIC REGION

(Noumea, New Caledonia, 7-16 November 1983)

OPENING STATEMENT

by

Ms. Patricia Bliss-Guest
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Distinguished experts,
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Ladies and Gentlemen,

On behalf of the Executive Director of UNEP, I am very pleased to be given this opportunity to welcome you to this meeting, your second meeting on the elaboration of regional agreements for the South Pacific region.

The adoption of the Action Plan for managing the natural resources and environment of the South Pacific region by your Governments at Rarotonga in March 1982 achieved great prominence in the UNEP Governing Council and in your own regional forums. As a result, Governments and the public are watching with interest how you are implementing the plan and whether any "results" are being produced. We in the UNEP Secretariat are only too aware of the inevitable time lag that occurs between an agreement to undertake an activity and the stage where one can point to concrete results.

However, your meeting here today is another important step towards a major achievement - the adoption of a regional convention and related protocols - and it clearly demonstrates that the spirit of regional co-operation which inspired the South Pacific Regional Environment Programme is being increasingly strengthened.

We in UNEP were pleased to learn at your first meeting last January that you considered it suitable to the needs and priorities of the region to elaborate a general, flexible regional convention. Indeed, this is a direct reflection of the basic underlying concept behind the action plan: that effective environmental action must encompass a comprehensive, transsectorial approach which should address not only the consequences but also the many diverse causes of environmental degradation. In preparing the draft Convention an attempt was made to address the main sources of pollution together with some priority management activities that may usefully be undertaken on a regional level.

Out of the eight regional sea areas for which action plans have been adopted, six corresponding framework conventions for the protection and development of the marine and coastal environment supplemented by technical protocols have been adopted. Experience has shown that this flexible formula permits the States of the region to commit themselves to co-operate in undertaking a wide range of measures for the sustainable management of the marine and coastal areas while fully taking into account national needs and priorities. With a framework convention that is progressively supplemented by technical protocols, States may accept the general legal obligation to co-operate to protect and manage their shared sea while gradually assuming more specific duties, as national economic and social needs permit.

Our experience has also shown this formula to be the most practical and efficient. Through such an arrangement, States are committed to carrying out a harmonized and balanced environmental programme. Through the regular periodic meetings of the Parties to the Convention and Protocols, all regional activities can be reviewed both separately and as a whole, making it possible to be fully aware of the interdependent links among the activities. At such meetings, Governments may also more realistically decide upon priorities, timing of activities, and funding since they are fully aware of the balance that must be reached among many sectors.

This is not to say that the technical aspects and detailed review of a particular sector will be lost to the more general review of the whole. Obviously, each activity must engage the experience and knowledge of the appropriate experts in the field concerned and must generate technical consideration of the progress and recommended development of that activity. What such a system does promote is a regular review of the sum of all activities and a high-level appraisal of whether the pieces fit together, together with a critical technical appraisal through expert meetings, studies and recommendations.

As you begin your detailed study of the two protocols and your second reading of the draft Convention, we would urge you to bear in mind the comprehensive approach to environmental management that has been embraced in your action plan and which should be reflected in the corresponding legal agreement.

You have a very full agenda before you, and we are aware that you do not have an easy task.

We in UNEP are honoured to assist you and we are optimistic that you will succeed in your efforts. We wish you every success, and would like to repeat our warmest welcome to everyone here today.

Thank you Mr Secretary-General.

APPENDIX 5

SOUTH PACIFIC REGIONAL ENVIRONMENT PROGRAMME

SECOND EXPERT MEETING ON A CONVENTION FOR THE PROTECTION
AND DEVELOPMENT OF THE NATURAL RESOURCES AND ENVIRONMENT
OF THE SOUTH PACIFIC REGION

(Noumea, New Caledonia, 7-16 November 1983)

AGENDA

1. Opening of the Meeting. Opening Statements by SPREP Co-ordinating Group Members.
 2. Election of Chairman, Vice-Chairman and a drafting Committee.
 3. Adoption of the Agenda.
 4. Review of SPREP activities by SPREP Co-ordinator.
 5. General statements by delegations.
 6. Consideration of Draft Protocol concerning Co-operation in Combating Oil Pollution Emergencies in the South Pacific Region.
 7. Consideration of Draft Protocol for the Prevention of Pollution of the South Pacific Region by Dumping.
 8. Consideration of Draft Convention for the Protection and Development of the Natural Resources and Environment of the South Pacific Region.
 9. Proposals for dates, and venue of the Plenipotentiary Conference to conclude the Convention.
 10. Other business.
 11. Adoption of the report.
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APPENDIX 6

SOUTH PACIFIC REGIONAL ENVIRONMENT PROGRAMME

SECOND EXPERT MEETING ON A DRAFT CONVENTION FOR THE PROTECTION
AND DEVELOPMENT OF THE NATURAL RESOURCES AND ENVIRONMENT
OF THE SOUTH PACIFIC REGION

(Noumea, New Caledonia, 7-16 November 1983)

OPENING STATEMENT

by

Dr Jeremy Carew-Reid
Co-ordinator

South Pacific Regional Environment Programme

Ladies and Gentlemen,

I would like to develop further the theme introduced by the Secretary-General when he pointed to the direct link between the SPREP Action Plan and the draft Convention and Protocols before us. I will illustrate the practical implications of this intimate relationship by describing some activities which have been mounted in 1983 as elements in the first year of the SPREP implementation phase. In this way, when in the days to come we discuss provisions for example relating to the pollution from land based sources, mining and coastal erosion, environmental assessment and transmission of information, we will have some idea regarding the type of activities those provisions will promote.

It is useful to bear in mind that the political authority for the Convention lies firmly in the SPREP Action Plan. Every provision of the Convention, its preamble and its protocols, has its origin in one or more of the specific objectives set down in the Action Plan for SPREP. But what give the Action Plan its political authority? To answer that question, let me briefly review the history of events leading to the mounting of the implementation phase of the programme. As many of you here will remember, its birth was a long and painful process which began long ago in 1976 with the decision of the South Pacific Forum that SPEC should consult with SPC with a view to preparing proposals for a co-ordinated regional approach to the problems of environmental management.

The same year, the South Pacific Conference directed that a comprehensive environmental programme reflecting the environmental interests of all countries and territories in the region be jointly prepared by SPEC and SPC.

Draft after draft were then prepared and considered by successive meetings of the Forum and Conference, leading to refinement and redefinition. Each country prepared a review of its environmental problems and made suggestions on elements which should be included within the programme. Two major technical meetings of representatives of participating countries were held to shepherd the development of the programme and finally in March 1982, SPREP and the Action Plan were agreed to at the ministerial level Conference on the Human Environment in the South Pacific held in the Cook Islands. The mandate provided at that meeting has been repeatedly discussed and endorsed at the Meetings of the Forum and Conference which have followed.

The notion of a Convention providing a legal footing for the Action Plan, also has been endorsed. The Convention goes no further in its scope than the Action Plan. In fact at this stage, some might argue it has a narrow focus and will only achieve the full coverage of the Action Plan once elaborated with a series of additional protocols.

Now let me pass on to some of the SPREP activities launched this year which would appropriately continue under the provisions of the Convention once ratified. As a first step, the SPREP Co-ordinating Group considered it essential that the programme bring together all those organizations which would play a central part in carrying out SPREP projects. Consequently, in April this year, the SPREP First Consultative Meeting of Research and Training Institutions in the South Pacific was held at SPEC Headquarters in Suva. The meeting considered various options for organization of work activities and then agreed to recommend the establishment of two SPREP Networks; the Research and Monitoring Network and the Education and Training Network, both having open-ended membership of government and non-government organizations. The aim of the Networks is to ensure co-ordination and integration of research effort in the region.

The First Consultative Meeting also singled out priority environmental concerns and information needs for attention of the Networks in 1983. Each of these areas of concern had been highlighted under the SPREP Action Plan. It was recognized that the initial meeting was to provide critical review of the existing state of knowledge on a chosen subject and prepare appropriate workplans for implementation in 1984-85. The fields identified for the Research and Monitoring Network were Inland and Coastal Water Quality, Pesticides Use and Regulation, Sedimentation and Erosion resulting from forestry, mining and agriculture, the Interaction between Mangrove, Seagrass, Coral Reefs, Lagoons and Estuarine Systems, Oceanographic Conditions of the Region and the continuation of the studies of the treatment of Hazardous Wastes, and the occurrence of Artificial and Natural Radioactivity. The problem of establishing environmental data systems was also singled out for attention. The terms of reference for specific projects were defined and those institutions which would be responsible for taking the lead in the research work involved were identified. Full details of these projects are given in the Report of the First Consultative Meeting which is available from the Secretariat.

