

No. 33912

MULTILATERAL

Agreement establishing the South Pacific Regional Environment Programme (SPREP) (with final act). Concluded at Apia, Samoa, on 16 June 1993

Authentic texts: English and French.

Registered by Samoa on 1 July 1997.

MULTILATÉRAL

Convention portant création du Programme régional océanien de l'environnement (PROE) [avec acte final]. Conclue à Apia (Samoa) le 16 juin 1993

Textes authentiques: anglais et français.

Enregistrée par le Samoa le 1^{er} juillet 1997.

AGREEMENT¹ ESTABLISHING THE SOUTH PACIFIC REGIONAL ENVIRONMENT PROGRAMME (SPREP)

THE PARTIES,

Recognising the importance of protecting the environment and conserving the natural resources of the South Pacific region;

Conscious of their responsibility to preserve their natural heritage for the benefit and enjoyment of present and future generations and their role as custodians of natural resources of global importance;

Recognising the special hydrological, geological, atmospheric and ecological characteristics of the region which require special care and responsible management;

Seeking to ensure that resource development takes proper account of the need to protect and preserve the unique environmental values of the region and of the principles of sustainable development;

Recognising the need for co-operation within the region and with competent international, regional and sub-regional organisations in order to ensure coordination and co-operation in efforts to protect the environment and use the natural resources of the region on a sustainable basis;

¹ Came into force on 31 August 1995, in accordance with article 10:

<i>Participant</i>	<i>Date of deposit of the instrument of ratification</i>
Australia	17 October 1994
Fiji	12 October 1993
Kiribati	16 August 1994
Micronesia (Federated States of)	19 January 1995
Nauru	16 March 1994
New Zealand	16 December 1993
Niue	31 July 1995
Papua New Guinea	7 November 1994
Samoa	16 September 1993
Tuvalu	17 November 1994

Wishing to establish a comprehensive Programme to assist the region in maintaining and improving its environment and to act as the central coordinating point for environmental protection measures within the region;

Recalling the decision taken at the Conference on the Human Environment in the South Pacific, held at Rarotonga, Cook Islands, on 8-11 March 1982, to establish the South Pacific Regional Environment Programme as a separate entity within the South Pacific Commission;

Recalling with appreciation the role of UNEP, ESCAP, the South Pacific Forum and the South Pacific Conference in supporting the establishment and encouraging the development of the South Pacific Regional Environment Programme as a regional programme and as part of the UNEP Regional Seas Programme;

Noting with satisfaction that the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, done at Noumea on 24 November 1986, and its related Protocols, and the Convention on Conservation of Nature in the South Pacific, done at Apia on 12 June 1976, entered into force in 1990;

Appreciative of the valuable efforts that have been undertaken by the South Pacific Regional Environment Programme to promote environmental protection within the region and the support given to the Programme by the South Pacific Commission;

Taking into account the decisions of the Third and Fourth Intergovernmental Meetings of the South Pacific Regional Environment Programme, held in Noumea in September 1990 and July 1991, and the endorsement of the Thirtieth South Pacific Conference, held in Noumea in October 1990; and

Desiring to accord the South Pacific Regional Environment Programme the full and formal legal status necessary to operate as an autonomous body, to manage fully its own affairs and to provide the basis for the continued operation of SPREP in accordance with the traditions of cooperation in the region;

HAVE AGREED AS FOLLOWS:

Article 1

Establishment of SPREP

1. The South Pacific Regional Environment Programme (hereinafter referred to as SPREP) is hereby established as an intergovernmental organisation.
2. The organs of SPREP are the SPREP Meeting and the Secretariat.
3. The Secretariat shall be located in Apia, Western Samoa, unless the SPREP Meeting decides otherwise.

