

# SPREP

Report on the

Joint Eighth Conference of the Parties to  
the Apia and Noumea (SPREP) Conventions

7, 10 and 13 September 2006  
Noumea, New Caledonia

# PROEE

COP8 Apia & Noumea  
Conventions



Secrétariat du  
Programme régional  
océanien de l'environnement

Secretariat of the  
Pacific Regional  
Environment Programme

# Report on the Joint Eighth Conference of the Parties to the Apia and Noumea (SPREP) Conventions

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SPREP IRC Cataloguing-in-Publication Data

Report on the Joint Eighth Conference of the Parties to the Apia and Noumea (SPREP) Conventions, 7, 10 and 13 September 2006, Noumea, New Caledonia.

36 p. ; 29 cm.

ISBN: 978-982-04-0330-7

1. Environmental policy - Oceania - Congresses.  
2. Conservation of natural resources - Oceania - Congresses. 3. Environmental protection - Oceania - Congresses. I. Pacific Regional Environment Programme. II. Secretariat of the Pacific Regional Environment Programme. III. Title.

363.7099

Prepared for publication, and reproduced, in October-November 2006 by the Secretariat of the Pacific Regional Environment Programme (SPREP)  
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Original text: English

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## **Report on the Joint Eighth Conference of the Parties to the Apia and Noumea (SPREP) Conventions**

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### **Introduction**

1. The Joint Eighth Ordinary Conference of the Contracting Parties to the Convention on Conservation of Nature in the South Pacific (Apia Convention), and the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region and Related Protocols (Noumea Convention, also known as the SPREP Convention), was held on 7, 10, and 13 September 2006 in Noumea, New Caledonia.

2. Representatives from the following Parties attended on 7 September: Australia, France, New Zealand, Republic of Marshall Islands, and United States of America. As this did not constitute a quorum for either the Apia or the Noumea Convention, the Conference met informally and reconvened on 10 September at which time a quorum was attained. Representatives from the following Parties attended on 10 September: Australia, Cook Islands, Federated States of Micronesia, Fiji, France, New Zealand, Republic of Marshall Islands, and United States of America. Representatives from Kiribati, Niue, and Tuvalu attended as observers. The Conference on 13 September was for the Apia Convention only and in attendance were Representatives from Australia, Cook Islands, Fiji, France, and Samoa. The list of participants is attached as Annex 1.

### **Agenda Item 1: Joint opening of the Conference**

3. The opening prayer to bless the Conference was delivered by Dr Frank Griffin of the Secretariat.

4. The Conference was formally opened by Mr Pascal Vittori, Member of the Congress of New Caledonia. He outlined the importance of the Apia and Noumea Conventions to the protection of nature in the Pacific islands region. His address is attached as Annex 2.

5. The Director of SPREP, Mr Asterio Takesy, in his opening remarks described efforts to reinvigorate the Noumea Convention, particularly through the development of three protocols to the Convention intended to align the regional protocols with their equivalent global instruments.

6. In relation to the Apia Convention he outlined the work of the Secretariat in developing a concept paper for consideration to revitalise this Convention and noted that this would be the subject of discussion later in the Conference. His address is attached as Annex 3.

## **Agenda Item 2: Organisation of the Conference**

7. The Director of SPREP opened the floor for nominations and the Representative of Australia was elected Chair of the Conference.

8. The Chair called for nominations for Vice-Chair. The Representative of France was duly elected.

9. The Chair requested consideration to convening the Waigani, Apia, and Noumea Conventions in one day instead of two as it appeared there might not be a quorum for the Waigani Convention either.

10. The Secretariat indicated it might be difficult to hold all three Convention meetings on the same day, particularly as the Waigani Convention had a number of items to discuss and would itself require a full day of consideration.

11. The Conference decided to hold the Convention Conferences over two days as originally planned. The Chair noted with disappointment the lack of a quorum for the Conference and proposed that the Parties present continue to address the agenda items “informally” with a view to reconvening the Conference later in the weekend. When additional Parties arrived later to form a quorum, any conclusions reached at this sitting could then be confirmed and formalised. This was agreed to by the participating Parties.

