

FINAL REPORT

Building Capacity for Implementing the Convention on Biological Diversity in the Pacific Islands Region

Darwin Initiative Project Reference 162/6/124

1. Project details

Project title: Building Capacity for Implementing the Convention on Biological Diversity in the Pacific Islands Region

Contractor: Foundation for International Environmental Law and Development (FIELD)

Host country

Collaborators: South Pacific Regional Environment Programme (SPREP)

Grant Round: 5

Grant value: £110,429

2. Project expenditure

Total grant

Expenditure: £110,429

Breakdown of

Expenditure: See attachment

3. Project background/rationale

The basis of the project was the identified need for materials providing legal and policy information on aspects of the Convention on Biological Diversity for small island developing states in the Pacific islands region. In particular, although there are a number of conservation related laws in place in the countries of the region, as yet very few countries had begun to address issues of access to genetic resources, intellectual property rights or biosafety. The project was also intended to explore possible opportunities for regional co-operation and support in relation to the implementation of the Convention.

The project was developed by FIELD and SPREP jointly. The Secretariat of the Convention on Biological Diversity was also consulted in the course of the development of the project proposal since, in addition to capacity-building, another

key aspect of the project was intended to be to highlight needs and priorities of small island developing states in the Pacific region in the intergovernmental process.

Once the basic project proposal was approved, the specific issues to be addressed under the project were identified by SPREP through a consultation process with its focal points in Pacific island countries.

The project was clearly related to conservation priorities in the countries concerned. At the inception of the project, eleven of the fourteen countries involved had become Parties to the Convention on Biological Diversity. At the time, most of these countries were in the early stages of, or had not yet begun, developing National Biodiversity Strategies and Actions Plans in accordance with Article 6(a) of the Convention. However, SPREP had identified a lack of experience and understanding of certain legal aspects of the Convention in the region, including, in particular, access and benefit sharing, intellectual property rights and biosafety. The project was intended to address this need, and to facilitate consideration of these issues by Pacific island countries (PICs), and hence to support consideration of appropriate national and regional mechanisms for implementation of Articles 15, 16, 19 and 8(g) and (j) of the Convention.

The end-users of the project were intended to be government officials and NGOs in Pacific island countries working on the Convention on Biological Diversity and related issues. In addition, FIELD aimed to explore the potential transferability of the materials and process used under the project to other countries or regions.

4. Project objectives

Original objectives

The main objective of the project was to assist in building legal and institutional capacity in Pacific island countries to give effect to the provisions of the Convention on Biological Diversity, specifically certain core obligations that require substantial work in order to effect implementation at the national level.

Specific objectives were (a) to develop a series of working papers addressing certain legal aspects of the Convention, (b) to run a training workshop and (c) to produce a training/information package, tailored for Pacific island countries, for subsequent use.

Related issues to be addressed during the project were capacity-building for effective participation in the Convention's processes at the international level; exploration of the relationship between the Convention and other international agreements and institutions; and the co-ordination of existing national legal and institutional frameworks relevant to achievement of the Convention's objectives.

Revision of objectives

The project objectives were not formally revised. The final materials are designed to constitute a stand-alone package providing an accessible, informative introduction to key issues under the Convention together with more detailed annexed materials and additional sources of information, which can be used by policy-makers and others in

the region. It is also hoped that, with appropriate adjustments, the materials produced under the project could be useful for other countries and regions.

Achievement of objectives

On the whole, the project objectives have been achieved over the course of the project. In terms of the specific objectives:

(i) Core issues to be addressed by the project were identified by SPREP in consultation with regional contacts during 1997. These included:

- (a) access to genetic resources and benefit sharing;
- (b) intellectual property rights and traditional knowledge;
- (c) biosafety; and
- (d) national co-ordination of implementation of the Convention.

(ii) A series of draft working papers was produced by FIELD, in consultation with SPREP and project advisers, between August 1997 and March 1998, and made available to workshop participants and others in the region

(iii) A regional workshop was held in Nadi, Fiji from 30 March to 3 April 1998. It was attended by government representatives from fourteen Pacific island countries (including three non-Parties to the Convention); ten NGO participants from the region; six participants from regional intergovernmental organisations and academic institutions; a representative of the Commonwealth Secretariat; and a representative of the Secretariat of the Convention on Biological Diversity. In all, 44 participants were registered for the workshop. A report of the workshop, and a list of participants, is enclosed with this report. Participants at the workshop were asked to provide comments on, and inputs to, the draft working papers (see *Call to Participants for Information*, in enclosed Workshop Report).

In addition to the issues identified above, the workshop was also able to address another core issue: the development of national biodiversity strategies and action plans. SPREP, WWF-South Pacific Programme (WWF-SPP) and UNDP are supporting work on this issue in the region.

(iv) Following the workshop, the working papers were revised on the basis of comments and additional information provided by participants and others. In addition, a significant amount of additional material was gathered. On the basis of this, an information package comprising five introductory chapters and 6 annexes has been produced. A draft of the training package (except for the chapter on biosafety) was submitted to SPREP for review in July 1999.