Article 2

Purposes

1. The purposes of SPREP are to promote co-operation in the South Pacific region and to provide assistance in order to protect and improve its environment and to ensure sustainable development for present and future generations. SPREP shall achieve these purposes through the Action Plan adopted from time to time by the SPREP Meeting, setting the strategies and objectives of SPREP.
2. The Action Plan shall include:
 - (a) co-ordinating regional activities addressing the environment;
 - (b) monitoring and assessing the state of the environment in the region including the impacts of human activities on the ecosystems of the region and encouraging development undertaken to be directed towards maintaining or enhancing environmental qualities;

- (c) promoting and developing programmes, including research programmes, to protect the atmosphere and terrestrial, freshwater, coastal and marine ecosystems and species, while ensuring ecologically sustainable utilisation of resources;
- (d) reducing, through prevention and management, atmospheric, land based, freshwater and marine pollution;
- (e) strengthening national and regional capabilities and institutional arrangements;
- (f) increasing and improving training, educational and public awareness activities; and
- (g) promoting integrated legal, planning and management mechanisms.

Article 3

SPREP Meetings

1. The SPREP Meeting shall be open to the Membership of the Parties to this Agreement and, with the appropriate authorisation of the Party having responsibility for its international affairs, of each of the following:

American Samoa
French Polynesia
Guam
New Caledonia
Northern Mariana Islands
Palau
Tokelau
Wallis and Futuna.

2. The SPREP Meeting shall be held at such times as the SPREP Meeting may determine. A special SPREP Meeting may be held at any time as provided in the Rules of Procedure.

3. The SPREP Meeting shall be the plenary body and its functions shall be:

- (a) to provide a forum for Members to consult on matters of common concern with regard to the protection and improvement of the environment of the South Pacific region and, in particular, to further the purposes of SPREP;
- (b) to approve and review the Action Plan for SPREP and to determine the general policies of SPREP;
- (c) to adopt the report of the Director on the operation of SPREP;
- (d) to adopt the work programmes of SPREP and review progress in their implementation;
- (e) to adopt the Budget estimates of SPREP;
- (f) to make recommendations to Members;
- (g) to appoint the Director;
- (h) to give directions to the Director concerning the implementation of the Work Programme;
- (i) to approve rules and conditions for the appointment of the staff of the Secretariat; and
- (j) to carry out such other functions as are specified in this Agreement or are necessary for the effective functioning of SPREP.

4. The SPREP Meeting may establish such committees and sub-committees and other subsidiary bodies as it considers necessary.

5. In addition to the functions referred to in paragraph (3) of this Article, the SPREP Meeting shall, through such mechanisms as it considers appropriate, consult and co-operate with the Meetings of Parties to:

- (a) the Convention on Conservation of Nature in the South Pacific adopted at Apia on 12 June 1976;
- (b) the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region adopted at Noumea on 24 November 1986 and related Protocols; and
- (c) any other international or regional Agreement that may be concluded for the protection of the environment of the South Pacific region,

with a view to ensuring the achievement of the purpose of SPREP and of this Agreement and facilitating the achievement of the purposes of those Conventions.

Article 4

Meeting Procedure

1. The SPREP Meeting shall elect from among its Members a Chairperson and such other officers as it decides, who shall remain in office until the next SPREP Meeting. In principle, the role of the Chairperson shall rotate as decided by the SPREP Meeting.
2. The SPREP Meeting shall adopt its own Rules of Procedure.
3. (a) The Parties shall ensure the full involvement of all Members in the work of the SPREP Meeting. The work of the SPREP Meeting shall be conducted on the basis of consensus of all Members, taking into account the practices and procedures of the South Pacific region.

(b) In the event that a decision is required in the SPREP Meeting, that decision shall be taken by a consensus of the Parties. The consensus of the Parties shall ensure that the views of all Members of the SPREP Meeting have been properly considered and taken into account in reaching that consensus.

4. The attendance by observers in SPREP Meetings shall be provided for in the Rules of Procedure.
5. The SPREP Meeting shall be convened by the Director.
6. The working languages of SPREP shall include English and French.

Article 5

Budget

1. The Budget estimates for SPREP shall be prepared by the Director.
2. Adoption of the Budget of SPREP and determination of all other questions relating to the Budget shall be by consensus.
3. The SPREP Meeting shall adopt financial regulations for the administration of SPREP. Such regulations may authorise SPREP to accept contributions from private and public sources.

Article 6

Director

1. The Director of SPREP shall be the head of the Secretariat.
2. The Director shall appoint staff to the Secretariat in accordance with such rules and conditions as the SPREP Meeting may determine.
3. The Director shall report annually to the South Pacific Conference and the South Pacific Forum on the activities of SPREP.
4. The Director shall be responsible to the SPREP Meeting for the administration and management of SPREP and such other functions as the SPREP Meeting may decide.