### **Agenda Item 3: Adoption of the agenda**

12. The agenda was adopted without change. It is attached as Annex 4.

### **Agenda Item 4: Presentation of Reports by the Secretariat under Rule 11 of the Rules of Procedure of the Apia Convention and Rule 12 of the Rules of Procedure of the Noumea Convention**

13. Reports were tabled by the Secretariat under Rule 11(iv) of the Rules of Procedure to the Apia Convention and Rule 12(vi) of the Rules of Procedure of the Noumea Convention. They outlined work achieved from June 2004 till June 2006 in fulfilment of the provisions of the Apia and Noumea Conventions under the SPREP work programme.

14. The Representative of France intervened in relation to the report on the Secretariat's work on the Apia Convention, specifically on the Coral Reef Initiative for the South Pacific (CRISP), noting that the agreement had been signed. He explained that work was expected to begin in the second half of 2006 and had in fact started.

15. The Parties noted the report of the Secretariat outlining work achieved since the Seventh Joint Conference of the Parties in fulfilment of the provisions of the Apia and Noumea Conventions under the SPREP work programme.

### **Agenda Item 5: Country Reports on Implementation of Obligations under the Apia and Noumea Conventions**

16. The Chair invited Parties to report on the status of their country activities.

17. The Representative of Australia reported that its report for both Conventions had been submitted.

18. The Representative of New Zealand reported that its report for the Noumea Convention had likewise been submitted.

19. The Representative of the United States reported that its report relating to activities under the Noumea Convention was being developed and would be tabled once final input from the USEPA had been received.

20. The Representative of the Republic of Marshall Islands informed the Conference that its report on ongoing work under the Noumea Convention was being developed and would be tabled when completed.

21. The Representative of France reported that its report was also being compiled. The responsibility is shared among the French territories in the Pacific and the information was still being put together. Once completed, the report would be submitted.

22. The Representative of the Cook Islands informed it was in the process of finalising its country report and would submit it to the Secretariat once completed.

## **Agenda Item 6: Items requested from previous Conferences**

### 6.1 At the Conference of the Contracting Parties to the Apia Convention, 2004

#### *6.1.1 Concept paper on the relationship between the Apia Convention and other relevant conventions*

23. This paper addressed paragraph 26 of the Report of the Joint Conference of the Seventh Ordinary Conference of the Contracting Parties to the Convention on Conservation of Nature in the South Pacific (Apia Convention) 2004 held in Papeete, French Polynesia (hereinafter, Seventh Conference), requesting the production of a Concept Paper and the establishment of an electronic Working Group.



24. The Chair reminded the Conference that the concept paper prepared by the Secretariat was WP.6.1.1/Att.1.

25. The Representative of Australia advised the Conference that, at the time of its development, the Apia Convention was innovative and had been valuable in promoting protected areas and protecting indigenous flora and fauna. However, she felt that the Convention may have since been superseded by the Convention on Biological Diversity (CBD), especially with the adoption of the Island Biodiversity Program of Work. She then made reference to Article 59 of the Vienna Convention on the Law of the Treaties, which allows for treaties to be suspended in operation if all parties agree that two conventions relate to the same subject matter and that one of them is able to govern the subject matter without the other. She further advised that Australia had also prepared a concept paper and would like this tabled along with the Secretariat paper. She proposed that the Conference should wait until the delegation from Samoa was also present to discuss the concept paper. Australia's concept paper is attached at Annex 5.

26. The Representative of Fiji thanked the Secretariat for its working paper. He noted the paragraph on strengthening the national capacity on the ground but went on to state that SPREP staff needed to be more involved at the national level to assist the Parties in developing their work.

27. The Representative of France supported the intervention of Australia and suggested that any discussion on the concept papers be put off until the delegation from Samoa arrived. He also noted the comments from the Representative of Fiji and supported the suggestion for help from the Secretariat to build capacity at the national level.

