

**Towards Integrated National Ocean Policy in the
South Pacific**

**Competing and Conflicting Issues in Ocean
Policy:
Solomon Islands**

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DISCLAIMER

The views expressed in this paper are those of the author except where referenced and acknowledged.

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The author is responsible for the flaws and views expressed in the paper.

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ABSTRACT

It has been over twenty years since UNCLOS came into existence and twelve years since it came into force, in addition to fourteen years since the historic “Earth Summit” was convened in Rio de Janeiro in Brazil, yet the Pacific Small Island Developing States (SIDS) are finding it extremely difficult to deal with many cross-cutting and multiple issues relating to ocean management. The challenge for the Pacific SIDS is clear, successive international, regional and national initiatives emphasizing sustainable environmental development and ocean management have no real impact at the rural communities’ level. This paper examines the challenges facing Solomon Islands in the development of an Integrated National Ocean Policy, and offer recommendation guidelines as to how to design an Integrated National Ocean Framework so as to contribute to the effort to ensure that all benefits derived from the oceans are sustainable and reach through to the local communities.

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PART I

Towards Integrated National Ocean Policies in the South Pacific

I. How far have we gone since UNCLOS and Rio?

The environmental challenges facing the Least Developing Countries (LDCs), the Developing and the Developed world have never been greater. While a number of Developed countries have made significant advances in establishing National Oceans Policies (NOP's) frameworks in the last decade, the LDC's, and even to a larger extent, many developing countries remain far behind. Even the Semi-Developed countries of Latin America and the robust East Asian countries, those who could have achieved better results, yet political and economic insecurity, and reform and fatigue impede further progress. A study compiled by the Global Forum on Oceans, Coasts and Islands revealed that six (6) countries are currently in the implementation stage, five (5) countries are in the policy formulation stage and another five (5) countries are in the policy preparation stage of their National Oceans Policies (Table 1).¹ Since Rio, so far only sixteen (16) countries have commenced the procedure of putting into place the National Frameworks for delivering environmental sustainable development through National Oceans Policies.

In addition, the study also revealed that interagency mechanisms for Oceans Policy implementation at the regional level have been developed for certain regions such as the Pacific Islands, European Union, East Asian Seas (PEMSEA) and Africa (NEPAD).² Nevertheless, individual member countries of these regions have yet to establish required procedures and legislations needed to implement National Oceans Policies to reflect what has been achieved at their respective regional levels. The Pacific region which represents fourteen (14) small least and developing States are no exception.

¹ Biliانا Cicin-Sain, et al., *Meeting the Commitments on Oceans, Coasts, and Small Island Developing States Made at the 2002 World Summit on Sustainable Development: How well are we doing?* At the Third Global Conference on Oceans, Coasts, and Islands: UNESCO, Paris January 23-28, 2006, (Center for the Study of Marine Policy, Newark, Delaware), Vol (1) p.18.

² Op. cit. p. 19.

List of Countries involving in pursuing National Oceans Policies in different stages.

1. Countries in the implementation stage

1. Australia
2. Brazil
3. Canada
4. China
5. United Kingdom
6. Russian Federation

2. Countries in the policy Formulation Stage

1. Jamaica
2. New Zealand
3. Norway
4. Portugal
5. United States

Countries in the policy preparation Stage

1. India
2. Japan
3. Mexico
4. Philippines
5. Vietnam

Source: Cicin-Sain et al. (2006).p.18.

II. Nature of the Problem: Rationale

The globalization of the world economy has created new opportunities and risks for the poor LDC's and the Developing Countries alike. Globalization, indeed, has provided unprecedented access not only to international trade and investment, but also added new global networks for environmental sustainable development information store houses, new global action strategies and an influx of NGOs and interested financial institutions ready to offer support. At the same time, and on a much larger scale, it has generated new risks for financial instability and political upheaval which has constrained the LDC's and Developing Countries ability to follow national developmental goals. Let alone the formulation of sustainable environmental policies.

This is what has happened to the Melanesian SIDS of the south Pacific. In the last decade, what has become known as the "arc of instability" describes events leading to the independence of east Timor from Indonesia in 2002, to the ongoing separatist and pro-independence movements on Bougainville, to the recent coup d'etat in Solomon Islands and Fiji in 2000, and the motions of no confidence in Vanuatu that have seen changes to the government in the last few months. The decade of political and economic instability and social unrest have seen sustainable development agendas being compromised to give way to restore law and order, good governance and democracy. The focus of Governments and their priorities have shifted from delivering public goods and services to protecting the State craft from falling apart, through advocating the rule of law. Governments are more concerned, if not desperate, to exploit the natural resources to acquire the much needed revenues so as to keep functioning rather than managing the environment in a sustainable manner. Indeed, if there is a link between sustainable environmental development, and economic development, as far as State practice is concerned in SIDS of the Pacific, it has not been recognized.

Despite past efforts to accumulate evidence on what has and hasn't worked in other LDC's and Developing Countries, ideas about what constitutes desirable policies for sustainable environmental development remain in flux. The major question that faces the small island developing States, and even the world at large, is how can poor countries achieve sustainable resources management, and equitable economic growth in a setting of social and political instability. Difficult as it may seem, it also reflects the complexity of dealing with natural resources management in a globalized world economy.

While many past studies have critically examined why development has not worked as intended for developing countries, and what constitutes desirable sustainable environmental management policies for the oceans, fewer studies have been undertaken on what constitutes a desirable workable link between national environmental sustainable development and economic development and growth. This is so clear, so far as to say that, many least and developing countries are struggling to implement the international environmental agendas. Hence, it is only leading to more questions arising than answers. What is hindering the poor SIDS from making progress? Can SIDS still perform their duties and meet their international obligations in light of increasingly global integration of economies that are rendering the State capacity weak, ineffective and obsolete? Increasingly, many industrialized countries are finding themselves grappling with a welfare State that has grown unwieldy-having to make difficult choices about services and benefits that people should expect Governments to provide nationally, while at the same time, making policies that must recognized the forces that are operating within the parameters of a globalized world economy. For example, many LDC's and Developing Countries in the last decade have been forced to undergo major governance economic reforms, only a few have been successful, and others have become more vulnerable to the whims of global forces. Attempts by aid donors to assist both the LDC's and the developing countries to overcome economic stagnation have only resulted in further criticism in the twenty first century. It has been said that the aid donors in general have failed the LDC's and Developing Countries as they have fostered an aid dependency culture and a continuance of underdevelopment, rather than the intended stability and growth.

It comes with little surprise that 14 years after Rio 1992, yet, many countries, especially developing countries and SIDS are finding themselves increasingly further away from achieving environmental sustainable development. Even five years after Rio, a few studies have already begun to recognize the failure. The Worldwatch studies highlighted that:

Five years after the historic U.N. Conference on Environment and Development in Rio de Janeiro, the world is falling well short of achieving its central goal- an environmentally sustainable global economy.³

The view expressed above was not alone. The Independent World Commission on the Ocean (IWCO) expressed deep concern over the past level of unsustainable harvesting of ocean resources:

In the Commission's view, past approaches to the economics of the oceans have been short sighted. There has been a consistent under-estimation of the value of the oceans and of the ecological services they provide. As a result, the uses of the oceans have failed to take into account external costs, which has contributed to unsustainable levels of exploitation of resources and to the rapid deterioration of the marine environment.⁴

In addition, it is well over 20 years since UNCLOS came into existence, and 12 years since it came into force, yet many SIDS are finding it difficult, if not impossible, to deal with the many cross-cutting issues threatening their national management capacities to maintain the health of their oceans, coasts and islands, while having to make welfare decisions at home using the same national budget. Governments of the SIDS are at the threshold of making unprecedented decisions to try and resolve the dilemma, and find the link between environmental management and economic development in a context where the line between the two is increasingly blurry, and national revenue dwindling as a result of rapid population growth.

³ Brown R. L., Flavin, C., and French H., et al. (1997) State of the World, A Worldwatch Institute Report on Progress Toward a Sustainable Society, W.W. Norton & Company, New York. p. i.

⁴ Independent World Commission on the Oceans (IWCO), Cambridge University Press, 1998. p. 19.

Obviously, while the post-UNCLOS ocean management instruments, including the World Summit on Sustainable Development (WSSD), the Barbados Programme of Action for the Sustainable Development of Small Island Developing States (here after referred to as Barbados Programme of Action or BPoA), including its successive agreements, strategies, and action plans, the CBD, the World Bank, and the Permanent Forum on Indigenous Issues, all strongly emphasized sustainable development and ocean governance at the international, regional and national level. Today however, very little or none of the frameworks have been adopted and effectively implemented at the national level. Sustainable development, regardless of whether it is land and/or ocean focused will not be achieved unless a clear framework to encourage real integration is established in order to deal with cross-cutting issues both at regional and national levels. Integration of environmental sustainable development and economic development must be reflected in both the regional environmental management frameworks and national economic development policy priorities of Governments. This link is crucial in ensuring that national economic growth and development actually supports environmental management hence, sustainable development could be realized.

The SIDS of the Pacific region are fully aware that failure to put in place an integrated national ocean policy will only lead to the undermining of their natural ocean resources and ecosystems on which their economies almost entirely depend. While progress has been achieved at the regional and national level, in terms of harmonization of fisheries policies, much is to be done in harmonizing other marine and ocean related sectors at the national level through national ocean policies. The cumulative effects of those sectors on the oceanic ecosystems cannot be ignored if sustainable development is to be realized. The real challenge however, lies in the design and formulation of a workable integrated national ocean policy framework that would integrate sustainable environmental development and economic development through the provision of opportunities for local people to improve their wellbeing and, at the same time, actively cooperate in the management and conservation of their marine and ocean resources. A framework that provides incentives for the private sector, NGOs, civil society and communities to collaborate with the national Government to develop, maintain and

promote their marine and ocean ecosystems. Only then would such a framework be able to foster greater integration and be able to penetrate further into the activities and working lives of the people, encouraging true and real ownership of the national framework at all levels. Such a framework will be able to meet the overarching goal of the Earth Summit “linking environment and development issues” to eliminating poverty. In most developing countries, and especially SIDS, poverty in all its different forms is being increasingly linked to environmental degradation.⁵

III. What is Integrated National Oceans Policy?

Considerable scholarly literary work has been produced in the recent past in defining the concept of ‘integrated’ or ‘integration’ in conjunction to marine management.⁶ As far as National Oceans Policies goes, the term is closely linked to the notion of ocean governance in general. Elizabeth M. Borgese pointed out that the two notable processes driving the notion of ocean governance are the UNCLOS and UNCED processes.⁷ The merging of the two processes gave momentum to the concept of ocean governance which provided the foundation for integrated ocean management.⁸ Theoretically, Elizabeth M. Borgese believed that the two processes:

[...] leads us to thinking about UNCLOS in a new way: not only as it affects our activities in the oceans, but as its revolutionary, innovative concepts might affect the system as a whole.⁹

⁵ SPC, 2004, Pacific Islands Regional Millennium Development Goals Report 2004, Noumea, New Caledonia, p. 23, reported that 25% of the Population in small island developing states (SIDS) is estimated to be undernourished, see also UN, 2004, Progress towards the millennium development goals, 1990-2003, UN Statistics Division working paper, 23 March 2004: http://unstats.un.org/unsd/mi/mi_coverfinal.htm.

⁶ See Borgese, M. Elizabeth, *Ocean Governance and the United Nations*, 1995, Biliiana Cicin-Sain and Stefano Belfiore, *linking marine protected areas to integrated coastal and ocean management: A Review of theory and practice*, *Ocean & Coastal Management* 48(2005) 847-868, Independent World Commission on the Oceans (IWCO), *The Ocean our future*, 1998, Sorensen and McCreary 1990, FAO 1991, Chua 1993 and Cicin-Sain and Robert W. Knecht 1998.

⁷ Elizabeth M. Borgese, *Ocean Governance and the United Nations*, (Revised Edition), Center for Foreign Policy Studies, Dalhousie University, Halifax, 1995. p. 10.

⁸ Loc. cit.

⁹ Loc. cit.

The view expressed by Elizabeth M. Borgese was also maintained by IWCO which recommend the development of ocean governance systems that promotes peace and security, and equity and sustainable development.¹⁰ In doing so, the IWCO called for a “future approach that must embody an unequivocal commitment to safeguarding the health of the oceans and the productivity of ocean ecosystems”.¹¹ There was a growing realization among the international community that management of ocean resources ought to be seen from a holistic perspective.

According to Elizabeth M. Borgese, the UNCLOS process provides the legal framework and the UNCED process added the developmental and human dimension.¹² The consequence of which was the vision that ocean management frameworks needs to expand to address the wider environmental issues and activities dealing with human dependency, activities and human induced impacts on the biosphere as a whole.¹³ Ultimately, the objective was to turn the global attention to the fact that problems of ocean space are closely interrelated and need to be considered as a whole.¹⁴

It is clear that ocean management efforts must not ignore the integrated nature of the ocean ecosystems and the interrelationship between various elements and activities that affects the ocean’s wellbeing. A notable aspect of UNCED is the provision for recognition of indigenous people’s rights. The Rio Declaration states:

[i]ndigenous people and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development.¹⁵

¹⁰ IWCO, op. cit. supra note 4. p. 21.

¹¹ Loc. cit.

¹² Elizabeth M. Borgese, loc. cit. supra note 6 above.

¹³ Loc. cit.

¹⁴ Loc. cit.

¹⁵ Rio Declaration on Environment and Development, U.N. Conference on the Human Environment, June 5-6, 1992, Sales No. E.73.II. A.14, Principle 22. (cited 26/01/2007), available from: <http://habitat/igc/agenda21/rio-dec.html>.

Similarly, Agenda 21 calls for the empowerment of “indigenous people and their communities” through, among other things, through among other things “[r]ecognition of their values, traditional knowledge and resources management practices as well as traditional and direct dependence on renewable resources and ecosystems;” capacity building; strengthening their active participation in the national formulations of policies and laws; and involving them in “ resource management and conservation strategies.”¹⁶ Ten years later the international community reaffirmed the commitments it made to indigenous peoples through the WSSD Plan of Implementation (referred to as Johannesburg Plan of implementation or JPoI). The JPoI recognizes that respect for cultural diversity, indigenous people’s access to economic activities and natural resources, and participation in developing resource management systems which are fundamental prerequisites for poverty eradication and sustainable development.¹⁷ This human dimension of ocean resources management further gain practical support through the Barbados Programme of Action (BPoA) in 1994 which underscored the recognition of inhabitants of SIDS and their dependence of marine resources for livelihoods.¹⁸ Despite the fact that BPoA was not specific enough on its definition of tradition and cultures and such practices, it however, stressed the need to develop national legislation to achieve higher degrees of protection for indigenous peoples.¹⁹

The influence such international instruments had on the international community prompt a lot of interest in defining the term integrated ocean management. Some of the literary works that followed the advent of UNCED were instrumental in defining integrated concept when applied to national ocean policy. Among others, the work by Biliana Cicin-Sain and R. Knecht was one of

¹⁶ Agenda 21, adopted by, United Nations Conference on Environment and Development, June 3-14, 1992, U.N. Department of Economic and Social Affairs (DESA). (cited 26/01/2007), available from: www.un.org/esa/sustdev/documents/agenda21/english/agenda21toc.htm.

¹⁷ Op. cit. p. 7.

¹⁸ Report of the Global Conference on Sustainable Development of Small Island Developing States, Bridgetown, Barbados, 25 April- 6 May 1994, U.N. Doc, A/CONF.167/9 (1994) [hereafter Declaration of Barbados], (cited 20/01/2007), available from: <http://www.un.org/documents/ga/conf167/aconf167-9.htm>.

¹⁹ BPoA, op. cit. supra note 18.

the important discourse in this subject because it precisely identifies the various necessary elements ought to be considered in oceans policy. The study, in the case of the U.S., defined ocean policy as “the architecture and make up of the regime used to govern behavior, public and private, relative to an ocean area and the resources and activities contained there in.”²⁰ This school of thought was firmly established in the realization that integrated ocean management could only be attainable if there exist a governance system capable of managing multiple uses in an integrated way. This could be achieved through the cooperation and coordination of governmental agencies at different levels of authority, with the recognition of the contribution of nongovernmental organizations and different economic actors.²¹ In terms of ocean policy, it would mean:

The interaction among structures processes and traditions that determined how power is exercised, how decisions are taken, and how citizens or other stakeholders have their say.²²

Clearly, the use of the concept “integration” was intended to highlight the need to establish some kind of national offices or agency with well defined responsibilities for the development of ocean policies and the subsequent coordination of their implementation. This could be achieved through the media, civil society, the scientific and research communities, all dealing with issues related to multiple use conflicts among uses, users, and management agencies, degradation of marine resources and missed opportunities for development.²³

The conceptualization of the term ‘integrate’ in National Oceans Policy framework seemed to denote a more overarching regime with a cross cutting and well defined role at the national level. A clear distinction from past management regimes is its “cross cutting” and well defined component which heralds a more holistic approach. Its

²⁰ B Cicin-Sain and R. Knecht. *The Future of U.S. Oceans Policy*, Washington DC, Island Press, 2000. p. 14. Loc. cit. supra note 12 above.

²¹ Op. cit. supra note 6 above at p. 849.

²² Biliana Cicin-Sain & S Balfiore, Op. cit. supra note 6 above.

²³ Cicin-Sain et al. Report of the third Global Forum on National Oceans Policies, National Oceans Policy Summit, October 10-14, Lisbon, Portugal, 2005, p.16. Available on <http://www.Globaloceans.org>.

coverage is national but fully integrated to include the Government and inter and intra-governmental organizations, regional organizations, media, civil society and rural communities, NGOs, the private sector, scientific and research community, and financial institutions and international partners. The function of such a regime would be through a national office or agent designed to coordinate National Oceans Policy.

The above defined use of the concept will also be well aligned with its usage in coastal management, therefore it would strengthen the already existing activities. Integrated Coastal Management (ICM) is defined as “a continuous and dynamic process by which decisions are made for the sustainable use, development, and protection of coastal and marine areas and resources.”²⁴ The application of the concept ‘integrated’ in the above definition serves as a link between the marine and ocean realm on one side, to sustainable development on the other, through a management and development process that recognizes the distinctive characteristics of the marine and ocean ecosystem, and the importance of conserving it for current and future generations.²⁵ As explicitly stated in the overall goal of ICM:

[...]he goals of integrated management are to achieve sustainable development of coastal and marine areas, to reduce vulnerability of coastal areas and their inhabitants to natural hazards, and to maintain essential ecological process, life supporting systems, and biological diversity in coastal and marine areas.²⁶

From the above quotation, the concept ‘integrated’ implies a process that is designed to overcome the fragmentation inherent in both sectoral management approaches and the splits in jurisdiction among levels of Government. It is a realization that any management and developmental activity that is going to take place in marine and ocean ecosystem must fully acknowledged that the biological-life support systems that exist in the marine and ocean environment are intertwined, not only between themselves,

²⁴ Cicin-Sain B., and Knecht W. R., 1998, *Integrated Coastal and Ocean Management. Concepts and Practices*, Island Press, Washington DC, p.39.

²⁵ *Loc. cit.* p. 39.

²⁶ *Op. cit.* p. 41.

but also with the land and land based developments. Hence, it has called for management frameworks that provide mechanisms to ensure that development in the oceans and coastal areas are not too harmful to the environment, thereby ensuring the natural ability of the environment to replenish itself. Hence, sustainable development could be realized.

To design an integrated framework, the concept of integration implies multiplicity.²⁷ It means that the design of management and development strategies must be multipurpose oriented. Effectively, it means that any management and development strategies to be used in the marine and ocean environment must provide in their operative capacity provisions to deal with issues such as the implications of conflicting interest of uses and users, and the interrelationships among physical processes and human activities, linkages and harmonization between sectoral, coastal and ocean activities.²⁸

Indeed, much of today's unsustainable developmental results are a clear testimony of increasing failures by previous economic development approaches that are one-sided, top-down and are highly sectoral. Past economic development approaches that are not multipurpose in nature have not included many important stakeholders, interest groups and communities. Such approaches have not recognized the link between sustainable environmental management and economic development. Therefore, they often sadly result in unsustainable development which in many developing countries has lead to political and economic chaos.

Considerable understanding of the 'integrated' concept in linking sustainable environmental management and economic development has been most accurately defined by a World Bank study which states that:

[...]the concept of sustainable development implies balancing environmental protection with the generation of increased opportunities for employment and improved livelihoods.²⁹

²⁷ Loc. cit.

²⁸ Loc. cit.

²⁹ The World Bank, 1994, *Making Development Sustainable*, The World Bank Group and the

Although the concept is hidden in the above quotation, it is imbedded in the balancing concept put forward by the Bank. The Bank is a financial institution and the word 'balance' is used in accounting for transactions to mean money spent is at least equivalent to the money gained. Hence the account is balanced. As is used above, it means that development approaches must now recognized the need to protect the environment and cater for it in their development designs and stages of operations. It shows that the Bank in its lending requirements has fully recognized that the integration of environmental components in main stream economic development would not only lead to sustainable development, but also to the creation of opportunities for the poor so as to improve their livelihoods.

For the purpose of this study, Integrated National Oceans Policy (INOP) means linking environmental sustainable management of oceans resources to the main-stream economic development at the national level. To fully reflect this approach, this paper proposes INOPs to be a merger of the approaches proposed by ICM with the economic balance put forward by the World Bank. Hence, the definition proposes a dynamic national process of decision making, frameworks and action plans, which fully recognized the need for integration through cooperation across all sectors, in the firm belief that the welfare of humans is totally dependent on the ecological integrity of the marine and ocean systems, and destroying the latter will lead to the destruction of the former.

IV. Objective

The main objective of this paper is to examine whether it is possible to formulate a model of Integrated National Oceans Policy framework in the Solomon Islands under the current regional and national legal and management regimes through the assessment of current regional and State practices.

V. Content of the Paper

The paper is divided into seven parts. Part One provides an overview of the global status of ocean governance. Part Two provides an overview of the Pacific region. Part Three provides detailed analysis on the political, socio-economic and ocean realities of the Pacific SIDS. Part Four provides a detailed examination of the development of the Pacific Regional Ocean Policy (PIROP). Part Five provides a detailed examination of the State practice in ocean resources management in Solomon Islands and the need to develop an integrated national ocean policy. Part Six is the main conclusion and Part Seven provides some recommendations.

PART II: General Overview of the Pacific Region

I. Introduction

This part provides a general overview of the setting and issues that often affect the policy framework and implementation of ocean and environmental policies in the Pacific region. The purpose of this part is to frame the wider realm in which ocean resources development, management and conservation policies and practice interplays in the Pacific region. In so doing, it provides a clear picture of the context with which the Solomon Islands must function as it develops and implements its integrated national ocean policy (INOP).

Fig.1. Pacific Island Small Islands Developing States (SIDS).



Source: <http://www.infoplease.com/atlas/pacificislandsandaustralia.html>

The Pacific region encompasses 22 island States and territories dotted over a vast expanse of ocean, now commonly known as South Pacific Ocean.

The Pacific Ocean covers almost one third of the earth's surface or about half the area covered by water and one-fifth more than all the land put together.³⁰ In fact this area is calculated to encompass an area equivalent to four times the landmass of Australia and three times that of the United States, and several times the land area of Europe.³¹ In contrast, the landmass comprises only two per cent of the region. See table 1.below.

TABLE 1.South Pacific States' Principle Physical and Economic Features.

State	Land Area ('000 Sq.km)	Sea Area ('000 Sq. Km)	Populat 000 (1994)	Density Person/sq .km	Annual Growth % 1974-91	Total GDP (A\$'000)	Per Capita (US\$) (1994)	Year
Cook Is.	237	1,830	20,000	73	1.07	82,224	4,328	1994
FSM	701	2,978	110	159	4.02	181,000	1,554	1993
Fiji	18,272	1,290	784	41	1.91	1,715,652	2,051	1993
Kiribati	690	3,550	78.3	107	2.07	48,875	500	1994
Marshalls	181	2,131	54.1	265	4.21	52,682	1,610	1993
Nauru	21	320	10.6	457	2.28	206,250	4,640	1993
Niue	259	390	2.3	8	-5.27	4,347	3,447	1992
Palau	488	629	15.6	32	1.80	48,831	3,564	1994
PNG	462,243	3,120	4,100	9	1.48	4,853,623	1,290	1994
Samoa	2,935	120	163.5	55	0.28	150,000	748	1993
Sol. Is.	27,5567	1,340	367.4	12	3.67	234,900	708	1993
Tonga	747	700	98.3	130	0.49	125,000	1,591	1993
Tuvalu	24	900	9.5	380	2.30	203,386	1,009	1990
Vanuatu	12,190	680	164.1	12	2.41	150,000	1,160	1993

Source: SPC, Economics Statistical Bulletin, 1993 and Foreign Investment Climate in South Pacific Forum Island Countries, Forum Secretariat, 1995. p. 2.

From table above, it is clear that there are marked demographic, geographical, social, and economic distinctions between the three sub-groups of the WCPO region.³² Despite those

³⁰ Peter Heathcote, *Maritime law in the South Pacific, Towards Harmonisation*, University of the South Pacific. 1997. p. 1.

³¹ Op. cit. p. 2.

³² In the vast ocean above lie three distinct sub-regional cultural groupings. Melanesia in the west, Polynesia in the east and Micronesia in the north (mostly north of the equator). Melanesia is comprised mostly of the bigger islands. The countries of Melanesia are, from west to east: Papua New

differences, most Island States share similar geographical, political and economic realities that are crucial in framing both national and regional policies.³³

II. Geographical Realities

A. Climate

The South Pacific Ocean Region's climate is tropical with slight variations in the three sub-regional groupings of Melanesia, Polynesia and Micronesia. Melanesian tropical climate is characterized by its monsoon component influenced by few extreme weather and temperature. Going east towards the Republic of Vanuatu and Fiji the climate tends to be tropical moderate. Polynesia which lies further east of Melanesia and which includes Tonga, Samoa, the Cook Islands, Niue, and the French Territory of French Polynesia, tends to be influenced by trade winds and have a warm season (December-May) and a cool season (May-December). Moving North-east direction towards Micronesia (Tuvalu, Kiribati, FSM, Marshall Islands & Palau) the climate tends to be modified by easterly trade winds (March-November) and westerly gales and heavy rains (November-March).

B. Coastline

Since most Pacific SIDS are coastal States and Territories, they all have coastlines. The total coast lines of the Pacific SIDS put together is about 24, 039.4 km (See table below).

Guinea, Solomon Islands, and Republic of Vanuatu, New Caledonia, and the Republic of Fiji Where Melanesia ends the islands of Polynesia begun. These countries are Tuvalu, Western Samoa, American Samoa, Tonga, Cook Islands, Niue, Tokelau, Wallis and Futuna and French Polynesia. Micronesia covers Kiribati, Nauru, the Marshall Islands, Palau, the Federated States of Micronesia, the Northern Marianas and Guam.

³³ They have been subjected to some form of colonial control from the European and Asian powers for various political, strategic and economic reasons. The Kingdom of Tonga, despite some colonial control, still retains its absolute monarchy. Most island countries on the other hand, have had experience with direct colonialism, which has to a larger extent influenced their developmental policies.

Table 2. Pacific SIDS total coast lines by country.

Country	Total Coastline (000KM)
Cook Islands	120
FSM	6, 112
Fiji	1, 129
Kiribati	1, 143
Marshall Islands	370.4
Nauru	30
Niue	64
Palau	1, 519
PNG	5, 152
Samoa	116
Solomon Islands	5, 313
Tonga	419
Tuvalu	24
Vanuatu	2, 528
Total	24, 039.4

Source: <http://www.llrx.com/features/pacific2.htm>

III. Political Realities

The Political implications of the Pacific colonial experience are notable. Among other things, the political partition of the region revealed the colonial rivalries that underscored the colonial era. The fight for colonial dominance resulted in most of these States adopting political structures similar to their colonial parents, although it is worth noting at this juncture that despite adopting those political structures, the way they are practiced in the Pacific is not as what was practiced in the west. Most States and territories generally adopted their colonial powers' legal system, but in most cases the system was highly disregarded. Those Territories who never gained political independence remain today as Overseas Territories and Free Association States of the metropolitan colonial State.

Generally, all Pacific Island States retain good relationships with their former colonial powers.

Out of a total of twenty seven States and Territories in the larger Pacific region, only ten are politically independent, five are self governing Territories with Free Association status, three Overseas Territories and nine Political Unions (see table 2.2).

Table 2.2: Political status of the small Islands developing states and territories of the Pacific

Country/ Territory	Political Status	Government System
Cook Islands	Self Governing Free Association with New Zealand	Parliamentary Democracy
The Federated States of Micronesia	Self Governing Compact of Free Association	Constitutional Government
Republic of Fiji	Independent State	Republic
Republic of Kiribati	Independent State	Republic
Republic of Marshall Islands	Independent State Free Association compact with USA	Republic
Republic of Nauru	Independent State	Republic
Niue	Self Governing Free Association with New Zealand	Parliamentary Democracy
Independent State of Papua New Guinea	Independent State	Parliamentary democracy
Independent State of Samoa (WS)	Independent State	Constitutional Monarchy
Independent State of Solomon Islands	Independent State	Parliamentary Democracy
Kingdom of Tonga	Independent State	Constitutional Monarchy
Sovereign State of Tuvalu	Independent State	Parliamentary Democracy
Republic of Vanuatu	Independent State	Parliamentary Republic

Source: CIA World Fact Book, <https://cia.gov/cia/publications/factbook/print/bp.html>.

IV. Economic Realities

Economically, all Pacific Island States also share common features and similar problems. They have a narrow base economy, dominated by primary production. They are remote from all major markets, possess an inadequate industrial base, lack human resources and technical expertise, and exhibit slow economic growth. Most of these problems are associated with their small size and insularity which lead to higher transportation cost and economic marginalization. The small size of this Pacific SIDS can truly limit their ability to reap benefits of economies of scale and often leads to additional constraints. Generally, most are highly dependent on strategic imports, in particular energy and industrial supplies, exacerbated by limited import substitution and possibilities. The high level of Foreign Direct Investment and ODA granted to the region is a strong indicator of the lack of development in the Pacific SIDS.

A. Foreign Direct Investment

Big Government bureaucracy with a highly sectoral-based operative system is a huge obstacle to economic growth. A good example is the constraint in attracting Foreign Direct Investment (FDI). In the 1990s there were huge declines in FDIs. Records showed that the total inflow of FDI into the Pacific is estimated to have been declined considerably, from USD\$338million in 1990 to USD\$157million in 1999.³⁴ This is a marked contrast to other non-Pacific SIDS whose total FDI recorded an increase from USD\$5,630million in 1990 to USD\$24,029million in 1999.³⁵

Reasons for the decline in total inflow of FDI in the Pacific are cited as a result of a number of obstacles with respect to the kind of bureaucracies and investment policies which exist in most Pacific SIDS. These States have inefficient bureaucracies, inconsistent policies, poor access to land, and a lack of skills among investment promotion authorities (IPA) staff. The cost of establishing business in the region is not competitive and can often take a long time. These coupled with the lack of transparency and accountability in the administration of investment processes among

³⁴ SPC, 2004, *Pacific Islands Regional Millennium Development Goals Report*, SPC, Noumea, New Caledonia, p.120.

³⁵ Loc. cit.

statutory bodies. For example, within the region the number of days required to start a business ranged between 21 (Kiribati) and 73 (Samoa), 6 months or more (Solomon Islands). Furthermore, the cost to start a business, measured as a percentage of per capita income ranges from 2.5% in Fiji to 64.3% in Vanuatu.³⁶

B. South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA)

A major economic constrain for Pacific SIDS is that they have a very large trade deficit: approximately USD\$2 billion per year. A regional trade agreement, the South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA),³⁷ has been put in place to grant duty free, unrestricted or concessionary access to Australia and New Zealand markets for most Pacific products. However, over time, the preference has been eroded as Australia and New Zealand are increasingly coming under pressure to meet World Trade Organization (WTO) tariff reduction commitments. The consequences of which are very harmful to Pacific SIDS economies because of their inability to compete with the prices of products from other markets.

C. GNP as a Mask against the reality of vulnerability

It is important to note that many of the Pacific SIDS do not register very low GNP per capita, thus giving the impression of economic strength. The reality is that such economic indicators often mask the fact that SIDS are fragile and dependent to a high degree on conditions outside the State's control, especially with respect to trade and their narrow-base economies.

D. Official Development Assistance (ODA)

One notable aspect of the Pacific Island economies which began in the 1960s was the high dependency on foreign aid. Many Pacific Island States have come to rely on considerable inflows of direct budgetary assistance from the metropolitan powers. For

³⁶ Loc. cit.

³⁷ SPARTECA is a non-reciprocal arrangement between the two developed states of the Pacific region (Australia and New Zealand) and most of the developing and least developed island members of the Pacific Islands Forum, with the exception of Palau and Tokelau.

example, the Cook Islands and Tokelau have been highly reliant on New Zealand aid; French Polynesia is heavily dependent on France; likewise, the Federated States of Micronesia rely on the United States.

Comparing ODA of the Pacific SIDS to other developing States, the Pacific region's share has been historically high per capita, but this does not necessarily mean the effect it has on development in the Pacific should be generally higher than other developing regions. The major reason for higher aid per capita is due to the Pacific's relatively small population sizes. ODA's general impact on development however, has not been necessarily positive because geographical factors such as isolation, and the dispersed nature of most Pacific Island populations (many of whom live in remote provinces or outer islands) has often increased the cost of ODA delivery.

One of the controversies of aid today is that it has become highly politicized. Aid is no longer a pure act of development assistance, but it has become a channel through which metropolitan powers influence and politically manipulate Pacific Island States. Aid has become, for the powerful developed States, the driving force behind their foreign policies and foreign policy making. The Japanese Kuranari Doctrine which underlies using aid as a tool for Japan's fisheries diplomacy in the Pacific region is a clear example.³⁸

The United States through the Tuna Fisheries Multilateral Treaty continues to give aid to the Pacific Island States in exchange for fisheries access. The Republic of China (Taiwan), in support of Pacific SIDS who continue to support its bid at the U.N. against China, continue to support them with direct untied financial aid. Apart from this, other former colonial powers that still retain relationships in the region continue to advocate a more passive and indirect way of control through budgetary aid. Indeed, the Pacific Island States' economic weakness and lack of technical knowledge has always put them at the whim of the powerful metropolitan countries and left them vulnerable to external controls.

³⁸ S. Tarte, *Japan's Aid Diplomacy and the South Pacific*, University of the South Pacific, 1998: p.4.

V. The Pacific Ocean Realities

Ocean and ocean resources have always been an important aspect of the Pacific peoples livelihoods. This is because it is a given of life that there is more ocean water than land: with a total landmass of 552, 789 square kilometers is so small compared with a total sea area of 30, 569,000 square kilometers. The Pacific Ocean has both the potential for living and non-living resources, and the ocean represents an important area for development.

Shipping caters for about 85-90% of total Pacific trade, tourism contributes as far 40-50% in some countries, fisheries 80-90%. As for the non-living resources, research is continuing into the rich seabed minerals which at present have an estimated economic value of billions of dollars.

A. Shipping Sector

All the Pacific SIDS are Island States, hence, shipping and shipping services, either international, regional and local play a pivotal role in transportation, international trade and commerce. Over 95% of Trade from either outside from the region, or within the region and, or within an island State itself, is conducted through shipping services.



Source: SPC

Shipping and shipping services connects all Pacific SIDS, and thus allow goods from the region to reach international, regional and national markets. Ships and seafaring are fundamental Pacific traditions. Most Pacific Island States and Territories rely on the sea for sustenance (fisheries), coastal transportation and employment in shipping or on fishing vessels.³⁹

³⁹ SPC, at <http://www.spc.int/Maritime/index.htm>

A notable component of Pacific shipping is inter-island shipping. Most of the island groups within each State is are not joined with bridges hence, local shipping is the only way to move goods to markets, sometimes on the same island. Most islands may not even have fully developed roads hence smaller transport vessels and outboard motor boats are used. However, the issues and concerns associated with Pacific SIDS shipping, and especially, inter-island shipping include safe and secure shipping to meet international standards, cleaner seas, improved social and economic well-being of seafaring communities, building proper wharfs, and safety of life at sea. The current capacity of Pacific Islanders to manage, administer, regulate, control and gain employment in the maritime transport sector in a socially responsible manner is weak.

B. Tourism Sector

The Pacific SIDS possesses some astounding magnificent sceneries of islands, beaches, lagoons, and unique coastal areas that attract tourism developments.