(v) Some or all of the draft information package has been made available to individuals and institutions in the region both informally and via an e-mail list-server maintained by WWF-SPP for national biodiversity strategy co-ordinators

(vi) The draft information package was made available to forty participants from across the region at the regional workshop held in March 2000 as part of our 7th Round Darwin Initiative project.

In relation to the related project objectives:

(i) The 1998 Nadi workshop also provided an opportunity for countries in the region to discuss and prepare for the fourth meeting of the Conference of the Parties. The workshop participants adopted, in the *Nadi Statement*, recommendations for Pacific island delegations at COP 4. These provided an effective tool to assist PIC delegations at COP 4 to promote the interests of PICs. It should be noted in this regard that only one representative of a Pacific island country had been able to attend the formal Asian group regional preparatory meeting for COP 4 organised by the CBD Secretariat in China in March 1998. Support for the concept of subregional meetings on COP preparation and on implementation of the CBD is now reflected in Decision IV/16 of the COP. (See "Pacific works together" in *SPREP Environment Newsletter* 52, June 1998, annexed).

The provision of basic introductory material on the operation of the Convention and on issues coming up for consideration of the COP facilitated effective participation by PICs in these processes. The workshop also provided an opportunity for the dissemination and discussion of other SPREP materials relevant to preparation for Convention meetings.

(ii) The issue of the relationship between the Convention and other international agreements and institutions is addressed in the Chapters of the information package. Specific relationships, e.g. between the CBD and the WTO TRIPs Agreement, and between the CBD and other regional agreements and institutions, were the subject of discussions at the Nadi workshop.

(iii) The issue of co-ordination of national implementation of the Convention was the subject of a draft working paper and of extensive discussions at the Nadi workshop. It is the subject of a Chapter of the information package, which draws on information available from the region. This question was also, of course, considered in depth in the context of the development of national biodiversity strategies and action plans at the workshop, and was the subject of specific recommendations in the *Nadi Statement*.

Outstanding matters

Although the draft information package has been available as indicated above, hard copies of the package have not yet formally been distributed in a final formatted version. This is due principally to delay in finalisation of the package for reasons stated in section 6 below.

Given the delay in formatting the final package for distribution, and the proximity of the fifth meeting of the Conference of the Parties (COP 5), SPREP and FIELD have decided that it would be preferable to distribute the package formally after COP 5, and incorporate an update on COP 5 developments. This will avoid the need to issue

a COP 5 supplement immediately after formal distribution. Formatting, printing and formal distribution of the package by SPREP is now arranged for June 2000. The package is being put into a more "user-friendly" format by SPREP, and will be distributed in a lever arch folder to allow for supplementary and additional materials to be added easily. The package will carry the logos of the collaborating institutions and of the Darwin Initiative. Around 400 copies of the package will be produced and will be distributed throughout the region in the first instance to:

- SPREP national focal points in PICs (for distribution to relevant government departments and agencies)
- Attorney General's Offices of PICs
- Regional and national NGOs
- Regional and national universities
- Libraries

A list of recipients of the package will be provided to the Darwin Initiative Secretariat in due course.

In addition, the package will be distributed at a regional workshop on biosafety being organised by SPREP, the Forum Secretariat and the Secretariat of the Pacific Community for July 2000, and the SPREP Annual Meeting in Guam in October 2000. It will also be made available via e-mail (the pre-final version is already available on a regional e-mail list-server, as noted above) and on SPREP's website.

5. Project outputs

The specified output targets agreed at the beginning of the project were:

1997/98	Articles on the project in FIELD and SPREP newsletters
	Preparation and dissemination of at least 5 working papers on regionally-identified priority issues (as basis for workshop)
1998/99	One week workshop for at least 14 participants from Pacific island countries
	Two person-weeks spent in host-country (at workshop above)
	Informal dissemination seminar at CBD/COP 4
1999/2000	Training package

These output targets have been achieved as follows:

July 1997 Introductory note on the project in FIELD newsletter (distribution 3500 world-wide). Notification of project by SPREP to national focal points. An additional report on the project was included in FIELD's autumn 1998 newsletter. (Newsletters enclosed with report)

March 1998 Five draft working papers prepared by FIELD with inputs and comments from SPREP and project advisers, and distributed to workshop participants.

March-April 1998 One-week project workshop held in Nadi, Fiji. 44 registered participants. Two FIELD lawyers attended the workshop.

May 1998 FIELD lawyers joined SPREP meetings for Pacific island country delegates at COP 4 to follow up Nadi workshop and Nadi Statement.

June 1998 Reports on Nadi workshop and COP 5 co-ordination included in SPREP Environment Newsletter and Conservation Link newsletter (distributed in the region and on the SPREP website, <http://www.sprep.org.ws>) (copies enclosed). Copy of Nadi Statement placed on SPREP website.

July 1999 Draft information package prepared, and submitted to SPREP for review.

July 1999-
To date Informal distribution of elements of information package, and availability on biodiversity co-ordinators' e-mail list-server. Revision of information package

March 2000 Distribution of information package in pre-final form to 40 participants at SPREP/WWF-SPP/FIELD Darwin project workshop in Nadi, Fiji. (See section 4 above for schedule for formatting and formal distribution of the information package).