I am pleased to say that all these projects are making good progress and involve a large number of government and non-government organizations. A wide range of government departments from countries of the region, for example, have participated in gathering information on the current use and regulation of pesticides, a survey which will result in the most up to date and comprehensive information yet available on the topic. Each of these projects are to report at the Second Consultative Meeting to be held in January 1984 at the University of Papua New Guinea. The detailed 1984-85 work plans for the Networks will be defined in the light of information which is being gathered.

SPREP Pollution Monitoring and Advisory Centres

The Research and Monitoring Network is a broad organizational structure within which projects are being carried out, but the muscles of the Network will take the form of a chain of what we are calling Pollution Monitoring and Advisory Centres (POLMACs) to be set up throughout the region. To date, we have established 3 centres building upon existing facilities at the University of the South Pacific in Fiji, and in Papua New Guinea, the University of PNG and the University of Technology in Lae. The establishment of 3 additional centres is planned for 1984. The 3 existing centres have launched pilot pollution monitoring projects involving analysis of water quality and a range of environmental parameters in fresh marine waters.

This chain of Pollution Monitoring and Advisory Centres have a number of crucial objectives. The objectives include the training of local people in laboratory and analytical techniques, the undertaking of a continuous environmental monitoring programme and the provision of analytical services to governments when requested, contributing to the upgrading of existing national facilities with a long-term aim of enabling individual territories to perform as much monitoring as possible, to facilitate collaboration both between regional laboratories between regional and international laboratories in terms of methods, standardization and quality control of results, and finally to respond to requests from territorial governments for assistance in environmental matters. The type of assistance might include advice on environmental legislation, solution to specific environmental problems, environmental assessment work and advice on likely impacts of development programmes and the investigation of pollution sources. Many of our countries now face the problem of having to resort to expensive overseas consultants to conduct major environmental studies. These consultants often tap local expertise but still drain substantial resources from the region. The concept of a chain of centres will provide the expertise within the region to undertake such studies.

A similar range of projects has been mounted under the SPREP Education and Training Network. I will not delay the real business of this Meeting by running through the activities of that Network except to say that the production of education materials and various aspects of training has been emphasized in the SPREP Action Plan and the work of the Secretariat.

Finally, let me wish the Delegates every success in resolving the sensitive issues which they face and in finalizing the Convention. It would be a most exciting finale if we could leave Noumea on the understanding that a Plenipotentiary Meeting be held next year. All members of the SPREP Secretariat are available throughout the Meeting to offer delegates whatever guidance and assistance they may require.

Welcome and bon courage.

APPENDIX 7

DRAFT CONVENTION FOR THE PROTECTION AND DEVELOPMENT
OF THE NATURAL RESOURCES AND ENVIRONMENT
OF THE /SOUTH PACIFIC REGION/

/Preamble/ - to be considered.

Article 1

GEOGRAPHICAL COVERAGE

1. This Convention shall apply to the South Pacific Region, hereafter referred to as "the Convention Area" as defined in paragraph (a) of article 2.
2. Except as may be otherwise provided in any Protocol to this Convention, the Convention Area shall not include internal waters of the Contracting Parties.

Article 2

DEFINITIONS

For the purposes of this Convention and its Protocols unless otherwise defined in any such Protocol:

(a) /The "Convention Area" shall be composed of coastal areas and areas of the Pacific Ocean within 200 nautical miles from baselines, established in accordance with international law, of:

American Samoa
Cook Islands
Federated States of Micronesia
Fiji
French Polynesia
Guam
Kiribati
Marshall Islands
Nauru
New Caledonia
Niue

Northern Mariana Islands
Palau
Papua New Guinea
Pitcairn Island
Solomon Islands
Tokelau
Tonga
Tuvalu
Vanuatu
Wallis and Futuna
Western Samoa

The Contracting Parties shall use their best endeavours to ensure that the implementation of this Convention shall not result in an increase in pollution in the marine environment outside the "Convention Area"./

/The "Convention Area" shall be comprised of the area delineated by /rhumb-lines/ /geodesic lines/ joining the co-ordinates set out in Annex A, and to the extent that they are not included within that area, those areas of Pacific Ocean within two hundred nautical miles from baselines established in accordance with international law of:

American Samoa	Northern Mariana Islands
Cook Islands	Palau
Federated States of Micronesia	Papua New Guinea
Fiji	Pitcairn Island
French Polynesia	Solomon Islands
Guam	Tokelau
Kiribati	Tonga
Marshall Islands	Tuvalu
Nauru	Vanuatu
New Caledonia	Wallis and Futuna
New Zealand	Western Samoa
Niue	

Any Contracting Party which is a member of the South Pacific Commission may add areas under its jurisdiction to the Convention Area./

- (b) "Pollution" means the introduction by man, directly or indirectly, of substances or energy into the marine environment (including estuaries) which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities.
- (c) "Organization" means the body designated as responsible for carrying out secretariat functions pursuant to article 20 of this Convention;
- (d) "Director" means the Director of the South Pacific Bureau for Economic Co-operation;

Article 3

GENERAL PROVISIONS

1. The Contracting Parties shall endeavour to conclude bilateral or multilateral agreements, including regional or sub-regional agreements, for the protection, development and management of the marine and coastal environment of the Convention Area. Such agreements shall be consistent with this Convention and in accordance with international law. Copies of such agreements shall be communicated to the Organization and through it to all contracting parties to this Convention.
2. Nothing in the Convention or Protocols shall be deemed to affect obligations assumed by a Contracting Party under agreements previously concluded.
3. The present Convention and the Protocols shall be construed in accordance with international law relating to their subject matter.
4. Nothing in this Convention and its Protocols shall prejudice the present or future claims and legal views of any Contracting Party concerning the nature and extent of maritime jurisdiction.

Article 4

GENERAL OBLIGATIONS

1. The Contracting Parties shall endeavour either individually or jointly to take all appropriate measures in conformity with international law and in accordance with the Convention and those Protocols in force to which they are party to prevent, reduce and control pollution of the Convention Area, from any source, and to ensure sound environmental management and development of natural resources, using for this purpose the best practicable means at their disposal, and in accordance with their capabilities. In doing so the Contracting Parties shall endeavour to harmonise their policies at the regional level.

2. In addition to the Protocol for the Prevention of Pollution of the South Pacific Region by Dumping and the Protocol concerning Co-operation in Combating Oil Pollution Emergencies in the South Pacific Region, the Contracting Parties shall co-operate in the formulation and adoption of other Protocols prescribing agreed measures, procedures and standards to prevent, reduce and control pollution from all sources or in promoting environmental management in conformity with the objectives of this Convention.

3. The Contracting Parties shall, taking into account existing internationally recognised rules, standards, practices and procedures, co-operate with competent global, regional and sub-regional organisations to establish and adopt recommended practices, procedures and measures to prevent, reduce and control pollution from all sources and to promote sustained resources management and to ensure the sound development of natural resources in conformity with the objectives of the present Convention and its Protocols, and to assist each other in fulfilling their obligations under the present Convention and its Protocols.

4. The Contracting Parties have the sovereign right to exploit their own natural resources pursuant to their own environmental policies, and 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.

5. The Contracting Parties shall endeavour to establish laws and regulations for the effective discharge of the obligations prescribed in this Convention. Such laws and regulations shall be no less effective than international rules, standards and recommended practices and procedures.

Article 5

POLLUTION FROM VESSELS

The Contracting Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area caused by discharges from vessels, and to ensure the effective application in the Convention Area of the generally accepted international rules and standards established through the competent international organizations or general diplomatic conference relating to the control of pollution from vessels.

Article 6

POLLUTION FROM LAND-BASED SOURCES

The Contracting Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area caused by coastal disposal or by discharges emanating from rivers, estuaries, coastal establishments, outfall structures, or any other sources in their territory.