Table 3. Total Tourism Contribution to the Pacific SIDS Economies

Table 3: Economic Importance of Tourism in Countries Within the Region		
State	Tourism GDP %	Tourism % Employment
Cook Islands	47.0%	-
Fiji	12.8%	9.5%
Kiribati	14.5%	1.7%
Niue	13.0%	-
Papua-New Guinea	6.3%	3.2%
Samoa	9.5%	10.0%
Solomon Islands	2.9%	1.6%
Tonga	14.7%	3.2%
Tuvalu	3.0%	-
Vanuatu	16.6%	12.0%

Source: http://www.spto.org/spto/cms/investment/table_A2.shtml

Tourism has been steadily growing in the Polynesian Island States of the Cook Islands, Samoa, Tonga, Niue, and the nearby French Territory of French Polynesia (Tahiti). As is shown in table 3 above, the contribution of tourism to the economies of the Pacific SIDS is significant and one that has the potential for further growth. For the small Polynesian economies, it represent a remarkable contribution, 47% of GDP is recorded for the Cook Islands, 14.7% GDP for Tonga, 13% of GDP for Niue, 9.5% GDP for Samoa and the lowest is Tuvalu with a GDP contribution of only 3%.

The Melanesian States revealed an interesting trend, as it showed 16.6% for Vanuatu, 12.8% for Fiji, 6.3% for Papua New Guinea and 2.9% for the Solomon Islands. The low record in Melanesia is due largely to the ongoing political instability, while the Polynesian region has been experiencing sustained political stability. Furthermore, tourism growth has been slow due to a number of inherent problems such as distance and isolation from major markets and cost of infrastructure and high cost of building products.⁴⁰

A serious issue that has the potential to threaten the growth of tourism in the Pacific SIDS is the increasing rate of loss of biodiversity. The whole region is under threat by the loss of biodiversity, as reported by the South Pacific Regional Environmental Program (SPREP), almost 50% of the regions' biodiversity is at risk.⁴¹ This conclusion is also supported by the Millenium Assessment Report, commissioned by the United Nations, which concluded that:

Over the last 50 years, humans have changed ecosystems more than any other time during history to meet growing demands for food, fresh water, fuel and economic activities such as tourism.⁴²

Sudden and abrupt changes throughout the South Pacific are a very visible threat to many tourism operators along with eutrophication and subsequent algae blooms that result from discharging excessive nutrients in the water. It is not co-incidental that there has been a

⁴⁰ Louise Twining-Ward, 2005, Planning Managing of sustainable tourism in the South Pacific: Tourism in the context of new knowledge, a paper presented at the Sustainable Tourism Development Workshop 7th of June 2005, Mocambo Nadi. <http://www.spto.org/spto/export/sites/spto/spto/sustainabletourism.shtml>

⁴¹ Loc. cit.

⁴² Loc. cit.

recent increased interest in disaster and crisis management – crisis is becoming commonplace not only throughout the region, but globally.

The loss of biodiversity means that ecosystem resilience, the ability of an ecosystem to withstand change, has fallen dramatically. Small island ecosystems are by nature highly fragile and vulnerable to external disturbances. Their resilience is dependent on ecological and economic (including tourism) diversity. It has been pointed out that unsustainable practices, excessive population pressure, ill-conceived policies and fragmented planning have reduced ecological diversity making small changes much more likely to result in large-scale and irreversible changes in areas such as water quality, fish population, coral bleaching and lead to the emergence of ‘dead zones’ in coastal waters.⁴³

Clearly, the challenge faced by the Pacific Island tourism stakeholders is how to reverse some of this degradation whilst planning for increased tourist numbers. This would require significant changes in policies, institutions and practices across the region as part of the wider effort to implement sustainable development. As one hotel manager explicitly expressed during a sustainable tourism development workshop held in Fiji on 7th June 2005: the future of Pacific tourism is one “that is culturally and environmentally lasting while also profitable to maintain”.⁴⁴ To achieve this, he added that “total commitment and enthusiasm from all parties involve [...]the power of positive and long-term partnerships between government, developer, community and hotelier”.⁴⁵ Tourism offers part of the problem, but it can also be part of the solution by providing jobs, increasing standard of living, enhancing environmental awareness. The region is increasingly realizing the need for an overarching regime for coastal and ocean management to support the sustainable development of tourism. As pointed out by Louise Twining-Ward, a former tourism consultant to Samoa, that “it is time for a more comprehensive approach to sustainability, a commitment from all stage holders to being part of the long-term solution”.⁴⁶

⁴³ Loc. cit.

⁴⁴ Paul C. Hughes, General Manager, *Outrigger on the Lagoon-Fiji*, a paper presented at the Sustainable Tourism Development Workshop^{7th} of June 2005, Mocombo Nadi. <http://www.spto.org/spto/export/sites/spto/spto/sustainabletourism.shtml>

⁴⁵ Loc. cit.

⁴⁶ Louise Twining-Ward, 2005, loc. cit.

C. Fisheries Sector

As far as living resources are concerned, fishing and fisheries are the most notable available to the Pacific people. Pacific economic development is inextricably intertwined with the sea and the resources of the sea. For most Pacific Island States, fish and fishery related food consumption is as high as 70%, with a total estimated subsistence capture of 102,000 mt per year.⁴⁷ These catches are from the coastal fisheries alone. As far as the offshore or deep-sea fisheries are concerned, especially with respect to tuna fisheries, it was reported in 1995 that the proportion of the world tuna catch taken in the Western central Pacific ocean region (WCPO) contrasts sharply with the size of the Pacific island states. In 2003, it was estimated that approximately, 70 percent (3.2 million tonnes) of the world annual tuna catch is taken from the WCPO region.⁴⁸ This figure shows a significant difference between this region and the other three major fishing grounds of the world. For instance, the Eastern Pacific with an average annual catch of about 525 000 mt, West Africa with 385,000 mt, and the Western Indian Ocean with 450,000 mt respectively.⁴⁹

In terms of catch by tuna species for the WCPO region, skipjack tuna (*Katsuwonus pelamis*) account for 71% of catches, yellowfin tuna (*Thunnus albacares*) by 66%, bigeye tuna (*Thunnus obesus*) by 58% and 53% of the albacore (*Thunnus alahunga*) is taken from the WCPO region.⁵⁰ Fisheries and tuna in particular represent an important resource to the island countries of the WCPO region. Knowing that most Pacific Island countries have a narrow resource base and small domestic market, their dependence on tuna is unmatched elsewhere in the world and is likely to increase.⁵¹ Sustainability of the tuna fishery resources is indeed a matter of high priority to all PICs.

⁴⁷ Gillett R.D., *Pacific island fisheries: regional and country information*, Asia-Pacific Fishery Commission, FAO Regional Office for Asia and the Pacific, Bangkok, Thailand. RAP Publication 2002/13, p.168

⁴⁸ The region supplies about one-third of all landed tuna in the world, about half of the total supply to tuna canneries and 30 per cent of the tuna to the Japanese sashimi (RAW FISH) market. See, SPC, On-line report on "climate and tuna fisheries: Spatial variability" at: (9:20) 20-09-2003 at <http://www.spc.org.nc/OceanFish/Html/TEB/Bio&Behavior/Image63.gif>

⁴⁹ Loc. cit.

⁵⁰ FAO, 1994, *World Review of Highly Migratory Species and straddling Stocks*, (Rome: FAO Fisheries Technical Paper, Fisheries Department, p.24.

⁵¹ SPC, On-line report on "climate and tuna fisheries: Spatial variability" at: (9:20) 20-09-2003 at <http://www.spc.org.nc/OceanFish/Html/TEB/Bio&Behavior/Image63.gif>.

Over the last 50 years of heavy harvesting of the tuna resources, today it is yielding mixed results on the overall tuna stocks. Any major development that will have to take place in the EEZ of the Pacific SIDS especially at the continental shelf will have serious impacts on all who depend on it. As tuna is highly migratory species, the greatest challenge to Pacific Island countries is developments in one EEZ would affect many others.

Fig 1 below shows the distribution and concentration of the tuna resources in the WCPO region. Note that tuna is highly concentrated between Papua New Guinea, Solomon Islands, Nauru, Kiribati, Tuvalu, Marshall Islands, Federated States of Micronesia and Palau.

D. Tuna concentration, migratory range and current status.

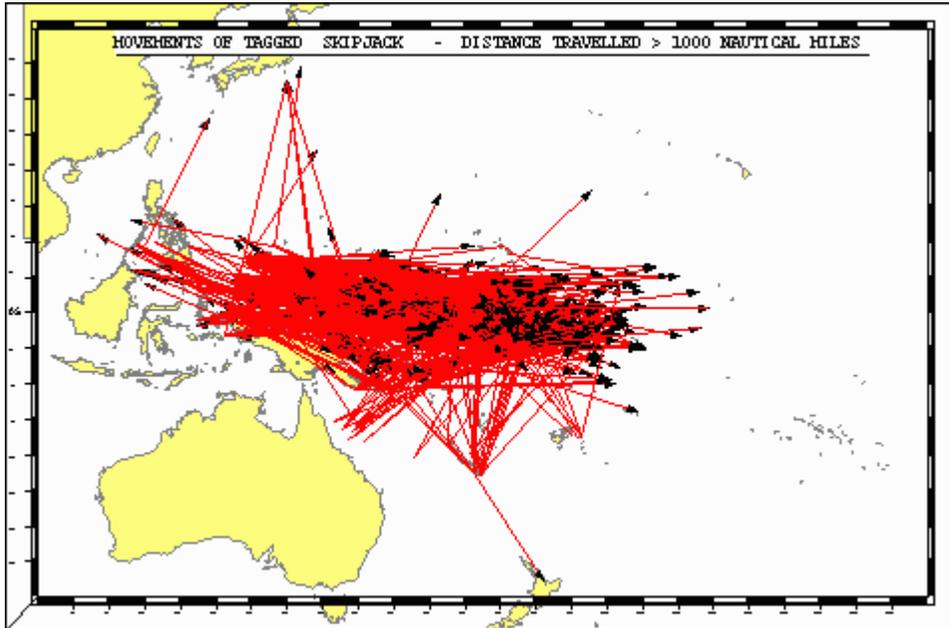
In the last decade there has been an influx of distant water fishing nations (DWFNs) into the WCPO region. Despite that the WCPO region is the world's largest supplier of world tuna trade (1.8 million metric tons), only a fraction of the total value is retained in the region. It was reported that in 1998, the landed value of tuna caught in WCPO region was estimated at US\$1.92 billion, of which that about US\$1.3 billion of which was caught within the EEZs of the PICs: about 68%.⁵² However, only about 11% was retain by the PICs.⁵³ Most of the tuna is consumed by the DWFNs, who invested heavily in the harvesting, processing and marketing of tuna.

Today, the Pacific Island countries are finding themselves dealing with all these different but related issues at one time and at one place, 'the ocean'. Their aspirations to develop, manage and conserve their fisheries and ocean resources are increasingly challenged amidst the influx of multiple uses and users, and the general decline in the health of ocean.

⁵² FFA, Van Saten and Miller, 2000.p.17.

⁵³ Loc. cit.

Fig: 1.Tuna distribution and migration in the Western Central Pacific



Source: SPC, 2003, tuna tagging experiments 1989 & 1992.⁵⁴

In considering the above, political, economical, and geographical characteristic of the Pacific region become clear, and the reality of the limitations which often limit national policies development, implementation, and constraint national efforts for development in the different economic sectors, emerge. Today, those challenges are compounded with the increase magnitude of globalization, economic stagnation, marginalization, rapid population growth, increasing unsustainable harvesting of natural resources and growing political instability instigated in part by growing social problems associated with underdevelopment in the Pacific SIDS. The complexity of various issues ranging from land to sea facing the Pacific SIDS has triggered a move to redefine regionalism in the region.

Part III provides an analysis of regionalism in the Pacific, a platform in which the Pacific regional oceans policy was initiated and formulated.

⁵⁴ On-line available at 9:20pm (20/09/03), on <http://www.spc.org.nc/OceanFish/Html/TAG/Satd.htm>:

PART III

Towards A Regional Oceans Policy in the South Pacific

A. Pacific Regionalism

I. The Development of the Pacific's Regional Oceans Policy

The Pacific SIDS has sought many ways of dealing with the multiple challenges they have faced in relation to oceans resources development, management and conservation in the last two decades. Being small, and scattered across the Pacific ocean often meant lack of natural resources, narrow base economies, small land masses, isolation, high cost long distance traveling, longer distance from major markets which seldom exhibit political, economic and environmental vulnerability. Such vulnerabilities are often largely felt when it comes to individual countries having to deal with transboundary issues that seldom beyond national capacities to exert state control and the discharge of effective state responsibilities. For example, an issue that have in the past challenged the Pacific small island developing states management capacity is that of the highly migratory species like tuna and other straddling stocks that straddled the western central Pacific ocean. No single Pacific SIDS was able to effectively managed the tuna stocks on its own, since they lacked both the technical and scientific capability to be able to effectively discharge management responsibilities accorded by the Law of the Sea Convention (UNCLOS).

Effective management could only be realized with maximum control through regional arrangements that allows contracting members to harmonize their fishing licensing arrangements through a coordinated manner. In doing so, contracting members believe that greater benefits are available to them through collective action than when

they act alone.⁵⁵ A cost-benefit analysis of this kind of relationship would help us understand why regionalism is highly favorable, and often a better tool for the Pacific SIDS in the management of shared resources and shared vulnerabilities. On the other hand, such analysis would also provide understanding as to why the type of regionalism employed by the Pacific SIDS may not be an effective tool in implementing regional policies. In this case, Club Theory provides the best tool for analyzing cost and benefits of regionalism because it firmly believed that any collective endeavor requires sustained benefits of each individual member.⁵⁶

II. Lessons from Club Theory for deeper Pacific Regional Cooperation.

Club theory analysis reveals that rivalry and congestion increase when the number of members sharing the same club good increases. In the Pacific, the number of members who have joined the Pacific Forum has increased in the last two decades. Now there are a total of sixteen (16) members. Currently, Timor Leste (East Timor) who has just gained political independence in 2003 is now sitting as a Forum observer member at the Forum council meetings. This Forum has also been a strong political instrument in support for the process of independence of East Timor and it is highly possible it will become a member along the way.

Whatever happens, already there are signs of political frictions among members. The view often held by majority of the smaller countries is that the larger members seemed to be benefiting more than the smaller members. For example, there is growing resentment among the smaller countries regarding what they termed the “Fiji High Jack” of regionalism referring to the nationalization of the regional airline, the Air Pacific by the Republic of Fiji, and Fiji being the host of most of the regional headquarters.⁵⁷

⁵⁵ The ADB & COMSEC Joint Report to the Pacific Islands Forum Secretariat, 2005, “ Toward a new Pacific Regionalism, Pacific Studies Series, Series, p.37, [sited August 3rd 2006] available from: <http://www.pacificplan.org/artimages/Toward%20a%20New%20Pacific%20Regionalism.pdf>

⁵⁶ Op. cit. p.38.

⁵⁷ According to A. V. Hughes (2005), p. 12. “The Fiji factor in regional cooperation stems from the colonial experience...Britain...create it as its colonial capital in the Pacific. Its relatively better educated and skilled people provided missionaries, doctors, teachers and other skilled workers [mainly hailed from the Indo-Fijian indentured laborers brought from India in the mid 18th –early 19th Century to work in the British Sugar Plantations]... Later as most British colonies became independent, Fiji was the natural location for the regional University, UN agencies, and other Non-government organizations, creating more jobs for the Fiji economy. Overtime, there was a growing resentment over the Fiji’s capture of the lion’s

Increasingly, smaller members are also being critical of Australia and New Zealand of manipulating the Forum for their own national interests.⁵⁸ In any case, such rivalries may only encourage national rather than regional institutions.

Due to the voluntary characteristic of such a club, and its non binding decision making approach, it is clear that regional cooperation in the Pacific is at its' defining moments. While there is increasing concern over the future direction of regionalism, with an ever growing membership and interest groups from abroad, three important impacts seemed clear out of this analysis.

As the members of the Forum increases, political rivalry will also increase and may divert the real attention from serious and urgent environmental issues. In addition, attention will likely shift to the larger countries than the smaller countries. Decisions reached by consensus will always remain unimplemented as long as countries do not feel obliged to commit themselves into it. Regional initiatives therefore will always be difficult to be realized at the national level. This may give rise to sub regionalism.

Voluntarism with its non-binding character will only weakened the regional initiatives aimed at creating more benefits to sustain the regional framework in both the short and long term.

Having known the strengths and weaknesses of the current regional model theoretically, it is vital that their actual functions and operations are also observed. A key lesson that would guide the observation of regionalism and practice in the Pacific is that a move away from the current voluntary approach could offer more net benefit for regionalism. It is interesting to note at this juncture, that at the point of writing, Pacific SIDS members of the Forum are being preparing to implement two binding free economic trading partnerships agreements, namely the Pacific Island Countries Trade Agreement (PICTA) and the Pacific Agreement on Closer Economic Relations (PACER).

share of collateral development benefits of regionalism have led to the decentralization of other regional organizations in other member countries. FFA in Solomon Islands, SPREP in Samoa, ADB and UNESCAP in Vanuatu.”

⁵⁸ According to A. V. Hughes (2005), p.12. “According to Australia and New Zealand has a very strong interest in the region which historically stems from their colonial control they were given when Britain begun decolonization. Australia and New Zealand often mobilize the Forum club when its in their best interest and often during meetings dominate discussions and making their views known on most issues are argue their case vigorously and sometimes demonstrating an ‘un Pacific way’ insistence on getting their way which often led to most Pacific island countries resenting their dominance in the discussions and the outcomes of regional initiatives for fear of diverting the attention away from island needs.”

This two agreements will have far reaching consequences on the current regional setting in the Pacific once they become operational in the future. As far as charting the waters ahead in terms of redesigning regional interventions and activities, the ADB & Commonwealth series of studies also cautioned that any intervention in the Pacific regionally should bear in mind the following observations;

- Intervening regionally only where there are significant economies of scale. Avoid interventions where there are significant costs associated with isolation;
- Intervene regionally only where the market cannot provide the good or service, and where there are significant net benefits over and above national provision;
- Subregional provision may prove optimal in the face of high isolation costs and
- Specific initiatives are essential in many cases to assure services are provided to the smallest and poorest states. (Explicit subsidies for commercial provision of services are an example).⁵⁹

In addition, the study also argued that in the Pacific context, the current regional cooperation is insufficient to cope with many of the regions challenges, despite this being a preferred mode of regionalism by Forum member countries.⁶⁰ The justification for this argument is that because of the Pacific unique characteristics, only by moving to ‘deeper’ forms of regionalism (in terms of service provisions, and regional market integration) would the Forum members create the necessary pool of benefits needed to make regional institutions sustainable and beneficial to the entire members.⁶¹ In light of the above observations, it is necessary to take a brief account of Regional practices in the Pacific.

III. Regional Practices in the Pacific

Regionalism in the Pacific is a response to the major constraints to development in the Pacific region. It involves cooperation among all Pacific SIDS in identifying region

⁵⁹ The ADB & COMSEC Joint Report to the Pacific Islands Forum Secretariat, 2005, “ Toward a new Pacific Regionalism, Pacific Studies Series, Series, p.xvi, [sited August 3rd 2006] available from: <http://www.pacificplan.org/artimages/Toward%20a%20New%20Pacific%20Regionalism.pdf>

⁶⁰ Op. cit. p. 52

⁶¹ Loc. cit.

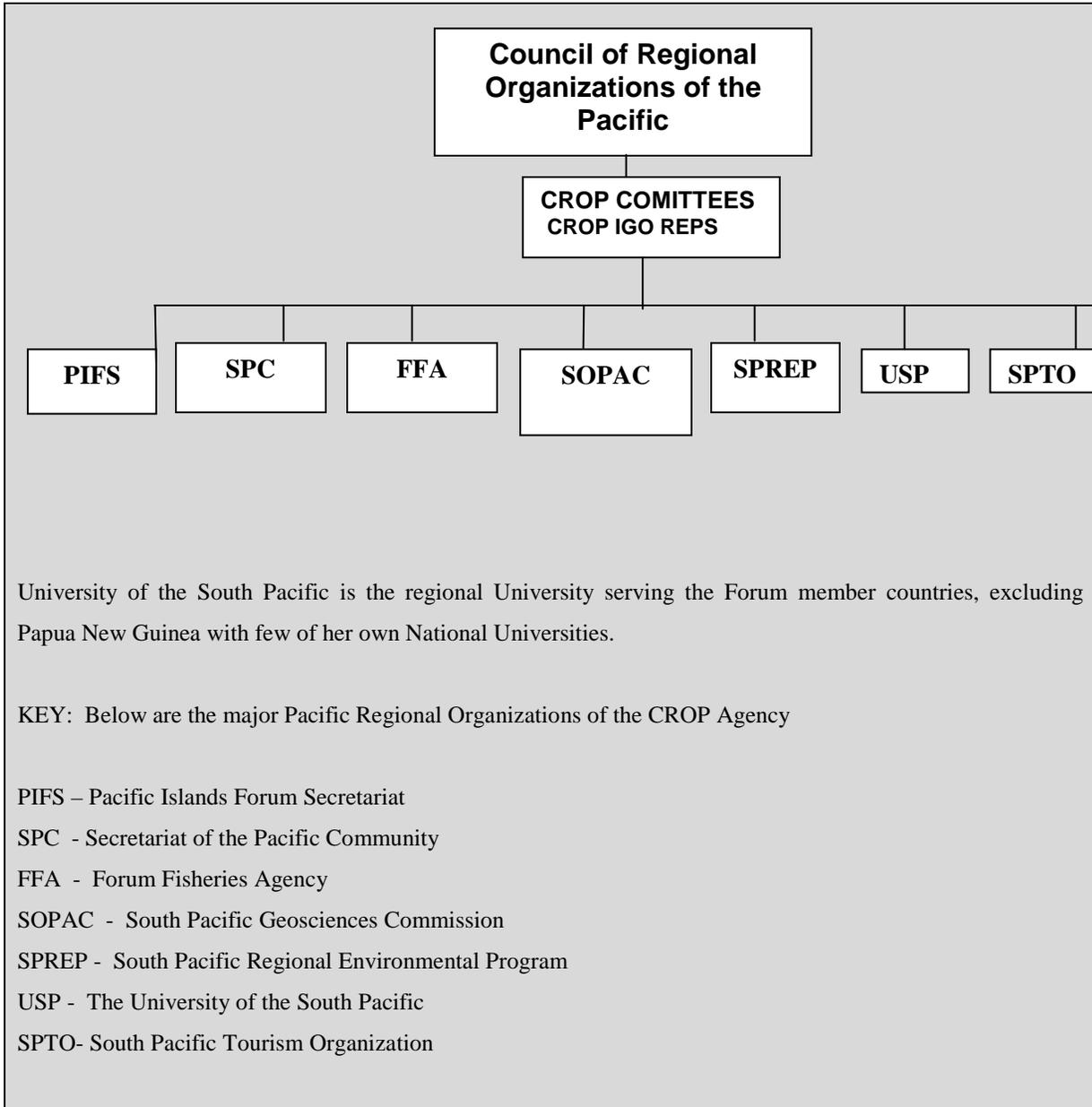
wide issues and developing regional responses through policies where appropriate to deal with those challenges. In responding to regional issues and challenges, Pacific regionalism involves mobilizing resources on a regional basis and execute relevant activities in a coordinated manner across large parts of the region, with appropriate degrees of cooperation. Today, regionalism has created many tangible results, and one of them is the establishment of regional organizations tasks with different objectives to serve the varied needs of the Island countries. They have evolved over time and constantly changing to reflect the growing challenges of development today.

A. Council of Regional Organizations in the Pacific (CROP)

The Council of Regional Organizations in the Pacific commonly referred to as CROP, was established by the South Pacific Forum in 1988. The purpose of its establishment was to serve as a high level advisory body to the Forum council on key policy and operational issues of importance to the region and regional organizations on how to achieve greater benefit out of the pooling of regional resources and subsequent opportunities.⁶² While CROP is not a legally constituted body and hence does not set policies, it is a voluntary membership that merely provides advisory services to the Forum through the Forum Committee. Such reporting takes place annually and its decisions may or may not be taken into consideration. The importance of this body is its two key elements of advisory and membership. Its membership is voluntary and its decisions are merely advisory which may not be taken seriously however, its decisions reflect the technical know-how of its members who are highly technical and specializes in different fields.

⁶² SPC, 2002, *Regional Organisations of the Pacific*, SPC Publications, Noumea, p. 3., [cited 28 August 2006], available from: <http://www.spc.int/piocean/CROP/cropbrochure.pdf>

Fig.1. Network of Intergovernmental Organizations of the Pacific: Council of Regional Agencies of the Pacific (CROP).



Source: PIFs, SPC, SOPAC, SPREP, USP, SPTO.

CROP membership which comprises all the major regional organizations in the Pacific has the potential of producing best advices to the Forum leaders should its decisions be kept clear of politics. Its members are highly specialized agencies including the Forum

Fisheries Agency (FFA), the Pacific Island Development Program based in Hawaii (PIDP), the Pacific Forum Secretariat (PIFS) also the permanent chair of CROP, the South Pacific Geoscience Commission (SOPAC), Secretariat of the Pacific Community (SPC), South Pacific Regional Environment Program (SPREP), South Pacific Tourism Organization (SPTO), and the University of the South Pacific (USP).

B. Pacific Islands Forum Secretariat (PIFS).

Established in 1972 as South Pacific Bureau for Economic Cooperation (SPEC), over the years it has grown and changed its attention and so as its' name also has been changed in 2000 to what is now called Pacific Forum Secretariat (PIFS). What is remarkable about the Forum Secretariat is that it came into existence in the wake of political decolonization in the Pacific, and become a huge political forum in the 1960s and 70s where Pacific leaders would voice out their collective anti-colonial concerns. They were successful in condemning the French nuclear testing in the Mururoa atolls of French Polynesia in the 1960s and 70s. Although it was the second regional organization to be formed, the first organization (South Pacific Commission) refused to discuss political matters because it was controlled by the colonial powers. Remarkably, the Forum has in the last 34 years been serving the political needs of the Pacific Island countries and has been successful in seeing many countries gaining political independence in the 1970s and 80s, including East Timor in 2003.

Economically, the Forum has been instrumental in negotiating the Lome Convention with EU, the South Pacific Regional Trade and Cooperation Agreement (SPARTECA) with Australia and New Zealand and supported all Island countries in the deliberations of the United Nations Law of the Sea Convention (UNCLOS). The Forum was active in promoting the views of the Pacific coastal states in the UNCLOS deliberations in the 1970s which proved extremely vital in the successful negotiations of UNCLOS treaty in 1982. Later on, the Forum was also instrumental in prohibiting the use of Long drift net fishing in the South Pacific.

Security wise, the Forum also prevented using the Pacific as a safe haven for nuclear materials. It assisted the Pacific SIDS and declared the Pacific Nuclear Free Zone

treaty, which thwarted the Japanese and U.S. moves to dump nuclear waste and incinerate chemical weapons in the Pacific in the 1970s.⁶³

The Forum remains relevant to the Pacific independent SIDS today because of its unique political character in providing an avenue whereby political sensitive matters could be discussed among Pacific leaders. Despite it does not have formal rules guiding its conduct, it has it been viewed as successful organization.

Politically, the sustainability of the Forum over the years was argued to be an attribution of its complementary approach to state sovereignty.⁶⁴ It was a policy that complements the “Pacific Way”⁶⁵ of arriving at decisions through the consensual approach. This means economically, the decision making process and it subsequent outcome “offers no substantive challenge to its members, and a very low operating costs” for the Pacific members.⁶⁶ On the other hand, some critics have it that the Forum has failed because it lacked the political will to implement its decisions, because of the Pacific Way approach. Hence, in doing so, it has only created a political culture where “political will often prevail over pragmatism”.⁶⁷

C. Secretariat of the Pacific Community (SPC)

⁶³ Robbie Robertson, regionalism in the pacific: a new development strategy, p. 5., [cited on 21st August 2006], available from:

http://www.usp.ac.fj/fileadmin/files/Institutes/piasdg/dev_studies/papers/robertson_regionalism_pacific.pdf

⁶⁴ The ADB & COMSEC Joint Report to the Pacific Islands Forum Secretariat, 2005, “ Toward a new Pacific Regionalism, Pacific Studies Series, Series, p.47., [sited August 3rd 2006] available from: <http://www.pacificplan.org/artimages/Toward%20a%20New%20Pacific%20Regionalism.pdf>

It found that “at no point has the Pacific put its members to the test of imposing sanctions for failure to abide by agreed principles in the way of the Commonwealth’s Harare Declaration” which suspends membership if a member violates any of the founding principles enshrined in the Charter. Example, Zimbabwe’s membership to the Commonwealth was suspended in 2002 following an alleged undemocratic election.

⁶⁵ Pacific Way, was a terminology coined by the former President of the Republic of Fiji, Sir Ratu Sir Kamisese Mara, that refers to the believe of unity, equality in decision making through the consensus process of decision making, that allows everyone to be part of the decision making process and any solution will accommodate everyone’s interests at no cost anyone, and anyone that does not implement the collective decision is not penalized or fined.

⁶⁶ The ADB & COMSEC, loc. cit.

⁶⁷ Steve Thomas, A political Economy Approach to Examining South Pacific Regionalism, p.15., [cited on 15 July 2006], available from http://www.europe.canterbury.ac.nz/news/NZESC_steve_thomas.pdf

The Secretariat of the Pacific Community (SPC) was the first regional organization formed in the Pacific by the colonial powers in 1947.⁶⁸ SPC's colonial origin has attracted the largest membership of all regional organizations in the region, and now has a total of twenty six (26) members which includes the twenty two (22) Pacific SIDS, and four (4) remaining metropolitan countries of Australia, France, USA, and New Zealand.⁶⁹

An important characteristic of SPC is its non-political orientation, which shifted the attention of the organization since formation to socio-economic development of the Pacific SIDS. Its focus is on land and forestry resources development, marine and ocean resources development and human demography, and culture.⁷⁰

Apart from its involvement in land and forestry development, SPC has developed a strong marine arm which currently supports coastal fisheries, oceanic fisheries and a regional maritime program.⁷¹ The scientific fisheries focus of SPC has been very useful indeed for the Pacific SIDS Island in terms of stock assessments of the highly migratory tuna and tuna related species both within the EEZ and beyond, and in that capacity has been able to provide scientific advice to the Pacific SIDS for regional tuna management and development purposes.⁷² Today, SPC, among other things, is the chief fisheries scientific body, providing timely scientific advice on the status of all fisheries stocks in the western central Pacific region.

⁶⁸ The Colonial powers who formed SPC are the United States of America, United Kingdom, France, Netherlands, Australia and New Zealand. SPC (then called South Pacific Commission) was formed by the colonial powers to assist them administer the Pacific island Territories. Note, the SPC's founding constitution, the Canberra Agreement, disallowed the discussion of political matters. For this reason, the newly independent island states formed the Forum Secretariat to voice out their political concerns.

⁶⁹ SPC, 2002, *Regional Organizations of the Pacific*, SPC Publications, Noumea, p. 15., [cited 28 August 2006], available from: <http://www.spc.int/piocean/CROP/cropbrochure.pdf>

⁷⁰ A. V. Hughes, 2005, Strengthening Regional Management: A Review of the architecture for regional cooperation in the Pacific: A report to the Pacific islands Forum, CONSULTATIVE DRAFT, p. 21. [cited 28 August 2006] available from: <http://www.spc.org.nc/mrd/org/CorporateReviewDRAFT-2005E.pdf#search=%22The%20Hughes%20Report%20on%20the%20architects%20of%20Pacific%20Regionalism%22>

⁷¹ Ibid.p.21.

⁷² Hampton, J. 1994. A review of tuna fishery-interaction issues in the western and central Pacific Ocean. In: Shomura, R.S., J. Majkowski and S. Langi (eds.). Interactions of Pacific tuna fisheries. Proceedings of the First FAO Expert Consultation on Interactions of Pacific Tuna Fisheries, 3-11 December 1991, Noumea, New Caledonia. Vol. 1: Summary report and papers on interaction. *FAO Fish. Tech. Pap.* (336/1): 138-157.

In addition, SPC's success is owed in part to its greater membership, strong networking and bilingualism approach in accepting French and English as official working language of the Organization. As A.V.Hughes pointed out:

The modern SPC has particular strength as a regional organization through its outreach, including of all PICTS as full members, bilingualism and generally apolitical tenor...sustained investment in information technologies, driven by the need for secure, high-quality internal links."⁷³

SPC's main weakness however, lies in its decision making procedures like the Forum Secretariat, opted for the consensus approach to decision making. All decisions reached by the governing body are conducted through a consensual process called the Conference of the Pacific Community called the Committee of the Representatives of Governments and Administration (CRGA) which normally takes place once a year.⁷⁴ The decisions made are normally non-binding and would be translated into the working activities of the organization. A major weakness observed is that its non-binding nature always prevents timely implementation of activities at the national level because it is executed at the convenience of the national government concern.⁷⁵

D. South Pacific Geoscience Commission (SOPAC)

The South Pacific Geoscience Commission (SOPAC) was formed initially as a United Nations Development Programme (UNDP) aimed specifically at promoting research on offshore mineral and petroleum.⁷⁶ Today SOPAC has increased its areas of coverage to include risk management, environmental vulnerability, energy, water, and sanitation and information technology.⁷⁷ A notable component of SOPAC is its offshore research capacity, which today the organization is assisting the few Pacific SIDS who are

⁷³ A. V. Hughes, 2005, Loc. cit.

⁷³ Op. cit. p. 21

⁷⁴ Loc. cit.

⁷⁵ This weakness was observed by the author, who was Assistant Secretary at the ministry of Foreign Affairs, Regional Economic Cooperation Branch (2005-May 2006) and was responsible for the facilitation of the government's relations with SPC

⁷⁶ SPC, 2002, *Regional Organisations of the Pacific*, SPC Publications, Noumea, p. 13., [cited 28 August 2006], available from: <http://www.spc.int/piocean/CROP/cropbrochure.pdf>

⁷⁷ Loc. cit.

qualified to a possible claim to extended continental shelf.⁷⁸ In addition, SOPAC also support the investigation of natural systems and management of vulnerability through applied geosciences.⁷⁹ In that capacity, SOPAC has developed a specific arm called ‘Community Risk’ which focused on strengthening resilience, and mitigating the effects of to tropical cyclones, Tsunamis and earthquakes.⁸⁰ A notable program advocated by SOPAC is called ‘ocean and islands’ which tries to find ways in resources use solutions, monitoring physical and chemical change of the oceans and ocean governance in general.⁸¹ In this capacity, the SOPAC’s chaired the first Regional Oceans Policy Conference held in Suva, Fiji in 2004. Ever since that conference, SOPAC has been taking interests in the consolidation of the regional oceans policy through out the region.

The success of SOPAC is a combination of things. While it immerged as highly focused organization to deal with sea-bed minerals and oceanographic elements, over time it has found itself dealing with a lot of contemporary issues relevant to the Pacific Island countries in terms risk management and risk mitigation. Taking a lead in vulnerability and risk management has attracted many international aid donors and in fact justified the continued existence of SOPAC a regional organization. Much of its strength of lies in its skillful leadership directed at identifying regional gaps and contemporary issues that are highly relevant both to the Pacific SIDS and the international donors who are often willing to support its programmes. A.V.Hughes noted that:

SOPAC current programmes are a result of skillful and determined efforts to identify a bundle of roles...gaps in the Pacific regional coverage of emerging international and national concerns, and propose programmes to aid donors to tackle them...quick to see the importance of IT developments and to make use of them at all levels of its work.⁸²

⁷⁸ These countries are: Papua New Guinea, Solomon Islands, Fiji, Tonga,

⁷⁹ A. V. Hughes, 2005, Strengthening Regional Management: A Review of the architecture for regional cooperation in the Pacific: A report to the Pacific islands Forum, CONSULTATIVE DRAFT, p. 19. [cited 28 August 2006] available from: <http://www.spc.org.nc/mrd/org/CorporateReviewDRAFT-2005E.pdf#search=%22The%20Hughes%20Report%20on%20the%20architects%20of%20Pacific%20Regionalism%22>

⁸⁰ Ibid.p.20

⁸¹ Ibid.p.20

⁸² Ibid.p20

While SOPAC has been successful in terms of “...making a difference to the lives of people’, [in terms of] ‘putting the science back into policy,” however, its robust expansion in the last decades has been seen as weakening the effectiveness and credibility of the whole regional set up.⁸³ It was widely viewed as “hijacking of regional roles and resources.”⁸⁴ Attempts in 2000 to incorporate SOPAC into SPC as a way of resolving the matter was unsuccessful.⁸⁵

Like her predecessors, SOPAC also does not have binding decisions. The decisions reached during the SOPAC Annual Session are usually translated into its working program and countries that have difficulties implementing those programs are not obliged to do so. The Pacific way approach to decision making is very strong and any challenge to the consensus approach are usually not acceptable.⁸⁶

E. South Pacific Regional Environment Program (SPREP)

The formation of the South Pacific Regional Environmental Program (SPREP) in 1982 was a direct result of a collective desire emanating from a workshop held earlier in 1969.⁸⁷ The 1979 regional workshop emphasized the need to establish a Pacific regional environmental program that will raise “awareness among the Pacific SIDS on the importance of responsible management of the environment and the natural resources to the future livelihood and prosperity of the people”.⁸⁸ In response to that, a regional

⁸³ Loc. cit.