28. The Representative of the Cook Islands supported the comments from Australia and France and proposed an open discussion during the coming week to progress this issue when all Parties were present.

29. The Chair summarised the discussions and supported the proposal from the Cook Islands to have the open discussion once all the Parties are present. He called for the concept paper from Australia to be circulated along with the one from the Secretariat.

30. Upon receiving advice from the Secretariat and hearing other Parties, the Chair then advised that the discussion would resume under Item 7 of the SPREP Meeting agenda and, if required, further discussion could be held under "Other Business".

31. In an effort to expedite the record, the Chair requested that discussions on the Apia Convention resume on Wednesday, 13 September 2006. The Conference commenced at 3.30pm in the side-room. Australia, Cook Islands, Fiji, France, and Samoa were represented.

32. The Parties to the Apia Convention agreed that Australia continue as Chair of the Conference. The Chair summarized the discussion on the status of the Apia Convention and the Concept Paper submitted by Australia, proposing that the Apia Convention be suspended as it had been overtaken by the CBD. The Conference was then invited to respond to Australia's proposal.

33. The Representative of Samoa reiterated Samoa's position that had been announced the previous day at the SPREP Meeting, and the unlikelihood of the Convention gaining new members. He supported Australia's proposal to suspend the Apia Convention so Parties could focus on other related Conventions.

34. The Representative of the Cook Islands stated he had sought the views of other countries as to why they were not joining the Apia Convention and had received feedback that they were focusing on the CBD. He supported the proposal from Australia.

35. The Representative of Fiji supported Australia's proposal but sought clarification on what suspending the Convention meant. The Chair explained that the term came from the Vienna Convention on the Law of Treaties and meant that the Convention would no longer be in operation but could resume at any time. It would not be terminated or denounced.

36. The Representative of France agreed with Australia's proposal but queried a phrase in the proposal that appeared to indicate the CBD would replace the Apia Convention.

37. The Representative of Samoa explained that suspending the Apia Convention did not mean the Convention would cease but that activities under it would.

38. The Secretariat prepared a draft text in the form of a resolution for the consideration of the Parties, which reflected Australia's proposal and the intention of the Parties and which satisfied Article 59(2) of the Vienna Convention on the Law of Treaties.

*“The Parties to the Apia Convention are all Parties to the Convention on Biological Diversity. The Convention on Biological Diversity encompasses the subject-matter of the Apia Convention and is the primary instrument for executing that subject-matter. For this reason, the Parties to the Apia Convention suspend its operation until further notice.”*

39. The Representative of France indicated that he would need to go back to Paris in order to seek confirmation from his legal experts on this text.

40. The Chair in light of the need for a consensus decision, recommended that all Parties seek confirmation from their capitals and relay their responses to the Secretariat.

41. The Chair sought clarification as to whether there were financial implications if the Conference agreed to adopt the resolution.

42. The Secretariat indicated that at the time the papers were written, a few months earlier, there was a positive balance of US \$8,684.00 in the Apia Convention Account. It would confirm the final figure upon returning to Apia as there would be expenses arising from holding the current Conference.

43. The Chair suggested that any surplus funds be put into practical projects related to the CBD.

44. As an alternative, the Representative of Samoa suggested that as not much money was involved, it could be incorporated into the Noumea Convention budget. The Conference agreed with this suggestion.

45. The Chair summarized the discussions by stating that the text provided by the Secretariat would be subject to confirmation by the Parties and that any funds remaining in the Apia Convention Account be directed to the Noumea Convention programme of work and budget. He then closed the extra session on the Apia Convention.

[46. The remainder of this report now follows on from paragraph 30.]

## 6.2 At the Conference of the Contracting Parties to the Noumea Convention, 2004

### 6.2.1 *Amendments to the Noumea Convention*

47. This item was an update to the Parties on progress with proposed changes to the Noumea Convention. The Secretariat outlined the proposed amendments which had been prepared and circulated in July 2006.