Additional outputs were achieved as follows:

March 1998 SPREP issued a press release immediately before the 1998 Nadi workshop (enclosed). Two national TV channels in Fiji (Fiji One TV and Fiji Community TV) ran features on the CBD during the Nadi workshop, featuring workshop participants.

Three national radio stations in Fiji ran items on the Nadi workshop. There was also regional radio coverage through an extensive Radio Australia interview with Sue Miller of SPREP.

March 1998 A representative of the CBD Secretariat attended the project workshop, the first official visit of a Secretariat representative to the Pacific islands region.

July 1997-
March 1998 Financial resources were raised from a number of other sources to support broad participation at the workshop. (The original Darwin budget provided for one representative from each of fourteen Pacific island countries to attend, together with two FIELD and two SPREP representatives). Additional support was raised from UK Department for International Development, AusAID, NZ-ODA, South Pacific Biodiversity Conservation Programme, WWF-South Pacific Programme, and the Conservation, Food and Health Foundation (USA). These funds went to support the participation of additional governmental and non-governmental representatives.

In addition, SPREP provided funds from its own budget to cover additional time for organisational and logistical aspects of the project (including, in particular, workshop preparations) as well as substantive inputs.

May 1998 The *Nadi Statement*, adopted by participants at project workshop, was used by PIC delegations at COP 4 in Bratislava. Frequent reference was made to the Nadi workshop at COP 4, and a number of recommendations of the Nadi Statement are reflected in COP 4 decisions. The workshop and its outputs enhanced PIC co-ordination at COP 4, and increased extent to which the COP took into account PIC needs and priorities. The experience of the 1998 Nadi workshop provided an impetus for further subregional collaboration with regard to implementation of Convention and preparations for COP 5 in 2000.

May 1999 Some of the materials generated under the project were adapted and used as background materials for a workshop on Implementation of the CBD in Jamaica, organised by the Natural Resources Conservation Authority of Jamaica, FIELD and the Commonwealth Secretariat in May 1999.

July-
October 1999 The project provided the catalyst for further collaboration between SPREP, WWF-SPP and FIELD in the development of a follow-up project on one of the issues identified as a priority at the 1998 Nadi workshop: access to genetic resources and benefit sharing in the Pacific islands region. The development of this follow-up project was initiated by SPREP, on the basis of the *Nadi Statement*, and is funded under the 7th Round of the Darwin Initiative.

March 2000 The CBD Secretariat has proposed using a section of the materials produced for the project as part of the introductory section of the *Global Biodiversity Outlook* (GBO). If the material is used in the GBO an appropriate acknowledgement of the Darwin Initiative will be included.

6. Project operation/management

Project management

The direction of the project was provided by SPREP, with legal input from FIELD and review of all materials by SPREP. Specific topics to be addressed under the project were identified by SPREP on the basis of regional consultation. SPREP retained a legal consultant from Samoa, Clark Peteru, to provide input to and to review materials produced by the project, and to act as an additional resource person at the project workshop.

An informal advisory panel was established for the project to review materials. The composition of the advisory panel was designed to reflect a spread of expertise in the areas to be addressed, as well as a high degree of regional representation. The advisers were: Kosi Latu (Commonwealth Secretariat); Ben Boer (Australian Centre for Environmental Law); Mere Pulea (University of the South Pacific); Lyle Glowka (formerly IUCN Environmental Law Centre); Cedric Schuster (WWF-SPP); Mick Raga (Papua New Guinea); and Nina Eejima (Federated States of Micronesia; subsequently replaced by M.J. Mace, F.S.M. 1999).

Advisers were asked to provide comments and inputs by e-mail and fax on the draft working papers ahead of the March 1998 workshop, and on the draft information package between July and October 1999. Advice and comments on specific issues were sought from a number of other individuals throughout the project, including: Sam Johnston (CBD Secretariat); R.V Anuradha (Darwin Fellow and FIELD Associate); Bill Aalbersberg (University of the South Pacific); and Kent Nnadozie (Bioresources Development and Conservation Programme, Nigeria).

Government participants in the 1998 Nadi workshop were selected by the Pacific island countries. When invitations to the workshop were issued, countries were asked to send two representatives to the workshop: one with a legal or foreign affairs background, and one from a conservation agency. It was felt that this range of participation would promote useful dialogue during the workshop and facilitate future national-level follow-up. In addition, all relevant regional intergovernmental organisations were invited to the workshop. WWF-SPP assisted with the identification and participation of regional NGO representatives, and co-organised the Nadi workshop.