⁸⁴ Loc. cit.

⁸⁵ Loc. cit.

⁸⁶ The author was a member of the Solomon Islands’ delegation to the SOPAC Annual Session held in Apia, Samoa in September 2005, and witnessed that Cook Islands and Samoa were raising the issue that countries who have not paid their annual contributions to SOPAC should be penalized by having their status to vote on decisions made during SOPAC Annual Sessions be denied [which in this case Solomon Islands in particular has been not been paying its contribution since 2000 due to the ethnic violence in 2000-2001], and Tonga, Papua New Guinea and Nauru spoke against such a move. The feeling among the majority of the Melanesian countries delegates, and Micronesians delegates, especially countries who have no real benefits from Australia and New Zealand, felt that vulnerability and disaster could hit any country at anytime and by penalizing a particular country when disaster or violence has caused them not to pay their dues will set a precedence that might happen to them as well later anytime. Also there was fear that such a move might encourage regional disintegration and political splits at the regional level.

⁸⁷ SPC, 2002, *Regional Organisations of the Pacific*, SPC Publications, Noumea, p. 17., [cited 28 August 2006], available from: <http://www.spc.int/piocean/CROP/cropbrochure.pdf>

⁸⁸ Op. cit. p. 16.

conservation programme was formed within SPC in 1973, and in 1982 changed into SPREP and was fully independent as a regional organization in 1993.⁸⁹

Following its establishment, SPREP expanded into five (5) main programs of responsibilities which includes the following activities; (1) Terrestrial Ecosystems and Coastal and Marine Ecosystems, (2) Species of Special Interest, (3) People and Institutions (Pacific Futures) which includes the following: (a) Managing Multilateral Environmental Agreements and Regional Coordination Mechanisms, (b) Environment Monitoring and Reporting, (c) Climate Change, Climate Variability, Sea Level Rise and Stratosphere Ozone Depletion, (4) Waste Management and Pollution Control, (5) Environmental Policy and Planning which includes, (a) Integrated Policy, Planning and Partnerships, (b) Human Resources Development and Training, (c) Public Awareness and Education, (d) Knowledge Management.⁹⁰

A.V. Hughes assessment of SPREP noted that while SPREP's core concern with the "interaction between human activity and the natural environment" is of a great importance to the Pacific SIDS, the growth of its programs has caused an overlap with the programs of the other sister organizations like SOPAC, SPC and PIFS.⁹¹ A.V.Hughes also claimed that such overlap only create complications among the organizations and often divert international support to environmental issues to one organization away from other sister regional organizations with closely related programs.⁹² For instance, regional programmes targeting environmental conservation, waste management, climate change, variability, coastal zone management, and sustainability of ecosystems are almost shared by SPC, SOPAC, SPREP and PIFS.⁹³ In any case, such overlaps often fueled competition for funding and it may weaken the effectiveness of cooperation among sister organizations and thereby further weaken the efforts to implement regional programs. Coupled with the fact that most of the regional programs are non-binding in nature, such competition for funding further complicates and weakened the regional effort to cooperate in the implementation of regional environmental programs. A.V.Hughes concludes that the future of SPREP as a regional organization remains in that "it

⁸⁹ A. V. Hughes, 2005, Loc. cit.

⁹⁰ Loc. cit.

⁹¹ Loc. cit.

⁹² Loc. cit.

⁹³ Loc. cit.

becoming part of the Environment, Climate and Earth Science Directorate of a Pacific Commission”.⁹⁴

F. The University of the South Pacific (USP)

The University of the South Pacific (USP) was established in 1968 by the United Kingdom at the request of the Pacific Island leaders to meet the growing development and training needs of the Pacific SIDS.⁹⁵ The institution is owned by 12 regional governments which include (1) Cook Islands, (2) Fiji Islands, (3) Kiribati, (4) Marshall Islands, (5) Nauru, (6) Niue, (7) Samoa, (8) Solomon Islands, (9) Tokelau (10) Tonga, (11) Tuvalu, (12) Vanuatu. It is governed by the USP council which constitute of member governments representatives and meets twice annually.

USP is the largest regional organization by size and serving the region in university education and training.⁹⁶ USP is different in nature from the other regional organizations in that it is highly specialized in the provision of its service to the region. In that vein, USP is a regional University that provides innovative-cost effective, relevant and internationally recognized education and training academically. Its growing multi-model flexible learning and teaching method facilitated by satellite telecommunication system is a proven success because it is cost-effective across the region.⁹⁷

For the sake of this paper, it is important to note that USP houses the faculty of “Oceans and Islands” which teaches undergraduate and graduate studies in both Marine Sciences and Marine Affairs. While this faculty has no formal link to the activities of the sister regional organizations dealing with marine and ocean resources, efforts should be made to encourage more interactions with the existing organizations dealing with the ocean resources in areas of academic course development modules. For example, it would be interesting to see a regional oceans policy office working closely with the faculty of Oceans and Islands as a way of educating the Pacific students of their own regional oceans policy. Any development in this nature would be a positive one since

⁹⁴ Loc. cit.

⁹⁵ SPC, 2002, *Regional Organisations of the Pacific*, SPC Publications, Noumea, p. 17., [cited 28 August 2006], available from: <http://www.spc.int/piocean/CROP/cropbrochure.pdf>

A, V, Hughes 2006, p.15-16, noted that USP has over 1000 professionals, two smaller campuses and 14 USP distance learning centers around the Pacific Island Countries, serving 15000 students.

⁹⁷ SPC, 2002, *Regional Organisations of the Pacific*, SPC Publications, Noumea, p. 20., [cited 28 August 2006], available from: <http://www.spc.int/piocean/CROP/cropbrochure.pdf>

majority of the students graduating from this institute will return and work in their home governments.

G. South Pacific Tourism Organization (SPTO).

The South Pacific Tourism Organization (SPTO) was formally established as a regional intergovernmental organization in 1989 with the name Tourism Council of the South Pacific.⁹⁸ The main reason for the formation of SPTO was to market the South Pacific as a tourist destination.⁹⁹ As a result, its programs are tailored towards Pacific Tourism Destination marketing, human resources development, research and development, and tourism industry support.¹⁰⁰ A very unique aspect of SPTO is the composition of its board of directors, which comprises of thirteen (13) National Tourism Organization (NTO) members and six (6) members representing the tourism industry.¹⁰¹ SPTO's direct connection to the private sector could be seen as strength in itself as it allows greater interaction between stakeholders in the tourism sector.

Not only that, such closer interactions allows the industry to offer support to the organization and also allows the organization to understand the needs of the industry. SPTO is also unique in that it is the only organization that funds its own core budget on its own without the support from abroad.¹⁰² Strongly supported by the tourism industry, implementation of sustainable environmental policies for sustainable tourism development is easily supported through such closer interactions. Private sector driven with a strong wider stakeholder interactions approach allows the organization to gain strong local foreign support towards the implementation of its programs. A.V.Hughes report assessment on the Pacific regional organizations revealed that SPTO is on the right path for the future;

The right path of SPTO is for it to become increasingly owned, financed and controlled by the PICT national tourist industries, attracting donor funding for its training and small-business extension

⁹⁸ Loc. cit.

⁹⁹ Loc. cit.

¹⁰⁰ Loc. cit.

¹⁰¹ Op. cit. p. 19.

¹⁰² A. V. Hughes, 2005, loc. cit.

programmes by being clearly focused, well managed and an efficient deliverer of outputs-very much the path it is on now.¹⁰³

The connection SPTO has with the private sector enables the organization to continue to ensure its policies of environmental concerns are heard, supported and implemented by the industry.

H. South Pacific Forum Fisheries Agency (FFA).

The South Pacific Forum Fisheries Agency was formed in 1979, in response to the Pacific SIDS's desire to effectively enforce their rights over the tuna fisheries within their Exclusive Economic Zones (EEZ) accorded by the Law of the Sea Convention.¹⁰⁴ Having realized the need to effectively enforce their jurisdictional rights over the EEZ, they also realized that equally, they also need to enforce their responsibilities to manage those transboundary resources. With that realization, the FFA member countries desired to promote regional cooperation and coordination in respect of fisheries development, management and conservation. As stated explicitly in the FFA Corporate Plan 2002-2005 that the FFA's Corporate Mission is:

To enable Member Countries to manage, conserve and use the tuna resources in their Exclusive Economic Zones and beyond, through enhancing national capacity and strengthening regional solidarity.¹⁰⁵

To fulfill their common interests, the Convention also expressed their desire for collection, analysis, evaluation and dissemination of relevant statistical, scientific and economic information.¹⁰⁶

¹⁰³ Loc. cit.

¹⁰⁴ The members of SPFFA are: Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Solomon Islands, Tonga, Tuvalu, Vanuatu and Western Samoa. Note, the problems analysed in this discussion are not applicable to Australia and New Zealand.

¹⁰⁵ FFA Corporate Plan 2002-2005, 'FFA's Corporate Mission', p.3.

¹⁰⁶ FFA Convention (FFAC): The Functions of the FFA are:

- collect, analyze, evaluate and disseminate relevant statistical and biological information with respect to the living marine resources of the region and in particular the highly migratory species;

A notable issue strongly emphasized by the formation of FFA was on the question of rights over the living resources of the sea. FFA Convention stated explicitly that all Pacific Island countries recognized the Exclusive Economic Zone provision of the United Nations Convention on the Law of Sea (UNCLOS) and that coastal states have sovereign rights over all living marine resources, including the highly migratory species such as tuna.¹⁰⁷ The sovereign rights issue has been a dominant factor in fisheries policies of the Pacific, and it has often been enforced when it is questionable. For example, in the case of the Jeanette Diana dispute between the United States and Solomon Islands, in which the U.S. vessel was caught fishing illegally in the Solomon Islands EEZ. In his high court judgment, the chief Justice Coventry of the Solomon Islands declared that:

The fish within a country's fishing limits are part of that nation's assets. They are the assets of that nation in the same way as mineral wealth, agriculture wealth and the skills of her people. When a master and a company fish illegally they take the assets of that nation illegally.¹⁰⁸

This provision directly rejected the argument made by the United States that due to the highly migratory nature of the tuna species, the U.S. would not recognize any jurisdictional claim over the tuna stocks.¹⁰⁹

To a larger extent, the formation of FFA could be seen as an acknowledgement and enforcement of the "sovereign rights" over the highly migratory resources. In effect, the FFA Convention limited the membership in the FFA council to the Forum members and

-
- collect and disseminate relevant information concerning management procedures, legislation and agreements adopted by other countries both within and beyond the region;
 - collect and disseminate relevant information on prices, shipping, processing and marketing of fish and fish products;
- provide on request, technical advice and information, assistance in the development of fisheries policies and negotiations, and assistance in the issue of licenses, the collection of fees or in matters pertaining to surveillance and enforcement.

¹⁰⁷ FFAC, Art.III.1. states:

" The Parties to this convention recognize that the coastal States has sovereign rights for the purpose of exploring and exploiting, conserving and managing the living marine resources, including highly migratory species within its exclusive economic zone"

¹⁰⁷ R, Nadelson, "The Exclusive Economic Zone: State Claims and the LOS Convention, (The Jeanette Diana Dispute)," *Marine Policy*, 1992:16 (3): p464R.

¹⁰⁸ R, Nadelson. Loc. cit.

¹⁰⁹ Jon Van Dyke and Susan Heftel, 1981, "tuna management in the Pacific: An analysis of the South Pacific Forum Fisheries Agency", East-West Center (Reprint No.22).

other territories of the South Pacific region only, excluding the powerful distant water fishing nations (DWFNs). Even now, no DWFNs are included, giving the impression that the PICs are still preoccupied with the sovereignty issue.¹¹⁰

On the issue of responsibilities for ocean management, it is commonly acknowledged that the FFA Convention does not provide for the management of the tuna fisheries, due to its exclusion of the DWFNs from its membership, and hence, the FFA is not a management body. In fact, it was argued that the SPFFA Convention produced a political compromise that only lately began to solve tuna management problems.¹¹¹ In fact, the formation of the Western Central Pacific Tuna Commission (WCPFC, the Tuna Commission) in 2004 and the establishment of the Commission secretariat in 2005 in the Federated States of Micronesia was in part, a response directed to rectify the management incapability of FFA. FFA itself has been instrumental in bringing the Tuna Commission into operation.

On the hand, it must be acknowledged that under the umbrella of the FFA, Pacific SIDS have managed to effectively responded to the EEZ regime rights and to some extent responsibilities, through the various regional and sub regional fisheries management and conservation instruments. As A.V. Hughes pointed out:

FFA has[...]a distinguished record of assisting PICTs to plan, negotiate and manage access to their EEZs by foreign tuna-fishing vessels, and it has establish an effective vessel-monitoring programme to assist in enforcement.¹¹²

On the other hand, FFA has been criticized for its unsuccessful advisory role to the Pacific SIDS in terms of increasing Pacific domestic tuna industries.¹¹³ Whether the slowness to establish domestic industries by Pacific SIDS could be seen as a failure on

¹¹⁰ William .S and B. Martin Tsamenyi argued that "...no DWFN has so far been admitted into the Agency is suggestive of the persistent belief that their exclusion continues to be in the better interests of the Member States" p.45. (1992), "The Forum Fisheries Agency and it's achievements" Law and Politics in Regional Co-operation: A Case Study of Fisheries Co-operation in the South Pacific, Pacific Law Press, pp.46-63.

¹¹¹ T. Aqorau, *Analysis of the responses of the responses of the Pacific Island States' to the fisheries provisions of the Law of the Sea Convention*, University of Wollongong, 1998: p. 176:

¹¹² A. V. Hughes, 2005, loc. cit.

¹¹³ Op. cit. p. 17.

the part of FFA is debatable, however, it is important to note that the FFA charter limits its function only to advisory services, and any industry decision and undertaking is entirely a sovereign matter. Vis-à-vis, any advisory service offered by FFA on any certain fishery matter is non-binding and members are not obliged to comply unless agreed by council. On the same token, FFA's interaction with the fishing industries involved in the Pacific tuna fishery in the region is indirect, and any decision to consider any concern rests upon the council.

For the purpose of understanding the context in which the Pacific regional ocean policy was initiated and formed, it is necessary to take a look at the regional fisheries development, management and regulatory instruments formed within the sphere of FFA. These instruments are fully operational and are fully supplemented by the work of the Tuna Commission and in part have set a strong foundation for the Pacific regional oceans policy. However, it is yet to be seen how these instruments will come together under the regional ocean policy framework.

Regional Fisheries Instruments

I. The Harmonized Minimum Terms and Conditions of Access for Foreign Fishing Vessels

Although this arrangements begun with sub-regional grouping, it has now been adopted at the regional level with the FFA. It re-enforced the Pacific SIDS declaration of having 'sovereign rights' over the tuna fisheries resources within the 200 EEZ. In this regard, the Pacific Island Forum formally adopted the Minimum Terms and Conditions where they have agreed to impose on all foreign vessels fishing within their EEZ.¹¹⁴ This means that all foreign fishing vessels must obtain access license to fish within the WCPO region. Under license provision, all Pacific SIDS adopted a common license form to help them monitor the activities of the DWFNs, especially transshipment. The MTCs prohibit transshipment by licensed foreign fishing vessels unless the vessel is a licensed

¹¹⁴ FFA, "Minimum Terms and Conditions of Fisheries Access in the South Pacific," Paper presented to the Pacific Latin-American--Pacific Islands Nations International Fisheries Conference, Lima, Peru, September 26 - October 1, 1988, Honiara: Forum Fisheries Agency Report No. 88/60, 1988.

group seiner.¹¹⁵ Other vessels can only transship at designated ports. Overall, all foreign fishing vessels must give full access to authorized officers from the licensing State to the vessel's log books and catch records at a regular interval. In agreeing to these arrangements, the DWFNs acknowledged that the Pacific SIDS has 'sovereign rights' over the tuna resources.

II. Regional Register of Foreign Fishing Vessels

To assist Pacific SIDS enforce their Minimum Terms and Conditions (MTCs), it was agreed that the regional register to be administered by the Director of FFA. In 1983, the Regional Register was taken up by FFA, has been developed into a regional database holding information about the vessel owners, operators, masters and provides a history of any changes in that information occurring over the years.¹¹⁶ The database also holds information relating the physical characteristics of the vessels, its base port, fishing master, vessel master and owner. The main intention of the regional register is to shift the burden for compliance on to the flag State or fishing association. Hence, the fundamental requirement of the Regional Register is that before any foreign fishing vessel can be licensed, it must be in good standing. Good standing is a status which is automatically conferred on a vessel upon registration. The status may be withdrawn or suspended in certain circumstances, including where the vessel has committed a serious fishery offence. Once good standing is withdrawn or suspended, the vessel is effectively prevented from fishing in the region.

III. Treaty on Long driftnet Fishing

In the mid 1980s, fishing with large-scale pelagic driftnets became an issue in the Pacific Islands region. Fleets from the republic of Korea, Japan and Taiwan started

¹¹⁵ FFA, "Record of Proceedings 18th Meeting of the Forum Fisheries Committee, Nauru, April 22-2 May, 1990," Honiara: Forum Fisheries Agency Report No. 90/46, 1990.

¹¹⁶ David Doulman and Peter Terawasi, "The South Pacific Regional Register of Foreign Fishing Vessels", *Marine Policy* 14(4) (1990): pp. 234.

fishing with nets that, in some cases, were up to 60 kms in length.¹¹⁷ This issue was also brought before the United Nations in 1991 by FFA members and the UN General Assembly adopted resolution 46/215, prohibiting pelagic long driftnet fishing.¹¹⁸ As a result, an international moratorium was declared on large-scale pelagic driftnet vessels and, to date, there has been no report of any fishing using this type of method since 1991 in the Pacific region.¹¹⁹

IV. Niue Treaty on Cooperation in Fisheries Surveillance and Law Enforcement in the South Pacific Region

In 1992, illegal fishing was still an ongoing issue. The problem was that some vessels committing an infringement in the EEZ of one country and then continuing to fish with impunity in the EEZ of another member. The Pacific SIDS realized that the only way to prevent such infringements was to harmonize their monitoring and surveillance efforts at the regional level, so any vessel moving from EEZ to EEZ could be easily monitored. In response, the Pacific SIDS met in Niue and signed the Niue Treaty on Cooperation in Fisheries Surveillance and Law Enforcement, giving way for an effective mechanism to prevent illegal fishing and infringements in the South Pacific.¹²⁰ The treaty allowed all Pacific SIDS to cooperate in the enforcement of their fisheries laws and regulations and to develop regionally agreed procedures for the conduct of fisheries surveillance and law enforcement. The Treaty also served to deter unauthorized fishing by both regional and DWFNs. Reassessment of this treaty was carried out in 2001 as it was found that the pace of its implementation has been slow, for instance, in the Western Pacific, only one Subsidiary Agreement between the Federated States of Micronesia, Marshall Islands and Palau is in force under the treaty.

¹¹⁷ This fishing type was completely non-selective, and its impact on the ecosystem was unknown.

¹¹⁸ The UN General Assembly among other things, call on all members to ensure global moratorium on all large-scale pelagic driftnet fishing was implemented on the high seas, including enclosed seas and semi-enclosed seas, by 3 December 1992.

¹¹⁹ FAO who reports to the UN General Assembly annually has reported none of this type of method been used any where, and in fact this type of fishing has been eliminated from the world's oceans.

¹²⁰ The Treaty was addresses: a) general cooperation, b) cooperation in the implementation of the harmonized minimum terms and conditions of fisheries access. The Treaty has been ratified by Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga and Vanuatu.

V. U.S. Fisheries Multilateral Treaty

The U.S. Fisheries Multilateral Treaty (officially referred to as ‘treaty on fisheries between the Government of certain Pacific Island Countries and the Government of the United States’) which was concluded under the auspices of FFA in 1987 provides a classic example of how conflicting interests between DWFNs and the coastal states could be reconciled.

The treaty, which came into existence against a backdrop of a U.S. policy of non-recognition of sovereignty over the highly migratory species like tuna, could be said to have been very successful in reconciling the political, legal and economic conflicting interest over the sovereign right issue over the highly migratory tuna species. This is clearly demonstrated through the treaty’s 12 Articles, 2 Annexes and 10 Schedules which laid down the legal framework by which fishing activities by the United States as a distant water-fishing nation shall be conducted.¹²¹ Beside that, in equal terms, it also provided, through 14 separate articles within the treaty a structure regarding how the Pacific Island Nations shall implement and administer the treaty.¹²²

The fulfillment of each party’s responsibilities are designed to be implemented through cooperation, and compliance on both sides was guaranteed through an incentive provision created through the treaty’s financial benefit distribution formula (which allows for all Pacific SIDS members to receive funds from the U.S. government regardless of whether the U.S. fleet fished in their EEZ or not, whilst at the same time fairly compensated the members whose waters the U.S. fleet has carried out fishing according to catch volume) and access conditions for the US fleet which gave them a reasonable access right to all the EEZ of the member countries.¹²³

¹²¹ R. H. Dorah, 2004, “Analysis of the reconciliation of the conflicting interest of the distant water fishing nations and the coastal states, a case study of the treaty of fisheries between the government of certain Pacific Island countries and the government of the United States of America”, (unpublished MA thesis), University of the South Pacific, Suva, Fiji, p.111.

¹²² Ibid. This was agreed to be done cooperatively through the auspices of the South Pacific Forum Fisheries Agency (FFA) based in Honiara, Solomon Islands. This is because all the Pacific Nations who are party to the treaty are also party to the FFA.

¹²³ Op. cit p. 117-118

The strength of the treaty lies partly in the financial distribution formula, access rights and monitoring, reporting and surveillance obligations, and the administration of the treaty. For instance, the formula allows the Pacific SIDS to gain financial benefits on an equal basis regardless of the country's size, and fishing activity. Furthermore, the formula allows equal sharing of 15% of the total yearly financial package from the U.S. government and U.S. Tuna boat Association, and to compensate the countries in whose EEZs the U.S. vessels have fished, the remaining 85% of the funds are distributed according to catch volume.¹²⁴ This provision offered an incentive for Pacific SIDS to cooperate in fulfilling their obligations under the treaty willingly.

On the access conditions, the treaty allows the U.S. to fish in all the EEZ of the Pacific SIDS, however, in doing so, the U.S. vessels are obliged to uphold the Flag State responsibility accorded by UNCLOS. All U.S. vessels are required to perform catch, time and position reporting on a regular basis to Forum Fisheries Agency (FFA), and in turn the FFA informs the member states.¹²⁵ In addition, each party is to report any breach of obligation from their side, followed by a process of consultation and subsequently a dispute settlement will be sought.¹²⁶ Having access rights tied to obligations of flag state responsibilities provides the assurance of fisheries management. Transparent dispute settlement procedures and clear conciliation processes provides a safe environment for investment to thrive.

On the administration side, the treaty is administered by the Forum Fisheries Agency, an agency with highly specialized personnels, and stand neutral from national politics of its Pacific SIDS members. This position allows both the United States government and U.S. Tuna boat Association to build confidence in the way the funds are being managed and distributed.¹²⁷

¹²⁴ Op. cit. p. 120-121.

¹²⁵ Op. cit. p. 123.

¹²⁶ Op. cit. p. 124.

¹²⁷ Loc. cit. p. 120.

Sub-regional Arrangements

I. The Nauru Agreement Concerning Co-operation in the Management of Fisheries of the Common Interests, 1982.

The Nauru Agreement came about from a strong desire by its members concerned with optimum utilization of the tuna resources. The growing need to regulating foreign fishing within the rich tuna waters of these countries culminated in the signing of the agreement in February 1982.¹²⁸ The indirect purpose behind this agreement is to allow member countries to work towards developing their domestic tuna industries with out prejudice to the foreign investors. A step towards realizing that objective was to have a harmonized framework for the coordination of tuna development and management in the parties EEZs.

As a consequence, common policies were then adopted concerning minimum terms and conditions for access to EEZs by DWFNs. In doing so, the Agreement recognizes the need for optimum utilization of the resource through sub-regional cooperation. As stated in article 1 of the Nauru Agreement, 'parties have a duty to seek without derogation of their respective sovereign rights, to coordinate and harmonize the management of tuna'.¹²⁹ In harmonizing their access terms and conditions on a sub-regional basis, the agreement aimed to foster greater cooperation in the optimum utilization of the tuna resources within their EEZ.

¹²⁸ Nauru Group is a subset of the FFA members. Members are: Kiribati, Marshal Islands, Nauru, Palau, Papua New Guinea, Solomon Islands and later Tuvalu joined.

¹²⁹ Nauru Agreement, Preamble para. 4. See David Doullman, (1987), "Fisheries Co-operation: The Case of the Nauru Group", David J. Doullman (ed), *Tuna Issues and Perspectives in the Pacific Islands Region*, (Honolulu: East-West Centre, 1987): pp. 257-271. For a comprehensive analysis of the Nauru Agreement see T. Aqorau and P. Lili, "The Nauru Agreement - the First Decade, 1982-1992: A Review of the Aims and Achievements of the Parties to the Nauru Agreement Concerning Co-operation in the Management of Fisheries of Common Interest", (Honiara: Forum Fisheries Agency Report No. 93/11, 1993); F. Amoa and M. Lodge, "The Implementation of the Minimum Terms and Conditions of Access through Legislation by Parties to the Nauru Agreement", (Honiara: Forum Fisheries Agency Report No. 93/50, 1993).

The existence of the Nauru group has been supportive in the 1980s and 1990s not only towards its own members, but also to the rest of the FFA members.¹³⁰ In fact, it is in the EEZs of these countries that tuna is highly abundant due to highly favorable and conducive environmental conditions.¹³¹

II. The Palau Arrangement for the Management of Purse Seine Fishery in the Western Pacific

In 1982, the Nauru group recognized that the number of purse seiners operating in the region has increased dramatically and were concern about the likely negative impacts such increase may have on the tuna stocks and which may impact on the revenue from licensing fees. In fact, the group was desiring to increase the revenue collection from purse seining. To do so, the Nauru group concluded the Palau Arrangement for the Management of Purse Seine Fishery in the Western Pacific and the arrangement entered into force in 1994.¹³² The purpose of this Agreement is to facilitate formal cooperation related to the number of licenses to be issued to purse seine vessels of individual fleets to fish in the EEZ of the Nauru Group members.¹³³ Technically, the group decided to put a limit to the number of licenses granted to each foreign fleet per fishing period in an attempt to create competition for access. As calculated, eventually the limiting of the allocation of licenses for purse seiners drove the access prices upwards, which increase the revenue collection capacity for each party. Subsequently, it also allows control over the harvesting capacity of the tuna stocks.

¹³⁰ This conditions and minimum terms adopted by the Nauru group now being adopted by the FFA and its wider membership.

¹³¹ See Chapter 2, science of tuna: This area is an upwelling (mixing) area, where nutrients from the seafloor is transported upwards thereby attracting phytoplankton and fish bates for tuna;

When the Nauru Group was being established, there was a fear that it would split the FFA into halves and have-nots with regards to tuna abundance. However, did not occur, and indeed in the 1980s and 90s, the Nauru Group served to strengthen regional cooperation and to facilitate a greater and fairer financial return from their access agreements with DWFNs.

¹³² The Palau Arrangement has been signed by FSM, Kiribati, Marshall Islands, Nauru, Palau and Papua New Guinea.

¹³³ The Arrangement was also meant to build confidence in the PICs local industry in enhancing their capability.

While the Palau Arrangement could be said to be relatively successful in limiting the number of vessels however, a number of critical issues were soon discovered to be undermining the tuna management purposes of the arrangement.¹³⁴ In response to those issues, the parties to the Nauru Agreement underwent a comprehensive review in 2000, recommending a change of scheme to limits on vessel days by zone.¹³⁵ The recommendation was accepted by the parties, and has agreed to replace the limits on vessel numbers by fleet in the Arrangement with limits on purse seine fishing days in the waters of each Party. To limit the purse seine fishing days, it was recommended that a Management Scheme called the Vessel Day Scheme (VDS) would be devised.¹³⁶

The so called VDS concept proposes an arrangement that uses fishing days as a new basis for limits, and that allocation of total fishing days¹³⁷ will be made among the parties and each party will be free to license whom they wish within the limits of the number of days that would have been allocated. Technically, VDS will operate to limit the total number of fishing days in the Vessel Day Scheme Management Area (“the Area”), with each Party allocated an annual number of fishing days. That annual allocation will be determined by reference to biomass and historic catch. The outcomes foreseen by putting a limit on fishing activity based on “day” basis with reference to historic catch and biomass would be economic and biological sustainability.¹³⁸ Such outcome is possible by controlling the level of fishing effort by purse seine vessels within

¹³⁴ According to FFA, 2005, “Brief on the Vessel Day Scheme”, Attachment A, Honiara, p.3, found that the following problems were identified as making the Palau Agreement ineffective;

- the Arrangement locking in vessel limits by specific fleets, and making it difficult to change these levels or introduce new fleets
 - the need for a more effective measure to limit fishing mortality in the light of sustainability concerns related to bigeye as well as yellowfin; and
- the fact that the allocations by fleet could undermine the position of Parties and other FFA members in future on allocation at the Commission level.

¹³⁵ Ibid. p.4.

¹³⁶ FFA, 2004, “Vessel Day Scheme”, Parties to the Nauru Agreement Twenty Third Annual Meeting, Record of the proceedings, Tarawa, Kiribati 17-18 May, 2004, p.11 noted that the key issues associated with this scheme are:

- a limit on purse seine fishing in the zones of other states
- a limit on purse seine fishing in the high seas
- measures to reduce purse seine catches of big eye and yellowfin tuna, especially juveniles
- longline management and;

Limits on Indonesian and Philippines fisheries

¹³⁷ A “fishing day” is defined to be a calendar day spent by a purse seine vessel undertaking fishing activities in the Area

¹³⁸ FFA, 2005, “Brief on the Vessel Day Scheme”, Attachment A, Honiara, p.4

limits consistent with resource sustainability and thereby increasing economic benefits to resource-owning states and economic returns to participating vessel owners.¹³⁹

On the issue of fishery biological sustainability, the Vessel Day Scheme would tremendously enhance the recommendation made by the Pacific Fishery Scientific Coordinating Group that in the immediate future, a practical immediate management option would be to ensure there is no increase in fishing mortality on bigeye tuna, and to reduce the risk of harvesting the yellowfin tuna (particularly on juvenile yellowfin) in the WCPO region.¹⁴⁰ In doing so, member states are being called to exercise reasonable restraint in the expansion of fishing effort.

It is therefore possible that by applying the VDS management mechanism, there is high probability that tuna fishing mortality would be reduced, while at the same time, Pacific SIDS would increase their rents on their EEZs. As envisaged, VDS would dramatically prepare the Pacific SIDS to work closely with the newly established tuna Commission on managing fisheries both within the EEZs and on high seas. At the time of writing, an MOU to operationalize VDS is ready for signing pending some members to accede, and thereby allowing the mechanism to enter into force by May 2006.¹⁴¹

III. The Federated States of Micronesia Arrangement for Regional Fisheries Access

In 1994, the Nauru Group felt that their domestic vessels had been ignored in terms of access within their own waters.¹⁴² To take care of this need, the Federated States

¹³⁹ Loc. cit.

¹⁴⁰ Loc. cit.

¹⁴¹ The author was present in this meeting as part of the Solomon Islands official delegation to the Nauru Group Meeting and the WCPFC meeting held in Pohnpei, FSM. The author is then regional economic cooperation assistant secretary, Department of Foreign Affairs, Solomon Islands. This meeting was also chaired by the Hon. Minister, Mathias Taro, Minister for Fisheries of Solomon Islands. In this meeting only Palau was not ready to sign the VDS MOU pending on some national issues however, that could not hold the rest of the members from signing the MOU which was signed by the rest of the group.

¹⁴² FFA, "Record of Proceedings of the Multilateral High-Level Conference on South Pacific Tuna Fisheries, Honiara, Solomon Islands, (5-9December 1994), FFA Report 95/1: p.31 In his report to the Multilateral High-Level Conference on South Pacific Tuna fisheries, 1995, Honiara; Mr Felix Kun (Chairman of the Tenth Special Ministerial Level) Session of the parties to the Nauru Agreement pointed out that in concluding the FSM Arrangement, the parties have in mind that;

“ the focus...was the further development of the region’s domestic and locally based tuna industry...[to] support the operations of existing domestic purse seine vessels, promote employment opportunities for

of Micronesia Arrangement for Regional Fisheries Access was concluded and ready for signing in November 1994.¹⁴³ The purpose of this arrangement was providing an avenue whereby the domestic fleets owned and run by party members could increase their operations. It was identified that to further that interest, the FSM arrangement would have to provide a mechanism whereby the parties' domestic vessels could register on the regional register of Eligible Vessels, maintained by the FFA.¹⁴⁴ In practice, once vessels are on the register, they can apply for an FSM Arrangement license, which entitles them to fish in any waters of the parties to the arrangement. The criteria set out in the FSM Arrangement for eligibility was through a minimum points system, which vessels that apply must meet, in order to obtain a license.

In essence, the FSM arrangement was tailored to support the growth of the domestic tuna industries by linking them link them to the benefits of the larger grouping. In doing so the arrangement allows the party members to increase operation among them more freely, and improve catch levels.

nationals in the region and encourage foreign purse seine owners, currently operating under bilateral access arrangements to restructure their enterprises to become locally based in the region ”.

¹⁴³ Parties to the FSM Arrangement are : FSM, Kiribati, Marshall Islands, Nauru, Palau, Papua New Guinea and Solomon Islands.

¹⁴⁴ T. Aqorau and A. Bergin, "The Federated States of Micronesia Arrangement for Regional Fisheries Access", *International Journal of Marine and Coastal Law* 12(1) (1997): pp. 37-80. The main provisions of this arrangement are:

- To cooperate to secure, for mutual benefit of the parties, the maximum sustainable economic benefits from exploitation of tuna resources of the Central and Western Pacific;
- To promote greater participation by nationals of the Parties in fisheries and assist in the development of national fisheries industries of the Parties;
- To established a licensing regime under which fishing vessels of the parties may gain access to the waters within the Arrangement Area on terms and conditions no less favourable than those granted by the Parties to foreign fishing vessels under bilateral and multilateral access agreements;
- To established and enforce agreed criteria to ensure that only those fishing operations which are capable of providing genuine and quantifiable economic benefits to the Parties are eligible for licenses pursuant to this Arrangement;
- To allow access to the exclusive economic and fisheries zones of the Parties by purse seine fishing vessels on terms and conditions which are consistent with the provisions of the Palau Arrangement for the Management of the Western Pacific Purse Seine Fishery; and

To further the objectives of the Nauru Agreement Concerning Cooperation in the Management of Fisheries of Common Interests.

IV. Tuna Management Plans

The Tuna Management Plans were a subset of the Nauru and FSM tuna management arrangements. In fact, it precedes the vessel day scheme arrangement, except that it is designed to be more broadly based. Effectively, it tries to address the issue of increase revenue through tuna licensing arrangements based on a “designated area” management approach. For instance, in 1997, Solomon Islands, the first Pacific SIDS to establish such a tuna management plan, enacted a new Fisheries Act and drastically enacted a reduction in the tuna quotas in line with catch levels. It limit the number of licenses, regulates catches, calls for access agreements with foreign ships, restrict areas that can be fished, forbids transshipment at sea, and insist on the use of vessel monitoring systems (VMS) on most fishing vessels.¹⁴⁵

The aim is to control the process of license issuance thereby controlling the number of vessels being licensed. The plan allows a wide range of stakeholders including the government, private sector industry and non-government organizations.¹⁴⁶ It was observed that the plan has some positive signs to the private sector in terms of transparency in the process of government decision making affecting the tuna industry; stability in policies affecting the tuna industry; and establishment of government/industry consultative mechanisms.¹⁴⁷ In 2000, similar management plans have been formulated for Palau and Vanuatu, and the rest of the region was expected to follow.

V. Conclusion

Analysis on environmental, geographical, socio-economic set up of the Pacific region, reveals a unique setting in which certain conditions exerts limits on progress of regional initiatives. Most of these conditions emanated from the geographical, environmental,

¹⁴⁵ J.Robinson, *ibid*.p13.

¹⁴⁶ *Loc. cit.*

¹⁴⁷ R. Gillett, Domestic Tuna development industry in the Pacific Islands: The current situation and considerations for future development assistance, Gillett, Preston and Associates INC, FFA Report 03/01, January 2003. p.24

socio-economic and political settings. These conditions characterized the environment in which regional initiatives must operate in the Pacific region. The development of the regional ocean policy and the challenge for implementation must take into consideration such issues if it is to be effective.