48. As no written comments had been received by Parties prior to this Conference, the Secretariat sought verbal comments from Noumea Convention Parties on the amendments.

49. The Chair and the Secretariat reminded the Conference that amendments to the Convention were made as instructed by the Conference of Plenipotentiaries to the Noumea Convention, held in Apia, 2005. The Conference had also instructed the Secretariat to review the text of the Noumea Convention proper and to provide to the Parties as early as possible a proposed text for their consideration. The proposed text was distributed by the Secretariat in July 2006 for Members' consideration and comment, as Working Paper 8AC/8SC/WP.6.2.1/Att.1.

50. The Secretariat apologised that the Working Paper 8AC/8SC/WP.6.2.1/Att.1 did not clearly show the changes relative to the existing text and presented a version with tracked changes on the overhead screen. The Secretariat outlined the Noumea Convention text amendments and requested guidance from Parties as to how to proceed from this point. It explained that most changes were relatively minor and not of a substantive nature. The floor was then opened for Parties to comment.

51. The Representative of France asked to change Article 5C in the French translation to ensure that it meant “polluter pays” not “user pays” as in the current French translation. The Secretariat suggested reverting to the terminology in the text of the proposed protocols.

52. The Secretariat provided the following alternative text: “...and taking into account the approach that the polluter should, in principle, bear the cost of pollution.”

53. The Representative of France found the alternative text acceptable.

54. The Secretariat drew attention to a substantive change to Article 24 which, if passed, would greatly facilitate the passage of future amendments to either the Convention or its Protocols.

55. The Secretariat explained that the current ratification process had made it unduly difficult to make amendments to the Convention and Protocols. The alternative procedure was known as the tacit approval process and was being used with much success in one or more International Maritime Organization (IMO) treaties. The Secretariat commented that such a significant change should be examined in detail by a working group.

56. The Chair supported the suggestion by the Secretariat that a working group be established. This group could look at the text initially via an e-forum and if required meet as a group. The working group would be open to all Parties but should ensure representation by the 3 sub-regions. Subsequently Cook Islands, Fiji and Marshall Islands were selected to represent the sub-regions. Australia, France, New Zealand and the USA also indicated they would participate in the working group. The working group would report its finding to the next COP.

57. If the working group would need to meet physically, the Secretariat would seek funding for the participation of the sub-regional representatives. All other Parties attending the working group would meet their own costs.

58. The Chair suggested, in future, where there were to be substantive changes, these be circulated well in advance of the Conference. A version should be circulated with the papers in edit mode. Consultants doing this sort of work should identify the flow-on implications of small technical changes, to avoid the Conference adopting something with changes that were not fully realised by Parties.

59. The Representative of the Republic of the Marshall Islands congratulated the Secretariat on its work on updating the Convention.

### 6.3 At the Conference of Plenipotentiaries to the Noumea Convention, 2005

#### *6.3.1 Noumea Convention Protocols' Amendments*

60. The Secretariat explained the current status of the amendments to the Noumea Convention Protocols and outlined the process that had been followed.

61. The Chair informed that Australia was not a Party to the SPREP Dumping Protocol and invited the Vice-Chair to preside over the discussion of this sub-item.

62. The Chair reminded the Conference of the process to date and that the three protocols on dumping, oil pollution, and hazardous and noxious substances were being tabled for adoption at the Conference of Plenipotentiaries to occur later in the week.

63. The Representative of the Republic of the Marshall Islands noted the work done by the Secretariat and requested further details on the Protocols and the process that had been undertaken.

64. The Secretariat indicated that this agenda item is a status report to remind the Parties of the result of the Conference of Plenipotentiaries held in 2005 in Apia, where Parties had adopted *in principle* the three texts (amended dumping protocol and two new protocols). By adopting the three texts in principle, the Parties had agreed that these were no longer open for negotiation. The Secretariat reminded the Conference that there was an expectation that Parties would come to the ensuing Conference of Plenipotentiaries with credentials to enable them to formally adopt and sign the Protocols. The Secretariat then gave a presentation on the three Protocols, as requested by the Marshall Islands, on the overhead screen.