Work undertaken

Copies of materials produced under the project are provided with this report. These include workshop papers and other materials, as well as the pre-final version of the information package itself. The final contents of the information package are as follows:

- Chapter 1: The Convention on Biological Diversity: An Overview
- Chapter 2: Access to Genetic Resources and Benefit-Sharing
- Chapter 3: Intellectual Property Rights and Biological Diversity
- Chapter 4: Genetically Modified Organisms and Biosafety
- Chapter 5: Co-ordinating National Implementation of the Convention on

Biological Diversity

Introduction to Annexes

Annex 1: Access and Benefit-Sharing Legislation

Annex 2: Bioprospecting Arrangements

Annex 3: Kava Case Study

Annex 4: An Overview of the Policy of the United States National Cancer
Institute (NCI) on Access and Benefit-Sharing

Annex 5: *Ex-Situ* Collections – Plant and Microbial Genetic Resources

Annex 6: Text of the 2000 Cartagena Protocol on Biosafety

Text of the 1992 Convention on Biological Diversity

Issues and difficulties

As noted above, there has been a delay in the formatting and distribution of the information package in its final form. This was due largely to two reasons: first, the absence and/or departure of key project personnel from SPREP and FIELD during 1999; and second, delays in producing a section of the information package on biosafety, due to the protracted negotiation of the Biosafety Protocol. These factors resulted in a delay in 1999 of the finalisation of the information package. During this period FIELD undertook some updating of the existing elements of the information package, and, after the adoption of the Biosafety Protocol in January 2000, finalised a draft chapter on biosafety for the information package.

As noted previously, whilst there has been a delay in final distribution of the information package, pre-final drafts of the information package (except for a chapter on biosafety) have been distributed.

7. Project impact

The project partners believe that the project has had a significant impact on assisting PICs to implement the Convention on Biological Diversity:

It provided an opportunity for the first subregional meeting of Pacific island countries on implementation of the Convention, to share experiences and difficulties in implementation and to identify appropriate regional support strategies and recommendations for international action. The meeting brought together conservation agency and legal officials from PIC governments, as well as regional IGOs and NGOs. It provided the first occasion of a formal visit to the region by a representative of the CBD Secretariat, to explain the operation of the Convention to Parties and non-Parties.

It provided a set of introductory materials on key legal aspects of implementation of the Convention. These materials were specifically tailored for the region, highlighting regional examples and issues. The materials should be available to all relevant government officials in the region in hard copy. They will also shortly be made available on the internet. In addition to materials produced by FIELD for the project, a significant amount of additional material was made available at the project workshop by collaborating agencies. (A full list of workshop documentation is included in the Workshop Report).

The project gave rise to a follow-up project funded under the Darwin Initiative 7th Round, which took up a specific recommendation made at the 1998 project workshop. The new project is addressing the implementation of national and regional measures on access to genetic resources and benefit sharing.

The project has catalysed the provision of additional financial resources for work in the region to support implementation of the Convention.

Overall, this project, together with other relevant activities of SPREP, WWF-SPP and other agencies and NGOs, has contributed to a significant increase in awareness and understanding among government officials, NGOs and others of issues of access to genetic resources, intellectual property rights and biosafety, as they relate to the Convention on Biological Diversity.

As evidenced by our 7th Round Darwin Initiative project, the project gave rise to enhanced collaboration between FIELD, SPREP and WWF-SPP. We believe that in relation to the novel legal aspects of the Convention, this collaboration has provided a particularly effective framework for supporting capacity building and implementation of the Convention in the region. SPREP, WWF-SPP and FIELD co-organised another successful regional workshop in March 2000 as part of our 7th Round project. Once again this brought together legal and conservation officials from PIC governments as well as regional IGOs and NGOs.

8. Sustainability

SPREP provided a significant amount of resources to the project both in-kind, through the contribution of additional staff time, and by accessing additional financial resources to support the project workshop. (Additional support raised was in the region of £12,600). In addition, WWF-SPP provided financial resources to support NGO participation in the workshop (£4849), and contributed in-kind by assisting in the organisation and running of the workshop. WWF-SPP has also provided considerable assistance in the distribution of the information package and other materials produced during the course of the project.

As indicated in the project proposal (and on the attached expenditure breakdown), some matching funding for the project was available through FIELD's grant from the Ford Foundation.

In order to ensure broad participation at the project workshop, SPREP and FIELD devoted significant efforts in the second half of 1997 to raising additional funds towards direct costs of the workshop. Darwin funding acted as an important catalyst in attracting resources from other sources. In addition to WWF-SPP's support for the project workshop, additional support was received from: DfID (£14,000); AusAID (c£15,000), NZ-ODA and the South Pacific Biodiversity Conservation Programme (through SPREP); and the Conservation, Food and Health Foundation (USA) (c£3600). This additional funding enabled much wider representation at the workshop than initially envisaged. A representative of the Commonwealth Secretariat also attended the 1998 Nadi meeting, and subsequently provided support and

collaboration for a similar workshop in Jamaica as well as for the 7th round Darwin project workshop held in March 2000.

Work begun under the project is being, and will be, followed up through:

- The continued distribution of project materials. These may be updated as necessary from time to time.
- The follow-up 7th round "implementation" project on access to genetic resources and benefit sharing in the Pacific islands region.
- Various regional initiatives which follow up recommendations for regional support in the 1998 Nadi Statement: e.g. work on National Biodiversity Strategies and Action Plans; and regional initiatives and collaboration on relevant aspects of intellectual property rights.
- Regional co-operation in preparation for CBD COP 5, led by SPREP with WWF-SPP.