PART IV

The Development and Formulation of the Pacific Regional Oceans Policy

I. Introduction

The Pacific Small Islands Developing States (SIDS) stand on the threshold of implementing the newly developed Regional Oceans Policy (PIROP), however, the issues they stand to face are complex than ever before. Regionalism, as demonstrated in earlier chapters has been a remarkable achievement in effectively dealing with fisheries development, management and conservation through regional cooperation. Today, the sectoral approach type approach of regional cooperation is rendering it weak and ineffective in responding to the newly emerging cross cutting issues lies within and beyond national jurisdiction. It demands new ways of policy advocacy that transcend sectors and national boundaries in a way that may not necessarily weakened national capacities and sovereign rights, but rather, build upon them.

The development of the Pacific Regional Oceans Policy is a new development that resulted from successive waves of consultations, meetings and summits at the regional levels in the last decade. The leaders of the Pacific Island Countries (SIDS) have come to realize the urgency of the need to prevent unsustainable harvesting of the ocean living resources and the need to find ways of responding to those new frontiers of the continental shelf and the high seas. Over the last decade, an overarching theme in the oceans management and development discussions of the Pacific leaders at the national, regional and United Nations level was on integrated approaches to management of ocean resources.¹⁴⁸ As a result, in 2001, the Pacific Region adopted a Regional Oceans Policy and a supporting Implementation Action Plan. Today the challenge is how to carry this regional framework to implementation at the national level. The objective of this chapter is to analyze the evolution and the development of the Pacific Regional Oceans Policy

¹⁴⁸ Seremaia Tuqiri, 2001, Overview of an Ocean Policy for the Pacific Islands, Information Papers, Summary of the Pacific Islands Regional Oceans Forum, The Council of Regional Organizations of the Pacific, p.10. (sited 19th of September, 2006), available from: <http://www.spc.int/piocean/forum/Info%20papers/1%20Overview%20of%20Ocean%20Policy%20-%20Seremaia%20Tuqiri.pdf>

and its associated Pacific Islands Regional Oceans Framework for Integrated Strategic Action (PIROF-ISA) to ascertain its effectiveness as a model for Integrated Regional Oceans Management in the Pacific region.

II. Evolution of the Pacific Regional Oceans Policy Framework

The later quarter of the 1990s saw increasing efforts both at the regional and international level towards integrated ocean management and ocean governance. Pacific leaders begun to be vocal during regional meetings about the need to find integrated approaches to respond to the challenges pose by the development in the oceans. For example, the 1995 SPOCC Review on Institutional Arrangements in the Marine Sector, 1998 Pacific Regional Submission to the United Nations Commission on Sustainable Development, 1999 Pacific Workshop on the Implementation of the United Nations Law of the Sea Convention (UNCLOS), and the 30th Pacific Island Leaders Forum in Palau in 1999 have all called for some coordinated and integrated Marine Sector approaches to ocean Management.¹⁴⁹ In fact, the 1999 Pacific Leaders Forum in Palau went further by calling for the development of a regional oceans policy and integrated national oceans policies.¹⁵⁰ (Please refer to table 4.1 below)

Concerns by the Pacific leaders gain momentum when international support heightens. Starting in 1994 the year UNCLOS entered into force, then in 1995 the UN Fish Stock Agreement was concluded, then in 1998 Year of the Oceans, and followed by the opening of the United Nations Open Ended and Informal Consultative Process and the signing of the Oceans Charter in 1999. All of these actions were all in the same direction, pointing towards finding integrated ways to managing the oceans.¹⁵¹ (See Table 4.2 below). The Pacific Small Island Developing States (SIDS) were increasingly concerned about the cross-cutting issues of ocean development, management and conservation issues on the one hand, and the lack of effectiveness in their current conventional sectoral approach to management on the other. Equally, it was also

¹⁴⁹ Loc. cit.

¹⁵⁰ Loc. cit.

¹⁵¹ Loc. cit.

recognized at the conclusion of the UN Fish Stock Agreement (UNFSA) that there was a need to provide assistance to developing States

Table 4.1 Development at the regional level towards the Pacific Regional Oceans Policy

Year/ Event	Significant Action Taken
1995: Release of SPOCC Review of Institutional Arrangements in the Marine Sector, Final Report July 1995.	Review all marine sector Organizations Highlighted areas of overlap, and addresses ways and means of achieving efficiencies Highlighted the need for greater integration and coordination Underscored the achievements of PICs in regional approaches to marine management
1998: Regional Submission to the United Nations Commission on Sustainable Development	Highlighted the growing awareness of the importance of coordinated and integrated regional marine sector actions in an area of scarce financial and human resources
1999: Pacific Regional Follow-up Workshop on the Implementation of UNCLOS, Tonga	Recommend the adoption of a Regional Oceans Policy and Integrated Policies at the regional Level
1999: 30th Pacific Island Leaders South Pacific Forum, Palau, 3-5 October 1999.	Endorsed the development of a Regional Oceans Policy and Integrated National Oceans Policies at the regional level

Source: Seremia Tuqiri (2001), p.9

either directly or through some of the competent UN Agencies like FAO, UNDP, Global Environmental Facility (GEF), the Commission on Sustainable Development and other appropriate regional and international organizations and bodies.¹⁵² Article 25 of UNFSA envisaged a specific form of cooperation between the least developed, the developing coastal states and the Distant Water Fishing Nations (DWFNs) in a way that encourages

¹⁵² Op. cit. p. 46.

the enhancement of the ability of the least developed States to conserve and manage straddling and highly migratory fish stocks, while assisting their national fisheries development initiatives.¹⁵³

Table 4.2: Developments at the United Nations Level towards the Pacific Regional Oceans Policy

Year / Event	Significant Action Taken
1992: UN Commission on Sustainable Development	Focused attention on small developing states
1992: Chapter 17, Agenda 21 of UNCED	Integrated approaches and regional approaches
1994: United Nations Law of the Sea Convention entered into force	Impose obligation on all member states to take certain measures at the national and regional level as a matter of international law
1995: UN Fish Stocks Agreement ¹⁵⁴	Recognized the special requirements of developing states in relation to the management of straddling and highly migratory fish stocks and the development of such fisheries for such stocks.
1998: International Year of the Ocean	Provided impetus for improving ocean governance arrangements world wide
1999: UN-Open Ended and Informal Consultative Process (UNICPOLOS)	Discussed a range of ocean management issues
1999: Signature of the Ocean Charter by over 60 countries	A statement of principles

Source: Seremia Tuqiri (2001), p.9.

Pacific Islands Developing States welcomed the UNFSA and quickly sought to facilitate its implementation because it was taken to mean greater cooperation in assisting them secure their participation in the high seas fisheries through their existing regional and sub-regional fisheries arrangements. The coming into force of UNFSA had broadened the scope for cooperation to a wide range of agencies and organizations and importantly, it includes the World Bank through its Global Environment Facility (GEF) funding

¹⁵³ Op. cit. p. 47.

¹⁵⁴ Alfred M. Duda, “ Toward Ecosystem-Based Approaches to Management: Global Environment Facility Support at Different Scales for Large Marine Ecosystems”, summary of a paper presented at The Third Global Conference on Oceans, Coasts, and Islands, Moving the Oceans Global Agenda Forward, January 23-28, 2006, UNESCO, Paris, p.46.

program which reflects the growing awareness of the need to respond to the crosscutting nature of the ocean.¹⁵⁵ At this juncture, it is worth mentioning that it was under UNFSA that the Pacific SIDS negotiated and assist the establishment of the Western Central Pacific Tuna Commission (WCPO).¹⁵⁶

Pacific leaders saw the need to implement UNCLOS as a matter of urgency. In 1999 the Pacific Forum endorsed a recommendation to further implement the provisions of 1982 LOSC and to develop a regional oceans policy (PIROP).¹⁵⁷ The task was allocated to the CROP Marine Sector Working Group which drafted the policy and was finally endorsed at the 33rd Pacific Islands Forum in 2002.¹⁵⁸ It should be noted here that as a way of gaining support for the implementation of PIROP, the policy was presented at the World Summit of Sustainable Development (WSSD) in Johannesburg as a Pacific type two initiative.¹⁵⁹ The leaders of the Pacific recognized the need to develop an integrated approach in the management of ocean resources to promote sustainable development. A further step in the right direction is to establish a Pacific regional ocean

¹⁵⁵ Loc. cit.

¹⁵⁶ Pacific SIDS under UNFSA staged a series of Multilateral High Level Conferences since 2000 aimed at working towards the establishment of the Western Central Pacific Tuna Convention. The convention incorporate 'principles and measures for responsible and sustainable fisheries management, and addressed the biological unity of the stocks and provides a framework for cooperation between states, and defining and elaborating their legal rights, duties and responsibilities.

See S. Tarte, *'Small Islands; Big Fish': The international politics of tuna management in the western and central Pacific*, Technical Report, 2001/4, Marine Studies, University of the South Pacific Suva.pp.3-12. The Principle features of the Convention are:

1. to ensure, through effective management, the long term conservation and sustainable use of the highly migratory fish stocks in the western and central Pacific, in accordance with UNCLOS and UNFSA: this will apply to all the EEZ of parties in the WCPO region and to the high seas areas, but 'with out prejudice" to the sovereign rights of coastal states over their EEZ.
2. Convention establishes a Commission that can determine conservation and management measures for the highly migratory fish stocks throughout the convention area: Also establishes a Secretariat, to operate according to the principle of cost effectiveness and with staff appointed on the basis of their scientific and technical qualifications
3. The Commission shall be responsible for; a) determining the total allowable catch (TAC) in the convention area, b) adopting standards for the collection and exchange of data on fishing in the convention area, c) ensure compatibility of conservation and management measures between high seas and EEZs, d) establishing appropriate compliance and enforcement mechanisms, e) develop criteria for allocation of total allowable catch (TACs), taking into account different factors such as catch history and the needs of small island developing states.

¹⁵⁷ Mary Power, "Implementing the Pacific Islands Regional Oceans Policy, A rapid assessment on the Status of Ocean and Coastal Management in the Pacific Islands Region with recommendations for immediate priority actions", in the Third Global Conference on Oceans, Coasts, and Islands (2006), January 23-28, 2006, UNESCO, Paris. p. 3-6

¹⁵⁸ Op. cit. p.3-6

¹⁵⁹ Loc. cit.

policy (PIROP) as they could foresee the important role a regional oceans policy could play in promoting and coordinating ocean management issues both at the regional and national level.¹⁶⁰

III. Policy Development Process

A. Policy Environment

The development of the Pacific Regional Oceans Policy was in part a response to the fact that ocean resources development, management and conservation is increasingly complex and integrated than it has been. It offered immense challenges to the current regional sectoral practice that does not allow cohesion at the regional level to effectively deal with the cross cutting issues in the ocean and marine sector in general. Different intergovernmental regional governmental organizations that have been set up have over the years have developed their sectoral jurisdiction over certain marine spheres and often compete for dominance. As pointed out in chapter three, such competitions often weaken regional efforts and undermines regional cohesiveness. This is the background against which the Pacific Regional Oceans Policy Framework was developed.

The departure of the newly developed regional oceans policy framework was quite different from the current regional discourse in that it intends to occupy the center stage anew, seeking to integrate an unprecedented number of issue areas into a single coordinated approach. Pacific regionalism in general, have always resorted to a coordinated form of cooperation with a clear and complete separation of responsibilities between the regional domains and national governments with regards to the exercise of sovereign juridical powers accorded by UNCLOS .Within the regional domain itself, cooperation have been further sectionalized and in many ways resulted in poor allocation of responsibilities, competition and duplication.¹⁶¹ Overtime, this has developed into the

¹⁶⁰ Op.cit. p. 11.

¹⁶¹ A classic example of poor allocation of programs is that for a longtime the Maritime Boundary Delimitation and Extended Continental Shelf project has been with the Forum Fisheries Agency an agency whose specialization is in fisheries and has little to do with the actual delimitation of maritime boundaries and extended continental shelf. In this way, this issue of maritime boundary and extended continental shelf

contemporary cooperative form of regionalism marked by sectionalism. Such background, in a different magnitude, and in part may cause the same difficulties observed in the case of the development of the Australian Regional Oceans Policy that:

Vertical and horizontal asymmetries provide significant points of friction already within Australian federalism but the development of an affective oceans policy appears to have opened a new wrinkle as the commonwealth seeks to take leadership of this policy area without taking over full (financial) responsibility.¹⁶²

Like the case of Australia, the development of the Pacific Regional Oceans Policy was set against a backdrop of sectoral spheres that have never been subject to a regional overarching integrated single entity. The notion of integration imbedded in the naissance of ocean policy clearly runs contrary to current regional policy methodology in the Pacific, especially when the rationale behind the oceans policy is seeking to penetrate across all sectors and jurisdictions in an attempt to overcome the limitations imposed by the current national and regional management frameworks. The same concern was also raised in the critics on the future of the Australian oceans policy, although its main target is the federal government and not regional intergovernmental organizations like in the Pacific. Herr and Howard pointed out that:

The oceans policy is...a significant departure from traditional management arrangements... aims to overcome problems and limitations, particularly those imposed by federalism, which could constrain appropriate, sustainable and rational use of Australia's marine resources.¹⁶³

Furthermore, another issue of concern is the fact that in the Pacific, the regional setting is based on voluntarism and consensus. The challenge is whether the current

has been delayed and lately it has just been transferred to SOPAC, the organization charged with geosciences.

¹⁶² Herr R and M. Haward, 2001, Issues in Implementing Australia's Oceans Policy, Cooperative Research Center for Antarctica and the Southern Ocean, Research Report, [cited on 20/5/ 06], available at: <http://www.acorn-oceans.org/IOM/policy.pdf>.

¹⁶³ Ibid.p.2.

regional oceans policy initiative could be widely supported by the Pacific states and to encourage them to implement it at the national level.

IV. Policy Process

A. Regional Process

The initiative for the process to develop the Pacific regional ocean policy was clearly derived from a regional review processes and its recommendation for an integrated and coordinated approach to managing the region's ocean and marine environment. In 1995 a review was commissioned and was undertaken by SPOCC on the institutional arrangements in the marine sector. This review process was aimed to critically analyze all marine sector organizations in the region and assess their effectiveness in service delivery. The outcome of the review commission reported that there was a need for greater integration and coordination in marine activities.

The call for an integrated and coordinated approach in the management of the marine resources in the Pacific gain momentum in 1998 when Pacific leaders submitted their regional support for the United Nations Commission on Sustainable Development.¹⁶⁴ This development reflect the growing awareness of the importance to set up an integrated marine sector that would effectively respond to the marine conflicting issues, a shift that led to much discussion among leaders. Since UNCLOS, WSSD is the second landmark event that brought to the fore the need to manage the natural resource base of economic and social development.¹⁶⁵ Furthermore, in a comprehensive way,

¹⁶⁴ Seremaia Tuqiri, 2001, Overview of an Ocean Policy for the Pacific Islands, Information Papers, Summary of the Pacific Islands Regional Oceans Forum, The Council of Regional Organizations of the Pacific, p.9. (sited 19th of September, 2006), available from: <http://www.spc.int/piocean/forum/Info%20papers/1%20Overview%20of%20Ocean%20Policy%20-%20Seremaia%20Tuqiri.pdf>

¹⁶⁵ Global Ocean Forum, "Voluntary Partnerships Initiatives from the 2002 World Summit on Sustainable Development and Small Island Developing States", p.2., [cited 25 September 2006], available from: <http://www.globaloceans.org/sids/pdf/SIDSPaper1Mar10.pdf>. Note the Pacific submission was based on JPoI which provides a blueprint for the implementation of the most urgent issues of Agenda 21. The document, containing 11 sections and 170 paragraphs, has the following six main dimensions:

- Cross-sectoral aspects (paragraph 30)

Pacific SIDS begun to see there was a growing support for issues of special relevance to them.¹⁶⁶ Chapter 17 of WSSD in particular recognizes that the “marine environment, including the oceans and all seas and adjacent coastal areas, forms an integrated whole that is an essential component of the global life support system and a positive asset that presents opportunities for sustainable development”.¹⁶⁷

As laid down in Programme C, Chapter 17 charges states to take effective action which includes bilateral and multilateral co-operation to ensure that high seas fishery resources are managed in accordance with the UNCLOS.¹⁶⁸ Pacific leaders welcome this because it will address the problems of the high seas with its associated problems (illegal unregulated and unreported fishing, overcapitalisation, excessive fleet size, vessel reflagging to evade controls, unreliable databases, insufficiently selective gear and lack of sufficient co-operation between states) through the promoting of the ecosystem based approach.¹⁶⁹ The birth of the ecosystem based management approach is a drastic departure from UNCLOS (jurisdictional one) in that is based on the combined principles

-
- Fisheries (31)
 - Biodiversity and ecosystem functions (32)
 - Pollution from land-based activities (33)
 - Maritime safety and marine pollution (34 and 35)
 - Science (35)

Radioactive wastes (35)

¹⁶⁶ Global Ocean Forum, “Voluntary Partnerships Initiatives from the 2002 World Summit on Sustainable Development and Small Island Developing States”, p. 2., [cited 25 September 2006], available from: <http://www.globaloceans.org/sids/pdf/SIDSPaper1Mar10.pdf>.

- Implementation of the Barbados Programme of Action (paragraph 58[a] and 61)
- Management of coastal areas and fisheries(58[b-c])
- Conservation of biodiversity (58[d][i])
- Management of freshwater (58[d][ii])
- Waste and pollution and associated health problems (58[e])
- Trade in small economies (58[f])
- Community-based sustainable tourism initiatives(58[g])
- Hazards, vulnerability and climate change (58[hj])
- Intellectual property rights (58[k])
- Energy (59)
- Health and sanitation (60[a-c])
- Poverty eradication (60[d])

¹⁶⁷ Agenda 21, Ch.17, at 17.1.

¹⁶⁸ Agenda 21, Chapter 17. 49

¹⁶⁹ This approach aimed at development of fisheries to meet human nutritional needs, taking into account traditional knowledge and small-scale fisheries; using selective fishing gear to minimise by-catch; and protecting endangered marine species and ecologically sensitive areas.

of cooperation, development and conservation in the efforts to manage the marine resources.¹⁷⁰

By the turn of the 21st century it was clear that Pacific leaders were convinced that the way ahead is to adopt the integrated approach in the management of Pacific region's marine resources. Consequently, in 1999 a regional workshop was convened in Tonga in an attempt to address the implementation of the Law of the Sea Convention. Concomitantly, with the leaders' strong conviction to fully implement the law of the sea convention, it was apparent that leaders seemed unanimously agreed on the development of an integrated regime. It came with little surprise in 1999 during the workshop in Tonga that the Forum leaders recommended the "...development of [a] regional integrated ocean policy with an overarching objective of ensuring the sustainability of [the] ocean resources".¹⁷¹ In the same year, at the 30th Pacific Islands Leaders South Pacific Forum which was held in Palau in October that the workshop recommendation was formally endorsed, paving the way for the redevelopment of the integrated oceans policy for the first time.¹⁷²

Overall, it was clear the major factor driving the Pacific SIDS towards the establishment of a regional oceans policy was the need to fully implement the United Nations Law of the Sea Convention (UNCLOS) and the post-UNCLOS initiatives. Importantly, UNCLOS concomitantly with Chapter 17 of the World Summit on Sustainable Development and its subsequent Barbados plan of Action offered the Pacific SIDS the opportunity to;

- ❖ ensure the sustainability of ocean resources
- ❖ integrated ocean uses
- ❖ meet international and regional obligations

¹⁷⁰ B.M.Tsamenyi, 1993, "Mechanisms for Integrated Resource Management, in Aqorau 1998, p.62.

¹⁷¹ Enele Sopoanga, 2003, "The Importance of the Barbados + 10 Assessment For Small Island Developing States", in Global Ocean Forum on Oceans, Coast and Islands Newsletter 1(2): 6-7, [cited on 27 September 2006], available from: <http://www.globaloceans.org/sids/index.html>

¹⁷² Seremaia Tuqiri, 2001, Overview of an Ocean Policy for the Pacific Islands, Information Papers, Summary of the Pacific Islands Regional Oceans Forum, The Council of Regional Organizations of the Pacific, p.9. (sited 19th of September, 2006), available from: <http://www.spc.int/piocean/forum/Info%20papers/1%20Overview%20of%20Ocean%20Policy%20-%20Seremaia%20Tuqiri.pdf>

- ❖ Put in place a framework for maritime boundary delimitation and extended continental shelf.¹⁷³

To operationalize the visions above would require a framework that is integrated oriented. This is where the newly developed regional oceans policy framework departed from conventional regional management frameworks. It was set to penetrate across conventional management sectors aimed at bridging the management gap. In doing so, according to Ambassador Sopoanga (Tuvalu) the policy would achieve the following;

- ❖ Consolidation of current achievements of regional Institutions
- ❖ Assistance to regional organizations in developing compatible and transparent oceans programs, and providing international leadership
- ❖ Provision of a highly effective framework for assessing and managing high-cost managerial technologies and infrastructure for ocean governance
- ❖ Avoidance of duplication of efforts
- ❖ Avoidance of politically and economically damaging demarcation or disputes
- ❖ Attracting donor funding on the basis of coordinated policies and longer term focus
- ❖ Assistance with improvement in capacity and confidence building
- ❖ Provision of a robust and consensual agreed reference point for developing national ocean policy
- ❖ Provision of a robust and consensual agreed reference point for developing and presenting regional positions at the international level.¹⁷⁴

Furthermore, the integrated nature of the policy have the potential to provide an environment for cross-sectoral management activities that are difficult to achieve under conventional management practices both at the regional and national level.¹⁷⁵

¹⁷³ Op. cit. p. 11.

¹⁷⁴ Enele Sopoanga, 2003, “ The Importance of the Barbados + 10 Assessment For Small Island Developing States”, in Global Ocean Forum on Oceans, Coast and Islands Newsletter 1(2): 6-7, [cited on 27 September 2006], available from: <http://www.globaloceans.org/sids/index.html>

V. Major Principles in Integrated National Ocean Policy

Whilst the evolution of the developments of ocean policies around the world have differed greatly from region to region and country to country, the major principles underlying their developments are somewhat similar. A report compiled by the Global Forum on Oceans, Coasts and Islands in January 2006 identified some key principles that were adopted by different regions and countries around the world which includes the following;

- ❖ Sustainable Development
- ❖ Integrated Management
- ❖ Ecosystem based Management
- ❖ Good Governance
- ❖ Adaptive Management/ Best Available Science
- ❖ Precautionary Approach
- ❖ Preservation of Marine Biodiversity
- ❖ Stewardship
- ❖ Multiple Use Management
- ❖ Economic, Social Development and Poverty Alleviation.¹⁷⁶

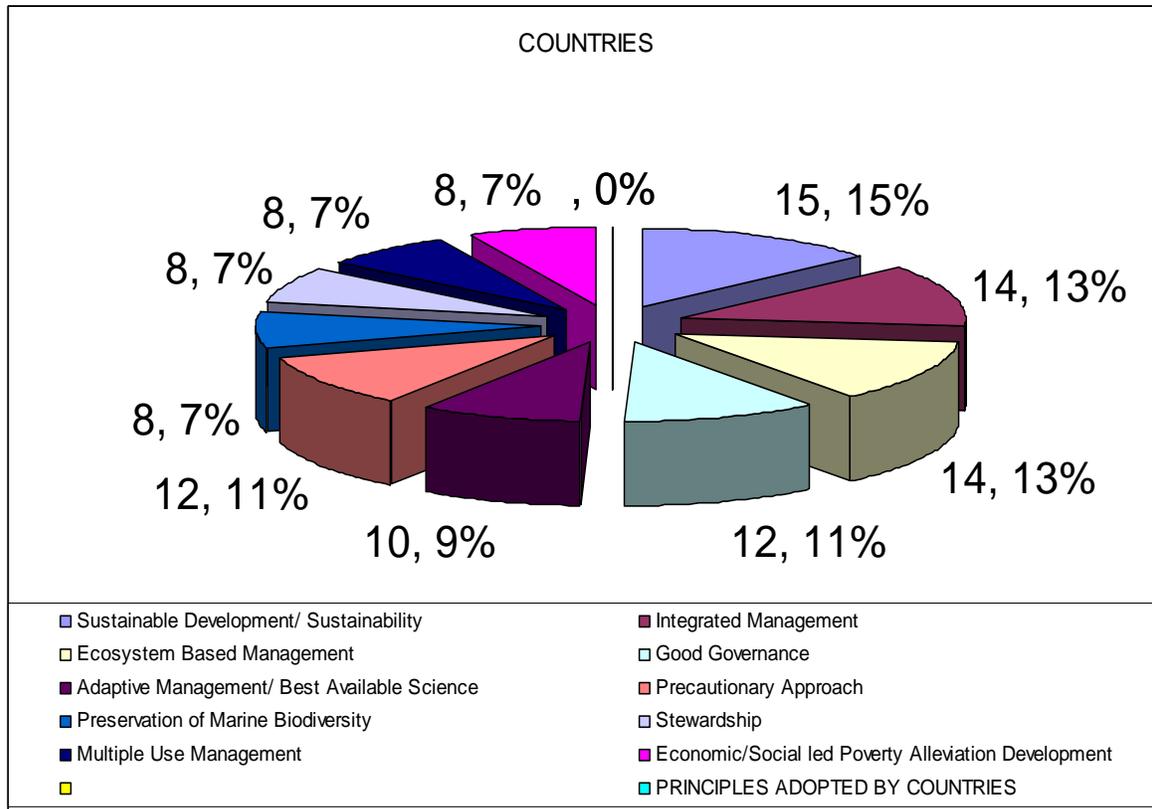
The adoption of different principles by different regions and countries also follows their priorities and major concerns over marine and land based resources. According to the Nippon Foundation Task Force report on National Oceans Policies 2006, sustainability was the most adopted principle, followed by integrated and

¹⁷⁵ Seremaia Tuqiri, 2001, Overview of an Ocean Policy for the Pacific Islands, Information Papers, Summary of the Pacific Islands Regional Oceans Forum, The Council of Regional Organizations of the Pacific, p.12. (sited 19th of September, 2006), available from: <http://www.spc.int/piocean/forum/Info%20papers/1%20Overview%20of%20Ocean%20Policy%20-%20Seremaia%20Tuqiri.pdf>

¹⁷⁶ Biliana Cicin-Sain, Veerle Vandeweerd, Patricio A. Bernal, Lindsey Williams and Miriam Balgos, *Meeting the Commitments on Oceans, Coasts, and Small Island Developing States Made at the 2002 World Summit on Sustainable Development: How well are we doing?* At the Third Global Conference on Oceans, Coasts, and Islands: UNESCO, Paris January 23-28, 2006, Center for the study of Marine Policy, Newark, Delaware, Vol (1) p.18.

ecosystem based management principles, then precautionary and good governance principle.¹⁷⁷ The principle of Stewardship, Preservation of Marine Biodiversity, Multiple Use Management and Socio-Economic and Poverty related principle ranked the lowest.¹⁷⁸ (Refer to the table below).

Fig.2. Global Assessment of the adoption of Principles in National Ocean Policies¹⁷⁹



In the case of the Pacific SIDS, the development process of the Pacific Regional Oceans Policy (PIROF) grew out of a strong desire for improvement in the management of the region’s ocean resources at the regional level. Specifically, the driving objective behind the process was the need for stronger cooperation among regional entities operating in the Pacific region in assisting member countries implement UNCLOS.

¹⁷⁷ Loc. cit.

¹⁷⁸ Loc. cit.

¹⁷⁹ Loc. cit.

Whilst regional cooperation has long been institutionalized in the Pacific region, the call to reexamine its current framework was widely supported due to the fact that Pacific leaders are concerned about the health of the Pacific Ocean.

The setting of the regional ocean policy was laid down by the first regional marine institutional review which took place in 1995 aimed at critically analyzing the effectiveness of all marine sector organizations. The review report revealed that there was a need for greater integration and coordination in marine activities.¹⁸⁰ The subsequent Pacific leader's submission to United Nations Commission on Sustainable Development in 1998 made aware the importance of setting up an integrated marine sector that would effectively respond to the marine conflicting issues. Between 2001 and 2002 a comprehensive consultation was undertaken by the Marine Sector Working Group (MSWG) of CROP and a regional ocean policy framework was drafted and was endorsed at the 33rd Pacific Forum. The PIROF official document highlighted the main set of principles for governing the Pacific Ocean by the Pacific SIDS, giving top priority to;

- ❖ Improving the understanding of the oceans
- ❖ Sustainably developing and managing the use of ocean resources
- ❖ Maintaining the health of the oceans
- ❖ Promoting the peaceful use of the ocean
- ❖ Creating partnerships and promote cooperation.¹⁸¹

¹⁸⁰ Seremaia Tuqiri, 2001, Overview of an Ocean Policy for the Pacific Islands, Information Papers, Summary of the Pacific Islands Regional Oceans Forum, The Council of Regional Organizations of the Pacific, p.9. (sited 19th of September, 2006), available from:
<http://www.spc.int/piocean/forum/Info%20papers/1%20Overview%20of%20Ocean%20Policy%20-%20Seremaia%20Tuqiri.pdf>

¹⁸¹ Ibid.

V1. Ocean Governance

The overarching theme of improving ocean governance contains specific governance initiatives and actions designed to create an enabling environment for implementation of the Policy. The overarching principle of ocean governance contains three important elements such as:

- ❖ integrated management approach;
- ❖ sustainable development approach, and
- ❖ Stewardship and Ownership approach.

A. Integrated Principle.

The first and the key principle driving the development of the PIROF is integrated approach to marine and oceans resources management. Pacific leaders have come to a realization that;

- ❖ the ocean is a transboundary and dynamic resource;
- ❖ threats to the ocean's long-term integrity are increasing in both number and severity;
- ❖ sustainable economic and social development in the region are dependant on wise use of the ocean and its resources.¹⁸²

The challenge is that the current regional set up can not effectively respond to the crosscutting, multi-sectoral and multi-users conflicting issues in the marine sector. There is therefore, a need to put in place an integrated regional approach.

¹⁸² Pacific Islands Regional Ocean Policy, [sited 1st October 2006], available from: <http://www.spc.int/piocean/forum/New/welcome.htm>

B. Sustainable Principle

Sustainability is the second major principle adopted within the PIROF. During the South Pacific Regional Follow up Workshop on the implementation of UNCLOS, the need to establish a regional oceans policy was seen as necessary because it would allow further coordination and integration of all marine sectors fully implement UNCLOS as a precondition to achieve sustainable management of the ocean resources.¹⁸³ For instance, the need to regulate tuna fishing in the Pacific triggered Pacific SIDS to ratify UNCLOS and allow foreign fleets to observe management and conservation mechanism in the region. Sustainability was a key principle in the UNCLOS charter under article 56 which provides sovereign rights and responsibilities to exploit, develop and manage their tuna resources within the 200EEZ.¹⁸⁴ Sustainable development was also the key principle supported by Pacific leaders in their regional submission to UNCED in 1998 and made its way into the regional oceans policy as one of its key pillars, which includes;

- ❖ ensure future sustainable use of oceans and resources
- ❖ promote stewardship and ownership
- ❖ improving the understanding of the oceans
- ❖ sustainable managing oceans resources use
- ❖ maintaining the health of the ocean
- ❖ promoting peaceful use of the oceans
- ❖ creating partnerships
- ❖ promoting regional cooperation.¹⁸⁵

¹⁸³ Seremaia Tuqiri, 2001, Overview of an Ocean Policy for the Pacific Islands, Information Papers, Summary of the Pacific Islands Regional Oceans Forum, The Council of Regional Organizations of the Pacific, p.9. (sited 19th of September, 2006), available from: <http://www.spc.int/piocean/forum/Info%20papers/1%20Overview%20of%20Ocean%20Policy%20-%20Seremaia%20Tuqiri.pdf>

¹⁸⁴ William T. Burke, *The Law of the Sea Convention and Fishing Practices, with special reference to the United States* in J.M. Van Dyke, 1985, *Consequences and Confrontation: The United States and the Law of the Sea Convention*, Law of the Sea Institute, Honolulu, p. 317

¹⁸⁵ Enele Sopoanga, 2003, “The Importance of the Barbados + 10 Assessment For Small Island Developing States”, in Global Ocean Forum on Oceans, Coast and Islands Newsletter 1(2): 6-7, [cited on 27 September 2006], available from: <http://www.globaloceans.org/sids/index.html>

C. Stewardship and Ownership

Stewardship and ownership remains one of the priority goals of the PIROF. PIROF through its implementing framework called Integrated Strategic Action (ISA) envisaged greater collaboration at the national level between stakeholders, the wider community and grassroots level.¹⁸⁶ The implementation framework (ISA) was intended as a guide to assist national governments design their own national ocean policy frameworks through consultative processes. Furthermore, ISA itself is a product of a consultative process and its outcome reflects the needs of the Pacific peoples. As a consequence, the regional framework is identified as owned by the region as it embodied the region's views on managing their oceans. In duplicating this process at the national level, ISA envisaged the collaboration of non-governmental organizations, non-state actors, the private sector and civil society in the formulation and implementation process.¹⁸⁷ Through a consultative process, ISA is tailored to support the setting up of adequate national consultative mechanisms in the formulation and implementation of national ocean policies and thereby create an institutional framework that would support national stewardship and ownership of the policy at the national level.

D. Ecosystem Based Management Approach

The ecosystem based management approach is the most recent addition to ocean resources management mechanisms in the Pacific region. Ecosystem approach to fisheries management (EAF) was aimed at maintaining ecosystems in a sustainable condition necessary to achieve desired social benefits.¹⁸⁸

From an ecosystem management point of view, to be effective, the policy requires scientific information as an element in a decision making process. It involves management decisions which takes into consideration a broad awareness of the

¹⁸⁶ Pacific Islands Regional Ocean Policy – Integrated Strategic Action (ISA), available from: <http://www.spc.int/piocean/forum/New/pirof-isa2.htm>

¹⁸⁷ Loc. cit.

¹⁸⁸ FAO, 2002, The Ecosystem Approach to Fisheries, FAO Fisheries Technical Paper 443, p.4., (cited 9/10/06), available from: <ftp://ftp.fao.org/docrep/fao/006/y4773e/y4773e00.pdf>

consequences of human actions to various ecosystems.¹⁸⁹ From an ecosystem stand point, management approaches must recognize explicitly the complexity of ecosystems and the interconnections among its component parts.¹⁹⁰ In that capacity, Ecosystem Management broadly tries to address the following issues;

- ❖ maintaining viable populations of alternative species in situation;
- ❖ representing within protected areas all native ecosystem types across their natural range;
- ❖ maintaining evolutionary and ecological processes;
- ❖ managing over periods of time of sufficient duration to maintain evolutionary potential of species and ecosystems;
- ❖ accommodating human use and occupancy within these constraints.¹⁹¹

In other words, management schemes aimed at maintaining the ecosystems ought to provide not only a practical scientific description of the ecosystem in terms of scale, extent, structure, functioning, assessment of its state in terms of health, but also integrity as defined by what is acceptable to the surrounding societies. Only such an approach would ensure an up-to-date assessment of threats and maintenance, protection, mitigation, rehabilitation of likely threats adaptive management strategies.

A notable development in designing and implementing the ecosystem based approach was through the Food and Agriculture Organization of the United Nations (FAO) which developed an ecosystem approach to fisheries (EAF) that intentionally removed the limited and narrow management technicalities found in the previous approaches.¹⁹² Under EAF, management is enlarged to cover development, planning, and food safety to better matching the breadth of the FAO Code of Conduct and Precautionary Approach to fisheries. According to FAO, the term “approach” indicates

¹⁸⁹ Op. cit. p. 5.

¹⁹⁰ Loc. cit., an example of an Integrated Approach is the 1992 UN Convention on Biological Diversity (CBD) refers simply to the “ecosystem approach”.

¹⁹¹ Loc. cit.