Article 7

POLLUTION FROM SEA-BED ACTIVITIES

The Contracting Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area resulting directly or indirectly from exploration and exploitation of the sea-bed and its subsoil.

Article 8

POLLUTION FROM OR THROUGH THE ATMOSPHERE

The Contracting Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area resulting from discharges into the atmosphere from activities under their jurisdiction.

Article 9

POLLUTION CAUSED BY DUMPING

The Contracting Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area caused by dumping from ships, aircraft, or man-made structures at sea, including the effective application of the relevant internationally recognised rules and procedures relating to the control of dumping of wastes and other matters. In particular, the Contracting Parties shall /take all appropriate measures to prevent, reduce and control pollution caused by the dumping of radioactive wastes/ /prohibit the dumping of radioactive wastes/.

Article 10

POLLUTION CAUSED BY STORAGE AND DISPOSAL
OF TOXIC AND HAZARDOUS WASTES

/The Contracting Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area resulting from the storage and disposal of toxic and hazardous wastes. In particular, the Contracting Parties shall /take all appropriate measures to prevent, reduce and control pollution resulting from the storage and disposal of radioactive wastes/ /prohibit the storage and disposal of radioactive wastes/.

Article 11

POLLUTION CAUSED BY TESTING OF NUCLEAR DEVICES

/The Contracting Parties shall /take all appropriate measures to prevent, reduce and control pollution in the Convention Area resulting from the testing of nuclear devices/, /prohibit the testing of nuclear devices in the Convention Area/.

Article 12

MINING AND COASTAL EROSION

The Contracting Parties shall take all appropriate measures to prevent, reduce and control environmental damage in the Convention Area, in particular coastal erosion caused by coastal engineering, mining activities, sand removal, land reclamation and dredging.

Article 13

SPECIALLY PROTECTED AREAS

The Contracting Parties shall, individually or jointly, take all appropriate measures to protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered flora and fauna in the Convention Area. To this end the Contracting Parties shall establish protected areas, such as parks and reserves, and prohibit or regulate any activity likely to have adverse effects on the species, ecosystems or biological processes that such areas are designed to protect.

Article 14

CO-OPERATION IN COMBATING POLLUTION IN CASES OF EMERGENCY

1. The Contracting Parties shall co-operate in taking all necessary measures to deal with pollution emergencies in the Convention Area, whatever the cause of such emergencies, and to prevent, reduce and control pollution or the threat of pollution resulting therefrom. To this end, the Contracting Parties shall develop and promote individual contingency plans and joint contingency plans for responding to incidents involving pollution or the threat thereof in the Convention Area.

2. When a Contracting Party becomes aware of a case in which the Convention Area is in imminent danger of being polluted or has been polluted, it shall immediately notify other countries and territories it deems likely to be affected by such pollution, as well as the Organization. Furthermore it shall inform, as soon as feasible, such other countries and territories and the Organization of any measures it has itself taken to minimize or reduce pollution or the threat thereof.

Article 15

ENVIRONMENTAL ASSESSMENT

1. The Contracting Parties shall, with the assistance of competent global, regional and sub-regional organisations as required develop techniques, guidelines and legislation which will facilitate balanced development of natural resources by giving adequate emphasis to environmental and social factors in the planning, execution and subsequent management of development projects.

2. Each Contracting Party shall consult with and inform other Contracting Parties that may be affected and as appropriate the Organization on any development project which the Contracting Parties determines has significant potential to disrupt or damage the environment of the Convention Area beyond the area of jurisdiction of the Contracting Party.

Article 16

SCIENTIFIC AND TECHNOLOGICAL CO-OPERATION

1. The Contracting Parties shall co-operate either directly or with the assistance of competent regional, sub-regional, and global organisations, in scientific research, monitoring, and the exchange of data and other scientific and technological information related to the purposes of the Convention.

2. In addition, the Contracting Parties shall develop and co-ordinate research and monitoring programmes concerning pollution and natural resources and co-operate as far as possible in the establishment and implementation of regional, sub-regional and international research programmes for the purposes of this Convention.

Article 17

TECHNICAL AND OTHER ASSISTANCE

The Contracting Parties undertake to co-operate, directly and when appropriate through the competent global and regional organisations, in the provision to other Contracting Parties of technical and other assistance in fields relating to pollution and sound environmental management of the Convention Area, taking into account the special needs of the Island developing countries and territories.

Article 18

TRANSMISSION OF INFORMATION

The Contracting Parties shall transmit to the Organization information on the measures adopted by them in the implementation of this Convention and of Protocols to which they are Parties, in such form and at such intervals as the Contracting Parties may determine.

Article 19

LIABILITY AND COMPENSATION

The Contracting Parties shall co-operate in the formulation and adoption of appropriate rules and procedures in conformity with international law in respect of liability and compensation for damage resulting from pollution of the Convention Area.

Article 20

INSTITUTIONAL ARRANGEMENTS

1. The Contracting Parties designate the South Pacific Commission as the Organization to carry out /through the SPREP Secretariat/ the following secretariat functions:

- (a) to prepare and convene the meetings of Contracting Parties;
- (b) To transmit to the Contracting Parties /notifications, reports and other/ information received in accordance with this Convention and its Protocols;
- (c) to perform the functions assigned to it by the Protocols to this Convention;
- (d) to consider enquiries by, and information from, the Contracting Parties and to consult with them on questions relating to this Convention and its Protocols;
- (e) to co-ordinate the implementation of co-operative activities agreed upon by the Contracting Parties;
- (f) to ensure the necessary co-ordination with other competent regional, sub-regional and global bodies;
- (g) /to enter into such administrative arrangements as may be required for the effective discharge of the secretariat functions;/
- (h) to perform such other functions as may be assigned to it by the Contracting Parties;
- (i) to transmit to the South Pacific Commission and the South Pacific Forum the reports of ordinary and extraordinary meetings of the Contracting Parties.

2. Each Contracting Party shall designate an appropriate national authority to serve as the channel of communication with the Organization for the purposes of this Convention.

Article 21

MEETINGS OF THE CONTRACTING PARTIES

1. The Contracting Parties shall hold ordinary meetings once every year(s). Ordinary meetings shall review the implementation of this Convention and its Protocols and, in particular, shall:
 - (a) assess periodically the state of the environment in the Convention Area;
 - (b) consider the information submitted by the Contracting Parties under article 18;
 - (c) adopt, review and amend as required annexes to this Convention and to its Protocols, in accordance with the provisions of article 24;
 - (d) make recommendations regarding the adoption of any Protocols or any amendments to this Convention or its Protocols in accordance with the provisions of articles 22 and 23;
 - (e) establish working groups as required to consider any matters concerning this Convention and its Protocols;
 - (f) consider co-operative activities to be undertaken within the framework of this Convention and its Protocols, including their financial and institutional implications and to adopt decisions relating thereto;
 - (g) consider and undertake any additional action that may be required for the achievement of the purposes of this Convention and its Protocols;
 - (h) /adopt financial rules, and make recommendations to the South Pacific Forum and the South Pacific Conference on their financial participation in the co-operative activities undertaken for the purposes of the Convention./
2. The Organization shall convene the first ordinary meeting of the Contracting Parties not later than one year after the date on which the Convention enters into force in accordance with article 30.
3. /The meeting shall establish its own rules of procedures for ordinary and extraordinary meetings./

4. Extraordinary meetings shall be convened at the request of any Contracting Party or upon the request of the Organization, provided that such requests are supported by at least of the Contracting Parties. It shall be the function of an extraordinary meeting of the Contracting Parties to consider those items proposed in the request for the holding of the extraordinary meeting and any other items agreed to by all the Contracting Parties attending the meeting.

Article 22

ADOPTION OF PROTOCOLS

1. The Contracting Parties, may at a Conference of plenipotentiaries adopt Protocols to this Convention pursuant to paragraph 2 of article 4.

2. If so requested by of the Contracting Parties, the Organization shall convene a Conference of plenipotentiaries for the purpose of adopting Protocols to this Convention.

Article 23

AMENDMENT OF THE CONVENTION AND ITS PROTOCOLS

1. Any Contracting Party may propose amendments to this Convention. Amendments shall be adopted by a conference of plenipotentiaries which shall be convened by the Organization at the request of of the Contracting Parties.