9. Outcomes in absence of Darwin funding

In the absence of Darwin funding it is likely that this project would not have proceeded, or would have been delayed. While there is strong regional co-operation on environmental issues in the region, it is unlikely that the March 1998 workshop would have taken place, or that it would have attracted such broad participation. Timing of the workshop was a crucial element of its success, since it provided the added impetus of COP 4 preparation. Some aspects of the project would probably have been addressed by other agencies (e.g. WWF-SPP). However, the Darwin funding meant that work was expedited and allowed for a pooling of resources and experience between SPREP, FIELD and WWF-SPP which provided for a more broad-based and effective workshop and follow-up.

10. Key points

The main success factor of the project was the 1998 Nadi workshop. Success in attracting additional financial resources for broad participation and in securing the collaboration of WWF-SPP meant that the workshop provided a very sound basis for future work, as well as extremely useful outputs for regional and international follow-up in its own right.

As noted above, the main difficulties encountered by the project related to consistency of personnel, particularly during the final stages of the project. However, while this has delayed finalisation of the project it has not, in our view, adversely affect outcomes.

Our experience under this project highlights a number of important issues:

- Importance of strong and on-going collaborative arrangements between a range of partners (SPREP and WWF-SPP also collaborate on a number of other issues related to the Convention).

- Importance of involving a range of legal, policy and technical personnel and stakeholders in discussions related to biodiversity strategies.
- Utility of subregional meetings on implementation of CBD and for COP preparations.

In addition, the project highlights the importance of follow-up strategies for capacity-building projects. In this respect, the SPREP/WWF-SPP/FIELD 7th Round project on access and benefit sharing has been important in enhancing the effectiveness and credibility of the earlier project. The workshop held as part of the later project in March 2000 provided an opportunity to review follow-up to the Nadi Statement, and to indicate specific follow-up activities being undertaken by project partners and others to action recommendations contained in the Nadi Statement.

As noted previously, SPREP and FIELD raised additional funds for the project workshop to enable a level of participation which would not have been possible relying on Darwin funds alone. The fact that the Darwin Initiative was already providing support for the project was a significant factor in securing additional funds. However, in this respect, it might be helpful if the Darwin Initiative were in a position to facilitate contacts with other funders, or maintain a list of possible sources of additional funding for Darwin projects. (Much of this information would likely be available from Darwin project leaders).

11. Project contacts

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Ruth Khalastchi. Formerly Staff Lawyer, FIELD. Now at: UN Office of Legal Affairs, Codification Division.

Paul Orme, Finance Controller
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SPREP: Andrea Volentras, Legal Officer
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Sue Miller. Formerly Biodiversity (Species) Officer, SPREP
and host country project leader.
Contact c/o SPREP (above)

Other key contacts: Cedric Schuster, WWF-SPP

End users: A list of participants of the March 1998 Nadi workshop is
provided with this report as part of the Workshop Report

A list of participants of the March 2000 workshop participants,
who received copies of the information package, is provided
with this report.

A full list of recipients of the final information package can be
provided in Summer 2000.

Annexes and additional materials

- (1) March 1998 Nadi Workshop report and materials (bound separately)
- (2) Information package (Pre-final) (bound separately)
- (3) Attached to this report:
 - (a) March 2000 Nadi Workshop: List of Participants (7th Round project)
 - (b) FIELD newsletters, Summer 1997 and Autumn 1998
 - (c) Extracts from SPREP newsletters, June 1998
 - (d) SPREP Press Release, 30 March 1998

BREAKDOWN OF EXPENDITURE

2. Project Expenditure

Total grant expenditure £ 110,429

Breakdown of expenditure project against budget, with variances:

	Budget £	Actual £	Variance £	Variance %
Rents, rates, heat, light etc.				0%
Postage, telephone, stationery				1%
Travel, subsistence				1%
Printing				-6%
Conferences, seminars				0%
Capital items : PC + PC Upgrade				9%
Salaries				0%
	143,030	143,029	1	

Other funding:

FIELD	Ford	20,000
SPREP		12,600

List of Participants

**Access to Genetic Resources & Benefit-Sharing in the Pacific Islands Region Workshop
13-17 March 2000, Fiji Mocambo, Nadi, Fiji**

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FIELD



in Brief

Number 4. Summer 1997

Newsletter for the **Foundation for International Environmental Law and Development**

Dispute Settlement Meeting

A meeting on funding of access to international dispute settlement mechanisms was held in London on 31 January and 1 February 1997, organised jointly by FIELD's International Law and Sustainable Development programme and the Center on International Cooperation, New York University. The meeting brought together, under Chatham House rules, representatives of the registries or secretariats of the principal international dispute settlement bodies, senior academics and practitioners with extensive experience in international litigation, legal advisers from developing countries, and members of the private bar. The aim of the meeting was twofold: first, to identify and assess the opportunities and challenges posed to developing countries by the proliferation of international dispute settlement bodies and the apparent renewed willingness of states to submit their disputes to third party adjudication; and secondly, to discuss issues related to the structure and financing of the dispute settlement mechanisms themselves.