Article 7

Functions of the Secretariat

1. The functions of the Secretariat shall be to implement the activities of SPREP, which shall include:

- (a) to promote, undertake and co-ordinate the implementation of the SPREP Action Plan through the annual Programmes of Work, and review and report regularly on progress thereon to Members;
- (b) to carry out research and studies as required to implement the SPREP Action Plan through the annual Programmes of Work;
- (c) to advise and assist Members on the implementation of activities carried out under the SPREP Action Plan or consistent with its purpose;
- (d) to provide a means of regular consultation among Members on the implementation of activities under the SPREP Action Plan and on other relevant issues;
- (e) to co-ordinate and establish working arrangements with relevant national, regional and international organisations;
- (f) to gather and disseminate relevant information for Members and other interested Governments and organisations;
- (g) to promote the development and training of personnel of Members and to promote public awareness and education, including the publication of materials;
- (h) to assist Members in the acquisition, interpretation and evaluation of scientific and technical data and information;
- (i) to undertake such other activities and follow such procedures as the SPREP Meeting may decide; and

(j) to seek financial and technical resources for SPREP.

2. In addition to the functions described in paragraph (1) of this Article, the Secretariat shall be responsible for the co-ordination and implementation of any functions that the SPREP Meeting may agree to undertake relating to:

- (a) the Convention on Conservation of Nature in the South Pacific;
- (b) the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, the Protocol for the Prevention of Pollution of the South Pacific Region by Dumping, and the Protocol Concerning Co-operation in Combating Pollution Emergencies in the South Pacific Region; and
- (c) any other international or regional Agreement that may be concluded for the protection of the environment of the South Pacific region.

Article 8

Legal Status, Privileges and Immunities

1. SPREP shall have such legal personality as is necessary for it to carry out its functions and responsibilities and, in particular, shall have the capacity to contract, to acquire and dispose of moveable and immoveable property and to sue and be sued.

2. SPREP, its officers and employees, together with representatives to the SPREP Meeting, shall enjoy such privileges and immunities necessary for the fulfillment of their functions, as may be agreed between SPREP and the Party in whose territory the Secretariat is located, and as may be provided by other Parties.

Article 9

Sovereign Rights and Jurisdiction of States

Nothing in this Agreement shall be interpreted as prejudicing the sovereignty of the Parties over their territory, territorial sea, internal or archipelagic waters, or their sovereign rights:

- (a) in their exclusive economic zones and fishing zones for the purpose of exploring or exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the sea-bed and of the sea-bed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone; or
- (b) over their continental shelves for the purpose of exploring them and exploiting the natural resources thereof.

Article 10

Signature, Ratification, Acceptance,

Approval and Accession

1. This Agreement shall be open for signature from the sixteenth day of June 1993 until the sixteenth day of June 1994, and shall thereafter remain open for accession, by:

Australia	Niue
Cook Islands	Papua New Guinea
Federated States of Micronesia	Solomon Islands
Republic of Fiji	Kingdom of Tonga
Republic of France	Tuvalu

Republic of Kiribati	United Kingdom of Great Britain and Northern Ireland on behalf of Pitcairn Islands
Republic of the Marshall Islands	United States of America
Republic of Nauru	Republic of Vanuatu
New Zealand	Western Samoa.

2. This Agreement is subject to ratification, acceptance, or approval by the Signatories.
3. Reservations to this Agreement shall not be permitted.
4. This Agreement shall enter into force thirty days from the date of deposit of the tenth instrument of ratification, acceptance, approval, or accession with the Depositary, and thereafter for each State, thirty days after the date of deposit of its instrument of ratification, acceptance, approval, or accession with the Depositary.
5. Following the expiry of the period when this Agreement is open for signature, and provided that this Agreement has entered into force, this Agreement shall be open for accession by any State other than those referred to in this Article which, desiring to accede to this Agreement, may so notify the Depositary, which shall in turn notify the Parties. In the absence of a written objection by a Party within six months of receipt of such notification, a State may accede by deposit of an instrument of accession with the Depositary, and accession shall take effect thirty days after the date of deposit.
6. The Government of Western Samoa is hereby designated as the Depositary.
7. The Depositary shall transmit certified copies of this Agreement to all Members and shall register this Agreement in accordance with Article 102 of the Charter of the United Nations.