¹⁹² Op. cit. p. 6. FAO Technical Consultation on Ecosystem-based Fisheries Management held in Reykjavik from 16 to 19 September 2002 reviewed the previous Ecosystem Based Fisheries Management Approaches and found that they were narrowly defined which many states found it too biased towards economics and environment but failed to account for social and political realities.

that the concept delineates a way of taking ecosystem considerations into more conventional fisheries management, (in line with the Reykjavik Conference wisdom) that allows fisheries managers to plan, develop and manage fisheries in a manner that addresses the multiplicity of societal needs and desires, without jeopardizing the options for future generations to benefit from a full range of goods and services provided by marine ecosystems.¹⁹³ Hence, to a larger extent, EAF could be seen as complementing the FAO Code of Conduct for responsible Fisheries Guidelines. Effectively would simply mean “an extension of conventional fisheries management recognizing more explicitly the interdependence between human well-being and ecosystem health and the need to maintain ecosystems productivity for present and future generations”.¹⁹⁴ Some clear examples are; conserving critical habitats, reducing pollution and degradation, minimizing waste, and protecting endangered species. Therefore an ecosystem approach to fisheries strives to balance diverse societal objectives, by taking account of the knowledge and uncertainties about biotic, abiotic and human components of ecosystems and their interactions and applying an integrated approach to fisheries within ecologically meaningful boundaries.¹⁹⁵

Some researchers, like the US National Research Council, tended to see the way the approach could be effectively translated into national programs of action in terms of fisheries is through what is called “Ecosystem-based Fisheries Management” defined as;

an approach that takes major ecosystem components and services — both structural and functional — into account in managing fisheries... It values habitat, embraces a multispecies perspective, and is committed to understanding ecosystem processes... Its goal is to rebuild and sustain populations, species, biological communities and marine ecosystems at high levels of productivity and biological diversity so as not to jeopardize a wide range of goods and services from marine ecosystems while providing food, revenues and recreation for humans.¹⁹⁶

¹⁹³ Ibid.p.6

¹⁹⁴ Ibid.p.6

¹⁹⁵ Ibid.p.7.

¹⁹⁶ Ibid.,p.5.

Essentially, the above proposed approach focuses more on the users and the overall economic activities, over socio-economic and cultural ones.¹⁹⁷

To operationalize the concept of ecosystem-based management in the context of a multisectoral approaches to environmental management, the U.S. National Oceanic and Atmospheric Administration (NOAA) emphasized the need to realize that current management regimes that are sectoral in nature do not recognize the integration nature of marine ecosystems. In that context, NOAA pointed out that;

In contrast to individual species or single issue management, [Ecosystem Based Management (EAM) considers a wider range of relevant ecological, environmental, and human factors bearing on societal choices regarding resource use.¹⁹⁸

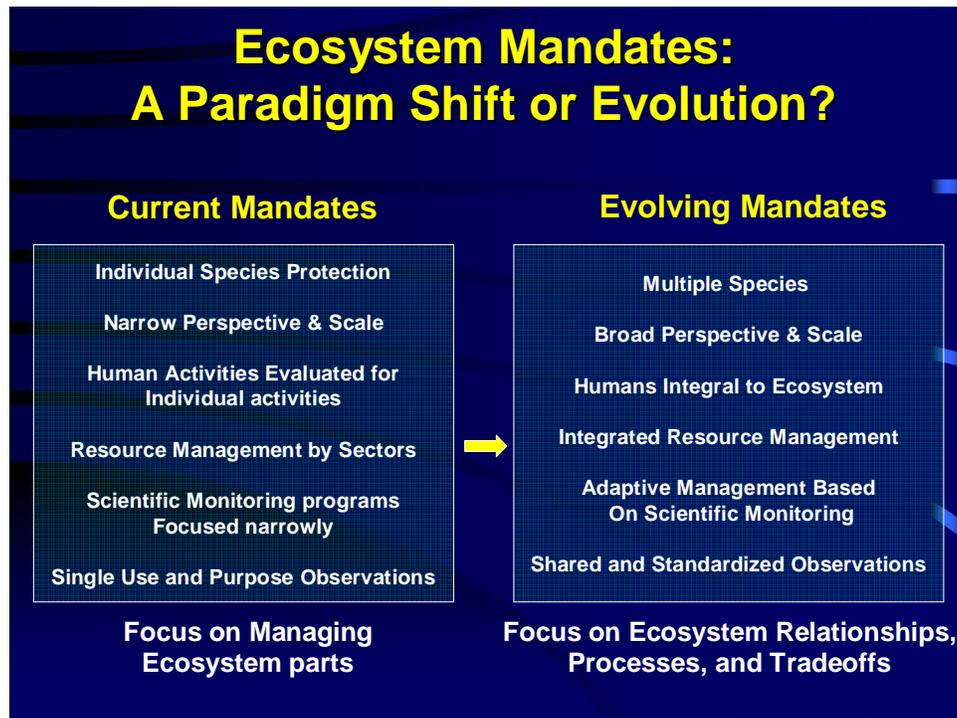
It is imperative to designing ecosystem based management approaches to reflect the nature of the marine ecosystems. NOAA in its working approach to Ecosystem Based Management critically emphasized the need to consider a paradigm shift that is necessary to attaining ecosystem sustainability.

Table: NOAA proposed Eco-system Based Management paradigm shift of ecosystem management.

¹⁹⁷ Ibid..p.5 In 2001, at the FAO Reykjavik Conference, some countries refuse to agree on a EAF possibly because they interpreted the EAF as giving to environmental considerations pre-eminence over socio-economic and cultural ones, raising concern about equity, political as well as socio-economic costs and feasibility.

¹⁹⁸ Steven Murawski, 2006, NOAA Scientist Representative, A paper presented at the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea, June 15th 2006, New York.

Ecosystem Based Management; A paradigm Shift.



NOAA. 2006.

The main emphasis on the paradigm shift argument proposed by NOAA is that it allows for more focus on ecosystem relationships, processes and tradeoffs instead of managing ecosystem parts from a sectoral point of view.¹⁹⁹ This is important as it allows ocean and marine resources management approaches to be more sensitive and response to the needs of both the people and the ecosystems.

VII. Institutional Arrangements

The Pacific Regional Ocean Policy was developed by the Pacific regional Intergovernmental Organizations through a consultative process on behalf of the Pacific leaders as a guide to allow the participation by governments, non-governmental organizations, non-state actors, the private sector and civil society in the development of the regional and national ocean policies. To advance the policy, a number of key institutional areas were seen necessary:

¹⁹⁹ Ibid.

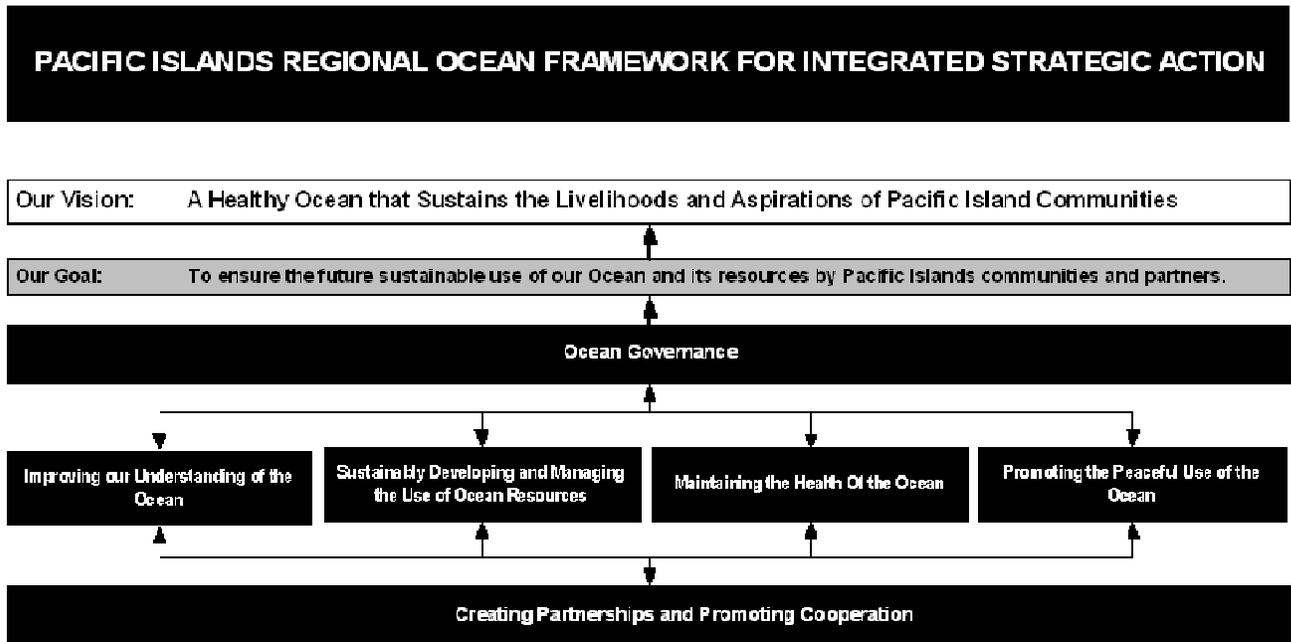
- ❖ A regional consensus on priorities for actions to ensure improved ocean governance and sustainable use of the ocean and its resources
- ❖ A framework for regional coordination of action
- ❖ A framework for regional and international institutions to use in integrating their work
- ❖ Guidance to development partners on regional priority areas requiring their support.²⁰⁰

While the policy is largely based at the regional level at this stage, it was envisaged that implementation will involve actions at all levels, regional, national, and local level. In advancing the policy, two ways were envisaged. Firstly, the regional framework is expected to contribute to the development of regional workplans of regional organizations who will in turn provide guide lines to regional member States in implementing national ocean policy in partnership with local communities. In this capacity the priority areas envisaged in the policy will be implemented at the regional level through the Pacific Islands Regional Ocean Policy Framework Integrated Strategic Action (PIROF-ISA) (refer to the template below).²⁰¹

²⁰⁰ PIROP, available from: <http://www.spc.int/piocean/forum/New/pirof-isa2.htm>

²⁰¹ PIROF-ISA, available from: <http://www.spc.int/piocean/forum/New/pirof-isa2.htm>

Fig.4. Pacific Island Regional Ocean Policy Implementing Framework



As demonstrated in the PIROP-ISA implementation template above, to operationalize the policy, implementation would begin with the six (6) key priority objectives of the policy.

A. Improve governance of coasts and the ocean

A top priority of the policy envisaged by the Pacific leaders is to establish high-level leadership on ocean issues which would be instrumental in executing the policy to the lower levels.²⁰² The office would act as a regional Ombudsman whose office would generally investigate ocean-related developments affecting more than one nation, or of transboundary scope, reporting to Forum countries on the conformity of that development with PIROP principles. It would also help identify and support national advocates to champion implementation of the PIROP-ISA at the national level. It would also establish an effective multisectoral coordination mechanism, within existing organisational

²⁰² PIROP, First steps towards implementation, available from: http://www.spc.int/piocean/forum/New/isa_first_steps.htm

structures, to progress implementation of the PIROF-ISA through the development of National Ocean Policies and Action Plans. It is also foreseen that once the policy begin to be implemented, a regional task force would set up to assist Pacific SIDS on request in the development and implementation of National Ocean Policies and Action Plans.²⁰³

B. Improving our understanding of the ocean

The second key objective of the policy is to identify and prioritise information needs and expand information gathering through out the region.²⁰⁴ These would include an inventory of past and current marine research activities and an inventory on knowledge gaps.²⁰⁵ Apart from that, the policy would promote formal and informal education, training and capacity building through the regional and national education systems to assist in identifying and addressing gaps in formal education programmes in the areas of ocean science and governance.²⁰⁶ A key expected result would be to review national and regional curricula in the region to be relevant to the current needs of the Pacific SIDS.²⁰⁷ Communication would also play a pivotal role in reaching out to all Pacific SIDS on ocean issues and effectively to build strong public support for the policy implementation.²⁰⁸

C. Sustainable development and management

Through the regional set-up, it was envisaged that an integrated approach to development and management of the ocean would be adopted to strengthen processes that support integrated or ecosystems-based management, and assist Pacific SIDS in developing capacity to undertake integrated management that is responsive to local conditions.²⁰⁹ Also it would assist Pacific SIDS to develop integrated management plans and strategies for inshore areas.²¹⁰

²⁰³ Ibid.

²⁰⁴ Ibid.

²⁰⁵ Ibid.

²⁰⁶ Ibid.

²⁰⁷ Ibid.

²⁰⁸ Ibid.

²⁰⁹ Ibid.

²¹⁰ Ibid.

D. Maintaining the health of the ocean

An issue of importance that would have to be dealt with by the regional set-up is to address threats from introduced and invasive species.²¹¹ The regional mechanism would cooperate with regional organizations and national governments in implement existing regional commitments on control of introduced and invasive species and to assist the development of national plans for dealing with invasive species.²¹²

E. Promoting the peaceful use of the ocean

To support the implementation of the policy, it was necessary to put in place a monitoring mechanism to report the progress in implementing PIROP-ISA on a frequent basis to CROP agency, Governing Councils and National Governments.²¹³

F. Creating partnerships and promoting cooperation

The consolidation of the policy at national levels would require a full utilisation of all possible partnerships and collaborations possible at all levels.²¹⁴ Developments of new partnerships are also encouraged for information and experience partnerships and financing arrangements for the implementation of the policy.²¹⁵ It was also envisaged that at this stage it would be needful to seek recognition and cooperation from neighboring jurisdictions in the implementation of the PIROP and to establish a network or registry of relevant NGOs, non-state actors, and private sector interests in the process.²¹⁶

VIII. Institutional Implementation- The First Steps Ahead

To begin the process however, an important first step envisage would be the establishment of an effective multisectoral coordination mechanism, within existing

²¹¹ Ibid.

²¹² Ibid.

²¹³ Ibid.

²¹⁴ Ibid.

²¹⁵ Ibid.

²¹⁶ Ibid.

organisational structures, to progress the implementation of the PIROF-ISA. In this regard, the Council of Regional Organisations in the Pacific (CROP)²¹⁷ Marine Sector Working Group (MSWG218) at its meeting in Paris in January 2006 decided to appoint a Coordinator to begin setting up a Regional Ocean Policy Coordination Office for the Pacific Islands region.²¹⁹

The region has seed capital to start this project, and is seeking partners to begin to implement this activity, starting with the appointment of an appropriate person as coordinator, who would then develop further partnerships to expand the activity with the following primary terms of reference:²²⁰

- ❖ Develop proposals, and a network of project partners, to establish a regional centre of policy advice, and technical assistance and information, to assist Pacific Island States and Territories, both collectively and individually, to realise the vision of the Pacific Islands Regional Ocean Policy.
- ❖ Assist Pacific Island states and territories to source assistance to develop their own national ocean policies under the basic principles agreed by them as compiled within the Pacific Islands Regional ocean Policy;
- ❖ Convene a meeting of Pacific Island representatives in a "Pacific Ocean Policy Steering Committee" to share information on ocean policy-related developments both within and outside the region, and to provide guidance to the Coordination Office and to CROP on immediate priorities;
- ❖ Help compile Pacific regional ocean issues reports to international ocean processes (including support to Pacific Island delegations at UNICPOLOS) and assist countries, on request and as appropriate, to fulfil their individual national ocean reporting responsibilities;

²¹⁷ CROP consists of 10 regional intergovernmental agencies serving the countries and territories of the Pacific Islands Region

²¹⁸ The CROP MSWG members are currently the Secretariat of the Pacific Community (SPC, Chair), the Pacific Islands Forum Secretariat (PIFS), the South Pacific Applied Geosciences Commission (SOPAC), the Secretariat of the Pacific Regional Environment Programme (SPREP), the Pacific Islands Forum Fisheries Agency (FFA) and the University of the South Pacific (USP), with a number of NGOs and other international agencies as observers.

²¹⁹ Tim Adams, CROP Chair, Director Marine and Oceanic Programme, SPC, Noumea.

²²⁰ (Report from T. Adams, CROP Chair, SPC Marine & Oceanic Director).

- ❖ Assist the chair of the CROP Marine Sector Working Group to organise meetings of the group, and facilitate communications between members.

According to CROP Chair, the overall aim of the project is to develop an effective regional focal point for ocean affairs in the Pacific Islands region, which would particularly catalyse the development of national ocean policies and the stakeholder processes.²²¹

VIII. Conclusion

The development of the Pacific Regional Oceans Policy emanated from the desire to fully implement UNCLOS provisions. Overtime, it was recognized that do so would require a comprehensive integrated approach that depart sharply from conventional regional and national management approaches currently in place. While the regional policy framework (PIROP) and its implementing mechanism (ISA) have set the pace for regional and national implementation of the regional ocean policy, the test of its strength lies in whether it would penetrate the fabrics of the individual Forum member countries once implementation begins. For instance, in terms of ecosystem approach, Mary Power of SOPAC argued that it would be difficult to implement the ecosystem approach to the coastal fisheries because their sustenance depends on a wide range of factors emanating from human impacts on the various ecosystems.²²² Institutionally, it was envisaged that a framework be developed to allow all agencies to collaborate on assessing all human impacts on the various ecosystems for better understanding on how best to support the various ecosystems.²²³ Here in lies the challenge for the Pacific Regional Ocean Policy as to how it would be implemented at the national level.

²²¹ Tim Adams, CROP Chair, Director Marine and Oceanic Program, SPC, Noumea.

²²² Mary Power, 2006, Pacific Regional Oceans Policy, (cited in) Third Global Conference on Oceans, Coasts and Islands, January 23-28, 2006, UNESCO, Paris.

²²³ Ibid.

PART V

TOWARDS INTEGRATED NATIONAL OCEAN POLICY IN SOLOMON ISLANDS

I. General Overview

Solomon Islands is part of the Oceania group of islands commonly known as the South Pacific, and is located at 8 00 S, 159 00 E. Solomon Islands has a total coastline of 5313 km with and is the second largest insular nation of the South Pacific (after PNG) with a 5, 313 kilometers of coastline. Solomon Islands shares maritime boundaries with Australia, Papua New Guinea, France (New Caledonia), Fiji and Vanuatu. Most of these maritime boundaries are yet to be formally negotiated and finalized. It has a land area of approximately 27 556 square kilometers meters and a water area of approximately 910 sq km.

Solomon Islands is thickly forested and with mountainous islands lies 1,860km north-east of Australia and is made up of six largest islands and numerous smaller islets amounting to a total of 922 islands altogether. Out of those 922 islands only 347 islands are inhabited. The group of islands stretches more than 1,800km from the short lands islands in the western boundary with Papua New Guinea to Tikopia and Anuta islands in the east boundary with Vanuatu. It also stretches nearly 900km from Ontong Java atolls in the north to Rennell Island²²⁴ in the southern boundary with Australia. The country also lies in the path of tropical cyclones and other ocean related natural occurring disasters and volcanic activities, and a tropical monsoon climate.

Fig. Map of Solomon Islands.

²²⁴ Rennell Island is one of the world's largest uplifted atolls while Ontong Java is the South Pacific largest true atoll.

Solomon Islands geographical position with relation to Papua New Guinea and Australia



Source: BBC

SOLOMON ISLANDS

The Islands of the Solomons



Source: Lonely Planet

II. Political Overview

Solomon Islands have a state system modeled on the Westminster system of government, a legacy of the British colonial rule. It consists of a 50 member unicameral parliament and a bureaucracy.²²⁵ The Solomon Islands National Constitution (the supreme law) laid down three distinctive but complementary arms of government namely *The Executive*²²⁶, *The National Legislature*²²⁷ and *The Judiciary*²²⁸ forming the core policy domain of the state apparatus.

The head of state is Her Majesty the Queen of England represented by the Governor General of Solomon Islands (who is a Solomon Islander) entrusted with the executive authority of the State.²²⁹ The Governor General's powers are intentionally limited to ceremonial and symbolic activities while effective exercise of the executive authority is done through the cabinet headed by the Prime Minister and his elected members (MPs).²³⁰ The Cabinet holds the executive power and therefore responsible for policy directives at the national level. At the provincial level, the parliamentary system

²²⁵ The Bureaucracy retains much of the structure left behind by the British colonial leadership. In 2000, the SIAC government led by Prime Minister Bartholomew Ulufa'alu undertook a reform program, and downsized the public service bureaucracy to a total of 7500 staff and reduced the number of ministries to ten (10), increase the departments to twenty (20) and establish more than 20 statutory commissions, constitutional bodies and major authorities. In addition, there were three financial institutions and 16 corporations wholly or partly owned by the government.

²²⁶ The Solomon Islands National Constitution provides the mandates and functions of the executive arm of government. SINC, chapter IV 30 (1-2) provides that "The executive authority of the people of Solomon Islands is vested in the Head of State...the authority maybe exercised on behalf of the Head of State by the Governor-General either directly or trough officers subordinate to him". The Solomon Islands Independent Order 1978, pp.164-170.

²²⁷ The Solomon Islands National Constitution provides the roles and procedures of the National Legislature (Chapter VI 46-74). These includes the role of the one chamber National Parliament and its composition, Procedure to introduce legislation and the power to make laws, Constituencies, Electoral Commission, and the role of the speaker of Parliament among other things. The Solomon Islands Independent Order 1978, pp.171-181.

²²⁸ The Solomon Islands National Constitution provides a legal arm of government i.e. the Judiciary which established the High Court of Solomon Islands, provisions for the appointment of judges, establishment of the Court of Appeal and the appointment of COA judges, Rule of Court, Appointment of Director of Prosecution, and Public Solicitor. The Solomon Islands Independent Order 1978, pp.181-188.

²²⁹ The Solomon Islands Independent Order 1978, Chapter 1 (para.2), p.145, Chapter IV, 27(1), 30(1), p.165.

²³⁰ Ibid, Art 35(1), (2). p.167.

provides for nine (9) provincial assemblies headed by nine (9) provincial premiers who are charged with policy implementation at the provincial level.

The constitution of Solomon Islands provides that the High Court decides both criminal and civil matters, coupled with the right of appeal to the Court of Appeal.²³¹ In accordance with the constitution, the Chief Justice and the President of the High Court of Appeal are appointed on the advice of the Prime Minister, in consultation with the Judicial Service Commission. The other judges of the High Court and the Court of Appeal are appointed on the advice of the Judicial Service Commission. Magistrates and local courts also operate with limited jurisdictions.

It must be noted that the modern state in the Solomon Islands today is not the same Westminster system that is practiced in the west. It is a hybrid of old and new, and it works partly as a state and partly as a collection of individual big men following their own personal interests²³². While on the other hand, the vast majorities who live in rural areas are still practicing the traditional systems that are rooted in communalism, and integration into a wider polity is often seen and treated as artificial.

Jane Turnbull observed that lack of national integration in Solomon Islands was due to the fact that most villagers do not depend upon the State to meet either their physical or psychological needs.²³³ This is because a good majority of about 80% of the rural populace still depends heavily on informal exchange and subsistence or semi-subsistence practices which does not include any formal government involvement. Many rely on customary systems rather than the police or judiciary to settle disputes and nor was the State the sole provider of education or health services.²³⁴

It was clear that the state lacks the capacity to penetrate society, regulate social relationships and extract resources.²³⁵ Solomon Islands like Papua New Guinea societies are culturally fragmented, and it is often difficult to bring them to cooperate either with each other or with the State.²³⁶

²³¹ The Court of Appeal of Solomon Islands was established in 1982.

²³² R. H. Dorah, 2004.p.

²³³ Jane T, 2002, Solomon Islands: Blending Traditional Power and Modern Structures in the State, Public Administration and Development, The International Journal of Management, Research and Practice, Vol 22(2), p.193, available from; www.interscience.wiley.com.Ibid.p.197

²³⁴ Ibid.p.197

²³⁵ Ibid.p.197

²³⁶ Ibid.p.197

The kind of state practice in the Solomon Islands reveal a very imbalanced way of development that leaves the rural communities marginalized in the course of economic development. Like many other least developed countries, Solomon Islands continue to depend on donor support for transport infrastructure and national utilities and budgetary aid. Since independence in 1978, resources for large scale infrastructure investments are lacking which resulted in lack of expansion of basic services to rural communities. This in part has caused a major dissatisfaction among the islands and in 2000 resulted in a violent ethnic tension which almost crippled the economy. Today Solomon Islands economy almost depends entirely on donor support.

III. Donor Assistance Context

Solomon Islands currently listed under the United Nations least developed countries, with poverty having further substantially worsened as a direct result of the violent ethnic tension that resulted in the near-collapse of the economy between 2000 and 2003. Solomon Islands with a population of approximately 470,000 recorded for 2005, half of the formal employment is concentrated in its only largest city Honiara which is also the capital. In the post- independence period (1980-1990s) inter-island migration ensured pressure of economic competition and tensions between the largest group of migrants from Malaita and the indigenous population of Guadalcanal. In late 1999 tensions built up and turned violent in 2000, resulting in the displacement of the Solomon Islands Alliance Change Coalition Government led by Prime Minister Batholomew Ulufa'alu.

The tension caused deep human melancholy to the communities, huge destruction to physical and social infrastructures and public and private properties with an estimated cost of SBD\$200 million, equivalent to twenty percent (20%) of GDP. The ethnic conflict totally disrupted national economic activities and placed severe strain on the delivery of government services. Moreover, the conflict strictly affected the productive operations of the few key private sector investments that are vital for the economy to shut down completely which includes the Solomon Island Plantation Ltd (Palm Oil), Gold Ridge Mining, and Levers Ltd (coconut). As a result there was a massive decline in formal employment, reducing export revenues by half and causing a precipitous fall in

real income. Public debt as of May 2005 inclusive of arrears to trade creditors and contingent liabilities amounted to SBD\$2.2 billion, equivalent to almost 100% of GDP.²³⁷

According to Chand:

...one clear lesson learnt from the ethnic conflict in Solomon islands is that conflicts play havoc with the economy, and have long lasting and adverse consequences for the welfare of the resident population...Another lesson is that a stagnant economy, particularly in a climate of rapid population growth, is a recipe for conflicts.²³⁸

Since the arrival of the Regional Assistance Mission to the Solomon Islands (RAMSI) in 2003 with military police and administrative support, the economy has stabilized and law and order has restored.²³⁹ Development wise, according to the EU-SIG partnership office in Solomon Islands, the following are some of the critical issues the current government has to deal with:

- ❖ Root causes of the recent ethnic conflict, particularly lack of rural development, land ownership issues and the need to achieve a more equitable allocation of resources and economic opportunities between the provinces;
- ❖ Capacity building, to allow local ownership and management of the development process
- ❖ Corruption
- ❖ Rural Living Standards, an urgent need to address sustainable resources management, notably forests and marine conservation, which impact directly on future livelihoods and
- ❖ Debt Situation- the government has an estimated debt of SBD\$2.2 billion at the end of 2005 (total debt and contingent liabilities) about 100% of GDP.²⁴⁰

²³⁷ Central Bank of Solomon Islands 2005, *monthly economic bulletin*, 2(6), CBSI, Honiara, Solomon Islands in Satish Chand, 2005, "Facing up to the challenges of development in Solomon Islands", Pacific Economic Bulletin, Asia Pacific School of Economics and Government, ANU, Asia Pacific Press.p.7

²³⁸ Satish Chand, 2005, "Facing up to the challenges of development in Solomon Islands", Pacific Economic Bulletin, Asia Pacific School of Economics and Government, ANU, Asia Pacific Press.p.5

²³⁹ The Regional Assistance Mission to Solomon Islands known as RAMSI is a result of the request by the Solomon Islands Government for support from Australia to deal with the 1999-2003 ethnic tension. RAMSI consist of military personals, police and administrators from the different island countries. Bulk of the personals comes from Australia who is also the largest financier of the mission. The Mission came in July of 2003. Since its arrival, peace and stability has been maintained. Law and order and fiscal prudence (Critical to macro-economic stability) have been achieved through a good management and huge donor support.

²⁴⁰ EU-SIG Office Report 2006, Brief overview of achievements, developments and progress in the implementation of the SI-EU cooperation program (EDF, STABEX 98 & 99) in Solomon Islands, a paper presented at the Suva EU-Pacific ACP consultation January 12-14.

IV. Socio-Economic Overview

Currently Solomon Islands has a total population estimated at 431 000 (1999 census) with a rapid population growth rate measured at 2.8 percent per annum is among the world largest.²⁴¹ In fact, Solomon Islands historically have had high rates of population growth with a fertility rate at 5.3 which is one of the highest in the world.²⁴² Some 42% of the population are less than 15 years of age, thus the growth momentum is likely to continue for a generation at least.²⁴³ Gender disparities in Solomon Islands are the highest in the region, with only 30 girls for every 100 boys enrolled in tertiary education; the corresponding figures for Fiji, Papua New Guinea, and Vanuatu are 100, 55, and 50, respectively.²⁴⁴ (Please refer to table 5.2.below). These figures according to critics suggest eliminating gender disparities will take considerable concerted and sustained efforts.²⁴⁵

A comparative analysis of Solomon Islands social indicators in relation to her Melanesian neighboring countries showed that Solomon Islands compare unfavorably to those for Fiji and Vanuatu and are only marginally better than those of Papua New Guinea.²⁴⁶ It was also reported that Solomon Islands ranked poorly relatively to two of its three Melanesian neighbors (Papua New Guinea, Fiji and Vanuatu) on all the social indicators of development and have a rate of incidence of malaria that is the worst in the Pacific.²⁴⁷ The table below showed the social indicators in relation to development in general.

²⁴¹ Satish Chand, 2005, "Facing up to the challenges of development in Solomon Islands", Pacific Economic Bulletin, Asia Pacific School of Economics and Government, ANU, Asia Pacific Press.p.3

²⁴² Ibid.p.3

²⁴³ Ibid. 3

²⁴⁴ Ibid.p.3

²⁴⁵ Ibid.p.3

²⁴⁶ Ibid.p.3

²⁴⁷ Ibid.p.3

Table 5.1. Comparative analysis of Social Indicators of Development in Melanesia

SOCIAL INDICATORS	SOLOMON ISLANDS	PAPUA NEW GUINEA	FIJI	VANUATU
Life expectancy	61	57	69	68
Illiteracy rate (adult)		35	7	
Primary school Enrolment rate (2000)	56	77.4	94.7	78.2
Under 5 mortality rate (per 000 live births)	73	88	22	33
Under weight children (% of 5yrs olds,(2000 data)	21.0	24.9	15.0	12.1
Fertility rate	5.3	4.4	2.7	4.4
Forecast population growth rate (2004-15)	2.3	2.2	0.7	2.7
Incidence of Malaria (per 100,000 population, data for 2000)	16,170	1,430		6,930
Death rate from TB (per 100,000 population (2000 data)	14.8	56.0	0.4	16.3
No.of known HIV/AIDS cases/date of report cases	2 (2/2004)	7,320 (8/2002)	142 (12/2003)	2 (12/2003)

Source: Chand 2005.

While the rate of spread of HIV/AIDS is still minimal, Solomon Islands have all the risk factors associated with the spread of HIV/AIDS.²⁴⁸ Like Papua New Guinea which has a higher HIV/AIDS incidence of HIV/AIDS, it is possible to suggest that Solomon Islands could easily be in the same path given it has a very similar risk profile.²⁴⁹

On primary education, it was also found that the relatively low primary school enrolment rates and the high incidence of Malaria suggest that the demands on budgetary resources for basic health services in Solomon Islands will grow.²⁵⁰

The agriculture sector showed considerable potential for expansion of primary production given the large subsistence sector. There is a lot of potential given the under utilized coastal and marine resources, and the yet to be explored mineral deposits both on land and on the continental shelf. In terms of resources, it is clear that Solomon Islands is not a resource-poor country.

²⁴⁸ Ibid.p.3

²⁴⁹ Ibid.p.3

²⁵⁰ Ibid.p.3

Table 5.2. Comparative analysis of the basic development indicators of Solomon Islands, Papua New Guinea, Fiji and Indonesia, 2001.

BASIC DEVELOPMENT INDICATORS	SOLOMON ISLANDS	PAPUA NEW GUINEA	FIJI	INDONESIA
Population (000)	431	5,253	817	208, 980
Per capita GDP (PPP,US\$)	1,910	2,570	4,850	2,940
Per capita GDPM(1995 US\$)	587	897	2763	1,034
Population density(per square kilometer)	15	12	45	115
Investment rate (percent of GDP)		19	13	17
Liquid Liabilities (M3/GDP, percent	30	32	38	57
Aid (per cent of GNI)	22.2	7.2	1.5	1.1
Aid per capita (US\$)	136.60	38.67	31.78	7.18

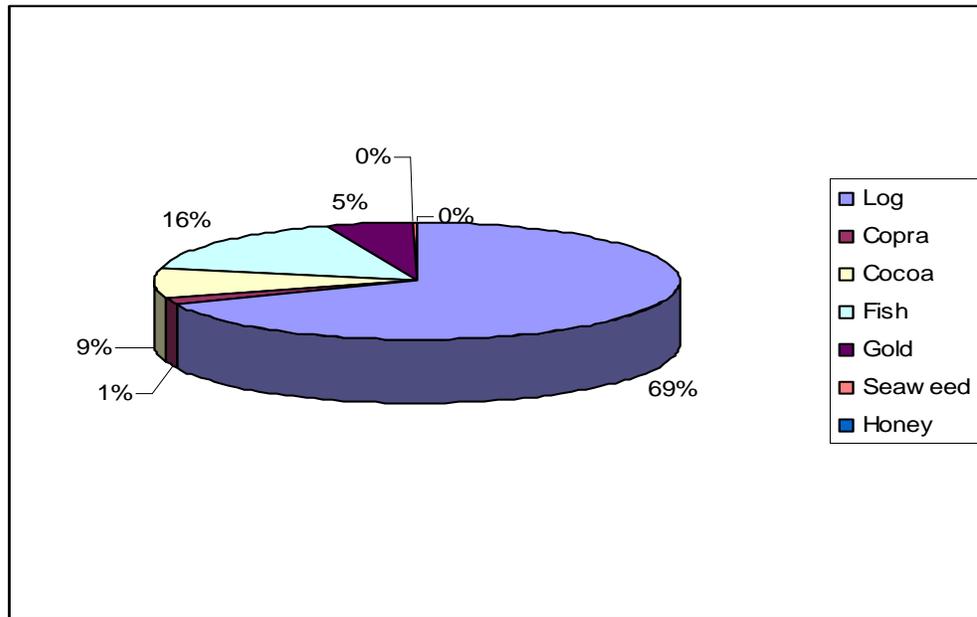
Source: Data for Solomon Islands is from the Central Bank of Solomon Islands 2005, monthly economic bulletin, 2(6), CBSI, Honiara, and Data for other countries is for 2001 and sourced from World Bank, 2003, World Economic Indicators, World Bank, Washington, DC.

The nation is known to have rich gold deposits on Guadalcanal and Western Province, and nickel deposits on Isabel Island, with ongoing prospecting for copper, oil, and diamonds.²⁵¹ Like many other least developed countries, Solomon Islands continue to thrive economically on primary products. The major export commodities are Log, Fishery, Copra, Cocoa, and Gold.²⁵² (see pie chat below).

²⁵¹ International Monetary Fund 2004, Staff Report for the 2004 Article IV Consultation, IMF, in Satish Chand, 2005, “ Facing up to the challenges of development in Solomon Islands”, Pacific Economic Bulletin, Asia Pacific School of Economics and Government, Australian National University (ANU), Asia Pacific Press.p.3.

²⁵² Central Bank of Solomon Islands, 2005, p. 12.

Major Exports of Solomon Islands 2005 (millions).



Source: CBSI, 2005.²⁵³

According to the Central Bank of Solomon Islands quarterly report, log and fishery are the dominating exportable national products while copra and cocoa are slowly returning to full scale production after the ethnic tension.²⁵⁴ A notable development is the Seaweed farming and honey productions which are now seen on the major list of exports products.²⁵⁵ Gold production has just started with already an impressive 5% share of export earnings.²⁵⁶ A cause for concern is the tourism industry which was not included in the balance sheet as it is still very poorly developed due to poor public infrastructures and few private tourism operators.

As an agriculture commodity-dependent economy, Solomon Islands continue to face various challenges, many of which are common to other developing countries in achieving diversification, retaining competitiveness and comparative advantages in production, and marketing of tropical products and non-renewable resources.

²⁵³ Central Bank of Solomon Islands, Annual Report 2005, pp: 13-19, available from: http://www.cbsi.com.sb/About_CBSI/ECO/Annual%20Reports/2005AR.pdf

²⁵⁴ Ibid.13.

²⁵⁵ Ibid.p.13

²⁵⁶ Ibid.p.13

Moreover, Solomon Islands continues to face challenges due to geographical isolation (remoteness from major developed economy markets) and inaccessible to freehold land area present logistical as well as economies of scale problems. In Solomon Islands, 87 percent of land is held under communal title, hence tensions between land owning tribes and settlers often hampered the attraction of workers from labour-rich surrounding islands. Collectively, these issues restrict opportunities for diversification, integration, competitiveness and broadening market access potentials. Solomon Islands have a predominantly rural population, with more than 80 percent of the population subsists on fishing, and traditional farming. The main sources of local income are primary products such as timber, copra and cocoa. Currently, forestry is the largest single industry in Solomon Islands mostly undertaken by foreign owned companies.