65. The Conference reviewed the Protocols, aware that the Parties had already adopted them in principle in 2005. The Parties agreed to refer the Protocols to the Conference of Plenipotentiaries.

#### **Agenda Item 7: Financial statements for the Apia and Noumea Conventions, 2004 and 2005**

66. The audited Financial Statements for the Apia and Noumea Conventions for the 2004 and 2005 financial years were tabled.

67. The Secretariat advised the Conference that it is required to present these statements under both the respective Apia and Noumea Conventions Financial Regulations. It further advised that since the accounts for both Conventions are small, they are audited as part of the SPREP Secretariat accounts.

68. The Chair invited comments from the Conference. The Parties adopted the relevant parts of the audited Financial Statements for 2004 and 2005.

#### **Agenda Item 8: Consideration and adoption of budgets for the biennium 2007-2008**

69. The biennial budgets for 2007-2008 for the Apia and Noumea Conventions were presented for consideration and adoption by the Conference.

70. The Representative of Australia noted the budget summaries provided for the Apia and Noumea Conventions and suggested that the \$10,000 for the production of the concept paper under the Apia Convention might be better used in future for on-the-ground actions.

71. The Chair then invited comments from the floor on the Noumea Convention budget. As none were received, he proposed that it would be recommended to the Sunday Conference (10 September) that the 2007-2008 budget for the Noumea Convention as presented be adopted. The Conference agreed.

72. The Parties subsequently approved the budgets, noting that outstanding contributions to the two Conventions should be addressed and paid urgently. The approved budget and scale of contributions allocation is attached as Annex 6. At the later Conference of the Apia Convention on 13 September, with the Parties agreeing to suspend the operation of the Apia Convention, the decision on the Apia Convention budget was accordingly suspended as well.



**Agenda Item 9: Other business**

73. The Representative of Niue informed the Conference that he has recommended to his Government to accede to the two Conventions. He asked the Secretariat to advise what consequences his country could face by not being a Party to the two regional Conventions, particularly in light of the two new and one amended Protocols.

74. The Secretariat advised that the main purpose of the amendments to the regional Conventions and Protocols was to make them consistent with their global equivalents. Most global conventions called on regions to adopt regional instruments that would assist the region to meet their obligations under global conventions. Many of the global instruments have financial mechanisms to assist regions and parties to meet their obligations.

75. The Representative of Niue further enquired whether they could be served better if Niue was a Party.

76. The Secretariat advised that becoming a Party to the regional conventions was a show of commitment on Niue's part. Currently the Secretariat has been able to include Niue in its status as a SPREP Member, but there are increasing questions by donors as to the commitment of SPREP Members who are not Party to regional conventions to the aims and obligations of those regional instruments.

**Agenda Item 10: Date and venue of the next Conference**

77. The Secretariat advised that in line with current practice the next Conference would be held in 2008 back-to-back with the SPREP Meeting in order to save on costs.

78. The Representative of the Federated States of Micronesia expressed an interest in hosting the 2008 Conference.

79. It had been raised by Parties that the current arrangement meant being away from home for a considerable amount of time, up to two weeks. The Secretariat indicated that it had been suggested that the Conference of Parties be integrated into the official SPREP Meeting.

80. The Representative of Niue suggested the Secretariat consider holding meetings back-to-back with other regional meetings such as the Round Table for Nature Conservation. Similarly, the Secretariat could look at a compatible regional meeting to hold back-to-back with the Noumea Convention Conference.

81. The Representative of Republic of Marshall Islands supported the Niue suggestion.

82. The Representative of New Zealand requested the Secretariat to consult with Parties who could not attend this Conference to identify reasons for their absence and to prepare a feasibility paper on how to improve attendance.