Article 11

Amendment and Withdrawal

1. Any Party may propose amendments to this Agreement for consideration by the SPREP Meeting. The text of any amendment shall be circulated to Members no less than six months in advance of the Meeting at which it is to be considered.

2. An amendment shall be adopted at a SPREP Meeting by consensus of all Parties attending the SPREP Meeting and shall enter into force thirty days after the receipt by the Depositary of instruments of ratification, acceptance or approval of that amendment by all Parties.

3. Any Party to this Agreement may withdraw from this Agreement by giving written notice to the Depositary. Withdrawal shall take effect one year after receipt of such notice by the Depositary.

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

Done at Apia this sixteenth day of June 1993 in a single copy in the English and French languages, the two texts being equally authentic.

For the Government of Australia:

.....

this day of 1993

For the Government of the Cook Islands:

this day of 1993

For the Government of the Federated
States of Micronesia:

this day of 1993

For the Government of the Republic
of Fiji:

this *16th* day of *June* 1993

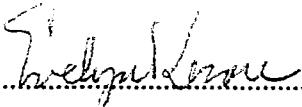
For the Government of the Republic
of France:

this *16* day of *June* 1993

For the Government of the Republic
of Kiribati:


this *16* day of *June* 1993

For the Government of the Republic of
the Marshall Islands:


.....

this 16 day of June 1993

For the Government of the Republic
of Nauru:


.....

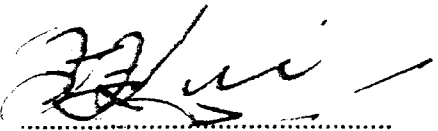
this 16 day of June 1993

For the Government of New Zealand:

.....

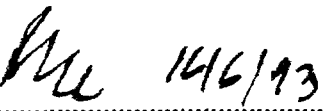
this day of 1993

For the Government of Niue:


.....

this 16 day of June 1993

For the Government of Papua New Guinea:


.....

this day of 1993

For the Government of Solomon Islands:

.....
this 16 day of JUNE 1993

For the Government of the Kingdom
of Tonga:

.....
this day of 1993

For the Government of Tuvalu:

.....
this 16 day of JUNE 1993

For the Government of the United
Kingdom of Great Britain and
Northern Ireland on behalf
of Pitcairn Islands:

.....
this day of 1993

For the Government of the United States of
America:

R. Tuden Scully
.....
this *16th* day of *June* 1993

For the Government of the Republic of
Vanuatu:

Samuel
.....
this *16* day of *June* 1993

For the Government of Western Samoa:

Tofaloa Siamoni P.M.
.....
this *16* day of *June* 1993

**Final Act of the Meeting of Plenipotentiaries on the
Agreement Establishing the
South Pacific Regional Environment Programme
as an Intergovernmental Organisation.**

1. The Meeting of Plenipotentiaries on the Agreement Establishing the South Pacific Regional Environment Programme (SPREP) as an intergovernmental organisation was convened by the Government of Western Samoa pursuant to the decision of the Fifth SPREP Intergovernmental Meeting (IGM) in Apia in September 1992.
2. The Meeting was held at Apia (Papauta Girls School), Western Samoa, from 14 - 16 June 1993.
3. The following states and territories participated at the Meeting:

American Samoa, Australia, Cook Islands, Fiji, France, Guam, Kiribati, Marshall Islands, Nauru, New Caledonia, New Zealand, Northern Mariana Islands, Niue, Palau, Papua New Guinea, Solomon Islands, Tokelau, Tonga, Tuvalu, United States of America, Vanuatu, Western Samoa.
4. The South Pacific Commission (SPC) also attended the Meeting.