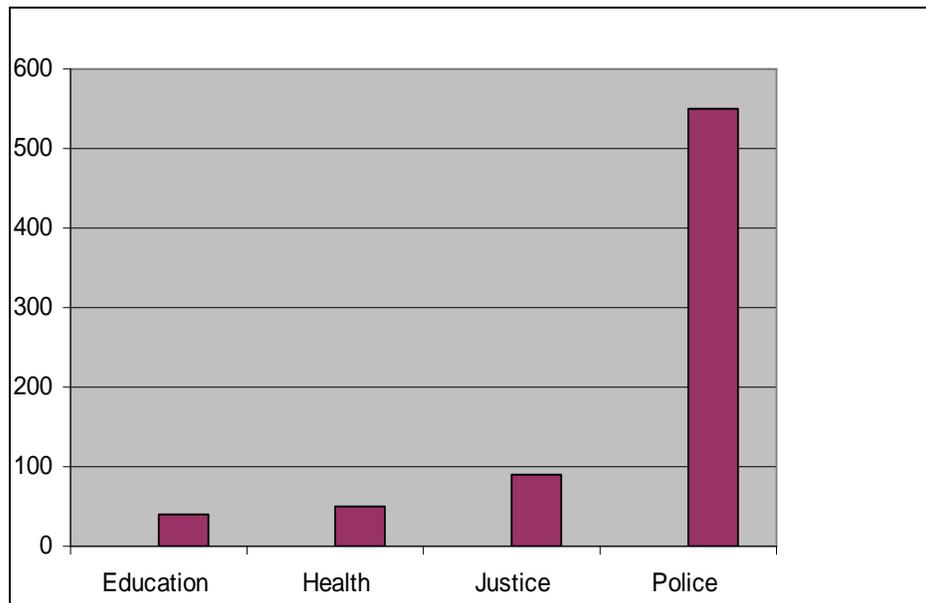
As shown in table 5.2, per capita GDP of Solomon Islands is 65 percent that of Papua New Guinea, while aid receipts on a per capita basis as of 2001 were reported to be 3.5 times that of Papua New Guinea and considerably higher than Fiji and Indonesia.²⁵⁷ Donors continue to provide budgetary support, and foreign aid continues to provide substantial components of recurrent activities. Audit of the 2005 recurrent budget revealed that 28% of the budget is spent on Education and Human Resources Development, 13% on health on the total of SBD655 million.²⁵⁸ Primary education, basic health, and law and order ranked high in terms of the allocation of public resources.²⁵⁹ Below is a chart showing foreign aid allocation by sectors in Solomon Islands in 2005.

²⁵⁷ Satish Chand, 2005, "Facing up to the challenges of development in Solomon Islands", Pacific Economic Bulletin, Asia Pacific School of Economics and Government, Australian National University (ANU), Asia Pacific Press.p.3.

²⁵⁸ Central Bank of Solomon Islands (CBSI) 2005, *monthly economic bulletin*, 2(6), CBSI, Honiara, Solomon Islands.

²⁵⁹ Ibid.

Foreign Aid Allocation to 2005 Recurrent Budget (SBD\$1.4 Billion) by Sectors



Source: CBSI 2005, monthly economic bulletin, 2(6), Honiara.

Foreign government aid continue to support the Solomon Islands support in meeting loan payments and development arrears. For example, the Australian Government paid the arrears and serviced commitments to the ABD and World Bank to mid 2004, assistance valued at SBD\$11.4 million.²⁶⁰ Australia also provided recurrent budget support of some SBD\$60 million in 2004 and New Zealand paid the education recurrent budget.²⁶¹ The 2005 SBD\$1.4 billion recurrent expenditure budget, domestic sourced revenues accounted for only 45% and the rest is paid by donors (a total of SBD\$770) and some of that money is also spent outside of the country for equipments and machinery.²⁶² This almost leaves the entire development budget at the mercy of donors which Chand argued that “should donor support will be withdrawn from the recurrent budget exactly when the absorptive capacity for greater assistance is establish would pose a great risk”.²⁶³

²⁶⁰ Satish Chand, 2005, “Facing up to the challenges of development in Solomon Islands”, Pacific Economic Bulletin, Asia Pacific School of Economics and Government, ANU, Asia Pacific Press.p.5

²⁶¹ Ibid.p.5

²⁶² Ibid.p.5

²⁶³ Ibid.p.5

Table 5.3: Donor Matrixes in Solomon Islands

Financial Donor Matrix Estimate for 2006 (SBD\$Million)

Sector	Ausaid	NZ	ROC	Japan	EU	ADB	WB	Others	Total	%
Natural Resources	18.0	2.0	10.0	22.8	11.0	0	1.9	4.0	69.7	7.7
Human Resources & Community Development	85.0	10.9	26.2	14.9	69.6	0	0	13.8	220.4	24.4
Commerce Industry & Finance		1.8					0.8	0.6	3.2	0.4
Governance & Security	417.8	12.8	35.0	4.3	23.7	3.5	0.8	0.7	498.6	55.3
Infrastructure & Utilities	0	0	2.8	92.5	1.9	9.6	3.3	0	110.1	12.2
TOTAL	520.8	27.5	74.0	134.5	106.2	13.1	6.8	19.1	902	100
%	57.7	3.0	8.2	14.9	11.8	1.5	0.8	2.1	100	

Source: SIG Year 2006 Approved Development Estimates: Development Grants (excluding Loans) Cash and Non Cash. Others includes FAO & UN agencies.

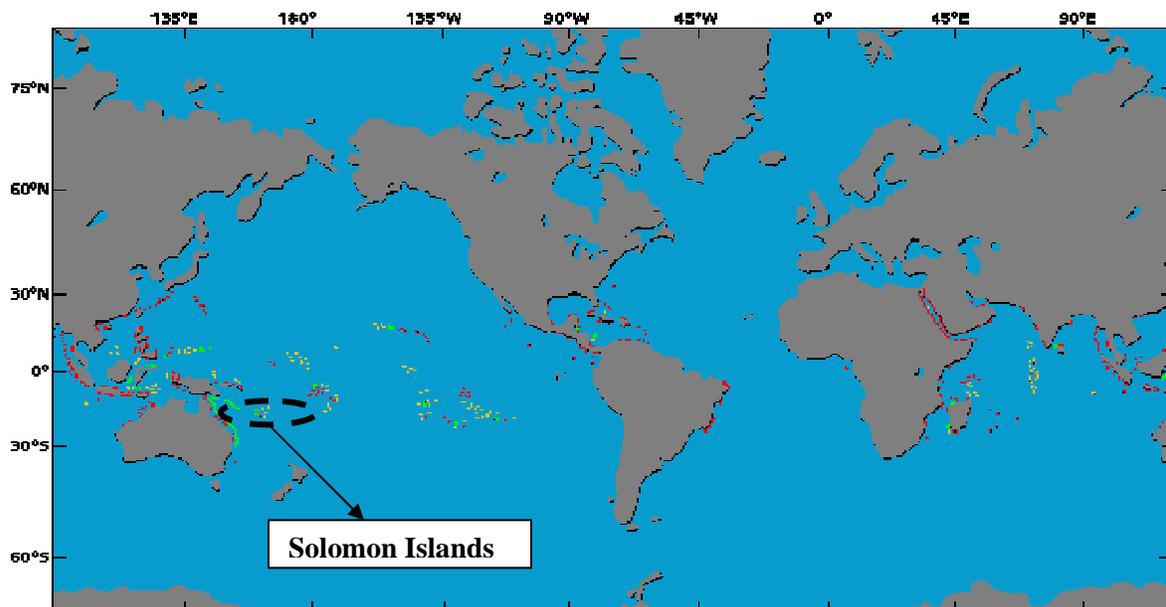
Overall, Solomon Islands, like many other least developed countries, continue to have poor state of transport infrastructure and internationally uncompetitive utilities that demands significant public investment. Currently the resources for such investments are lacking and any expansion of basic services to rural communities can only be done with donor support given the prevailing fiscal position.

V. The Challenge of designing, formulation and implanting integrated national oceans policy in Solomon Islands

A. Ecosystem Sustainability Vs Economic Development

Solomon Islands consist of 922 islands (of which 347 are inhabited) scattered in a double chain over a distance of 835,000 square miles across the South Pacific Ocean. According to biodiversity studies, Solomon Island is ranked among the top 10 most biologically diverse nations in the world.²⁶⁴

Map: Fig. Solomon Island's position in the major Coral Reef areas of the World



Orange = atolls / **Red** = fringing reefs / **Green** = barrier reefs

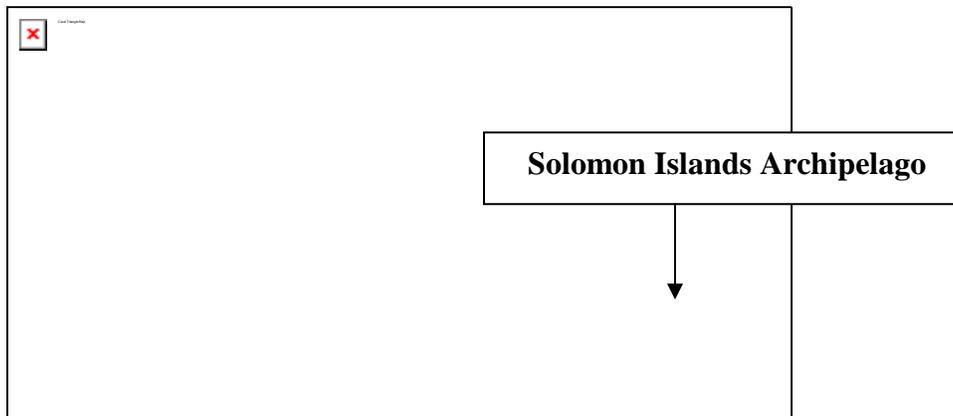
Source: <http://www.worldwildlife.org/> modified 10/1/07.

A marine survey conducted in 2004 by Nature Conservancy found that the country has one of the highest coral diversities on earth, including 494 coral species and several

²⁶⁴ Nature Conservancy

species that may be new to science.²⁶⁵ In addition, the 2004 scientific study also confirmed that Solomon Islands is a member of the Coral Triangle Community (see map below), an area spanning approximately 2.3 million square miles (5.7 million km²) or an area equivalent to half of the entire United States).²⁶⁶ The significance of this area is that it is home to over 600 reef-building coral species, equivalent to 75% of all species known to science, with more than 3,000 species of reef fish.²⁶⁷

Coral Triangle Community



Source: Nature Conservancy

²⁶⁵ Nature Conservancy

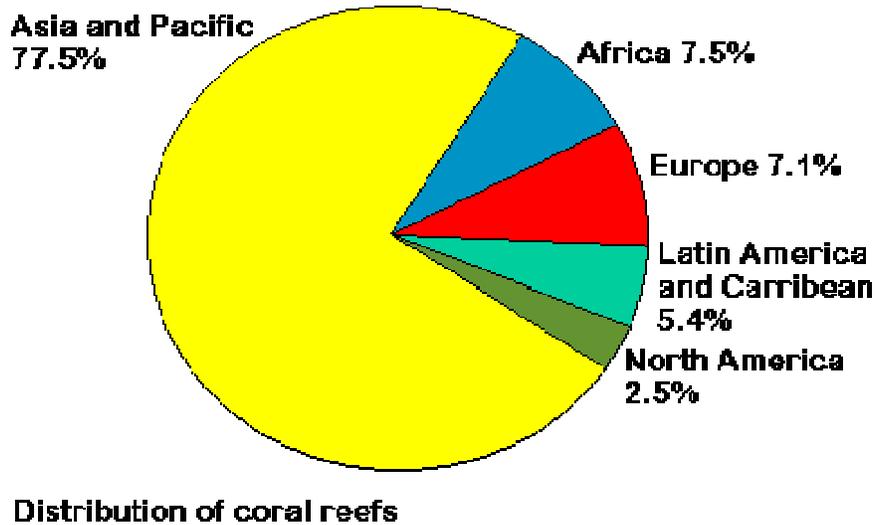
²⁶⁶ Ibid.

²⁶⁷ Ibid. Coral Triangle consists of eastern Indonesia, parts of Malaysia, the Philippines, Papua New Guinea, Timor Leste and the Solomon Islands. The Coral Triangle is the global center of marine biodiversity and one of the world's top priorities for marine conservation. Over 150 million people live within the Coral Triangle, of which an estimated 2.25 million fishers are dependant on marine resources for their livelihoods.

According to the Solomon Islands Rapid Ecological Assessment Survey 2004, it was revealed that;

“...Solomon Islands is part of the Coral Triangle-- the region of the world's richest marine life-- which was previously thought to extend no further than the waters of Indonesia and Papua New Guinea. The team found one of the highest diversities of coral species on the planet, recording 494 species of corals in the Solomon Islands with several species that are possibly new to science and more than 100 corals thousands of kilometres beyond their known range.”

Fig. World Distribution of Coral Reefs



Source: <http://www.worldwildlife.org/> modified 10/1/07.

In contrast with some earlier research findings, the 2004 Nature Conservancy research discovered more than 100 corals in the Solomon Islands thousands of kilometers beyond where they were known to live.²⁶⁸ This outcome showed that the Solomon Sea Eco-region is only recently known to scientists. In fact, Nature Conservancy scientists believed that amazing new discoveries have now made many of the existing global coral reef distribution maps invalid.

Dr Alison Green Coordinator for The Nature Conservancy and head of the Solomon Islands Rapid Ecological Assessment Survey in 2004 claimed that;

Before this survey, we knew almost nothing about the corals in the Solomon Islands... In just one place that we surveyed, the team found every known species from some groups of corals plus new ones that we

²⁶⁸ Ibid.

didn't know existed. The discovery of these species will change our maps of where corals live in the world. It is very exciting.²⁶⁹

In addition to the country's remarkable abundance of coral reef ecosystems, the research survey also confirmed that Solomon Island has one of the richest concentrations of reef fishes in the world. The discovery of at least 1,019 fish species, put Solomon Island rank with Indonesia, the Philippines, Australia and Papua New Guinea as one of the 'big five' for reef fish species.²⁷⁰ As Dr Green commended during the survey:

At some sites in the Solomon Islands, we found exceptionally high numbers of reef fish species by world standards...For example, the team recorded 279 fish species near Gizo in the Western Province. This incredibly high diversity of fish species is only exceeded by one area in Indonesia where 284 fish species were recorded.²⁷¹

While the coral reefs in Solomon Islands may appear healthy in comparison to the other areas in the Indo-Pacific region, signs of marine degradation were also found by the survey. A significant cause for concern is the visible impacts coming from land use, overfishing and coral bleaching (which warm temperatures kill corals) on the reefs recorded by the survey.²⁷² Such findings revealed that major land developments if not properly designed could have adverse impacts on the health of the marine ecosystems.

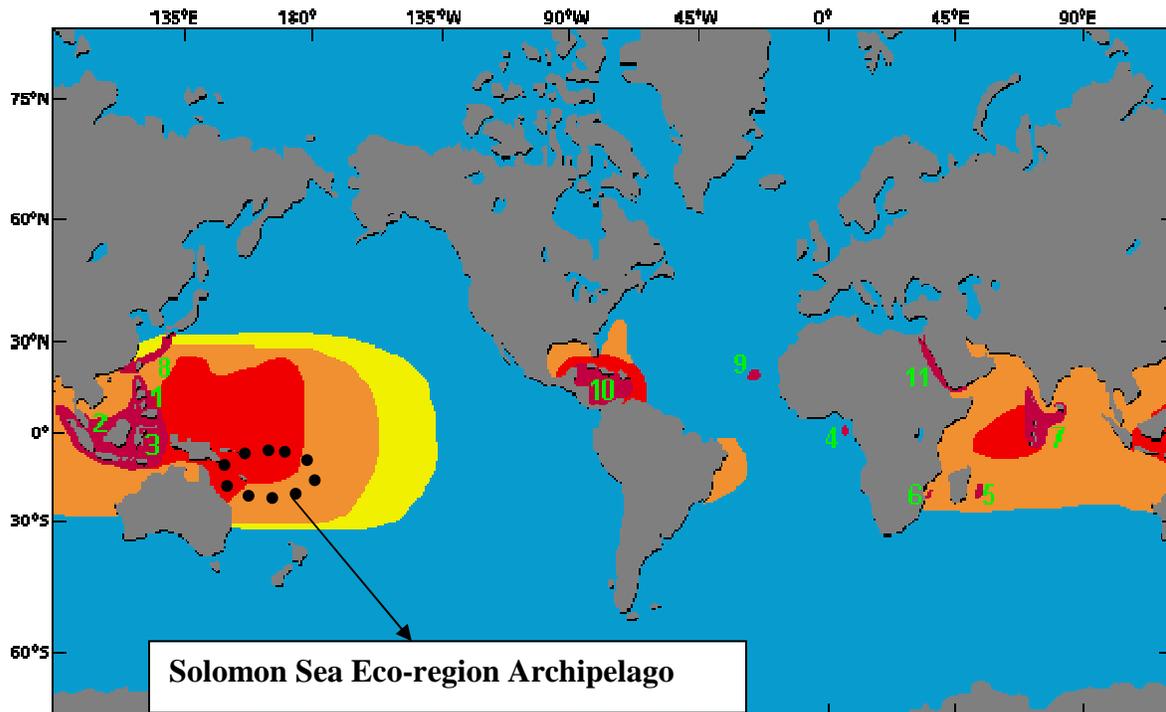
²⁶⁹ Nature Conservancy

²⁷⁰ Ibid.

²⁷¹ Ibid.

²⁷² Ibid.

Areas of Rich Marine Biodiversity in the World in Reference to Solomon Islands



yellow = not very rich in marine species / **orange** = rich / **red** = very rich / **dark red** = regions with a lot of endemic species (= hotspots)

Source: <http://www.starfish.ch/reef/ocean.html>: Modified 18/1/07.

Over fishing was visibly prevalence. The study confirms that in most of the areas covered during the research survey, there was no commercially-important marine species (sea cucumbers, crayfish or bumphead parrotfish found on the reefs) recorded a clear indication that overfishing could be prevalent.²⁷³ Furthermore, during the survey, the team did not see a single green snail (*Turbo marmoratus*) which in the past supported a large export industry in Solomon Islands. According to the survey report, the green snail species may be locally extinct without notice. The report strongly suggested that in order to protect the Solomon Islands Coral reef and fish ecosystems it needs immediate protection.²⁷⁴

Indeed, the need to ensure that the reefs in the Solomon Islands are protected for the future generation should be of paramount importance to the government of Solomon Islands and the rural communities who are dependent on the marine ecosystems for

²⁷³ Ibid

²⁷⁴ Ibid.

livelihoods. The different sources emanating from various sectors that are currently posing negative impacts on the coral reefs, fisheries and other marine ecosystems made it clear that any attempt to deal with protecting the marine ecosystems ought to be designed in a manner that reflects the multi-sectoral and integrated nature of both the eminent threats and the biological structure of the marine ecosystems.

VI. The Limitations on the Current Sectoral System based ocean management in Solomon Islands.

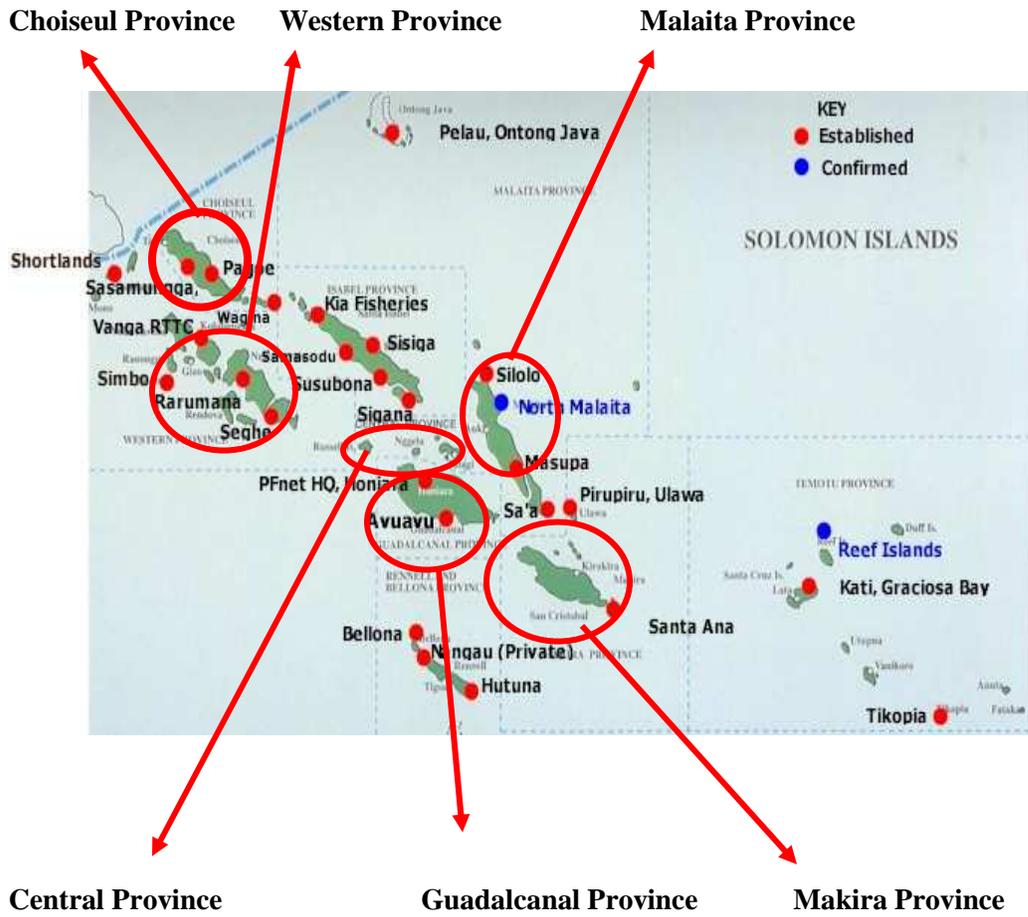
A. Threats from Land-Based Sources of Pollutions to Marine Coastal Ecosystems

Solomon Islands continue to face challenges in managing the impacts from land based sources to the coastal areas. Apart from natural disasters, most of these sources emanating from the widespread logging operations in Solomon Islands. Today logging has spread to almost all the major Island provinces and is a cause for wider national and international concern.

A particular area of great concern is the Western Province which saw logging operations since the 1960s, many of which become major operations in the 1970s-80s accounting for as high as 60% of total foreign and domestic earnings of the timber industry.²⁷⁵ Western Province is the home of the declared Marovo Lagoon World Heritage Park and is the hub of the thriving tourism sector of the Solomon Islands with hundreds of islands and coral reefs and vibrant marine ecosystems.

²⁷⁵ Larmour 1981. The North New Georgia Timber Corporation. In *Land, People and Government. Public Lands Policy in the South Pacific*. Eds. Larmour, P, Crocombe, R, & Taungenga, A. USP: Fiji.

Provinces involving in major logging operations (6 Provinces out of 9).



Source: Modified from www.peoplefirst.net.sb

Fig. Map of Western Province: Different Logging Companies operating in different locations.



Source: Modified from www.peoplefirst.net.sb

During the logging boom in the 90s almost 76% of the total round log export revenue was from the Western Province and 80% of logging operations occurring on customary land.²⁷⁶ By the mid 1990s it was fairly obvious that these logging operations were exceedingly exploitative as they are practicing extensive clear-felling logging. This period also saw expansion into the wider Roviana lagoon areas (see map above, areas like Vangunu) as new logging companies also entered the scene. In 1993 an Australian survey carried out on the island of Vangunu reported that “the degree of canopy removal and soil disturbance was the most extensive seen by the authors in any logging operation

²⁷⁶ Makim, A. 2002. *Globalization, community development and Melanesia: The North New Georgia sustainable social forestry and rural development project*. School of Land and Food Science. University of Queensland (cited on 26/12/06), available from: http://rspas.anu.edu.au/melanesia/PDF/makim02_1.pdf.

in tropical rainforest in any country".²⁷⁷ There were observations of problems with the local population regarding damage to over 100 *tabu* (sacred) sites, and a potential extensive environmental and social damage in the eastern end of the island ensued.²⁷⁸ There were also reports that the Roviana Lagoon had silted up measurably with the beautiful Kalena Harbour destroying the marine life.²⁷⁹ In addition, Solomon Islands Development Trust adviser John Rowan observed that logging in the 1980s and 1990s led to lasting environmental damage on the magnificent coral reefs caused by huge run-offs killing off much coral and sea life in the Marovo lagoon.²⁸⁰

Clearly while the socio-economic impacts of unsustainable and damaging logging practices over the years have been quite adequately well established, there were no proper environmental impact assessments carried out to assess the environmental damages logging has caused and continue to cause to the fragile coastal ecosystems of the islands involved. While most of reports so far a more of observer status, it is critical that environmental assessment be carried out to ascertain the extend of the impacts. In case of Kolombangara, it was reported that the government has failed to initiate a re-forestation project after logging operations ceased, let alone initiate any environmental impact assessment. However, it was the church that organized the local communities and brought together NGOs and interests groups and started a reforestation project.²⁸¹ At this juncture it is important to note that since 85% of the land is communally owned and organized along tribal lines recognised by the state under customary land tenure systems, it is the

²⁷⁷ Olsen & Turnbull, 1993 in LaFranchi, C. and Greenpeace Pacific. 1999, *Comparing Industrial and Small-Scale Economic Options for Marovo Lagoon Region of the Solomon Islands* Greenpeace Pacific (cited on 26/12/06), available from: From http://www.paradiseforest.org/downloads/marovo_report.pdf

²⁷⁸ ABC Radio National. 1993. *Pacific Logging*. Indian Pacific Program, September 4, 1993 (cited on 27/12/06), available from: <http://nativenet.uthscsa.edu/archive/nl/9309/0064> accessed on 17.10.03.

²⁷⁹ Solomon Star, 1996 in LaFranchi & Greenpeace Pacific, 1999, *Comparing Industrial and Small-Scale Economic Options for Marovo Lagoon Region of the Solomon Islands* Greenpeace Pacific (cited on 26/12/06), available from: From http://www.paradiseforest.org/downloads/marovo_report.pdf

²⁸⁰ J. Roughan, 2004, in Turnbull, 2006, "Turnbull defends logging company role" (cited 26/12/06), available from: <http://www.smh.com.au/articles/2004/09/30/1096401687340.html>

²⁸¹ Hviding & Bayliss-Smith. 2000. *Islands of rainforest. Agroforestry, logging and ecotourism in Solomon Islands*. Ashgate Publishing Ltd: England.

customary chiefs that wield more power than the central government. Since Christianity took hold of most islands in the early 19th century, and many local chiefs and tribes become Christians, most of the customary issues that were once legitimate under the customary legal system based on ancestral power were translated into Christian powers thereby recognizing the Christian church institutions as being the representative of the old ancestral system, hence churches certainly become powerful institutions in the rural community structure than the central and provincial government. This also holds true regarding the customary marine tenure systems in Solomon Islands.

Reports in 2004 still show that logging is still a major issue. Face value observer report in 2004 of a logging operation involving the Voko People of Iriri village, Western Province, Solomon Islands, also revealed alarming conditions of the destructive impacts of logging in that area.

When I arrived... Huge oil stains could be seen on the ground where “engine oil changes” had occurred. The loggers moved inland from Vavanga, bulldozing a web of mud tracks as fast as possible to extract the logs. They then moved north until they reached the Pepele River...The loggers eventually advanced through the river, changing the course of the river and commenced building an interlaced log bridge...The erosion was significant on the loggers’ road across the Pepele River – washing mud into the Pepele River and polluting the downstream villager’s source of water... Logging has an impact well beyond the “round log”. The erosion caused by the loggers’ roads is in addition to the erosion caused by the removal of the trees...How does the future sit for the kids of Vavanga and Iriri villages when their assets are stolen, their food supply is diminished, their drinking water is turned to mud...²⁸²

²⁸² Chin Ching Soo, 2004, “Illegal Logging in the Solomon Islands” (cited on 26/12/06), available from: <http://www.countercurrents.org/en-soo310804.htm>

Fig.5.1, Damages Caused by Logging at Iri Village, , Kolombangara, Western Province, Solomon Islands, 2004.



Fig.5. View of the loggers' camp. The drums are for diesel fuel used to power the bulldozers and associated equipment. Huge oil stains could be seen on the ground where "engine oil changes" had occurred. Source: Courtesy of Peter Lynch 2004. peterlynch@pelena.com.au

Today the collective effort by the local communities themselves, churches, interested individuals and concern groups with the aid of NGOs and international organizations working together in voicing out the damaging impacts logging is having on the environment has awakened the central government to this ugly reality. In his Christmas message to the nation aired on the Solomon Islands National Broadcasting Radio on the 28 December 2006, the Prime Minister, Hon. Manasseh Sogavare "reminded the nation that unsustainable harvesting of forestry resources is a growing concern".²⁸³ This issue could not have been taken into serious consideration by the central government without the concerted effort made by the various groups who always being left out in the policy consideration when it comes to either forest or marine resources development and management that often takes place in the customary controlled areas. It is clear that under the current sectoral approach to development and

²⁸³ Solomon Star, 2006, Prime Minister Express Concern about Forest Harvest, (cited on 26/12/06) available from: <http://www.sibconline.com.sb/story.asp?IDThread=127&IDNews=17603>

management of natural resources, be it marine and/or land-based, it is proven difficult for Solomon Islands to holistically address the impacts development is having on both the marine and terrestrial ecosystems.

VII. The threat of fast population growth to the fisheries sector

Solomon Islands fishing sector comprises the industrial, artisanal and subsistence sectors. Solomon Islands with a total estimated population of 447,900 (2000 est),²⁸⁴ have an estimated subsistence annual per capita fish consumption of between 32 and 40 kg for the entire country.²⁸⁵

Table 5. Estimated landings by principal site (tones, 2002)

	Industrial	Artisanal	Subsistence	Total
Honiara	10,000	2,400	2,000	14,400
Tulagi	25,000	200	100	25,300
Noro	35,000	100	100	35,200
Other	3,000	500	10,800	14,300
TOTAL	73,000	3,200	13,000	89,200

FAO estimates based on the assumption that if annual per capita fish consumption in Solomon Islands is 36 kg, then the whole country consumed about 16,000 mt of fish in 2000.²⁸⁶ A possible future scenario would be that should the population expand by 1.86 times between 2000 and 2025, and per capita fish consumption remains the same as in 2000 (16,000mt), then about 30,000 mt of fish will be required in 2025 to meet the consumption needs of the total population. Much of the subsistence catches are also highly unreported which means this estimate could be lower than the actual consumption rate. Also subsistence methods of fishing are unregulated hence it is difficult to ascertain

²⁸⁴ According to FAO estimates by 2025 Solomon Islands population is estimated to be between 788,300 and 876,300, or about 1.86 times the present population, (cited on 24/12/06) from :<http://www.fao.org/fi/fcp/en/SLB/body.htm>

²⁸⁵ Ibid.

²⁸⁶ Ibid.

whether subsistence fishing methods are sustainable it used to be under customary practices. A cause for concern is that with the current sectoral-based national management practice at the national government and provincial government level, coupled with lack of specific management policies at all levels, let alone harmonized customary marine tenure systems, future increase of rural population will drive the subsistence sector beyond sustainable harvesting levels easily without notice. This rate is increasing at a faster pace than reported as the transition between subsistence fishing and artisanal fishing²⁸⁷ is often done at rural level without having to go through government procedures. As clearly stated by M. Wairiu and M. Lamb in a study conducted in 2002 in the Marau Sound of Guadalcanal Province;

With almost 90% of total households dependent on marine resources to meet their basic food requirement at household level, 28% earning income from sale of fish and 13% from sale of shellfish, the marine resources of Marau Sound are over exploited. Marau Sound has been very productive commercially, in terms of both fin-fish as well as coral growing. Women were involved in low technology mariculture activities. Family plots of giant clams grow-out and coral farms were established. However...continuous over harvesting of fish stock and unsustainable collection of coral and shells prior...threatens the household food security. Currently, there are no other sources of meat, fresh or canned, available. Most of the village proteins are derived from the sea...This resulted from high population growth rate in the area but more importantly due to over harvesting for sale.²⁸⁸

Another cause for concern is that population growth is putting pressure on the traditional marine tenure systems, traditional fishing practices and customary management systems to be ineffective as communities are increasingly entering the artisanal fishing sector. As observed in the Marau Sound Area,

²⁸⁷ This sector is mainly targeting the local markets with fish species such as reef-associated finfish, beche de mer, trochus, giant clam, lobster, and turbo. About 180 species of reef finfish fish, from 30 families, are caught by the small-scale rural fisheries. The catch is comprised mostly of Lutjanids (snappers), Serranids (groupers and rock cods), Lethrinids (emperors), Scombrids (mackerels) and Carangids (trevallies).

²⁸⁸ M. Wairiu & M Lamb, 2002, "Marau Communities Association: From War to Peace- Towards Reconstruction and Resuscitation of Marine Biodiversity for a Vulnerable Community", Paper Presented at the 1st Regional Session of the Global Biodiversity Forum for the Pacific, 4-5th July 2002, Rarotonga, Cook Islands.p.6.

During the period 1970 to 1998 traditional authority over marine resource use and management have drastically eroded to almost non-existent. This resulted from high population growth rate in the area but more importantly due to over harvesting for sale. People fish whenever and wherever they want, using whatever technique that will allow highest catch. There was no respect for “Iora” CMT and the resource was over exploited. This period show the introduction of destructive fishing techniques such as fishing nets and night diving with torch and spear gun. The frequency of shell and other invertebrates increased dramatically.²⁸⁹

Independent observations in other provinces of fish depletion due to unsustainable fish harvesting by artisanal fishermen and fishing communities are also a great cause for concern. John Fairfax an independent Australian based marine researcher submitted a great concern on the status of the artisanal fishery in Solomon Islands;

Depletion is too advanced already. The majority of fish have already gone. But species can be sustained and stocks regenerated if damage mitigation takes place soon. I recently asked an expert professional fishermen supplying Honiara market, when he last saw a yellowfin tuna and he told me, 1968. In western SI one village used to eat fish 3 times a day, but no more. Their village used to provide fish and chips for passengers on ships coming through from Honiara, but no more. Now this village sends canoes to Munda and even Noro, to buy damaged and undersized frozen fish. I have stayed in the village and have seen virtually no fresh fish. Often a bowl of cabbage is sprinkled with one small tin of SI bonito, one small tin providing excellent flavor but hardly sufficient protein to provide a family with adequate daily protein. Some sleeping fish are caught at night from local reef but now night fishermen are having to paddle for hours to more distant reef to find these fish. In 1982 I became aware of local fish depletion in the Langa Langa region but now the same degree of depletion has occurred in western SI. How can such a situation be protected?²⁹⁰

²⁸⁹ Ibid.p.8. “Iora” In Marau Sound, the leadership and resource ownership and management is divided into what is known as “Iora” which in English literally mean a canoe. ‘Iora’ is a name used for tribes. Each “Iora” elects Araha (a chief) who rules for the duration of his lifetime. The governing body includes the chief, his cabinet “Ramo” (warrior) and the “Hanasu” (High Priest). All decisions over land and marine resources use are made by the governing body in consultation with the Aporoa (members of the tribe). Note that this practice is common among the neighboring islands such as South Malaitan and Are Are region of Malaita province, Ulawa and Makira province, although the names could be different but the practice is similar.

²⁹⁰ Personal Interview with J.Fairfax on the 19th of June 2006: All questions or enquiries concerning his views and his research outcomes should be directed to this email address : johncfairfax@gmail.com

As is the case with subsistence fisheries, the small-scale artisanal fisheries sector in the Solomon Islands lacks a specific management plan and often their catches and methods of fishing has never been reported through formal government process to allow for accurate reporting. This is a common practice in the Solomon Islands as most artisanal catches are sold immediately after the trip and are sold through local markets outlets in Honiara, the capital city or and in other provincial towns.

VIII. The Limitation of the one-species led management frameworks

The commercial fishing sector of the Solomon Islands is one of the major contributors to the country's GDP, and also the only sector that has specific management and development plans (2000 Tuna Management Plan). The domestic tuna industry is currently the second highest sources of foreign revenue earning to the country from the export of frozen and other processed tuna products to overseas markets. For example the 2004 annual tuna catch estimates for the domestic and foreign licensed fishing vessels in Solomon Islands was estimated at 87,494 mts as compared to 62,910 mts by both fleet in 2003.²⁹¹ From the 2004 summary total catch, 27,860 mts representing 32% of the total catch was caught by the domestic fleet of Solomon Islands.²⁹² The majority of the domestic tuna catch was from the purse seiners and this was follow by that from the pole-and-line fleet and then the longliners. The total catch by the foreign fleet was also dominated by that from the purse seiners and was followed by that from the longline vessels.²⁹³ In addition, the domestic tuna industry also provides a lot of employment opportunities on the fishing vessels, at the tuna cannery and at the tuna smoking and loin

²⁹¹ Sylvester Diake, 2005, National tuna status report for Solomon Islands for 2004, Western Central Pacific Fisheries Commission, 1st Meeting of the Scientific Committee of the Western and Central Pacific Fisheries Commission, WCPFC-SCI- 8-19 August 2005, Noumea, New Caledonia. Ref. WCPFC-SCI FR WP-19.