83. The Representative of France acknowledged the constructive comments made by the Parties on the issue of assisting with achieving a quorum.

84. The Representative of the Republic of the Marshall Islands recommended that these issues be flagged at the Ministerial Meeting the following week.

85. The Chair advised that the two options before the Conference were that future meetings: be integrated into the SPREP Meeting, or be held back-to-back with related regional meetings.

86. The Chair requested the Secretariat to develop a feasibility paper for consideration by Parties on this issue at its next Conference.

### **Agenda Item 11: Adoption of the Report**

87. The Conference adopted its Record of Proceedings.

### **Agenda Item 12: Closure of the Conference**

88. The Chair thanked the Representatives and Secretariat staff for their contributions and closed the Conference

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## Annexes



# Report of the Joint Eighth Conference of the Parties to the Apia and Noumea (SPREP) Conventions

7, 10 and 13 September 2006, Noumea, New Caledonia

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## Annex 2: Opening Address Host Country

Mr Director of SPREP,  
Distinguished representatives,  
Ladies and gentlemen,

Firstly, allow me to welcome you to New Caledonia and to tell you how happy we are to host you here, in Noumea, in the headquarters of the Pacific Community, for these days of work and exchange.

Your work today will focus on the Noumea and Apia Conventions, namely on nature conservation and on the protection of the natural resources and environment of our region.

Environmental issues are of major significance to New Caledonia. In a world marked by increasing globalisation of trade and knowledge, it is important that we preserve and value our resources and our environment for the benefit of future generations.

The creation of national parks, measures targeting the protection of endangered species, actions against waste, the responsible and sustainable management of our waters are some of the means available to us to strengthen our actions for the environment and the preservation of biodiversity.

France is Party to the Noumea and Apia Conventions, and New Caledonia is therefore also subject to them. Our institutions are aware of the ensuing obligations and New Caledonia, within its jurisdiction, endeavours to take into account the provisions of these instruments in the development of its environmental policies.

New Caledonia strongly supports the efforts made to better preserve the environment of the Pacific region, which constitutes a fundamental element of our shared heritage. The environmental challenge is a shared challenge and it is our duty to seek the most efficient ways to meet it.

On behalf of New Caledonia, I therefore invite you to interact openly and cooperatively and wish you once again a very pleasant stay in New Caledonia.

Thank you.

### Annex 3: Opening Address SPREP Director

Honourable Mr. Pascal Vittori  
Member of the Congress of New Caledonia  
Government of New Caledonia  
Mr Chairman  
Distinguished Representatives of Contracting Parties  
Distinguished Observers  
Ladies and Gentleman

SPREP's relationship with its French-speaking Members continues to grow, so it is with a hearty *bon jour* that I welcome you all this morning, to this the 8<sup>th</sup> Joint Meeting of the Noumea and Apia Conventions.

The last time the ordinary Meeting of the Parties to the Noumea (or: SPREP) Convention met here was also its first Meeting of the Parties, in 1991. One or two of us here today may have attended that Meeting and I'm sure it brings back pleasant memories. I think it is healthy that a Convention returns to its birthplace from time to time as it allows the Convention to be spiritually renourished and reinvigorated. It also gives us pause, to reflect on our accomplishments and lessons learnt over the years.

The need to review and renew a Convention is a necessary periodic one, in order that it keeps pace with the changing times and abreast of the evolving needs of Parties as well as the changes to regional and global frameworks against which the Convention is applied. The renewing of the Noumea Convention has been ongoing for a number of years now and has been centred on the need to review its dumping and pollution emergencies protocols to ensure that they are consistent with their global equivalent legal instruments – the London Dumping Convention and its Protocol of 1996 and the International Convention on Oil Pollution Preparedness, Response and Cooperation (OPRC) and its Hazardous and Noxious Substances (HNS) Protocol. The inconsistency between the SPREP Protocols and their global equivalent legal instruments is due to fact that the

SPREP Protocols predate their global equivalents. This poses difficulties for those states that are Parties to both the regional protocol and their global equivalents.