2. Any Contracting Party to this Convention may propose amendments to any Protocol. Such amendments shall be adopted by a conference of plenipotentiaries which shall be convened by the Organization at the request of of the Contracting Parties to the Protocol concerned.

3. Any amendment to this Convention shall be adopted by /a majority vote of/ the Contracting Parties to the Convention which are represented at the Conference of plenipotentiaries and shall be submitted by the Depositary for acceptance by all Contracting Parties to the Convention. Amendments to any Protocol shall be adopted by /a majority vote/ of the Contracting Parties to the Protocol which are represented at the conference of plenipotentiaries and shall be submitted by the Depositary for acceptance by all Contracting Parties to the Protocol.

4. Instruments of ratification, acceptance or approval of amendments shall be deposited with the Depositary. Amendments adopted in accordance with paragraph 3 shall enter into force between Contracting Parties having accepted such amendments on the thirtieth day following the date of receipt by the Depositary of the instruments of at least of the Contracting Parties to this Convention or to the Protocol concerned, as the case may be. Thereafter the amendments shall enter into force for any other Contracting Party on the thirtieth day after the date on which that Party deposits its instrument.

5. After the entry into force of an amendment to this Convention or to a Protocol, any new Contracting Party to the Convention or such protocol shall become a Contracting Party to the Convention or Protocol as amended.

Article 24

ANNEXES AND AMENDMENT OF ANNEXES

1. Annexes to this Convention or to any Protocol shall form an integral part of the Convention or such Protocol respectively.

2. Except as may be otherwise provided in any Protocol with respect to its annexes, the following procedures shall apply to the adoption and entry into force of any amendments to annexes to this Convention or to annexes to any Protocol:

- (a) any Contracting Party may propose amendments to the annexes to this Convention or annexes to any Protocol;
- (b) such amendments shall be adopted by a /majority vote/ of the Contracting Parties to the instrument in question;

- (c) the Depositary shall without delay communicate the amendments so adopted to all Contracting Parties;
- (d) any Contracting Party that is unable to approve an amendment to the annexes to this Convention or to annexes to any Protocol shall so notify in writing to the Depositary within a period determined by the Contracting Parties concerned when adopting the amendment. A Contracting Party may at any time substitute an acceptance for a previous declaration of objection, and the amendment shall thereupon enter into force for that Contracting Party;
- (e) the Depositary shall without delay notify all Contracting Parties of any notification received pursuant to the preceding sub-paragraph;
- (f) on expiry of the period referred to in sub-paragraph (d) above, the amendment to the annex shall become effective for all Contracting Parties to this Convention or to the Protocol concerned which have not submitted a notification in accordance with the provisions of that sub-paragraph.

3. The adoption and entry into force of a new annex shall be subject to the same procedure as that for the adoption and entry into force of an amendment to an annex as set out in the provisions of paragraph 2 of this article, provided that, if any amendment to the Convention or the Protocol concerned is involved, the new annex shall not enter into force until such time as that amendment enters into force.

4. Amendments to the annex on arbitration shall be considered to be amendments to this Convention or Protocols and shall be proposed and adopted in accordance with the procedures set out in article 23.

Article 25

SETTLEMENT OF DISPUTES

1. In case of a dispute between Contracting Parties as to the interpretation or application of this Convention or its Protocols, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice.

2. If the Parties concerned cannot settle their dispute through the means mentioned in the preceding paragraph, the dispute shall /upon common agreement/ be submitted to arbitration under conditions laid down in the Annex to this Convention.

Article 26

RELATIONSHIP BETWEEN THE CONVENTION AND ITS PROTOCOLS

1. No Government may become a Contracting Party to this Convention unless it becomes at the same time a Contracting Party to at least one Protocol. No Government may become a Contracting Party to a Protocol unless it is, or becomes at the same time, a Contracting Party to this Convention.

2. Decisions concerning any Protocol pursuant to articles 21, 23 and 24 of this Convention shall be taken only by the Parties to the Protocol concerned.

Article 27

SIGNATURE

This Convention and any Protocol thereto shall be open for signature at__ from__ to__ by Governments which have authority and competence to enter into international agreements relating to the subject matter of this Convention and its Protocols and which have been invited to participate in the Conference of Plenipotentiaries held at _____ from _____ to _____.

Article 28

ACCESSION

1. This Convention and any Protocol thereto shall be open to accession by the Governments referred to in article 27 as from the day following the date on which the Convention or Protocol concerned was closed for signature.

2. Any government not specified in paragraph 1 of this article with the requisite competence and authority may accede to the Convention and to any Protocol subject to prior approval by three-fourths of the Contracting Parties to the Convention or the Protocol concerned.

Article 29

RATIFICATION, ACCEPTANCE OR APPROVAL

This Convention and any Protocol thereto shall be subject to ratification, acceptance or approval by Governments referred to in Article 27. Instruments of ratification, acceptance, approval or accession shall be deposited with the Director who shall assume the functions of Depositary.

Article 30

ENTRY INTO FORCE

1. This Convention shall enter into force on the day following the date of deposit of at least instruments of ratification, acceptance, approval or accession by the Contracting Parties referred to in article 27.

2. Any Protocol to this Convention, except as otherwise provided in such Protocol, shall enter into force on the day following the date of deposit of at least instruments of ratification, acceptance, or approval of such Protocol, or of accession thereto, by the Parties referred to in article 27.

3. Thereafter, this Convention and any Protocol shall enter into force with respect to any Government referred to in articles 27 and 28 on the day following the date of deposit of its instrument of ratification, acceptance, approval or accession.

Article 31

DENUNCIATION

1. At any time after years from the date of entry into force of this Convention with respect to a Contracting Party, that Contracting Party may denounce the Convention by giving written notification to the Depositary who shall thereupon inform the Contracting Parties.
2. Except as may be otherwise provided in any Protocol to this Convention, any Contracting Party may, at any time after years from the date of entry into force of such Protocol with respect to that Contracting Party, denounce the Protocol by giving written notification to the Depositary who shall thereupon inform the Contracting Parties.
3. Denunciation shall take effect days after the date on which notification of denunciation is received by the Depositary.
4. Any Contracting Party which denounces this Convention shall be considered as also having denounced any Protocol to which it was a Contracting Party.
5. Any Contracting Party which, upon its denunciation of a Protocol, is no longer a Party to any Protocol to this Convention, shall be considered as also having denounced this Convention.

Article 32

RESPONSIBILITIES OF THE DEPOSITARY

1. The Depositary shall inform the Contracting Parties, as well as the Organization:
 - (a) of the signature of this Convention and of any Protocol thereto and of the deposit of instruments of ratification, acceptance, approval, or accession in accordance with article 30;

- (b) of the date on which the Convention and any Protocol will come into force in accordance with the provisions of article 30;
- (c) of notification of denunciation made in accordance with article 31;
- (d) of the amendments adopted with respect to the Convention and to any Protocol, their acceptance by the Contracting Parties and the date of their entry into force in accordance with the provisions of article 23;
- (e) of the adoption of new annexes and of the amendments of any annex in accordance with article 24.

2. The original to this Convention and of any Protocol thereto shall be deposited with the Depositary who shall send certified copies thereof to the Signatories, the Contracting Parties, to the Organization and to the Secretary-General of the United Nations for registration and publication in accordance with article 102 of the United Nations Charter.

IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments, have signed this Convention.

DONE at on in a single copy in the English and French languages, the two texts being equally authentic.