Among the dispute settlement bodies represented were the International Court of Justice, the World Trade Organisation Dispute Settlement Body, the International Tribunal on the Law of the Sea, the International Center for the Settlement of Investment Disputes, the Permanent Court of Arbitration, the United Nations Compensation Commission, the Inter-American Court

of Human Rights and the European Court of Human Rights. The meeting was chaired by James Crawford, Whewell Professor of International Law at the University of Cambridge and Co-Director of the Research Centre for International Law. Background papers on financing of and access to international tribunals were prepared for the meeting, and are currently being revised, expanded and consolidated.

The suggestions made by participants at the meeting will be taken up in planning future collaborative activities between FIELD and the Center on International Cooperation related to the avoidance and settlement of international disputes. Over the next few months, FIELD and the Center will be seeking to elaborate a work plan for a project on Access to International Justice: Institutions, Processes and Financing. One of the key issues identified at the meeting was the lack of accessible information about the various dispute settlement bodies. Among the follow-up activities planned is the preparation of a handbook containing detailed information on organisational and procedural aspects of the various mechanisms. The Programme will also convene an annual short course for developing countries' legal advisers on Dispute Management. It is hoped that the first course will run in the summer of 1998 in conjunction with the Research Centre for International Law at Cambridge University. ●

Improving trade and environment policy-making capacities in African countries

Many African countries are seeking a better understanding of the connections between international trade rules, national policies and the sustainable management of their natural resources. FIELD staff lawyer Beatrice Chaytor is coordinating a project in Kenya and Ghana that could help to achieve that goal.

The project, sponsored by the EC Directorate General XII and the Danish Ministry of Foreign Affairs, aims to enhance policy-making capabilities on trade and environmental issues in the two countries. Its main objective is to identify the links between interna-

tional trade rules and national policies in both countries in the context of the use and management of their natural resources. Initially, the project aims to develop a framework for international trade rules that enables the promotion of the best use and management of natural resources. Ultimately, the project will lead to a comprehensive strategy for the incorporation of this framework into the work programme of the WTO Committee on Trade and Environment (CTE).

To date, FIELD has carried out initial case studies in Kenya and Ghana on the relationship between specific policies and the use of soil,

water and forest resources. The studies were carried out in partnership with the International Coalition for Development Action, Friends of the Earth and the Center for Environmental Policy and Law in Africa. The results of the studies and the nature and content of the proposed framework will be discussed with local communities and their policy and decision-makers at a workshop in Kenya scheduled for early October 1997.

As well as providing African countries with a better understanding of the links between international and national law and sustainable use of resources,

the project should help to pinpoint where investment is needed to strengthen the institutional capacity that is essential to implementing environmental policy in Africa. It should also create a platform on which to build participation at the World Trade Organization and in subsequent rounds of world trade negotiations.

Overall, the project aims to ensure that interests of particular concern to Africa will be acknowledged and properly addressed in the context of trade and the achievement of sustainable development. ●



in Brief

Newsletter for the Foundation for International Environmental Law and Development

FIELD/European Commission Internship Programme



Left to right – **Dominic Ayine** – Ghanaian; **Oludayo Amokaye** – Nigerian; **Claudia Santoro** – Canadian; **Deborah Goldemberg** – Brazilian; **Morisola Adewole** – Nigerian; **Matthias Buck** – German. (Tania Wasserstein – Brazilian and Christian Pisani – German not pictured.)

Lawyers from all over the world are being introduced to European and international environmental law under a new project that aims to disseminate FIELD's practical expertise further than ever before into the developing world and Europe.

Participants from Nigeria, Ghana and Greece have already passed through the programme and lawyers from Jamaica, Hungary, Trinidad and Tobago, Cameroon and Chile are expected to join before the year ends.

FIELD has always provided practical training and disseminated information to the wider legal community. Over the years, hundreds of lawyers have passed through the internship programme. Working directly with FIELD lawyers and researchers, participants are exposed to the practical application of European and international environmental law in European and global contexts.

Because the programme draws upon volunteers, interns have typically come from the European Union and North America. The new

project aims to redress the balance by attracting young lawyers from underrepresented European Union member states, Eastern European and developing countries. Around 9 lawyers will be offered bursaries to help with the cost of travel and accommodation.

Geographical and cultural diversity is a crucial element. Working with lawyers from different legal systems and socio-economic backgrounds provides a rich experience for the participants and should lead to more widely disseminated and effective results. The project will also build up an impressive network of alumni and partner institutions which will keep in touch with and support FIELD's programmes.

While most interns come to FIELD as environmentalists, they leave with a much deeper understanding of the ways in which international law can be used to force and encourage progressive environmental protection.

This programme is funded by the European Commission DGXI. ●

Contact: **Clare Duckney**.

Project on International Courts and Tribunals

The first meeting of the Steering Committee of the Project on International Courts and Tribunals was held in March 1998 at the Peace Palace in the Hague with the co-operation of the International Secretariat of the Permanent Court of Arbitration. The Steering Committee considered the future activities of the Project, including research priorities and capacity-building. Ten members of the Steering Committee attended the meeting which was chaired by Professor George Abi-Saab of the Geneva Graduate Studies Institute.