The rigorous review process undertaken over a period of three years produced a revised dumping protocol and two new protocols - Oil Pollution and HNS Pollution - to supersede the Pollution Emergencies Protocol. At the Conference of Plenipotentiaries last year we reviewed the Protocols and put them in a form ready for adoption. We do not intend opening the text of these Protocols, and this should expedite the process considerably.

Later this week, a Conference of Plenipotentiaries will convene in order to consider adoption of the three Protocols to the Noumea Convention. These Protocols will give us the opportunity to comply with international arrangements as regards dumping at sea, and responses to pollution by oil and hazardous and noxious substances.

In light of the amendments that were made to the Protocols, the Secretariat was requested by the Parties last year to recommend amendments to the Noumea Convention. We have done just that and the recommended amendments are presented in a paper circulated earlier to Members. We await further direction from the Meeting as to how to proceed. We are presenting a suggested text on a speedier procedure for amending the Convention and Protocols that would assist in the administration and development of the Convention.

The aspect of reinvigoration involves the recommendation to study, with a view to strengthening, the linkages between the Noumea Convention and marine initiatives and strategic documents such as the Global Programme of Action, the Pacific Islands Regional Oceans Policy and UNEP's Regional Seas Programme. There have been many developments over the years at both the regional and global levels and it is important that the Noumea Convention continues to play a unifying role.

Turning now to the Apia Convention, at the 7th Meeting of the Parties in Tahiti you will recall there was a divergence of opinion on how to progress the Convention. The matter

was eventually settled with a request to the Secretariat to prepare a concept paper on the relationship of the Convention with other relevant conservation conventions. This has now been done, and while late, the paper has nevertheless benefited by being able to include recent major developments such as the CBD's Programme of Work on Island Biodiversity.

Because so much is happening now in the biodiversity arena, every initiative, in order to be viable, has to meet some collective need as much as possible. The concept paper invites the Parties to explore one or two avenues such as using the Convention as a platform to discuss the many other conservation MEAs to which Pacific island countries are Parties. The Convention might also be linked to the Action Strategy for Nature Conservation in order to mutually breath healthier life into both processes. We believe these are interesting ideas and an e-forum has been established to allow for continuing discussions amongst all SPREP countries. How to proceed with the Apia Convention is a question that has challenged us for some years now and I am sure it is everyone's hope that a solution is near at hand.

The last matter to which I draw your attention are the Convention accounts. Collecting contributions has been a perennial problem. Now that the records have been updated I would encourage parties to ensure that their contributions are made in a timely fashion.

I look forward to fruitful discussions and a successful meeting.

Asterio Takesy

Director

## Annex 4: Agenda

- Agenda Item 1:** Joint opening of the Conference
- Agenda Item 2:** Organisation of the Conference
- 2.1 Rules of Procedure
  - 2.2 Election of Officers
  - 2.3 Organisation of Work
- Agenda Item 3:** Adoption of the agenda
- Agenda Item 4:** Reports by the Secretariat under Rule 11 of the Rules of Procedure of the Apia Convention and Rule 12 of the Rules of Procedure of the Noumea Convention
- Agenda Item 5:** Country Reports on the implementation of obligations under the Apia and Noumea Conventions
- Agenda Item 6:** Items requested from previous Conferences
- 6.1 At the Conference of the Contracting Parties to the Apia Convention, 2004
    - 6.1.1 *Concept paper on the relationship between the Apia Convention and other relevant conventions*
  - 6.2 At the Conference of the Contracting Parties to the Noumea Convention, 2004
    - 6.2.1 *Amendments to the Noumea Convention*
  - 6.3 At the Conference of Plenipotentiaries to the Noumea Convention, 2005
    - 6.3.1 *Noumea Convention Protocols' Amendments*
- Agenda Item 7:** Financial statements for the Apia and Noumea Conventions, 2004 and 2005
- Agenda Item 8:** Consideration and adoption of budgets for the biennium 2007- 2008
- Agenda Item 9:** Other business
- Agenda Item 10:** Date and venue of the next Conference
- Agenda Item 11:** Adoption of the Report
- Agenda Item 12:** Closure of the Conference
-

## Annex 5: Australia's concept paper on the future of the Apia Convention

Since 1990, the Apia Convention has played a valuable role in the creation of protected areas, protection of indigenous fauna and flora, and promotion of research and public awareness of conservation of nature in the South Pacific.