²⁹² Ibid.p.2

²⁹³ Most income is taken form foreign revenues to the country derived from the licensing of foreign fishing vessels to fish for tuna within the fisheries limits of Solomon Islands under bilateral access agreements, the Multilateral Fisheries Treaty with the U.S. and the regional FSM Arrangement. Solomon Islands presently has bilateral access Agreements with Japan, Korea, New Zealand and Taiwan. A bilateral access agreement with the EU which was negotiated and concluded in early 2004 is yet to come into force.

processing facilities to many Solomon Islanders. A lot of fresh and frozen tunas and a variety of canned tuna products are also supplied to the domestic market for local consumption.

As shall be seen later, while the tuna development and management plan has offered a specific framework for the tuna fishery industry based on the 1998 fisheries act, it remains ambiguous on the issue of by-catch, IUU fishing, and enforcement. The plan is very sectoral oriented as it narrowly focused on pelagic fisheries like tuna and does not reflect the integrated nature of the marine ecosystems²⁹⁴, and the effectiveness of the scheme remains unclear. While the 1998 Act may reflect a specific achievement in the pelagic fisheries of Solomon Islands, it fall short of accommodating the related fisheries that are vulnerable to plunder by foreign fishing vessels and its current form is too narrow to allow wider participation from various stakeholders representing different real interests in other related fisheries sectors.

VIII. Implementing an Integrated National Ocean Policy in Solomon Islands: Current Legal Framework and future perspective.

A. Fisheries Legislations

Policy developments in fisheries begun somewhat in 1972 with the enactment of the Fisheries Act aimed at making specific provisions for the promotion and regulation of fishing and fisheries industries in Solomon Islands.²⁹⁵ Like many Pacific Small Island Developing States, it is somewhat easier to declare the sovereign rights confers by UNCLOS for the purpose of exploiting and exploring the living resources in the areas under national jurisdiction, however, it is too difficult to fully discharge the obligatory responsibilities charged under UNCLOS.

²⁹⁴ Most major private sector investments in the Solomon Islands in the fisheries sector apart from tuna are heavily controlled by foreign investors, often working through joint ventures, like the tuna longline companies out in the high seas, trochus processing factories, bechedemeer (sea cucumber) trade and the aquarium export business in the coastal waters and reefs represent big fisheries investments that are not properly regulated.

²⁹⁵ Pacific Islands Legal Information Institute, Solomon Islands consolidated Legislation, (cited 30th October, 2006), available from : http://www.paclii.org/sb/legis/consol_act/fa110/

Like others, Solomon Islands faced the difficult challenge of enforcing the responsibility obligations charged under UNCLOS for coastal for the management of the ocean resources. It could be seen that the legal approach to ocean resources management employed by the government of Solomon Islands since 1972 was highly sectoral in nature and lacks legal integration. Since the enactment of the 1972 Fisheries Regulations (subsidiary legislation), successive legislations tended to have been concentrated mainly on tuna and the highly migratory fish species and neglected the other marine and coastal ecosystems and species. The current sectoral-approach to ocean management has made it difficult for the government to adequately meet its international and regional ocean management obligations.

(a) Fisheries Act 1972

The Fisheries Act of 1972 was an important starting point in the future of ocean resources management in the Solomon Islands, and particularly for coastal fisheries. Effectively, the act provides a legal foundation for the future of ocean resource regulation and management in a way that would provide a wider framework to manage coastal marine ecosystems. For enforcement purposes, the Act empowered the Minister and the Principle Licensing Officer to be custodian of the regulation.²⁹⁶ The Act, legally, provides for the regulation of access to most of the valuable coastal marine fishery species including, crayfish, trochus, crocodiles, turtles (nests & eggs), coconut crab, pearl oyster, corals and coral sands, and wild clams.²⁹⁷

Management wise, the Act stipulates both the general and specific guidelines regarding the harvesting of certain fisheries species for both commercial and non commercial purposes. Failing to comply by the regulation the Act provides strong penalties. For instance, in the case of crayfish, the Act states that;

²⁹⁶ Pacific Islands Legal Information Institute, USP, “Solomon Islands consolidated Legislation: Fisheries Act [Cap 38], Laws of Solomon Islands” cited (20/11/2006) available from: <http://www.paclii.org> Ibid. 12(1) LN 43/1993 and 14(1) LN 43/1993.

²⁹⁷ Pacific Islands Legal Information Institute, USP, “Solomon Islands consolidated Legislation: Fisheries Act [Cap 38], Laws of Solomon Islands” cited (20/11/2006) available from: <http://www.paclii.org>

“any person who catches and retains or sells or exposes for sale, or buys or exports (a) any crayfish of the genus *Panulirus* whose carapace length is less than 8 centimeters when measured along the mid-line from immediately behind the rostral horn to the rear edge of the carapace; (b) any female crayfish which is carrying eggs externally or from which the eggs have been removed, shall be guilty of an offence and liable to a fine of one hundred dollars or to imprisonment for three months, or to both such fine and imprisonment”.²⁹⁸

Similarly, the Act specified regulations on various sizes for the exploitation of trochus and coconut crabs.²⁹⁹

A very important aspect of the 1972 Fisheries Act was the distinction made between commercial species and non-commercial species. The Act recognizes the threat of harvesting for commercial purposes straight from the wild in the absence of strong regulation. For that matter, the Act discouraged certain species to be caught from the wild directly for commercial purposes. However, to access those same species for commercial purposes, one has to resort to proper farmed systems.

The case of crocodile harvesting is a classic example. Under the Act, the sale of crocodile meat, skin and parts was only allowed if the crocodile is reared in a farm.³⁰⁰ Any person found to have sold any crocodile meat, skin or part from the wild shall be guilty of an offence liable to a fine of one hundred dollars and imprisonment for three months, or both.³⁰¹

Turtles on the other hand, were made noncommercial.³⁰² Moreover, even for local consumption, the Act prohibits catching of nesting turtles from the month of June through August and November through to January in an effort to protect mothers being killed. It also prohibits the removal of turtle eggs or destroying turtle nests. Similarly, the Act also prohibits export of certain oyster shells (genus *Pinctada*) and wild clams. Any act found to be in contravention to this clause would be liable for three months imprisonment and a

²⁹⁸ Ibid. (protection of crayfish (5) LN 43/1993.

²⁹⁹ Ibid. (12) LN 43/1993.

³⁰⁰ Ibid. (8) LN 43/1993

³⁰¹ Ibid. (8) LN43/1993

³⁰² Ibid. 9(1)(2) LN 43/1993. A special reference was made for the protection of leatherback turtles and their eggs, nesting sites and luths (21) LN112/1977.

fine of one hundred dollars.³⁰³ To control catching effort, the Act restricts the use of certain nets (seine, gill or trawl) within specified areas.³⁰⁴

A notable aspect of the act is found in its clause dealing with removal of corals. In this case, the Act prohibits the collection of live and dead corals and the use of certain machines in extracting corals and gravels.³⁰⁵ Interestingly, the only two activities in which collecting of corals is allowed is for the purpose of producing a traditional lime for the consumption of betel nut and that of clearing a passage way through a reef bed.³⁰⁶

Recognizing the potential of the commercial value of fisheries and its associated benefits to national economic development, the Act provides detail regulations to guide the establishment of onshore processing facilities, building infrastructures and processing plants, equipments, sanitation procedures, water and sewage disposal procedures and building and housing structures.³⁰⁷ Importantly, the provisions stipulated in the health and hygiene procedures for the fish processing plants were made pursuant to international standards in the 1970s. This reflects the desire of ruling executive to support national fish exporting initiatives.

(b). Fishery Act 1978 (Revised Ed. 1996).

The 1978 Fisheries Act was restricted to tuna and tuna like fisheries. The Act deals mainly with the fisheries administration, licensing of local and foreign fishing vessels, Fishing methods, powers of authorized officers and offences and legal proceeding.³⁰⁸

A significant point of departure from the 1972 Act is the inclusion of a detailed section on fisheries administration. Part II of the Act went further in providing for the appointment of a Principle Fisheries Officer, a Fishery Advisory Committee and other

³⁰³ Ibid. (13) LN 43/1993

³⁰⁴ Ibid. Third Schedule (Regulation 11), “Areas in which net fishing is prohibited is Honiara Inner Harbour”.

³⁰⁵ Ibid.14(1), (2), (3).

³⁰⁶ Ibid. 14[4(a), (c)].

³⁰⁷ Ibid. (17), (18), (19), (20) and (22), LN 112/1977.

³⁰⁸ Solomon Islands Fishery Act 1978 (Revised Ed 1996), Pacific Islands Legal Information Institute, Solomon Islands consolidated Legislation, (cited 30th October, 2006), available from : http://www.pacii.org/sb/legis/consol_act/fa110/

fisheries and assistant fisheries officers.³⁰⁹ Clearly, the 1978 Fisheries Act was an attempt to increase the level of management capacity within the department of Fisheries since the 1972 Act only empowered the Minister and the Principle Licensing Officer to be custodian of the Act. However, while the Act did generally specify the role of the Principle Fishery Officer, it was vague on the responsibilities of other fisheries officers and assistant officers.³¹⁰ Similarly, while the Act granted a provision for the establishment of a Fishery Advisory Committee, it leaves the functions of the committee entirely to the discretion of the Minister to prescribe its functions and duties.³¹¹

Another significant development in the 1978 Act was the provision of powers of authorized officers who shall be charged to implement the Act. The Act provides powers to officers to stop, board, search, and make examination of any fishing vessel under suspicion of breach of any provision in the Act.³¹² In addition, the Act also provides powers for officers to enter any fish processing facility and undertake any search or examination of any fish product or examined any processing facility deemed not desirable or according to the provisions of the Act.³¹³ Not only that, the Act provides that authorized officers upon grounds of solid evidence of an offence committed against the provisions of the Act shall search or carry out examination without a search warrant.³¹⁴ Furthermore, in protecting the work of the authorized officers, the Act grants certain provisions, making it an offence against any person deemed or found to be obstructing the work of the officers.³¹⁵

The final significant inclusion in the 1978 Fisheries Act was Part VIII dealing with offences and legal proceedings.³¹⁶ Under Part VIII (15) throwing overboard or destroying any object in an event of being examined or about to be searched by the

³⁰⁹ Ibid.3 (1), (2), (4).

³¹⁰ Ibid. 3[2(a), (b)], LN 64A of 1978 provided that “The Principle Fisheries Officer shall (a) promote the development of fishing and fisheries in Solomon Islands; and (b) endeavor to ensure that the fisheries resources of Solomon Islands are exploited to what appears to him to be the maximum reasonable extent consistent with sound fisheries resources management”.

³¹¹ (4) LN 46A of 1978

³¹² Ibid. 10[b(1)(ii)], (c), (d), (e).

³¹³ Ibid. 10 (a), (e).

³¹⁴ Ibid. 11[1(a), [b (i), (ii), (iii), (iv), (v)], (2), (3).

³¹⁵ Ibid. 12(a), (b).

³¹⁶ Ibid. (15), (16), (17), (18), (19), (20).

authorized officers shall be guilty and liable for fine and imprisonment.³¹⁷ In addition, any vessel found in violation of any provision of the Act shall be liable to cancellation of its fishing license.³¹⁸ Moreover, should the court found the vessel and crew guilty of offence, the court shall order in addition to the violation charges, the forfeiture of gears, catch (fish) and the fishing vessel.³¹⁹ A classic example of the implementation of this act was the arrest of the U.S. purse seine vessel the Jeanette Diana in 1984 found conducting illegal fishing in the 200 exclusive economic zone of Solomon Islands.³²⁰ The High Court of Solomon Islands ordered in this case the forfeiture of the Jeanette Diana Vessel, her fishing gears, catch and the helicopter on board the vessel to the state.³²¹

In all, the 1978 Fisheries Act has made significant legal progress towards effective management of the marine resources. Ideally, with the addition of a detail administrative arm coupled with a solid authoritative power with full legal backing, it should have added weight to the effective implementation of the Act. In reality, however, the provisions laid down in the Act have not always been applied and enforced. A clear example is the Fisheries Advisory Council which in practice has never been realized. Furthermore, extraction companies are rarely called to account for breaches of the Act, especially dealing with coastal fisheries. Enforcement of the Act on pelagic and tuna fisheries has only been properly enforced with the introduction of the Vessel Monitoring System (VMS: a satellite based system) under the 1998 Fishery Act. However, in most rural community areas where customary (kastom) law continues to take precedence over national law and common law, the fisheries Act have no impact.

(c). 1998 Fisheries Act

The 1998 Fishery Act came at a crucial time in the history of highly migratory fish stock management at the global level. The United Nations Agreement for

³¹⁷ Ibid. (15)

³¹⁸ Ibid.16 (1), (2).

³¹⁹ Ibid. (17), (18), (19).

³²⁰ R.Nadelson, "Exclusive Economic Zone: State Claims and the LOSC Convention (The Jeanette Diana Dispute)" *Marine Policy*, 1992, 16(6):p.463 Also B. Martin Tsamenyi, "The South Pacific States and the sovereignty over Highly Migratory Species" *Marine Policy*, 10(1) 1986:pp.29-41.

³²¹ Ibid.p.463.

implementation of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling fish stocks and highly migratory fish stocks (in force as of 11 December 2001) was adopted in 1995. In 1996 the process of negotiations for the establishment of the Western Central Pacific Tuna Commission was convened among Pacific Island States members of the Forum Fisheries Agency (FFA) and the Distant Water Fishing Nations (DWFNs) involving in the harvesting of the highly migratory species in the WCPO region.³²² The Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean was completed in 2000 and opened for signature for 12 months from 5th September. In 2005 the Western Central Pacific Tuna Commission was established and its first Annual Session convened marking the full implementation of the provision of the United Nations Convention of Law of the Sea of 10 December 1982 relating to the conservation and management of straddling fish stocks and highly migratory fish stocks.

The 1998 Fisheries Act therefore was dominated by the above process as the need to fully establish a management body in the Pacific region to regulate tuna and other highly migratory fish stocks became paramount. Hence, the Act was more comprehensive and detail in outlining the fisheries management mechanisms relating to highly migratory fisheries like tuna, migratory and provided specific congruent powers for enforcement.³²³ The Act consists of four main (4) parts and a schedule.³²⁴ It should be noted that the 1998 Fisheries Act fully revised the laws relating to fisheries in Solomon Islands and was intended to repeal the 1972 Fisheries Act.³²⁵

³²² The States that participated in the Multilateral High-Level Conference on the Conservation and Management of Highly Migratory Fish Stocks in the Western Central Pacific are: Australia, Canada, China, Cook Islands, Federated States of Micronesia, Fiji Islands, France, Indonesia, Japan, Republic of Kiribati, Republic of the Marshall Islands, Republic of Nauru, New Zealand, Niue, Republic of Palau, Independent States of Papua New Guinea, Republic of the Philippines, Republic of Korea, Independent States of Samoa, Solomon Islands, Kingdom of Tonga, Tuvalu, United Kingdom of Great Britain and Northern Island in respect of Pitcairn Island, Henderson, Ducie and Oeno Islands, United States of America, and the Republic of Vanuatu. The Republic of China (Taiwan) signed the Agreement of participating entities.

³²³ The Act confers specific powers to the Minister of Fisheries, the Fisheries Advisory Council, the Tuna Management Committee, and the Director of Fisheries.

³²⁴ According to the Fisheries Act 1998, Part I: Preliminary, Part II: Fisheries Administration, Management, Conservation and Regulation of Fishing, Part III: Enforcement, and Part IV: General, Schedule (The Fisheries Advisory Council).

³²⁵ Ibid. Part IV 61(1).

Unlike its predecessors, the 1998 Fisheries Act established a comprehensive National Tuna Management and Development Plan that replaces the existing quota system with a new license limitation system. The Act brought further adjustments to the existing licensing system and provided a streamlined guideline on the type of fishing agreements the country could enter into.³²⁶

The rationale being to allow more for effective management of the tuna fisheries, while at the same time, offer support to increase domestic participation in the fisheries sector.

The real strength of the Act therefore lies in its integrative nature. How wide is its scope of integration? Who and how many are empowered to participate in Fisheries development, management and enforcement process both at the national (Ministerial/ Departmental/ IGOs and NGOs) and local level? In addition, how much recognition and power did the Act devolve to the provincial and customary authorities whose jurisdictions affect the lives of the 80% rural people on a daily basis?

The scope of the Act's integrative nature is crucial to the effectiveness of the legislation because the integrated nature of the marine ecosystems formed the center of the marine life-support systems. Hence, the Act, if it is to be meaningful and effective in the long term, both for the sake of the marine and the human communities who depend on them, it ought to reflect this 'integrative character' of the marine ecosystems.

As far as the legal power goes, the highest power conferred under the 1998 Fisheries Act is upon the Minister.³²⁷ In exercising his powers in fisheries development, management and conservation, the Minister is obliged to give due regard to certain principles including; marine biodiversity, application of precautionary approach, sustainable utilization of fisheries resources, sustainable yield principle, relevant international conventions and treaties, customary rights holders, and any existing fisheries management and development plan made in accordance to the Act.³²⁸ To assist the Minister fulfill the responsibilities prescribed under the Act, the Minister is empowered to appoint a Fisheries Advisory Council whose role is largely to provide

³²⁶ The new licensing systems was established to achieve two important goals: (1) Control the amount of license issues .i.e. only a limited number of license would be issued, (2) The areas to fish would be restricted.

³²⁷ Fisheries Act 1998, Part II (4).

³²⁸ Ibid. Part II [4 (a),(b),(c),(d),(e),(f),(g),(h)].

advisory services.³²⁹ In addition, the Act further empowered the Director of Fisheries, Principle Licensing Officer and other licensing officers and fisheries officers to carry out the purpose and provision of the Act.³³⁰ As far as the Act goes, the government legal prerogative is sectorally centered in the hierarchy of the Department of Fisheries. There is no clear provision for cross sectoral departmental collaboration among related departments (e.g. Department of Environment, Lands, Forestry, etc) other than the Minister's discretion to appoint members of the Fishery Advisory Council which is at the mercy of political influence.

There were provisions for Provincial legal prerogatives in the decision making process relating to recording of customary claims and access to provincial waters.³³¹ However, the Act confers scant recognition and limited powers to provincial authorities and local communities who are active participants in rural fisheries sector. In addition, there were no clear objectives provided in the Act to guide small-scale and community based commercial fisheries. It is therefore difficult to see how local communities and interests groups and the wider community fit into the larger framework of fisheries management due to the sectoral nature of the Act and its established purpose.

In overall, the 1998 Fisheries Act was no more than a general prescriptive of measures and powers needed to guide the development and management of mostly commercially valuable highly migratory species like tuna by the government. Its current sectoral nature and framework limits its effectiveness and greatly ignored both the integrated nature of marine and terrestrial resources and the human element that depends upon them for daily livelihoods.

³²⁹ Ibid. Part II [5(1), (2), (3, a, b, c,)]. The 1998 Fisheries Act provides that “Without prejudice to the generality of subsection (1), the council shall advise the Minister on the following matters: (a) fisheries management and development plans prepared under section 7; (b) proposals for fisheries development and research projects to be funded under the Fisheries Management and Development Fund provided for under section 6; and (c) such other matters as may be referred to it by the Minister or any Provincial Executive.”

³³⁰ Ibid. Part III 36(1).

³³¹ Ibid. Part II [10 (1), (2), (3, a, b, c, d)].

X. Maritime Boundary Regulations.

Solomon Islands ratify the United Nations Law of the Sea Convention (UNCLOS) in 1997. In doing so, Solomon Islands declared three basic regimes under the LOSC that provides for coastal state sovereignty in its maritime internal waters. They are; (1) archipelagic waters (2) the Territorial Waters, and (3, Exclusive Economic Zone.³³² The only outstanding maritime area is the extended continental shelf.

In 1978, the year of independence, the government declared the Archipelagic Order of Solomon Islands³³³ as comprising five (5) main archipelagos (please refer to map fig.1) including the following:

³³² UNCLOS Art. 56. The fisheries provisions of the UNCLOS provide a legal framework for regulating marine fishing activities based on three basic regimes, and six regimes related to stocks that occur in two or more maritime zones. The three basic regimes provide for coastal state sovereignty in maritime internal waters, archipelagic waters, the territorial seas, exclusive economic zones and the continental shelf areas. Flag state jurisdiction is reserved for the high seas areas. Also,

- UNCLOS, Article 76 & 77 provides that;
“Coastal States exercise over the continental shelf sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources within their 200 EEZ...the waters super adjacent to the seabed and of the seabed and its subsoil”.

- William T. Burke, *The Law of the Sea Convention and Fishing Practices, with special reference to the United States* in J.M. Van Dyke, 1985, *Consequences and Confrontation: The United States and the Law of the Sea Convention*, Law of the Sea Institute, Honolulu, p. 317;
Burke stressed that art. 56 is the overriding provision on fisheries in the convention. It declares the sovereign rights of coastal states over the resources in the internal and 200nm EEZ, Burke cautions that any specific limitations or modifications of coastal authority must be found within the convention. On that ground he argued that;

“In the absence of a specific limitation, the coastal state is in full control as long as it does not otherwise offend international law. This treaty delegates virtually complete authority for managing fisheries, including conservation, utilisation, and allocation to the coastal states of the world.”

As Burke explicitly articulated, the coastal states and the archipelagic State exercise sovereignty over the fisheries resources located in their maritime internal waters, archipelagic waters, the territorial sea and the exclusive economic zones.

³³³ According to the Act of 1979, Archipelago means a group of Islands, including parts of islands, inter-connecting waters and other natural features form an intrinsic geographical entity, and which has been declared by the Minister by Order published in the Gazette to be an archipelago.

(1) The main group archipelago are: Shortlands, Treasury Islands, Choiseul Islands, New Georgia Islands, Santa Isabel Islands, Dai Island, Russell Islands, Florida Islands, Malaita Islands, Guadalcanal Island, Makira Island, Santa Catalina Islands, Santa Ana Island and Ulawa Island.

(2) The Rennell, Bellona and Indispensable Reef Atoll Archipelago which includes Rennell Island, 2) Bellona Island, 3) Indispensable Reef Atoll.

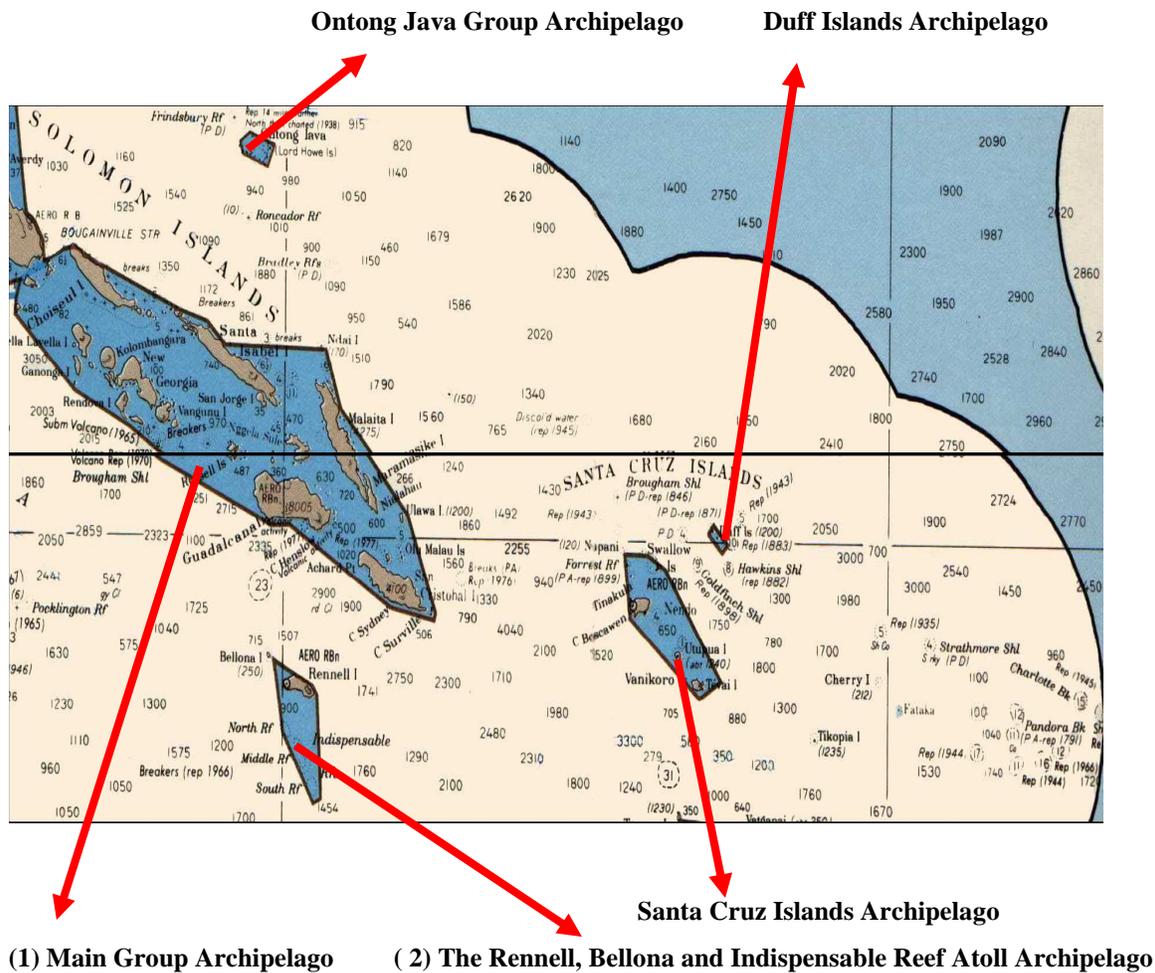
(3) The Ontong Java Group Archipelago (Ontong Java Atoll),

(4) The Santa Cruz Islands Archipelago (Santa Cruz Islands) and

(5) The Duff Islands Archipelago (Duff Islands).³³⁴

³³⁴ SI archipelagic Order 1979 (Act of 1979). See Appendix for Coordinates.

Map Fig: Solomon Islands 5 main group Archipelagos: (For Coordinates please refer to Appendix).



Source: Modified from Training Manual for CLCS, DOALOS, OLA

As shown above, legally, Solomon Islands’ physical geography made it easier to adopt the archipelagic base points as provided in international law article 47(UNCLOS) relating to archipelagic base lines.³³⁵ Solomon Islands is made up of five (5) main archipelagos as

³³⁵ UNCLOS Art 47 provides that:

1. An archipelagic State may draw straight archipelagic baselines joining the outermost points of the outermost islands and drying reefs of the archipelago provided that within such baselines are included the main islands and an area in which the ratio of the area of the water to the

stated earlier hence in determining base-points it is clear to draw straight archipelagic baselines joining the outermost points of the outermost islands and reef of the archipelago as provided in Art 47 (1) of UNCLOS (for the actual coordinates please consult appendix).

Having established the archipelagic baselines, the first attempts Solomon Islands took towards formalization of her maritime boundaries with her neighbors was with Australia, Papua New Guinea and France (New Caledonia). Currently, the two

area of the land, including atolls, is between 1 to 1 and 9 to 1.

(2). The length of such baselines shall not exceed 100 M, except that up to 3 per cent of the total number of baselines enclosing any archipelago may exceed that length, up to a maximum length of 125 M.

(3). The drawing of such baselines shall not depart to any appreciable extent from the general configuration of the archipelago.

(4). Such baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them or where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the nearest island.

(5). The system of such baselines shall not be applied by an archipelagic State in such a manner as to cut off from the high seas or the exclusive economic zone the territorial sea of another State.

(6). If a part of the archipelagic waters of an archipelagic State lies between two parts of an immediately adjacent neighboring State, existing rights and all other legitimate interests which the latter State has Traditionally exercised in such waters and all rights stipulated by agreement between those States shall continue and be respected.

(7). For the purpose of computing the ratio of water to land under paragraph 1, land areas may include waters lying within the fringing reefs of islands and atolls, including that part of a steep-sided oceanic plateau which is enclosed or nearly enclosed by a chain of limestone islands and drying reefs lying on the perimeter of the plateau.

(8). The baselines drawn in accordance with this article shall be shown on charts of a scale or scales adequate for ascertaining their position. Alternatively, lists of geographical coordinates of points, specifying the geodetic datum, may be substituted

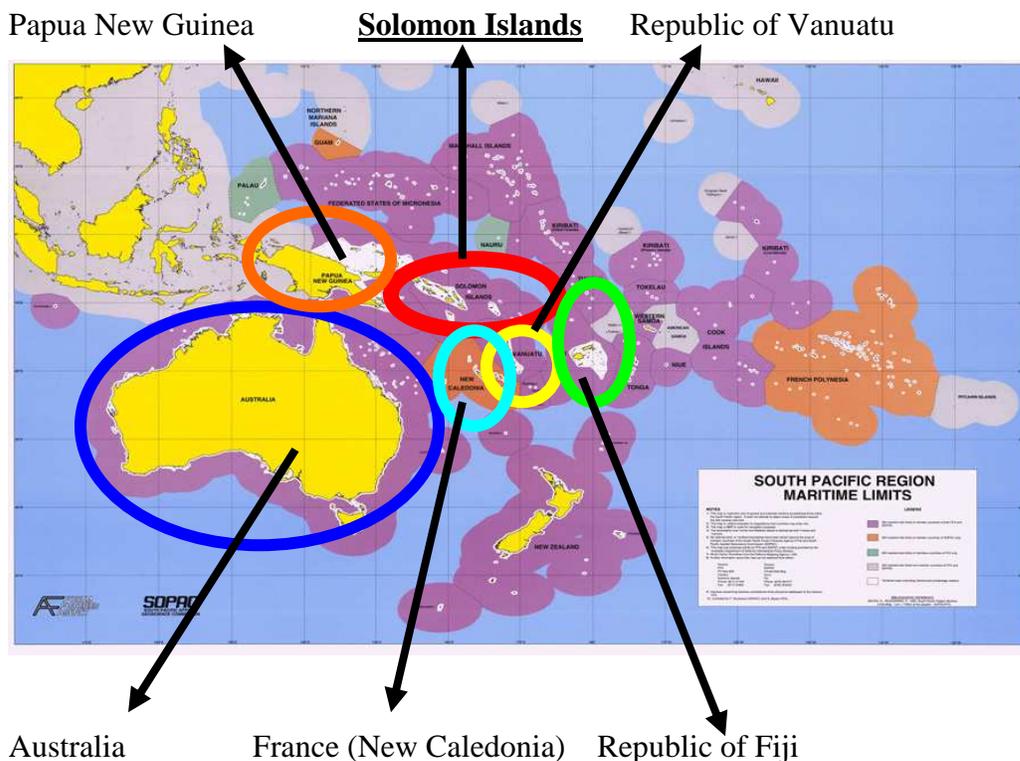
(9). The archipelagic State shall give due publicity to such charts or lists of geographical coordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations. The Solomon Islands are a typical example of an archipelagic State, which is formed by more than one archipelago.

outstanding boundaries are the Republic of Fiji and the Republic of Vanuatu maritime boundaries.

A. Status of Solomon Islands Maritime Boundary Delimitations

Solomon Islands shares maritime boundary with five neighboring countries namely Papua New Guinea, Australia, France (New Caledonia), Vanuatu and Fiji. Having invoked Art 47 (1) of UNCLOS relating to archipelagic principles for the establishment of her boundaries, Solomon Islands' maritime boundaries hitherto have been based on equidistance principles. Thus far, two maritime boundaries have been established, one provisionally established and two are outstanding.

Map: Fig. Countries with which Solomon Islands share Maritime Boundaries



Source: modified from <http://www.sopac.org>

B. Solomon Islands and Papua New Guinea Boundary

Solomon Islands entered into an Agreement Concerning Sovereignty, Maritime and Seabed Boundaries with the Independent State of Papua New Guinea on 25 January 1989. The agreement is yet to be ratified by Solomon Islands. The need now is for technical officers and officials of both countries to check the agreement and revisit the agreed coordinates and to establish standard base points and maps to be used for formal maritime boundary negotiations.

C. Solomon Islands and Australia Boundary

Solomon Islands and Australia entered into a bilateral maritime boundary agreement “Establishing Certain Sea and Seabed Boundaries” on 13 September 1988.³³⁶ In defining the maritime line of boundary between the two states, the agreement recognized Australia’s “reefs in the Coral Sea on the one hand and Solomon Island reefs on the other hand, the line of delimitation between the Australian Fishing Zone and the Solomon Islands Exclusive Economic Zone and between areas of continental shelf lies along the geodesics.”³³⁷ Refer to table below for boundary points.

³³⁶ UNDOALOS/OLA/UN, “Agreement between the government of Solomon Islands and the Government of Australia establishing certain sea and sea-bed boundaries” United Nations Treaty Section, 13 September 1998 (entry into Force: 14 April 1989, Registration No. 26661, Registration date: 23 November 1990, Vol(1536).

³³⁷ Solomon Islands – Australia Maritime Boundary Coordinates, (cited 24/11/2006), available from: http://www.dtic.mil/whs/directives/corres/20051m_062305/Solomon_Islands.doc. Note: A geodesic curve is defined as the “unique line having the shortest possible distance between any two points on the space over which it is measured”. Geodesics are interpreted by the Commission to be the geometric lines used to measure all distances and in terms of Article 76, it form the lines describing the outer limits of the continental shelf beyond 200 M. Geodesics play an important role in the implementation of article 76 because all distances referred to in article 76, i.e. 200 M, 350 M, 100 M and 60 M, are interpreted by the Commission to be measured by means of geodesics on the surface of a geodetic reference ellipsoid. Also note that the Commission acknowledges in its Guidelines that multiple definitions of the low-water line are in current use. Straight, closing or archipelagic baselines can be defined either as geodesics or loxodromes in a consistent manner in a submission. But the Commission is not entitled by the UNCLOS to issue any recommendations with respect to the delineation of baselines from which the breadth of the territorial sea is measured.

Table 5.5.

SOLOMON ISLANDS - AUSTRALIA MARITIME BOUNDARY COORDINATES

POINT	LATITUDE SOUTH	LONGITUDE EAST
U	14°04' 00"	157°00' 00"
V	14°41' 00"	157°43' 00"
R1	15°44' 07"	158°45' 39"

Source: DOALOS/OLA-UN³³⁸

The agreement made pursuant to “desiring to strengthen the bonds of friendship between the two countries provides that the “development of any mineral, gas or biological resources that may be found extending beyond the boundary line, either exploited wholly or partially on the one side shall be done in agreement between the two governments for equitable sharing of the benefits arising from such exploitation.³³⁹ The agreement came into force on 14 April 1989 having been registered with the United Nations on 23rd November 1990.³⁴⁰ The agreement reflects the cordial relations between the two States with a genuine step towards joint development and management of transboundary resources as enshrined in the spirit of international law.

D. Solomon Islands and France (New Caledonia) Boundary

Solomon Island entered into an Agreement on Maritime Boundary with France with regard to the Territory of New Caledonia and reached an agreement on 12 November 1990.³⁴¹ Refer to the table below for coordinates.

³³⁸ UNDOALOS, United Nations Legislation and Treaties Section, (cited on 02/01/2007) available from: <http://www.un.org/Depts/LEGISLATIONANDTREATIES/STATESFILES/SLB.htm>

³³⁹ Ibid. Art 2.

³⁴⁰ United Nations Treaty Section, Agreement between the Government of Solomon Islands and the Government of Australia establishing certain sea and se-bed boundaries, 13 September 1998 (entry into Force: 14 April 1989, Registration No. 26661, Registration date: 23 November 1990, Vol(1536).

³⁴¹ UNDOALOS, “ Agreement on maritime delimitation between the Government of the French Republic and the Government of the Solomon Islands, 12 November 1990,” United Nations Legislation and Treaties Section, Reg.No.27851, Reg. Date 24/1/1991, (cited on 02/01/2007) available from: <http://www.un.org/Depts/LEGISLATIONANDTREATIES/STATESFILES/SLB.htm>

SOLOMON ISLANDS - FRANCE (NEW CALEDONIA) MARITIME BOUNDARY

POINT	LATITUDE SOUTH	LONGITUDE EAST
23	15°44' 07"	158° 45' 39"
24	16°07' 37"	160° 14' 54"
25	15°12' 17"	162° 19' 26"
26a	14°50' 03"	163° 10' 00"

Source:DOALOS/OLA-UN³⁴²

The agreement made between Solomon Islands and France regarding New Caledonia fully recognized the bonds of “neighbourliness and friendship” between the two states and upheld the equidistance principle in the delimitation of the respective maritime boundary.³⁴³ Unlike the case of Australia, Solomon Islands and France invoked the loxodrome or rhumb line principle in delimitating the maritime boundary line with regards to New Caledonia.³⁴⁴ While there is no major advantage regarding the type of method used (other than loxodromo is the old method used before the age of geodesy), the loxodromo principle is applied in this case because is calculated to be the equidistance line between Solomon Islands and the French Republic in the vicinity of New Caledonia.³⁴⁵ However, the geographic coordinates used in calculating the boundary base-points were expressed in WGS 84 (World Geodetic System 1984) signifying that the age of the loxodromo method is coming to an end as far as maritime boundaries are concerned.