FIELD has recently received a grant from the William and Flora Hewlett Foundation to support its research and capacity-building activities under the Project over a three year period. A first draft of the Handbook on International Courts and Tribunals has now been completed, and publication is planned during 1999. On 1 and 2 October, the Project will convene a symposium at New York University entitled 'The proliferation of international tribunals: piecing together the puzzle', which will explore the implications, in terms of jurisdiction and jurisprudence, of the increase in international courts and tribunals. The central questions to be considered at the symposium will be whether a unified international legal system exists, and whether such a system is desirable. It is intended that papers presented at the symposium will form the basis of a special issue of the New York University Journal of International Law and Politics to be published in 1999. The October symposium will also provide an opportunity for an informal meeting of some members of the Project's Steering Committee, to consider the draft Handbook as well as specific future research to be carried out under the Project. One of the first research papers produced by the Project will examine the receipt of *amicus curiae* briefs by various courts and tribunals, particularly in the light of the recent submission of such briefs by FIELD, WWF and other NGOs in the Shrimp-Turtle dispute before the World Trade Organisation.

In addition to organising the October symposium, FIELD's partner in the Project, the Center on International Cooperation, is initiating work on a Project website, which should be established in the first part of 1999, and is continuing research on the financing of international tribunals. In 1999, the Project will convene a short summer course on international dispute settlement in London, and plans are also underway for a course in early 1999 for legal advisers of countries in the Indian Ocean region on settlement on law of the sea disputes, in conjunction with UNITAR. ●

Contact: **Philippe Sands, Ruth Mackenzie**.



SPREP
South Pacific Regional Environment Programme

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Environment Newsletter

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Who profits from the Pacific's natural treasures?

Multinational companies are devoting substantially more research dollars these days to discovering how natural resources could be used to make new pharmaceuticals or crops. This bioprospecting, as it's called, can yield billion-dollar profits in beneficial new products

kava-grapine-wave.jpg (35547 bytes)



Kava grown in many Pacific countries has recently been discovered by multinational drug companies, producing "Calming kava pills" now in sale in the United States and Australia. For every US\$2,000 the company receives, the grower gets US\$1. A price difference so inequitable it's enough to make your eyesight dizzy

The problem is that the country which owns the natural resource — and which, generally, discovered its use — may not benefit at all.

At a workshop held at the end of March in Nadi to discuss how the Convention on Biological Diversity could be used to overcome this and other problems, participants gave as an example the "calming kava pills" now on sale in the United States. For every dollar the grower receives, the middle man gets US\$4, and the company which owns the patent on the product receives US\$2000.

Another example was the Mamala plant, which is used by traditional healers in Samoa. Participants at the workshop said an ethnobotanist took samples of the plant out of the country and some compounds of Mamala have now been patented. Although it was the traditional knowledge of Samoan healers that allowed the plant's medicinal use to be targeted, there are no clear mechanisms for benefit sharing or technology transfer attached to the patent.

The Nadi workshop was the first Pacific islands regional meeting held to discuss the Convention on Biological Diversity. It was organised by SPREP in partnership with the Foundation for International Environmental Law and Development (FIELD) and the World Wide Fund for Nature South Pacific Programme (WWF SP). Participants from 14 Pacific island countries attended.

The Convention breaks new ground in explicitly coupling biodiversity conservation with the right to control access to genetic resources and to share benefits arising from their use. It is the first international agreement to acknowledge specifically that a country has sovereignty over its genetic resources.

It also provides some guidance on what the resulting benefits to a country might be, including the possibility of charging fees to collect genetic resources, technology transfer, or royalties from product sales. However, the parties to any bioprospecting agreement are responsible for negotiating specific terms.

The workshop noted that traditional knowledge is often just as important to bioprospectors as the resources themselves. In this area, participants said it was important to make the Convention's traditional knowledge section more useful to protect indigenous peoples' rights.

They also noted that current intellectual property rights laws do not protect the Pacific's natural resource heritage: rather, they protect the applicants for patents who come from developed countries. The workshop recommended the design of alternative intellectual property rights laws more suited to indigenous people and their knowledge.

The Convention breaks new ground in explicitly coupling biodiversity conservation with the right to control access to genetic resources and to share benefits arising from their use. It is the first international agreement to acknowledge specifically that a country has sovereignty over its genetic resources.

They wanted the Convention to include recognition, protection and guidelines for the collective ownership of biological resources, folklore and knowledge. Participants said there needed to be a mechanism to control patent applications. There also needed to be a process of confirming that local communities and indigenous people had given their prior informed consent to the use of their knowledge and/or resources.

The workshop called on SPREP and other relevant regional agencies to support Pacific island countries in providing assistance to customary resource owners, to record their traditional knowledge and customs. This information would only be released with the prior informed consent of the customary owners.