Australia believes that the Apia Convention has now been superseded by the Convention on Biological Diversity (CBD):

- with the adoption of the Island Biodiversity Programme of Work (IBPOW), the CBD provides a much more comprehensive basis for nature conservation at a global, regional and national level, and importantly, allows for financial assistance through the Global Environment Fund (GEF);
- the CBD has a much larger membership amongst the PICs with 18 of the 25 SPREP member countries being parties to the CBD; and
- all five member states of the Apia Convention are members of the CBD.

In recent years, other members of the Apia Convention have expressed similar concerns.

Australia is interested in working with other members of SPREP to ensure an efficient and effective future for conservation of nature in the South Pacific.

As a result *Australia invites all Parties to the Convention on Conservation of Nature in the South Pacific (the Apia Convention) to:*

- *declare that:*
  - *the Convention on Biological Diversity (CBD) relates to the same subject matter as the Apia Convention; and*
  - *all of the parties to the Apia Convention intended that the CBD would govern this subject matter to the exclusion of the Apia Convention*

This will not mean that the convention is disbanded, but if all parties agree that it has been superseded by the CBD then the Apia Convention will be suspended in operation.

The legal basis for this approach is Article 59 of the Vienna Convention on the Law of Treaties, which reads as follows:

“Termination or suspension of the operation of a treaty implied by conclusion of a later treaty

1. A treaty shall be considered as terminated if all the parties to it conclude a later treaty relating to the same subject matter and:
  - (a) it appears from the later treaty or is otherwise established that the parties intended that the matter should be governed by that treaty; or
  - (b) the provisions of the later treaty are so far incompatible with those of the earlier one that the two treaties are not capable of being applied at the same time
2. The earlier treaty shall be considered as only suspended in operation if it appears from the later treaty or is otherwise established that such was the intention of the parties.”



**Annex 6: NOUMEA CONVENTION BUDGET**  
2007 & 2008

**EXPENDITURE (USD)**

**1 Ninth Meeting of the Parties, 2008**

Per diem - participants (small island states)

- Cook Islands	1 day	210	
- Marshall Islands	2 days	420	
- Nauru	2 days	420	1,050

Resource person x1 900

Interpretation/Translation

- Translation of Working Papers		2,000	
- Interpretation/translation during the meeting		2,500	
- Per diem for 4 translators x 1 day		<u>800</u>	5,300

Other Meeting Costs

- Secretariat Support		2,440	
- Communications		500	
- Photocopying and stationery		500	
- Catering (Morning/Afternoon teas)		150	
- Other costs (venue, cocktails etc)		<u>2,000</u>	5,590

**\$ 12,840**

**2 Technical Advisory Services and Support to Parties, 2007-2008**

**\$ 4,000**

**3 Consultancies to explore linkages between the SPREP Convention and strategic marine documents**

**\$ 10,000**

**TOTAL EXPENDITURE**

**\$ 26,840**

**NOUMEA CONVENTION CONTRIBUTIONS FOR 2007-2008**

Australia	20.000%	5,368
Cook Islands	2.500%	671
Federated States of Micronesia	2.500%	671
Fiji	2.500%	671
France	20.000%	5,368
Marshall Islands	2.500%	671
Nauru	2.500%	671
New Zealand	20.000%	5,368
Papua New Guinea	2.500%	671
Solomon Islands	2.500%	671
United States of America	20.000%	5,368
Samoa	2.500%	671

**TOTAL CONTRIBUTIONS**

**\$ 26,840**