ANNEX A

"The Convention Area" as defined in article 2(a) is enclosed within a boundary of /rhumb-lines/ /geodesic lines/ joining the following co-ordinates:

22.0	N	144.0	E
22.0	N	149.0	E
16.0	N	170.0	E
10.0	N	160.0	W
7.0	S	138.0	W
23.5	S	125.0	W
28.0	S	125.0	W
28.0	S	160.0	E
12.0	S	160.0	E
12.0	S	152.0	E
11.0	S	150.0	E
11.0	S	144.0	E
9.0	S	144.0	E
9.0	S	141.0	E
0.0		141.0	E
2.5	N	130.0	E
11.0	N	130.0	E /

DRAFT PROTOCOL CONCERNING CO-OPERATION IN
COMBATING POLLUTION EMERGENCIES IN THE
/SOUTH PACIFIC REGION/

THE PARTIES TO THIS PROTOCOL:

BEING PARTIES to the Convention for the Protection and Development of the Natural Resources and Environment of the /South Pacific Region/ adopted in on,

CONSCIOUS that the exploration, development and use of offshore and near shore minerals and the use of hazardous substances, as well as related vessel traffic, pose the threat of significant pollution emergencies in the /South Pacific region/,

AWARE that the islands of the region are particularly vulnerable to damage resulting from significant pollution due to the sensitivity of their ecosystems and their economic reliance on the continuous utilization of their coastal areas,

RECOGNIZING that in the event of a pollution emergency or threat thereof, prompt and effective action should be taken initially at the national level to organize and co-ordinate prevention, mitigation and cleanup activities,

RECOGNIZING FURTHER the importance of rational preparation and mutual co-operation and assistance in responding effectively to pollution emergencies or the threat thereof,

DETERMINED to avert ecological damage to the marine environment and coastal areas of the /South Pacific region/ through the adoption of national contingency plans to be co-ordinated with appropriate bilateral and sub-regional contingency plans.

HAVE AGREED as follows:

Article 1

Definitions

For the purposes of this Protocol:

- (a) /"Convention" means the Convention for the Protection and Development of the Natural Resources and Environment of the South Pacific Region/;
- (b) "related interests" of a Party, refer, inter alia, to:
 - (i) maritime, coastal, port, or estuarine activities;
 - (ii) fishing activities and the management and conservation of living and non-living marine resources, including coastal ecosystems;
 - (iii) the cultural value of the area concerned and the exercise of traditional customary rights therein;
 - (iv) the health of the coastal population;
 - (v) tourist and recreational activities,
- (c) "pollution incident" means a discharge or significant threat of a discharge of oil or other hazardous substance, however caused, resulting in pollution or an imminent threat of pollution to the marine and coastal environment or which adversely affects the related interests of one or more of the Parties and of a magnitude that requires emergency action or other immediate response for the purpose of minimizing its effects or eliminating its threat.

Article 2

Geographic Coverage

/The area to which this Protocol applies (hereafter referred to as the "Protocol Area") shall be the "Convention Area" as defined in article 2 of the Convention/.

Article 3

General

1. The Parties to this Protocol shall, within their respective capabilities, co-operate in taking all necessary measures for the protection of /the Protocol Area/ from the threat and effects of pollution incidents.

2. The Parties shall, within their respective capabilities, establish and maintain, or ensure the establishment and maintenance of, the means of preventing and combating pollution incidents, and reducing the risk thereof. Such means shall include the enactment, as necessary, of relevant legislation, the preparation of contingency plans, the development or strengthening of the capability to respond to a pollution incident and the designation of a national authority responsible for the implementation of this Protocol.

Article 4

Exchange of Information

Each Party shall periodically exchange with other Parties, either directly or through the Organization, current information relating to the implementation of this Protocol, including the identification of the officials charged with carrying out the activities covered by it, and information on its laws, regulations, institutions and operational procedures relating to the prevention and the means of reducing and combating the harmful effects of pollution incidents.

Article 5

Communication of information concerning, and
reporting of, pollution incidents

/1. Each Party shall establish appropriate procedures to ensure that information regarding pollution incidents is reported as rapidly as possible, including:

- (a) requirements that appropriate officials of its government, masters of vessels flying its flag, and persons in charge of offshore facilities operating under its jurisdiction report to it and any coastal State likely to be seriously affected the existence of any pollution incident involving their vessel or facilities;
- (b) requests that masters of all vessels and pilots of aircrafts operating in the vicinity of its coasts report to it the existence of any situation involving a pollution incident of which they are aware./

/1. Each Party shall establish appropriate procedures to ensure that information regarding pollution incidents is reported as rapidly as possible, including:

- (a) requirements that appropriate officials of its government report to it the occurrence of any pollution incident which comes to the attention of such officials;
- (b) requirements that masters of vessels flying its flag and persons in charge of offshore facilities operating under its jurisdiction report to it the existence of any pollution incident involving the respective vessel or facility; and
- (c) procedures to encourage and facilitate reports to it by masters of all vessels and pilots of all aircraft operating in the vicinity of its coasts, as well as by persons in charge of offshore facilities operating under its jurisdiction of any pollution incident of which they are aware./

2. In the event of receiving a report regarding a pollution incident, each Party shall promptly inform all other Parties whose interests are likely to be affected by such incident as well as the flag state of any vessel involved in it. Each Party shall also inform the Organization and, directly or through the Organization, the competent international organizations. Furthermore, it shall inform, as soon as feasible, such other Parties and organizations of any measures it has itself taken to minimize or reduce pollution or the threat thereof.

Article 6

Mutual Assistance

1. Each Party requiring assistance to deal with a pollution incident may request, either directly or through the Organization, the assistance of the other Parties. The Party requesting assistance shall specify the type of assistance it requires. The Parties whose assistance is requested under this article shall, within their capabilities, provide this assistance based on an agreement with the requesting Party or Parties and taking into account, in particular in the case of pollution by hazardous substances other than oil, the technological means available to them. If the Parties responding jointly within the framework of this article so request, the Organization may co-ordinate the activities undertaken as a result.

2. Each Party shall facilitate the movement of technical personnel, equipment and material necessary for responding to a pollution incident, into, out of and through its territory.

Article 7

Operational Measures

Each Party shall, within its capabilities, take steps including those outlined below in responding to a pollution incident:

- (a) make a preliminary assessment of the incident, including the type and extent of existing or likely pollution effects;
- (b) promptly communicate information concerning the situation to other Parties and the Organization pursuant to article 5;
- (c) promptly determine its ability to take effective measures to respond to the pollution incident and the assistance that might be required and to communicate any request for such assistance to the Party or Parties concerned or the Organization in accordance with article 6;
- (d) consult, as appropriate, with other affected or concerned Parties or the Organization in determining the necessary response to a pollution incident;
- (e) carry out the necessary measures to prevent, eliminate or mitigate the effects of the pollution incident, including surveillance and monitoring of the situation.

Article 8

Sub-Regional Arrangements

1. The Parties should develop and maintain appropriate sub-regional arrangements, bilateral or multilateral, in particular to facilitate the steps provided for in articles 6 and 7 above and taking into account the general provisions of this Protocol.
2. The Parties to any arrangements shall notify the other Parties to this Protocol as well as the Organization of the conclusion of such sub-regional arrangements and the provisions thereof.

Article 9

Institutional Arrangements

The Parties designate the Organization to carry out the following functions:

- (a) assisting Parties, upon requests, in the communication of reports of pollution incidents in accordance with article 5;
- (b) assisting Parties, upon request, in the organization of a response action to a pollution incident, in accordance with article 6;
- (c) assisting Parties, upon request, in the following areas:
 - (i) the preparation, periodic review, and updating of the contingency plans, referred to in paragraph 2 of article 3, with a view, inter alia, to promoting the compatibility of the plans of the Parties; and
 - (ii) the identification of training courses and programmes;
- (d) assisting the Parties upon request, on a regional or sub-regional basis, in the following areas:
 - (i) the co-ordination of emergency response activities; and
 - (ii) the provision of a forum for discussions concerning emergency response and other related topics;

- (e) establishing and maintaining liaison with:
 - (i) appropriate regional and international organizations; and
 - (ii) appropriate private organizations, including producers and transporters of substances which could give rise to a pollution incident in /the Protocol Area/ and clean-up contractors and co-operatives;
- (f) maintaining an appropriate current inventory of available emergency response equipment;
- (g) disseminating information related to the prevention and control of pollution incidents and the removal of pollutants resulting therefrom;
- (h) identifying or maintaining emergency response communications systems;
- (i) encouraging research by the Parties, as well as by appropriate international and private organizations, on the environmental effects of pollution incidents, the environmental effects of pollution incident control materials and other matters related to pollution incidents;
- (j) assisting Parties in the exchange of information pursuant to article 4; and
- (k) preparing reports and carrying out other duties assigned to it by the Parties.

Article 10

Meetings of the Parties

1. Ordinary meetings of the Parties to this Protocol shall be held in conjunction with ordinary meetings of the Contracting Parties to the Convention, held pursuant to article 21 of the Convention. The Parties to this Protocol may also hold extraordinary meetings as provided for in article 21 of the Convention.