Significantly, the Agreement stipulated that any dispute arising from the interpretation of the agreement shall be resolved through peaceful means in accordance to international

³⁴² UNDOALOS, United Nations Legislation and Treaties Section, Reg.No.27851, Reg. Date 24/1/1991, (cited on 02/01/2007) available from: <http://www.un.org/Depts/LEGISLATIONANDTREATIES/STATESFILES/SLB.htm>

³⁴³ Ibid. Art 21)2.

³⁴⁴ “Loxodrome” is a line of constant azimuth (useful property in navigation) which often appears as a “straight” line on Mercator map projections but it is not the line of shortest distance between two points. Geodesics and loxodromes only coincide in a North-South direction, i.e., when they coincide with Meridians.

³⁴⁵ UNDOALOS, “ Agreement on maritime delimitation between the Government of the French Republic and the Government of the Solomon Islands, 12 November 1990,” United Nations Legislation and Treaties Section, Reg.No.27851, Reg. Date 24/1/1991, (cited on 02/01/2007) available from: <http://www.un.org/Depts/LEGISLATIONANDTREATIES/STATESFILES/SLB.htm>

³⁴⁵ Ibid. Art 21)2.

law.³⁴⁶ This reflects the good will relations between the two countries and the desire to uphold international law with regarding resolution of disputes in maritime delimitation. It came with little surprised that the Agreement was signed and entered into force on the same date of 12th November 1990.³⁴⁷

E. Solomon Islands and the Republic of Vanuatu Boundary

Solomon Islands entered into formal negotiations concerning her Maritime boundary with the Republic of Vanuatu in the 1980s, but there was insufficient data to support any formal settlement of the boundary.³⁴⁸ There is an urgent need to work out both diplomatically and scientifically as shown in the Australian and France case to work out the boundary base points. Diplomatically would entail preparing for negotiations with the republic of Vanuatu to reach an agreement regarding which formulae (geodetic or loxodromo) to be employed to determined the boundary line. In any case, the equidistance principle would serve both sides better in terms of territory.

F. Solomon Islands and the Republic of Fiji Boundary

Solomon Islands have never had any formal border agreement with the Republic of Fiji, hence there is a need to collect data and prepare for possible maritime boundary negotiations on that boundary.

G. 1970 Continental Shelf Act.

In 1970 Solomon Islands enacted the Continental Shelf Act, making provisions for among other things, the protection, exploration and exploitation of the Continental Shelf of Solomon Islands. The Act also provided for prevention of pollution in consequence of works in connection with continental shelf and for matters “incidental thereto and connected therewith.”³⁴⁹ However the Act stopped short of elaborating legal powers as to

³⁴⁶ Ibid. Art 3.

³⁴⁷ Ibid. Art 4.

³⁴⁸ UNDOALOS, United Nations Legislation and Treaties Section, Reg.No.2661,Vol(1536), (cited on 02/01/2007) available from: <http://www.un.org/Depts/LEGISLATIONANDTREATIES/STATESFILES/SLB.htm>

³⁴⁹ Solomon Islands 1970 Continental Sheld Act (cap 94). The 1970 CS Act defined the Solomon Islands Continental Shelf as;

which departments and Ministries should be involved, and how they should interact; and which agency to take the leading role in any future work related to continental shelf area. Furthermore, there was no clear provisions made in the Act as to how to organize any work related to Article 76 of the Law of the Sea Convention in light of possible preparations for extended continental shelf beyond 200 miles. This Act needs to be revisited and updated.

While there was scant preparation towards the extended continental shelf area in the past decades, actual progress came in 2005 when SOPAC³⁵⁰ jointly organized a workshop in Apia, Samoa with the Commonwealth Secretariat and UN, to address the issue of outstanding maritime boundaries in the region and potential submissions for continental shelf.³⁵¹ The urgency of the issue led to the preparations of a cabinet paper to be submitted to cabinet in late 2005.³⁵² The Cabinet paper titled “ Solomon Islands Maritime Boundary Delimitation and Continental Shelf Project 2005-2009) was intended to create the first ever national project and coordinating committee to begin the required process towards the Solomon Islands submission to the United Nations Commission on Continental Shelf. However, at the time of writing, the work is currently at this stage.

“ the sea bed and subsoil of those submarine areas adjacent to the coasts of the islands of Solomon Islands but beyond the territorial limits of Solomon Islands, to a depth of 200 meters below the surface of the sea, or beyond that limit, to where the depth of the superjacent waters admits of exploitation of natural resources of those areas.”

³⁵⁰ South Pacific Geoscience Commission

³⁵¹ The author was a participant in the workshop on Maritime Boundary and Continental Shelf as representative of the Department of Foreign Affairs, Solomon Islands Official Delegation.

³⁵² The author prepared the cabinet paper in consultation with the Department of Energy and Mines and Attorney Generals Chambers. The cabinet paper however was delayed due to change in government in 2006.

XI. Why under the current regime it is impossible to archive an Integrated National Ocean Policy in Solomon Islands?

A. A legislation issue

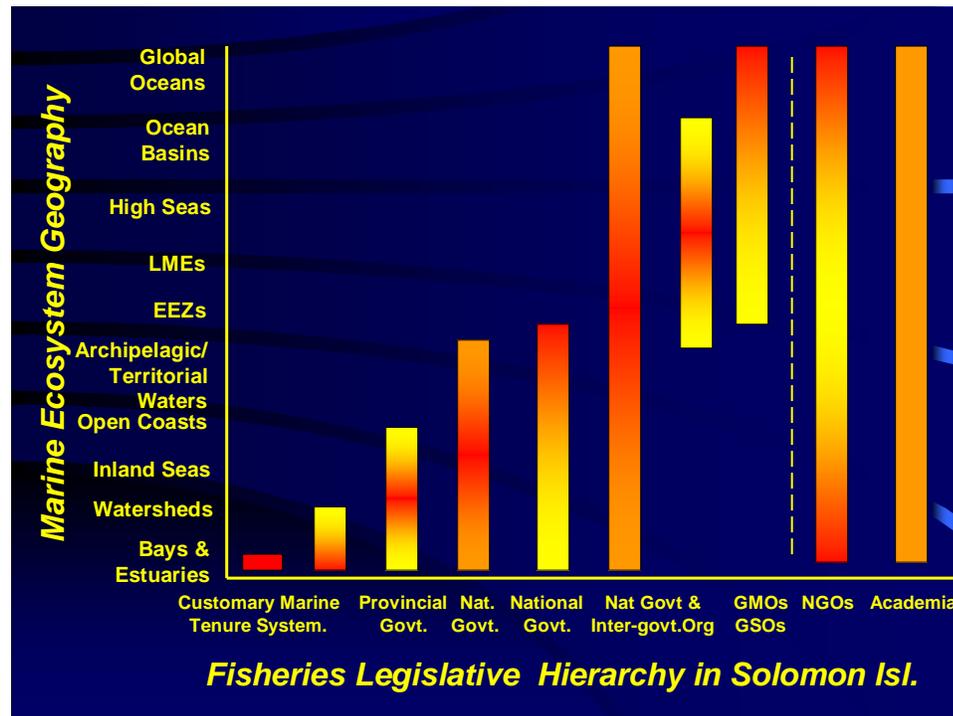
As clearly shown, the legal regimes in Solomon Islands relating to marine and fisheries resources development, management and conservation have largely failed to integrate 80% of the population that lives in the rural areas whose lives are subjected to the various customary marine tenure systems. This means that the Act does not really have any affective impact on fishing practices in the rural areas. This is not only because the Act failed to fully recognize the prevailing customary practices in different islands, but also it failed to accommodate and recognize the power wielded by customary chiefs and church authorities whose regulatory powers are well rooted in the rural areas. Furthermore, majority of the Acts fall short of providing an internal harmonization mechanism to allow communities to be part of the overall management of their own marine and terrestrial resources. Above all, in the case of the 1972 Fisheries Act, while the act made a good attempt at using commercial and noncommercial distinction as a basis for marine management, it failed to rationalize the integrated nature of the various marine ecosystems.

Another issue of great legal contention which often weakened the legal apparatus in Solomon Islands is the conflict between the sources of law in Solomon Islands. Such conflicts often materialized through the exercise of customary rights under customary law, and the national legislation (constitution) and sources of modern law. In the cases of conflict with the sources of law in Solomon Islands, (it is vital to understand the hierarchy of the sources of law in Solomon Islands), the problem often arises when the need for interpretation of Parliamentary Acts and Provincial laws that empowered customary laws failed to specify which customary laws are applicable.³⁵³ For instance,

³⁵³ Customary Laws of Solomon Islands are not written, and neither is it a homogeneous body of law (it varies from community to community and Island to island).

NOTE:

The Current Sectoral Marine Legislative Regime in Solomon Islands



NOAA (Modified)

the 1981 Provincial Government Act of Solomon Islands while declaring “Nothing in this section shall be construed as affecting traditional rights, privileges and usages in respect of land and fisheries in any part of the Solomon Islands”, however, the Act failed to specifically identify which traditional rights, privileges and usages are applicable.³⁵⁴

- The relationship between customary law and common law is “shrouded in obscurity” coupled with the fact that the legal profession and judiciary in Solomon Islands is predominantly expatriate and trained in the common law tradition. Lack of recording of customary law and practices in Solomon Islands makes it difficult to deal with.
- The position of customary law in Solomon Islands could be identified as follows. Firstly, it is subordinate to constitutional provisions (including human rights provisions), unless otherwise specifically exempted from their protection. Secondly, customary law is subordinate to Acts of Solomon Islands Parliament. Thirdly, customary law is superior to Acts of United Kingdom parliament and also superior to common law and equity.

³⁵⁴ G.B.K Baines, 1991, “Asserting Traditional Rights”. *Cultural Survival Quarterly* 15 (2) pp.49-51.

That again brings out another contentious issue which is the requirements to prove customary law by evidence. Customary claims must demonstrate that the custom (kastom) rights do not contravene constitutional law by defining the area[s] in question has been proven 'uninterrupted use of reasonableness' since time immemorial. In the past, the difficulty has been either lack of recognition of the evidence proven under customary law under common law/ and, or lack of hard evidence to back up customary claims. The dilemma lies in the fact there is difficulty in expressing certain customary concepts in the English language and conversely the expression of some common law concepts with a customary law context. This dilemma has often led to the national laws and other sources of law taking precedence.

The consequences of the above dilemma need emphasizing. Firstly, the potential for conflicts within the sources of law remains because customary law as a body of law widely used and effective in among 80% of the rural provinces would always be overlooked. Secondly, because of the fact that customary law is not written and standardized, there would always be dissatisfaction of courts rulings that will overlook customary law, and the potential for tribal-conflicts over resources use and access would be inevitable. If this situation persists, there is a doubt that national legislations would ever be effective in the future. The ambiguity nature of customary law would always conflict with common law (shrouded in obscurity).

Ideologically, it also necessary to point out that the reason why neo-liberal style national legislations will always have conflicts with the customary tenure systems is because of their different ideological origin. Customary Law (Kastom) is deeply rooted in a traditional, closed-circuit subsistence orientation, with reciprocity being the precious virtue in binding kinship relations. This origin runs contrary to the intention of making profits as the case with modern legislations.

Modern national legislation originated from the neo-liberal style development that is driven by what Adam Smith called the power of the "invisible hand" which Marx Weber prophesied would eradicate traditional forms of ties over time re-unite people based on profits and marketability. Often, many cultural conflicts arise when the neo-liberal modern style of development takes place in a predominantly customary regulated area where traditional systems are being led to be seen as obstacles to modern developments.

Despite the fact that the national constitution would take precedence in the event of a legal conflict with customary law, effectively, customary laws continue to be more effective in rural areas than the national legislation. From the surface it is clear because 80% of the Solomon Islands population resides in the rural areas where traditional customary (Kastom) tenure systems are predominantly effective.

PART XI

CONCLUSION

I. Obstacles and Opportunities: The Challenge of implementing an Integrated National Ocean Policy in Solomon Islands.

This paper analyses the challenges facing Small Island developing State's challenges in developing integrated national ocean policies. In the effort to focus the challenges facing small island developing states, the paper specifically analyzed the situation in Solomon Islands. In doing so, the paper provides five major parts namely (Part II) Geographical, Social, Economic and Political Environmental setting in which regional networks operates in the Pacific, (Part III) observations and analysis of the characteristics of the current regional setup in the Pacific region, (Part IV), Development of the Pacific Regional Ocean Policy (PIROF), and (Part V) Towards the development of an integrated national ocean policy in Solomon Islands.

The paper revealed that the Pacific region represents a unique setting in which certain environmental conditions exerts limits on progress of regional and national initiatives. Most of these environmental conditions emanated from the geographical nature of Pacific region and environmental settings. These conditions characterized the environment in which regional initiatives operates. These conditions are;

- Regional isolation and economic marginality
- Widely differing country sizes, capabilities and economic circumstances, separated by long distances, different cultures and historical experiences
- Fragile physical environments in both the atolls and the high islands
- Overweighting of population and land resources in Melanesia
- Shortage of experienced bureaucrats, planners and managers
- Generally weak government systems and capacity to deliver on policies
- Dependence on foreign aid for public sector development programs

- Strong engagement and regional influence from Australia and New Zealand

Furthermore, it was seen that the current regionalism practice in the Pacific region operates on a voluntary membership basis with a non-binding decision making process. As a consequence, it would be difficult to expect the current approach to create more benefits to sustain the regional framework in both the short and long term. It is therefore important to consider moving away from the current voluntary and sectoral approach to ocean resource development and management in a manner that could offer more net benefits to the island states.

The paper also revealed that the current regional cooperation arrangement in the Pacific is not necessarily sufficient to cope with the cross sectoral regional challenges because the current set-up does not encourage integration of regional activities and programs among the respective intergovernmental organizations. In reality, the growth of some programs of some regional organizations has caused an overlap with the programs of the other sister organizations like in the case of SOPAC with SPC. The consequence of such program overlaps was that it tends to create tensions among the organizations and often divert international support to environmental issues to one organization away from other sister regional organizations with closely related programs. In any case, such overlaps often fueled competition for funding and it may weaken the effectiveness of cooperation among sister organizations and thereby further weaken the efforts to implement regional programs. Coupled with the fact that most of the regional programs are non-binding in nature, such competition for funding further complicates and weakened the regional effort to cooperate in the implementation of regional environmental programs.

The current Pacific regional set up therefore is not in a position to shape the specific needs of its members. In the case of the Solomon Islands, the challenge seemed complicated than currently understood. With over 80% of the population lives in the rural periphery, and subject under various customary marine tenure systems (that are only applicable in certain regions and varied widely from island to island), the current national fisheries legislation fall short of integrating marine ecosystems in its management scope.

In fact, the current Fisheries legislation effectively does not really have any real impact on fishing practices in the rural areas. This is partly because the Act failed to fully recognize the prevailing customary practices in different islands. Similarly, the Act failed to accommodate and recognize the power long wielded by customary chiefs and church authorities who regulates access to marine resources in the rural areas. There was also no internal harmonization mechanism in place to allow communities to be part of the overall management of their own marine resources. In all, the legal approach failed to acknowledge the integrated nature of the various marine ecosystems, and it is doubtful to see the current Act being effective nation-wide.

Another obstacle to effective marine management in Solomon Islands is the legal conflict between the sources of law. This often materialized through the exercise of customary rights under customary law, and the national legislation (constitution) and sources of modern law. In the cases of conflict with the sources of law in Solomon Islands, (it is vital to understand the hierarchy of the sources of law in Solomon Islands), the problem often arises when the need for interpretation of Parliamentary Acts and Provincial laws arises in the event that customary laws would fail to specify which customary laws are applicable in certain areas and for specific purposes.³⁵⁵ For instance, the 1981 Provincial Government Act of Solomon Islands while declaring “Nothing in this section shall be construed as affecting traditional rights, privileges and usages in respect of land and fisheries in any part of the Solomon Islands”, however, the Act failed to identify which traditional rights, privileges and usages are applicable.³⁵⁶

³⁵⁵ Customary Laws of Solomon Islands are not written, and neither is it a homogeneous body of law (it varies from community to community and Island to island).

NOTE:

- The relationship between customary law and common law is “shrouded in obscurity” coupled with the fact that the legal profession and judiciary in Solomon Islands is predominantly expatriate and trained in the common law tradition. Lack of recording of customary law and practices in Solomon Islands makes it difficult to deal with.
- The position of customary law in Solomon Islands could be identified as follows. Firstly, it is subordinate to constitutional provisions (including human rights provisions), unless otherwise specifically exempted from their protection. Secondly, customary law is subordinate to Acts of Solomon Islands Parliament. Thirdly, customary law is superior to Acts of United Kingdom parliament and also superior to common law and equity.

³⁵⁶ G.B.K Baines, 1991, “Asserting Traditional Rights”. *Cultural Survival Quarterly* 15 (2) pp.49-51.

The challenge facing the legal system in Solomon Islands is the requirements to prove customary law by evidence. Tribal communities who proclaimed customary claims must demonstrate that the custom (kastom) their rights do not contravene constitutional law by defining the area[s] in question has been proven 'uninterrupted use of reasonableness' since time immemorial. In the Solomon Islands context, the difficulty has been either lack of recognition of the evidence proven under customary law under common law/ and, or lack of hard evidence to back up customary claims. The conflict of laws lies in the fact that the validity of customary claims is often depending on traditional sources of evidences which often cannot be effectively expressed in the English language, and conversely, the expression of some common law concepts with a customary law context. This dilemma has often led to the national laws and other sources of law taking precedence over customary laws resulting in marginalizing the rural communities.

The consequences of the above dilemma need emphasizing. Firstly, the potential for conflicts within the sources of law remains because customary law as a body of law is widely used and effective among the 80% of the rural population. Secondly, because of the fact that customary law is not written and standardized, there would always be dissatisfaction of courts rulings that will overlook customary law, and the potential for tribal-conflicts over resources use and access would be inevitable. If this situation persists, there is a doubt that national legislations would ever be effective in the future. The ambiguity nature of customary law would always conflict with common law as long as there is no standardization of customary sources of law in Solomon Islands.

Ideologically, it also necessary to point out that the reason why neo-liberal style national legislations will always have conflicts with the customary tenure systems is because of their different ideological origin. Customary Law (Kastom) is deeply rooted in a traditional, closed-circuit subsistence orientation, with reciprocity being the precious virtue in binding kinship relations. This origin does not build upon the intention of making profits and finding markets as the case with modern legislations.

Modern national legislation originated from the neo-liberal style development that is driven by what Adam Smith called the power of the "invisible hand" which Marx Weber prophesied would eradicate traditional forms of ties over time by uniting the people

based on profits and marketability. Often, many cultural conflicts arise when the neo-liberal modern style of development takes place in a predominantly customary regulated area where traditional systems are being led to be seen as obstacles to modern developments. Hence, despite the fact that the national constitution would always take precedence in the event of a legal conflict with customary law, however, effectively, customary laws continue to be more effective in rural areas than the national legislation.

National efforts towards the development and implementation of a Solomon Islands Integrated National Ocean Policy (SIINOP) would depend largely on how best customary laws are incorporated in any integrated framework relating to ocean resources management. The challenge is clear, the current regional and national setting is not adequate to ensure the 80% rural population are empowered to fully participate in the development and implementation of any effort towards establishing an integrated national ocean policy in Solomon Islands.

PART XII

I. RECCOMENDATIONS

(A). What needs to be done: Future steps towards formulation of a National Integrated National Ocean Policy in Solomon Islands.

Currently the Pacific Islands region is among the few regions of the world that has developed a comprehensive regional Ocean Policy Framework to guide the national process of the development of National Ocean policies of its member states. However, to date, no single country in the region has developed an integrated national ocean policy.

In the case of Solomon Islands, the process of developing an integrated national ocean policy faces a legal challenge as much as developmental one. While the idea of integrated management is not new, translating the idea into integrated development is relatively new. With the current legal limitation problem in Solomon Islands, coupled with lack of vulnerabilities associated with being small island states meant that the challenge to develop an integrated national ocean policy cannot be underestimated.

(B). Adopting the Pacific Regional Ocean Policy (PIROF) and Integrated Strategic Action Plan (ISA) Frameworks in Solomon Islands.

Under the regional ocean policy framework at the national level it was envisaged that implementation would be carried out through the Integrated Strategic Action Plan (ISA). This plan was developed to support the PIROF's implementation.

To do so, it is necessary to consider the following values in designing ecosystem based integrated national ocean policy;

- ❖ adaptive,
- ❖ collaborative,
- ❖ incremental,

- ❖ takes account of ecosystem knowledge and uncertainties,
- ❖ considers multiple external influences,
- ❖ strives to balance diverse social objectives, and,
- ❖ Geographically specified.³⁵⁷

(a). Value of Adaptively

The value of adaptability requires a transparent process that would allow a systematic evaluation of information and, if necessary, alter management actions and scientific research to achieve the desired ecosystem conditions. It also requires the ability to change based on new information, committed to continuous improvement, linkages between information, actions and results, formal experimentation part of management. For example, currently, the use of marine protected areas (MPA) is widely used as a basis for monitoring and adaptation in coastal management, and as it allow for local participation and collaborations among stake holders, and it gives way for scientific systematic reporting and evaluation of processes and suggests ways of management based on best available data from MPA. Having regular systematic processes of reporting and evaluation through MPA's would guarantee a high level of adaptability in terms of timely responses to ecological changes in the ecosystems, hence, ecological balance could be archived.

(b). Value of Collaboration

The value of collaboration is taken to reflect the wider ecosystems, including humans and human societal networks and systems of using and managing the coastal and ocean resources. Ecosystem based approach to ocean and marine ecosystems requires collaboration of a broad spectrum of partners to achieve shared goals and actions. Having a system in which all stake holders are involved, with clear articulation of motives and goals, information sharing among stakeholders and managers, strategic partnerships,

³⁵⁷ Ibid.

specifically defined goals, responsibilities, and outcomes, altruistic, inclusive leadership, transparent decision making, would result in ensuring ocean management becoming a part of everybody to depends on it. It would also ensure, everyone take responsibility in managing the coastal and ocean ecosystems from different interest groups and users and managers.

(c). Value of Incremental

Having in place a collaborative mechanism for systematic process of periodic monitoring, evaluation, and adaptation, it will result in achieving sustainable ecological integrity. The level of ecological security and sustenance will increase gradually as collaborative mechanism is gradually allowing all sectors who affect the ocean and marine coastal areas monitoring the ecosystems from their critical control points. In this way, uses would be clearly defined as a roadmap, and would results in identifying key measures for evaluation and reporting to be based on an action plan linking stepwise progress to long term vision, reassesses management actions based on monitoring feedback from the total system.

(d). Ecosystem Knowledge (certainty and uncertainty)

Having in a place a collaborative mechanism for ecosystem based management, it would allow for the timely collection, analysis, incorporation, and communication of all relevant ecological and socio-economic information for decision making. It would be much quicker to identify uncertainties regarding ecosystem processes, and incorporate them into management decisions at all appropriate levels. Integrates knowledge in all forms, Exercises precaution in management when outcomes are uncertain but potential consequences are great, Determines acceptable levels of risk and incorporates them into management, Communicate uncertainties and risks to public

APPENDIX

Maritime Boundaries Claims and Base Lines in Solomon Islands

SOLOMON ISLANDS

SUMMARY OF CLAIMS

TYPE	DATE	SOURCE	LIMITS	NOTES
TERRITORIAL SEA	Dec 78	Delimitation of Marine Waters Act, No. 32	12nm	Affirmed rights of navigation and overflight, in normal modes, in sea lanes and air routes through archipelagic and adjacent territorial waters; authorized designation of sea lanes and air routes.
ARCHIPELAGIC, STRAIGHT BASELINES, & HISTORIC CLAIMS	Dec 78	Act No. 32		Enabling legislation for archipelagic baselines.
	Aug 79	Legal Notice No. 41, Declaration of Archipelagic Baselines		Established 5 archipelagic baseline systems around 5 groups of islands.
CONTINENTAL SHELF	Aug 79	Act No. 32	200nm	
FISHING ZONE/EEZ	Aug 79	Act No. 32	200nm	EEZ.
MARITIME BOUNDARIES	Sep 88	Agreement		Sea and seabed boundaries agreement with Australia.
	Jan 89	Agreement		Agreement with Papua New Guinea.
	Nov 90	Agreement		Agreement with France (New Caledonia).
LOS CONVENTION	Dec 82			Signed Convention.
	Jun 97			Ratified Convention; bound by Part XI Agreement.

ARCHIPELAGIC BASELINE LEGISLATION

Following is the text of Legal Notice No. 41, Declaration of Archipelagic Baselines of 20 August 1979, establishing the Solomon Islands archipelagic baseline system under the Delimitation of Marine Waters Act No. 32 of 1978.

In exercise of the powers conferred by section 4(2) of the Delimitation of Marine Waters Act, 1978, the Prime Minister hereby declares that the points between which straight baselines are to be drawn for the purpose of determining the outermost limits of the archipelagic waters and the innermost limits of the territorial sea of the archipelagos of Solomon Islands shall be those geographical co-ordinates specified below.

TABLE C1.T231.
SOLOMON ISLANDS ARCHIPELAGIC BASELINE SYSTEM:
THE MAIN GROUP ARCHIPELAGO

SOLOMON ISLANDS ARCHIPELAGIC BASELINE SYSTEM: THE MAIN GROUP ARCHIPELAGO				
POINT	AREA	LATITUDE SOUTH	LONGITUDE EAST	CHART
1.	On the reef	06°59.2'	155°31.75'	3419
2.	On west coast of Mono I.	07°23.85'	155°31.2'	341 9
3.	At Laifa Point	07°25.1'	155°31.6'	3419
4.	On west coast of Sterline I.	07°27.2'	155°33.1'	3419
5.	At Cape Satisfaction	08°18.4'	156°31.1'	3419
6.	Rendova I.	08°43.15'	157°20.0'	3416
7.	On Rendova I.	08°44.25'	157°23.0'	3416
8.	On Tetepari I.	08°47.75'	157°37.75'	3416
9.	Off South I.	08°48.7'	157°45.9'	3416
10.	Off East I.	08°48.5'	157°49.0'	3416
11.	At Masaubaga Point	09°42.6'	159°42.4'	1469
12.	Off Cape Hunter	09°47.7'	159°49.1'	1469
13.	Off Koliula Point	09°49.7'	160°03.1'	1469,3404
14.	On San Cristobal I.	10°35.3'	161°30.7'	3412
15.	At Cape Howu	10°40.1'	161°37.1'	3412
16.	Off Cape Sydney	10°45.9'	161°46.8'	3412
17.	On the reef	10°47.25'	161°51.0'	3412
18.	On Sta. Catalina I.	10°54.2'	162°27.0'	3412
19.	At S.E. Point of Sta.Catalina I.	10°54.0'	162° 8.0'	3412
20.	On Sta. Ana I.	10°50.0'	162°28.5'	3412
21.	On Ulawa I.	09°43.4'	161°59.5'	3412
22.	At Ngora Ngora Point	09°42.5'	161°58.9'	3412
23.	At Cape Arsacides	08°37.55'	161°00.7'	3404
24.	Off Nadi I.	07°52.4'	160°38.2'	3403
25.	Off Nadi I.	07°52.1'	160°37.15'	3403
26.	Off Cape Megapode	07°45.2'	158°57.45'	3403
27.	Off Papatuta Ite. I.	07°34.75'	158°47.2'	3402
28.	Off Omona I.	07°29.5'	158°40.4'	3402
29.	Off North Gijunabeana I.	07°28.6'	158°38.8'	340 2
30.	Off Suki I.	07°18.4'	158°04.7'	3402

SOLOMON ISLANDS ARCHIPELAGIC BASELINE SYSTEM: THE MAIN GROUP ARCHIPELAGO				
POINT	AREA	LATITUDE SOUTH	LONGITUDE EAST	CHART
31.	Off Malaengari	06°38.15'	156°39.25'	3419
32.	Off Cape Alexander	06°35.5'	156°31.9'	3419
33.	Off Pemba Inlet	06°34.7'	156°27.75'	3419
34.	On Oema Atoll	06°37.8'	156°06.0'	3419
35.	On Ovau I.	06°46.8'	155°59.3'	3419
36.	On Maifu I.	06°54.45'	155°49.75'	3419
37.	On the reef	06°58.9'	155°31.85'	3419

TABLE C1.T232.

**SOLOMON ISLANDS ARCHIPELAGIC BASELINE SYSTEM:
THE RENNELL, BELLONA, AND INDISPENSABLE REEF ATOLL
ARCHIPELAGO**

SOLOMON ISLANDS ARCHIPELAGIC BASELINE SYSTEM: THE RENNELL, BELLONA, AND INDISPENSABLE REEF ATOLL ARCHIPELAGO				
POINT	AREA	LATITUDE SOUTH	LONGITUDE EAST	CHART
38.	Off Bellona I.	11°16.1'	159°44.9'	208
39.	On North Reef	12°19.0'	160°03.1'	208
40.	On Middle Reef	12°39.8'	160°17.0'	208
41.	On South Reef	13°00.0'	160°33.0'	208
42.	On South Reef	13°02.5'	160°36.0'	208
43.	On South Reef	13°00.1'	160°38.5'	208
44.	On Rennell I.	11°51.2'	160°39.1'	208
45.	On Rennell I.	11°42.8'	160°29.7'	208
46.	On Bellona I.	11°17.1'	159°48.8'	208
47.	On Bellona I.	11°16.3'	159°46.7'	208
Thence to Point 38 above.				

TABLE C1.T233.

**SOLOMON ISLANDS ARCHIPELAGIC BASELINE SYSTEM:
JAVA GROUP ARCHIPELAGO**

SOLOMON ISLANDS ARCHIPELAGIC BASELINE SYSTEM: JAVA GROUP ARCHIPELAGO				
POINT	AREA	LATITUDE SOUTH	LONGITUDE EAST	CHART
48.	Off Kengo I.	05°24.7'	159°12.05'	214
49.	Off Kiloma I.	05°28.65'	159°16.8'	214
50.	Off Alunga I.	05°31.6'	159°33.8'	214
51.	Off Ngikolo I.	05°31.35'	159°38.9'	214

SOLOMON ISLANDS ARCHIPELAGIC BASELINE SYSTEM: JAVA GROUP ARCHIPELAGO

POINT	AREA	LATITUDE SOUTH	LONGITUDE EAST	CHART
52.	Off Akoo I.	05°31.55'	159°40.5'	214
53.	Off Luaniua I.	05°28.95'	159°43.0'	214
54.	On Nuika I.	05°23.1'	159°42.5'	214
55.	On the reef	05°02.1'	159°23.1'	214
56.	On the reef	05°00.7'	159°18.6'	214
57.	On the reef	05°02.0'	159°16.0'	214
58.	On the reef	05°07.65'	159°12.9'	214
59.	On the reef	05°21.5'	159°10.85'	214
60.	Off Nguhakai I.	05°23.4'	159°11.0'	214
Thence to Point 48 above.				

TABLE C1.T234.

SOLOMON ISLANDS ARCHIPELAGIC BASELINE SYSTEM: THE SANTA CRUZ ISLANDS ARCHIPELAGO

SOLOMON ISLANDS ARCHIPELAGIC BASELINE SYSTEM: THE SANTA CRUZ ISLANDS ARCHIPELAGO				
POINT	AREA	LATITUDE SOUTH	LONGITUDE EAST	CHART
61.	At Cape Boscawen	10°49.85'	165°45.1'	17
62.	On Astrolabe Reefs	11°43.9'	166°49.9'	17
63.	On Astrolabe Reefs	11°44.5'	166°51.15'	17
64.	On Astrolabe Reefs	11°45.05'	166°54.3'	17
65.	On Boussole Reef	11°43.8'	166°59.4'	17
66.	Off Astrolabe Point	11°42.45'	167°01.7'	17
67.	Off North East Passage	11°36.05'	167°01.2'	17
68.	On Temoa I.	10°15.5'	166°22.65'	17
69.	Off Nufiloli I.	10°10.55'	166°17.8'	17
70.	Off Nukapu I.	10°04.1'	166°02.75'	17
71.	Off Nupani I.	10°01.9'	165°42.9'	17
72.	Off Nupani I.	10°02.2'	165°42.3'	17
73.	Off Nupani I.	10°05.65'	165°41.65'	17
74.	Off Nemba	10°46.95'	165°44.8'	17
75.	Off Nemba	10°47.9'	165°45.0'	17
Thence to Point 61 above.				

TABLE C1.T235.
SOLOMON ISLANDS ARCHIPELAGIC BASELINE SYSTEM:
THE DUFF ISLANDS ARCHIPELAGO

SOLOMON ISLANDS ARCHIPELAGIC BASELINE SYSTEM:				
THE DUFF ISLANDS ARCHIPELAGO				
POINT	AREA	LATITUDE SOUTH	LONGITUDE EAST	CHART
76.	On Tuleki I.	09°45.35'	167°03.6'	17
77.	On Papa I.	09°48.6'	167°05.8'	17
78.	Off Taumako I.	09°53.6'	167°10.5'	17
79.	On Loteva I.	09°55.8'	167°14.8'	17
80.	On the Islet	09°55.05'	167°14.8'	17
81.	On Taumako I.	09°52.05'	167°11.55'	17
82.	On the Islet	09°46.5'	167°05.3'	17
83.	On Tuleki I.	09°45.55'	167°04.1'	17
Thence to Point 76 above.				

MARITIME BOUNDARY AGREEMENTS

SOLOMON ISLANDS - AUSTRALIA

The following is extracted from the September 1988 Agreement Establishing Certain Sea and Sea-bed Boundaries between the Solomon Islands and Australia.

Article 1

1. Seaward of Australian reefs in the Coral Sea on the one hand and Solomon Island reefs on the other hand, the line of delimitation between the Australian Fishing Zone and the Solomon Islands Exclusive Economic Zone and between areas of continental shelf over which each State respectively exercises sovereign rights in accordance with international law lies along the geodesics connecting the following points, defined by their coordinates, in the order stated:

TABLE C1.T236.
SOLOMON ISLANDS - AUSTRALIA MARITIME BOUNDARY COORDINATES

POINT	LATITUDE SOUTH	LONGITUDE EAST
U	14°04' 00"	157°00' 00"
V	14°41' 00"	157°43' 00"
R1	15°44' 07"	158°45' 39"

SOLOMON ISLANDS - FRANCE (NEW CALEDONIA)

The following is extracted from the November 1990 Agreement between the Solomon Islands and France (New Caledonia).

Article 1

1) The line of delimitation of maritime areas between the Solomon Islands and the French Republic is the line which lies along the loxodromes connecting the point defined by their coordinates as follows.

**TABLE C1.T237.
SOLOMON ISLANDS - FRANCE (NEW CALEDONIA) MARITIME BOUNDARY**

POINT	LATITUDE SOUTH	LONGITUDE EAST
23	15°44' 07"	158°45' 39"
24	16°07' 37"	160°14' 54"
25	15°12' 17"	162°19' 26"
26a	14°50' 03"	163°10' 00"

2) This line is approximately equidistant between the Solomon Islands and the French Republic in the vicinity of New Caledonia.

Article 2

The line described in article 1 of this Agreement shall be the maritime boundary between the areas referred to in this article in which the parties exercise, or will exercise, in accordance with international law, any sovereign rights or jurisdiction.

SOLOMON ISLANDS - PAPUA NEW GUINEA

The following is extracted from the January 1989 Agreement between the Solomon Islands and Papua New Guinea concerning Sovereignty, Maritime and Seabed Boundaries.

Annex 1

Territorial Sea, Maritime and Seabed Boundaries

The boundary line referred to in paragraph 1 of Article 2 of the Treaty shall be a continuous line—

TABLE C1.T238.

SOLOMON ISLANDS - PAPUA NEW GUINEA MARITIME BOUNDARY

POINT	LATITUDE SOUTH	LONGITUDE EAST
9	04°08' 32"	162°48' 07"
10	04°45' 05"	160°28' 49"
11	04°52' 18"	158°14' 07"
12	06°33' 00"	156°02' 09"
13	06°39' 30"	156°02' 23"
14	06°50' 50"	155°55' 23"
15	06°55' 33"	155°41' 37"
16	06°55' 33"	155°35' 38"
17	07°14' 48"	155°06' 44"

POINT	LATITUDE SOUTH	LONGITUDE EAST
18	08°08' 06"	154°35' 08"
19	11°22' 26"	157°09' 40"
20	12°26' 11"	157°36' 03"
21	14°04' 04"	157°02' 18"

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