5. SPREP was originally established by a resolution of a Ministerial-level Meeting of the SPC in Rarotonga, Cook Islands, in 1982 as a separate entity hosted by the SPC. It was coordinated by a group consisting of the South Pacific Bureau for Economic Cooperation (now the Forum Secretariat), SPC, United Nations Environmental Programme (UNEP) and the Economic and Social Commission for Asia and the Pacific (ESCAP). In September 1990 the Third SPREP IGM established three Working Groups to discuss general matters pertaining to finance, Action Plans, legal issues, the mandate of SPREP and its legal status, and to report to the Fourth IGM in July 1991. The Fourth IGM Ministerial-level Meeting, in July 1991, decided to establish SPREP as an independent regional organisation by treaty, with its headquarters in Apia, Western Samoa. The Fifth SPREP IGM met in Apia in September 1992 and accepted a draft produced by the Legal Subcommittee of an Agreement Establishing SPREP as an intergovernmental organisation as a basis for further discussion at a Plenipotentiary Meeting to be convened in 1993 by the Government of Western Samoa. This Meeting was held at Apia, Western Samoa, from 14 - 16 June 1993.
6. The Meeting was opened by the Honourable Tofilau Eti Alesana, Prime Minister of Western Samoa.
7. The Meeting unanimously appointed the Honourable Misa Telefoni (Western Samoa) as its Chairman.

8. The Meeting adopted the following agenda:

- (1) Official opening
- (2) Appointment of Chairman
- (3) Adoption of Agenda and Working Procedures
- (4) Deliberations on the draft Agreement Establishing the South Pacific Regional Environment Programme as an intergovernmental organisation
- (5) Adoption of an agreed text
- (6) Signature of the Final Act/Agreement
- (7) Adoption of Record of Meeting
- (8) Close.

9. The Meeting appointed the following Drafting Committee:

Chairman: Leiataua Dr. Kilifoti Eteuati

Members:

Australia	Anastasia Carayanides
Cook Islands	Dr James Gosselin
Fiji	Hon. M.V. Leweniqila
France	Alain Gouhier
Guam	Barry Israel
Kiribati	Tererei Abete
New Zealand	H.E. Mr Adrian Simcock
Niue	Bradley Punu
PNG	H.E. Mr Barney Rongap
Tonga	Sione Tongilava
Tuvalu	P. Feleti Teo

USA	George Taft
Western Samoa	Helen Aikman
Western Samoa	Kosimiti Latu
Western Samoa	Mose Sua
Western Samoa	Faamausili L. Tuimalealiifano

10. The main document which served as the basis for the deliberation of the Meeting was:

The Draft Agreement Establishing the South Pacific Regional Environment Programme (PM/W.P2).

11. In addition, the Meeting had before it a number of other documents that were made available by the SPREP Secretariat.
12. On the basis of its deliberations, the Meeting adopted the Agreement Establishing SPREP as an intergovernmental organisation on 16 June 1993. The Agreement is appended to this Final Act. It will be open for signature from 16 June 1993 until 16 June 1994 and shall thereafter remain open for accession.
13. The Meeting recommended that certain privileges and immunities be addressed in a Headquarters Agreement between SPREP and the Government of Western Samoa. This recommendation is appended to this Final Act.

IN WITNESS WHEREOF the Plenipotentiaries have signed this Final Act.

Opened for signature at Apia this sixteenth day of June 1993.

For the Government of

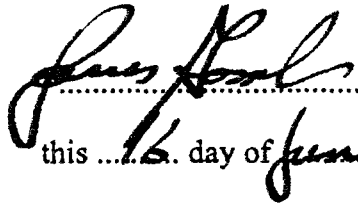
Australia:


.....

this 16 day of 6 1993

For the Government of the

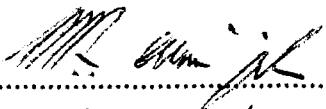
Cook Islands:


.....

this 16 day of June 1993

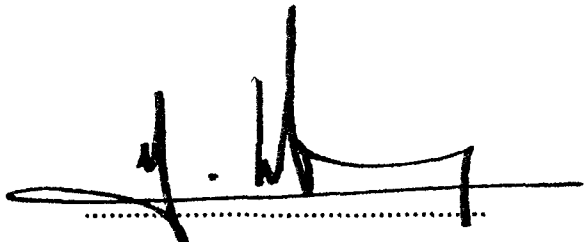
For the Government of the

Republic of Fiji:

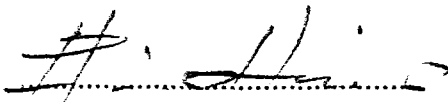

.....

this 16th day of June, 1993

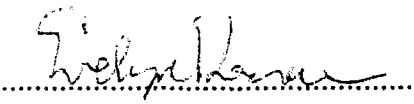
For the Government of the
Republic of France:


.....
this ..16... day of ...June 1993

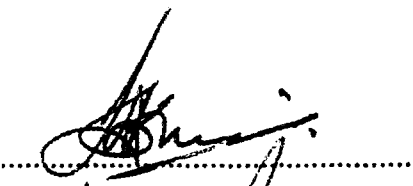
For the Government of the
Republic of Kiribati:


.....
this ..16... day of June 1993

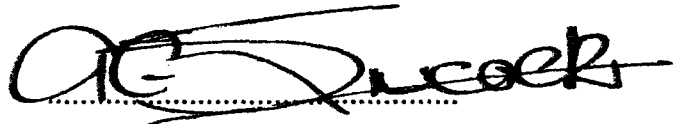
For the Government of the
Republic of
Marshall Islands:


.....
this ..16... day of June 1993


For the Government of the
Republic of Nauru:


.....
this ..16... day of June 1993


For the Government of
New Zealand:


.....
this 16 day of JUNE 1993

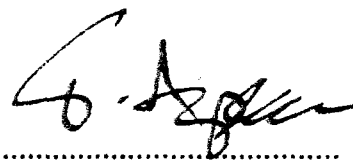
For the Government of
Niue:


.....
this 16 day of JUNE 1993

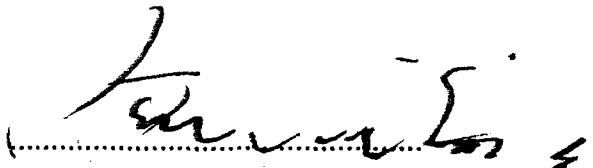
For the Government of
Papua New Guinea:


.....
this 16 day of JUNE 1993

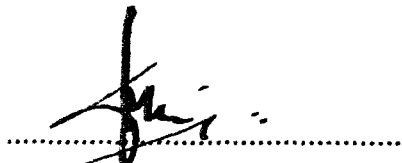
For the Government of
Solomon Islands:


.....
this 16 day of JUNE 1993


For the Government of the
Kingdom of Tonga:


.....
this ...16... day of ...June... 1993


For the Government of
Tuvalu:


.....
this ...16... day of ...June... 1993

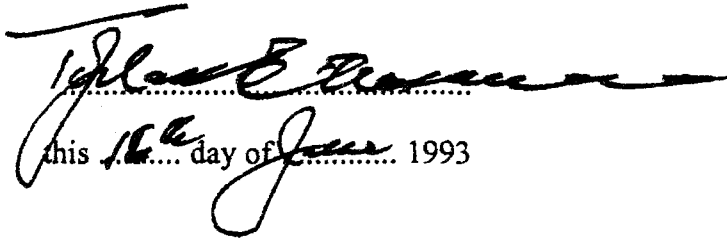
For the Government of
United States of
America:


.....
this ...16... day of ...June... 1993

For the Government of the
Republic of Vanuatu:


.....
this ...16... day of ...June... 1993

For the Government of
Western Samoa:


this 16th day of June 1993

Done in Apia this sixteenth day of June one thousand nine hundred and ninety three in the English and French languages, each language version being equally authentic. The original text will be deposited with the Government of Western Samoa.

**Recommendations of the Meeting concerning
certain Privileges and Immunities to be Addressed
in a Headquarters Agreement between
SPREP and the Government of Western Samoa**

1. SPREP Secretariat's premises, archives and property shall be inviolable.
 2. The Staff shall be entitled to immunity from suit and legal process in respect of things done or omitted to be done in the course of the performance of their official duties.
 3. All Staff who are not nationals of Western Samoa shall be accorded exemption from taxes in Western Samoa in respect of salaries received from the Secretariat. They shall also be accorded exemption from taxes in Western Samoa on furniture and effects imported at the time of first taking up post.
 4. The Director shall be accorded the same exemption from taxes, duties and other levies as are accorded a diplomatic agent.
-