2. It shall be the function of the meetings of the Parties:

- (a) to review the operation of this Protocol and to consider special technical arrangements and other measures to improve its effectiveness;

- (b) to consider any measures to improve co-operation under this Protocol including, in accordance with article 23 of the Convention, amendments to this Protocol.

Article 11

Relationship between this Protocol and the Convention

1. The provisions of the Convention relating to any Protocol shall apply with respect to the present Protocol.
2. The rules of procedure and the financial rules adopted pursuant to article 21 of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

DONE at(place)..... on(date)..... in a single copy in the English and French languages, the two texts being equally authoritative.

DRAFT PROTOCOL FOR THE PREVENTION OF POLLUTION OF THE
/SOUTH PACIFIC REGION/ BY DUMPING

/The Contracting Parties to the Protocol,

BEING PARTIES to the Convention for the Protection and
Development of the Natural Resources and Environment of the
South Pacific Region, adopted in on
.....,

RECOGNIZING the danger posed to the marine environment by
pollution caused by the dumping of waste or other matter,

CONSIDERING that they have a common interest to protect the
South Pacific Region from this danger, taking into account
the unique environmental quality of the region,

BEARING IN MIND the Convention on the Prevention of Marine
Pollution by Dumping of Wastes and other Matters adopted in
London on 13 November 1972,

HAVE AGREED as follows:/

Article 1

Definitions

For the purpose of this Protocol:

/(a) "Convention" means the Convention for the Protection and Development of the Natural Resources and Environment of the South Pacific Region; /

/(b) "dumping" means:

- any deliberate disposal of wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea;
- any deliberate disposal of vessels, aircraft, platforms or other man-made structures at sea;

"dumping" does not include:

- the disposal of wastes or other matter incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms or structures;
- placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of this Protocol; /

/(b) "dumping" means:

- any deliberate disposal at sea, including its seabed and subsoil, of wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea;

- any deliberate disposal at sea, including its seabed and subsoil, of vessels, aircraft, platforms or other man-made structures at sea;
- the temporary storage of wastes or other matter at sea, including its seabed and subsoil;

"dumping" does not include:

- the disposal of wastes or other matter incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms or structures;
 - placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of this Protocol; /
- (c) "wastes or other matter" means material and substances of any kind, form or description;
- (d) "vessels" and "aircraft" means waterborne or airborne craft of any type whatsoever. This expression includes air cushioned craft and floating craft, whether self-propelled or not.

Article 2

Geographical Coverage

/The area to which this Protocol applies (hereinafter referred to as the "Protocol Area") shall be the "Convention Area" as defined in article 2 of the Convention./

Article 3

General Obligations

1. The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Protocol Area by dumping.
2. Dumping within the territorial sea and the exclusive economic zone or onto the continental shelf of a Party established in accordance with international law shall not be carried out without the express prior approval of that Party, which has the right to permit, regulate and control such dumping taking fully into account the provisions of this Protocol and after due consideration of the matter with other Parties which by reason of their geographical situation may be adversely affected thereby.
- /3. National laws, regulations and measures adopted by the Parties shall be no less effective in preventing, reducing and controlling pollution by dumping than the relevant internationally recognized rules and procedures relating to the control of dumping./

Article 4

Prohibited Substances

1. The dumping in the Protocol area of wastes or other matter listed in annex I to this Protocol is prohibited.
2. No provision of this Protocol is to be interpreted as preventing a Party from prohibiting, insofar as that Party is concerned, the dumping of wastes or other matter not mentioned in annex I. That Party shall notify such measures to the Organization.

Article 5

Special Permits

The dumping in the Protocol area of wastes or other matter listed in annex II to this Protocol requires, in each case, a prior special permit.

Article 6

General Permits

The dumping in the Protocol area of all wastes or other matter not listed in annexes I and II to this Protocol requires a prior general permit.

Article 7

Factors governing the issue of permits

The permits referred to in articles 5 and 6 above shall be issued only after careful consideration of all the factors set forth in annex III to this Protocol. The Organization shall receive records of such permits.

Article 8

Force majeure

The provisions of articles 4, 5 and 6 shall not apply when it is necessary to secure the safety of human life or of vessels, aircraft, platforms or other man-made structures at sea in cases of force majeure caused by stress of weather, or in any case which constitutes a danger to human life or a real threat to vessels, aircraft, platforms or other man-made structures at sea, if dumping appears to be the only way of averting the threat and if there is every probability that the damage consequent upon such dumping will be less than would otherwise occur. Such dumping shall be so conducted as to minimize the likelihood of damage to human or marine life. Such dumping shall immediately be reported to the Organization and, either through the Organization or directly, to any Party or Parties likely to be affected, together with full details of the circumstances and of the nature and quantities of the wastes or other matter dumped.

Article 9

Emergencies

1. A Party may issue a special permit as an exception to article 4, in emergencies, posing unacceptable risk relating to human health and admitting no other feasible solution. Before doing so the Party shall consult any other country or countries that are likely to be affected and the Organization which, after consulting other Parties, and international organizations as appropriate, shall in accordance with article 14 promptly recommend to the Party the most appropriate procedures to adopt. The Party shall follow these recommendations to the maximum extent feasible consistent with the time within which action must be taken and with the general obligation to avoid damage to the marine environment and shall inform the Organization of the action it takes. The Parties pledge themselves to assist one another in such situations.

/2. This article does not apply with respect to items 6 and 7 of Annex I./

3. Any Party may waive its rights under paragraph (2) at the time of, or subsequent to ratification of, or accession to this Protocol.

Article 10

Issuance of Permits

1. Each Party shall designate an appropriate authority or authorities to:

- (a) issue the special permits provided for in article 5 and in the emergency circumstances provided for in article 9;
- (b) issue the general permits provided for in article 6;
- (c) keep records of the nature and quantities of the wastes or other matter permitted to be dumped and of the location, date and method of dumping;
- (d) monitor individually, or in collaboration with other Parties, and competent international organizations, the condition of the Protocol Area for the purposes of this Protocol.

2. The appropriate authority or authorities of each Party shall issue the permits provided for in articles 5 and 6 and in the emergency circumstances provided for in article 9 in respect of the wastes or other matter intended for dumping:

- (a) loaded in its territory or at its off-shore terminals;
- (b) Loaded by vessels flying its flag or vessels or aircraft of its registry when the loading occurs in the territory or at the offshore terminals of a State not Party to this Protocol.

Article 11

Implementation and Enforcement

/1. Each Party shall apply the measures required to implement this Protocol to all:

- (a) vessels flying its flag and vessels and aircraft of its registry;
- (b) vessels and aircraft loading in its territory or at its offshore terminals wastes or other matter which are to be dumped;
- (c) vessels, aircraft and other man-made structures believed to be engaged in dumping in areas under its jurisdiction in this matter./

/1. Each Party shall apply the measures required to implement the present Protocol to all:

- (a) vessels and aircraft registered in its territory or flying its flag;
- (b) vessels and aircraft loading in its territory or territorial seas matter which is to be dumped;
- (c) vessels and aircraft and fixed floating platforms under its jurisdiction believed to be engaged in dumping./

2. Each Party shall take in its territory appropriate measures to prevent and punish conduct in contravention of the provisions of this Protocol.

3. The Parties agree to co-operate in the development of procedures for the effective application of this Protocol particularly on the high seas, including procedures for the reporting of vessels and aircraft observed dumping in contravention of the Protocol.

/4. This Protocol shall not apply to those vessels and aircraft entitled to sovereign immunity under international law. However, each Party shall ensure by the adoption of appropriate measure that such vessels and aircraft owned or operated by it act in a manner consistent with the object and purpose of this Protocol and shall inform the organization accordingly./

/4. The provisions of this Protocol do not apply to any warship, naval auxiliary, other vessels or aircraft owned or operated by a State and used, for the time being, only on government non-commercial services. However, each State shall ensure, by the adoption of appropriate measures not impairing operations or operational capabilities of such vessels or aircraft owned or operated by it, that such vessels or aircraft act in a manner consistent, so far as is reasonable and practicable with this Protocol./

Article 12

Adoption of other measures

Nothing in this Protocol shall affect the right of each Party to adopt other measures, in accordance with the principles of international law, to prevent dumping.

Article 13

Reporting of dumping incidents

Each Party undertakes to issue instructions to its maritime inspection vessels and aircraft and to other appropriate services to report to its authorities any incidents or conditions in the Protocol area which give rise to suspicions that dumping in contravention of the provisions of this Protocol has occurred or is about to occur. That Party shall, if it considers it appropriate, report accordingly to the Organization and to any other Party concerned.

Article 14

Institutional Arrangements

The Parties designate the Organization to carry out the following functions:

- (a) to assist the Parties, upon request, in the communication of records in accordance with articles 8 and 13;
- (b) to convey to the Parties concerned all notifications received /by the Organization/ in accordance with articles 4(2) and 9;
- (c) to transmit to the International Maritime Organization as the organization responsible for the Secretariat functions under the Convention on the Prevention of Marine Pollution by Dumping of Wastes and other matter of 1972, records and any other information received in accordance with article 7;
- (d) to carry out other duties assigned to it by the Parties.

Article 15

Meetings of the Parties

1. Ordinary meetings of the Parties to this Protocol shall be held in conjunction with ordinary meetings of the Contracting Parties to the Convention held pursuant to article 21 of the Convention. The Parties to this Protocol may also hold extraordinary meetings in conformity with article 21 of the Convention.

2. It shall be the function of the meetings of the Parties to this Protocol to:

- (a) keep under review the implementation of this Protocol, and to consider the efficacy of the measures adopted and the need for any other measures, in particular in the form of annexes;
- (b) study and consider the records of the permits issued in accordance with articles 5, 6, 7 and the emergency situation in article 9, and of the dumping which has taken place;

- (c) review and amend as required any annex to this Protocol /based on scientific or technical considerations/, /or any other relevant considerations/;
- (d) adopt as necessary guidelines for the preparation of records and procedures to be followed in submitting such records for the purposes of article 7;
- (e) develop, adopt and implement in consultation with the Organization and other competent international organizations procedures pursuant to article 9 including basic criteria for determining /exceptional and/ emergency circumstances and procedures for consultative advice /and the safe disposal /storage or destruction/ of matter in such circumstances/;
- (f) invite as necessary the appropriate scientific body or bodies to collaborate with and to advise the Parties and the Organization on any scientific or technical aspects relevant to this Protocol including particularly the content and applicability of the annexes;
- (g) perform such other functions as may be appropriate for the implementation of this Protocol.

3. The adoption of amendments to the annexes to this Protocol pursuant to article 24 of the Convention shall require a /two-third majority/ vote of the Parties to this Protocol.

Article 16

Relationship between this Protocol and the Convention

1. The provisions of the Convention relating to any protocol shall apply with respect to the present Protocol.

2. The rules of procedures and the financial rules adopted pursuant to article 21 of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.

IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments, have signed this Protocol.

DONE at on in a single copy in the English and French languages, the two texts being equally authoritative.

ANNEX 1

- A -

The following substances and materials are listed for the purposes of article 4 of this Protocol.

1. Organohalogen compounds.
2. Mercury and mercury compounds.
3. Cadmium and cadmium compounds.
4. Persistent plastics and other persistent synthetic materials, for example, netting and ropes, which may remain in suspension in the sea in such a manner as to interfere materially with fishing, navigation or other legitimate uses of the sea.
5. /Crude oil, fuel oil, heavy diesel oil, and lubricating oils, hydraulic fluids, and any mixtures containing any of these, taken on board for the purpose of dumping./

/Crude oil and its wastes, refined petroleum products, petroleum distillate residues and any mixtures containing any of these taken on board for the purpose of dumping./

6. /All radio-active wastes and other radio-active matters./

/All radioactive wastes and other radioactive matters except those listed in Annex 1C along with any restrictions or qualifications which have been determined by the International Atomic Energy Agency to be /insignificant/ /exhibiting minimal levels of radioactivity/ or not harmful to the human or marine environment when dumped into the Protocol area and which have been agreed to by the Parties pursuant to article 15, paragraph 3 of this Protocol./

/Radioactive wastes and other radioactive matter resulting from the processing or use of such material associated with the nuclear fuel cycle, nuclear weapons, as well as agricultural, medical and industrial use of radioisotopes./

6. /Radioactive waste and other radioactive matter resulting from the processing or use of nuclear material associated with the nuclear cycle, nuclear weapons, and agricultural, medical and industrial uses of radioisotopes, except those listed in D below exhibiting minimal levels of radioactivity which the Parties have decided are de minimis for the purposes of application of this item./
7. Materials in whatever form (e.g. solids, liquids, semi-liquids, gases, or in a living state) produced for biological and chemical warfare.
8. /Organophosphorous compounds and substances which may form such compounds in the marine environment./
9. /Organosilicon compounds which may form such substances in the marine environment excluding those which are non-toxic./

- B -

Substances and materials listed in Section A are selected on the basis of their toxicity, persistence, bioaccumulation or interference with normal processes of the marine environment. /With the exception of items 6 and 7/, substances /and materials/ which are rapidly rendered harmless by physical, chemical or biological processes in the sea are not considered as covered by this Annex provided that they do not:

- make edible marine organisms unpalatable; or
- endanger /human health and fauna and flora/
/human or animal health/.

The consultative procedure provided for under article 9 shall be followed by a Party if there is doubt about the harmlessness of the substance.

(A U.S. tentative proposal for the first sentence of section B which was not discussed in plenary, appears in Appendix 8.)

- C -

This annex does not apply to wastes or other materials, such as sewage sludges and dredged spoils, containing the matters referred to in paragraph 1 - /5/ /6/ above as trace contaminants. The dumping of such wastes shall be subject to the provisions of Annexes II and III as appropriate.

/In cases of doubt as to the applicability of item 6 of section A of this Annex to substances exhibiting minimal levels of radioactivity, the Parties, when taking a decision, will take full account of the relevant recommendations, standards and guidelines of the International Atomic Energy Agency for determination of de minimis levels of radioactivity in material proposed to be disposed of at sea./

/A Party proposing in the Protocol Area material not listed in Annex I.D, exhibiting minimal levels of radioactivity shall first request a decision from the Parties whether those levels of radioactivity are de minimis for the purposes of application of item 6 of Annex I.A. Dumping of the material shall not be permitted unless the Parties decide by a majority of that the radioactivity is to be regarded as de minimis for such purposes. In taking such a decision, the Parties shall take account of the relevant recommendations, standards and guidelines of the International Atomic Energy Agency for determination of the de minimis levels of radioactivity in material proposed to be disposed of at sea./

ANNEX II

The following substances and materials requiring special care are listed for the purposes of article 5.

A. Wastes containing a significant amount of the matters listed below:

arsenic)
lead)
copper) and their compounds
zinc)

organosilicon compounds
cyanides
fluorides
pesticides and their by-products not covered in Annex I.

B. In the issue of permits for the dumping of acids and alkalis, consideration shall be given to the possible presence in such wastes of the substances listed in paragraph A and to the following additional substances:

beryllium)
chromium)
nickel) and their compounds
vandium)

C. Containers, scrap metal and other bulky wastes liable to sink to the sea bottom which may present a serious obstacle to fishing or navigation.

ANNEX III

Provisions to be considered in establishing criteria governing the issue of permits for the dumping of matter at sea, taking into account article 7, include:

A - Characteristics and composition of the matter

1. Total amount and average composition of matter dumped (e.g. per year).
2. Form, e.g. solid, sludge, liquid, or gaseous.
3. Properties: physical (e.g. solubility and density), chemical and biochemical (e.g. oxygen demand, nutrients) and biological (e.g. presence of viruses, bacteria, yeasts, parasites).
4. Toxicity.
5. Persistence: physical, chemical and biological.
6. Accumulation and biotransformation in biological materials or sediments.
7. Susceptibility to physical, chemical and biochemical changes and interaction in the aquatic environment with other dissolved organic and inorganic materials.
8. Probability of production of taints or other changes reducing marketability of resources (fish, shellfish, etc.).

B - Characteristics of dumping site and method of deposit

1. Location (e.g. co-ordinates of the dumping area, depth and distance from the coast), location in relation to other areas (e.g. amenity areas, spawning, nursery and fishing areas and exploitable resources).
2. Rate of disposal per specific period (e.g. quantity per day, per week, per month).
3. Methods of packaging and containment, if any.
4. Initial dilution achieved by proposed method of release.
5. Dispersal characteristics (e.g. effects of currents, tides and wind on horizontal transport and vertical mixing).

6. Water characteristics (e.g. temperature, pH, salinity, stratification, oxygen indices of pollution - dissolved oxygen (DO), chemical oxygen demand (COD), biochemical oxygen demand (BOD), - nitrogen present in organic and mineral form including ammonia, suspended matter, other nutrients and productivity).

7. Bottom characteristics (e.g. topography, geochemical and geological characteristics and biological productivity).

8. Existence and effects of other dumpings which have been made in the dumping area (e.g. heavy metal background reading and organic carbon content).

9. In issuing a permit for dumping, Contracting Parties should consider whether an adequate scientific basis exists for assessing the consequences of such dumping, as outlined in this Annex, taking into account seasonal variations.

C - General considerations and conditions

1. Possible effects on amenities (e.g. presence of floating or stranded materials, turbidity, objectionable odour, discolouration and foaming).

2. Possible effects on marine life, fish and shellfish culture, fish stocks and fisheries, seaweed harvesting and culture.

3. Possible effects on other uses of the sea (e.g. impairment of water quality for industrial use, underwater corrosion of structure, interference with ship operations from floating materials, interference with fishing or navigation through deposit of waste or solid objects on the sea floor and protection of areas of special importance of scientific or conservation purposes).

4. The practical availability of alternative land-based methods of treatment, disposal or elimination, or of treatment to render the matter less harmful for dumping at sea.

APPENDIX 8

SOUTH PACIFIC REGIONAL ENVIRONMENT PROGRAMME

SECOND EXPERT MEETING ON A DRAFT CONVENTION FOR THE PROTECTION
AND DEVELOPMENT OF THE NATURAL RESOURCES AND ENVIRONMENT
OF THE SOUTH PACIFIC REGION

(Noumea, New Caledonia, 7-16 November 1983)

PROPOSED AMENDMENTS AND ADDITIONS
TO CONVENTION AND PROTOCOLS NOT CONSIDERED AT MEETING

A. PROPOSALS BY KIRIBATI FOR AMENDMENTS OF CONVENTION

Article 4: Add subparagraph 6: "The obligations imposed under this article relating to the management or development of resources shall not affect any rights or obligations of the Contracting Parties in relation to the management or development of off-shore commercial fisheries."

Preamble: Add a preambular paragraph: "Recognizing that the management and development of off-shore commercial fisheries is the subject of other agreements applicable within the South Pacific region."

Article 16.2: Add between "shall" and "develop" in the first line, the words "if necessary".

Article 25.2: Add to /upon common agreement/ /at the request of any Party/.

B. PROPOSAL BY AUSTRALIA FOR AMENDMENT OF PREAMBLE OF DUMPING PROTOCOL

Substitute the following paragraph for the final paragraph of the draft preamble:

"Intending to enter into a regional agreement consistent with the Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matters adopted in London on 13 November 1972 as foreseen by article VIII thereof according to which the Contracting Parties to that Convention have undertaken to endeavour to act consistently with the objectives and provisions of such regional agreements."

C. PROPOSAL BY THE UNITED STATES OF AMERICA FOR AMENDMENT TO DUMPING PROTOCOL

Alternative wording for Annex I Section B

Substances

The substances and material listed in Annex I should be those which have intrinsic properties such that their dumping into the sea could cause adverse effects in the marine environment such as to create hazard to human health, harm to living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea. These substances and materials are those that are considered by agreement of Parties to be:

1. simultaneously toxic, persistent and bioaccumulative and therefore have a wide range of action; and
2. while essentially non-toxic, are persistent and float or remain suspended in the sea where they may interfere with legitimate uses of the sea either because of the quantities dumped at a single time or because of their accumulation over a long period of time.

D. PROPOSAL BY GUAM FOR AMENDMENTS TO DUMPING PROTOCOL

Add the words underlined as follows:

Annex I.A, Number 1:

1. Organohalogen and Inorganohalogen compounds.

Annex III, Part A, Section 6:

6. Accumulation, bioaccumulation, biomagnification and biotransformation in biological materials or sediments.

Annex III, Part B, Section 7:

7. Bottom characteristics (e.g. topography, geochemical and geological characteristics, biological productivity, sediment characteristics and stability including inorganic and organic nitrogen and phosphorous, and radio-chemical activity).

Annex III, Part B, Section 8:

8. Existence and effects of other dumpings which have been made in the dumping areas (e.g. heavy metal background reading, organic carbon content, radio-chemical activity, toxic chemicals, drums, containers and other man-made debris).

Annex III, Part C: Replace current draft with following

C - MATERIAL DISPOSAL IMPACT ASSESSMENT

1. CONTRACTING PARTIES SHALL REQUIRE A MATERIAL DISPOSAL IMPACT ASSESSMENT REPORT FROM ANY APPLICANT SEEKING A PERMIT, WHICH REPORT SHALL INCLUDE:

(a) a listing of all material in each container to be disposed, the number of containers to be dumped, the structural diagrams of each container, the number of curies, if any, of each material in each container, and the exposure levels in rems, if relevant, at the inside and outside of each container;

(b) an analysis of the environmental impact of the proposed action, at the site at which the applicant desires to dispose of the materials, upon human health and welfare and marine life;

(c) any adverse environmental effects at the site which cannot be avoided should the proposal be implemented;

(d) an analysis of the resulting environmental and economic conditions if the containers fail to contain the waste material when initially deposited at the specific site;

(e) a plan for the removal or containment of the disposed materials if the container leaks or decomposes;

(f) a determination by each affected State whether the proposed action is consistent with this Convention and Protocol;

(g) an analysis of the economic impact upon other users of marine resources;

(h) alternatives to the proposed action;

(i) comments and results of consultation with State officials and public hearings held in the coastal States that are nearest to the affected areas;

(j) a comprehensive monitoring plan to be carried out by the applicant to determine the full effect of the disposal on the marine environment, living resources, or human health, which plan shall include, but not be limited to, the monitoring of exterior container radiation samples, the taking of water and sediment samples, and fish and benthic animal samples, adjacent to the containers, and the acquisition of such other information as the Contracting Party may require; and

(k) such other information which the Contracting Party may require in order to determine the full effects of such disposal.

2. The Contracting Party shall include, in any permit to which paragraph 1 applies, such terms and conditions as may be necessary to ensure that the monitoring plan required under paragraph 1 (j) is fully implemented, including the analysis by the Contracting Party of the samples required to be taken under the plan;

3. The Contracting Party shall submit a copy of the assessment prepared under paragraph 1 with respect to any permit to the Organization.

E. JOINT PROPOSALS BY AUSTRALIA AND FEDERATED STATES OF
MICRONESIA FOR AMENDMENT TO THE DUMPING PROTOCOL

Annex I.A

6. Radioactive waste and other radioactive matter resulting from the processing or use of nuclear material associated with the nuclear fuel cycle, nuclear weapons, and agricultural, medical and industrial uses of radio-isotopes, except those listed in D below existing minimal levels of radioactivity which the Parties have decided are de minimis for the purposes of application of this item*.

Addition to article 14.2 of Dumping Protocol

(e) to take decisions in accordance with section C of Annex I to this Protocol.

F. PROPOSALS BY THE UNITED STATES OF AMERICA TO DUMPING PROTOCOL:
NEW ARTICLES

Settlement of Disputes

Any dispute between two or more Contracting Parties to this Protocol concerning the interpretation or application of this Protocol shall, if settlement by negotiation or by other means has not been possible, unless these Contracting Parties do not otherwise agree, be submitted upon request of one of them to arbitration as set out in the Annex on Arbitration to the Convention.

* It is the expectation of the drafters that the Parties prior to signing would list those materials considered to be de minimis as Section D to Annex I.

(The U.S. delegation indicated, however, that consideration of this provision was integrally linked to development of appropriate arbitral procedures and was of course linked to the broader consideration of a settlement of disputes provisions under the Convention.)

Relationship between this Protocol and the Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter

The present Protocol shall be applied consistently with the Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter, adopted 13 November 1972, as a regional agreement provided for in article VIII of such Convention. In the case of conflict between the obligations of a Party to this Protocol and its obligations as a Contracting Party to such Convention, the obligation of such Convention shall prevail.