The workshop statement—the Nadi Statement, which was endorsed by workshop delegates—recommended that SPREP, the Forum Secretariat, the Secretariat of the Pacific Community (SPC) and other relevant agencies should work together to support Pacific island countries by, among other things:

- providing model bioprospecting agreements and guidelines
- helping with development and/or adaptation of national regulations for access to genetic resources, including the means of enforcing and monitoring such regulations
- encouraging national initiatives to collaborate with local communities to develop rules, information systems, technology, and to regulate access to their own resources at the village level
- helping establish national registers of biodiversity
- investigating possible regional approaches to regulate access to genetic resources
- enhancing public awareness programmes about unlawful removal of genetic resources

Participants said some of the obstacles to effective implementation of the Convention on Biological Diversity were:

- lack of effective coordination among government departments
- lack of understanding of core issues such as intellectual property rights
- lack of access to information
- insufficient sharing of information in the region

The Nadi Statement called on SPREP, the University of the South Pacific and other regional

agencies to work together to help Pacific island countries, in cooperation with their local communities, to develop appropriate policies on access to genetic resources and the use of traditional knowledge.

The [Nadi Statement](#) also deals with the need for improved national coordination; issues of biotechnology and biosafety; national biodiversity strategies and action programmes; and national coordination of CBD initiatives.

For a full copy of the [Nadi Statement](#) contact:

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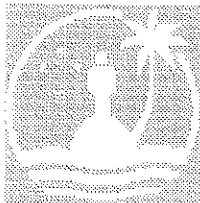


Well-known as some of the greatest mariners in history, Pacific islanders maintain their traditional knowledge in their craft to support their daily needs from the sea

Photo: Paddy Ryan for the Western Samoa NEMS

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Pacific works together

The Biodiversity workshop held in Nadi at the end of March, was also used to help countries prepare for the Fourth Meeting of Parties to the Convention on Biological Diversity, held in Slovakia from 4 – 19 May 1998.



SPREP's Biodiversity Officer, Sue Miller said it was important for Pacific island countries to work together at international meetings like this. "Pacific island countries have such small delegations compared with other countries, and at meetings like this there are often several important meetings going on at once. By working together we can make sure we cover everything adequately."

The Nadi meeting highlighted traditional knowledge as being of particular importance in the Pacific. At Slovakia, the Marshall Islands took the lead on behalf of the region and presented their concerns about intellectual property rights. Discussions on this matter are to be continued by an open-ended working group.

The Pacific island delegates who attended the Slovakia meeting said they were very well prepared for it, thanks to their preparatory discussions in Nadi. However, events outside their control conspired to make it almost impossible for them to achieve all the goals they had set.

While 14 Pacific island countries had planned to attend COP4 in Slovakia, problems with travel arrangements and funding meant only Fiji, Marshall Islands, Nauru, Papua New Guinea and Samoa were able to get there.

Ms Miller said Pacific island delegates believed that under the circumstances, they had done tremendously well at the meeting. However, they were left wondering how much more successful they would have been if all the Pacific island countries had been able to attend.



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SPREP South Pacific Regional Environment Programme



CASOLink

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News from the species programme...

by Sue Miller

Aliens

Small island ecosystems are particularly vulnerable to impacts from invasive or alien species which have often resulted in extinction of native flora and fauna. With new resources from NZODA, SPREP is developing a programme to address invasive species problems as they affect conservation and biodiversity values.

Our birdlife is particularly susceptible to foreign predators such as rats and cats—just ask Anna Tiraa and others about rat problems in Takitumu CA (Cook Islands)! It is hoped that new technologies successfully used on these problems in New Zealand and elsewhere will be made more widely available in the region as part of this programme. These working linkages between the Regional Avifauna Conservation Programme and the new Regional Invasive Species (RISP) are strong and the new SPREP Project Officer (expected to start in August) will run both of these initiatives for SPREP. Staff resources and initial programme funds have been secured from NZODA for the next three years.

Timing for this new initiative seems especially opportune with partnership with IUCN's Invasive Species Specialist Group seen as a key mechanism to access information and expertise. In addition USA Vice President Gore has recently given strong support to US agencies working internationally on invasive species issues. Already the US State Department has contacted SPREP with a view to working together on training and awareness initiatives for the prevention of further spread of the brown tree snake. The brown tree snake is found naturally in Papua New Guinea and other parts of Melanesia. This snake species was introduced to Guam with devastating effects on native birds and other wildlife.

Finally, part of the RISP is specifically focused on helping you address these 'alien' issues (no I don't mean tourists!) in your Conservation Area and we are keen to hear from you as to what assistance you need.

Pirates...

'Pirates' is the best word I can think of to describe companies and individuals who are not following the measures set out in the Convention on Biological Diversity (CBD) and collecting and transferring overseas, biodiversity from our region. This includes collection of traditional knowledge of native species without local peoples' explicit consent and understanding of uses of that knowledge.

SPREP is addressing these and related issues under its programme of support to Pacific island countries in their implementation of the CBD. There are now 11 Pacific island Parties to this convention. In March, SPREP and its NGO partners FIELD (Foundation of International Environmental Law and Development) and WWF held a CBD implementation workshop aimed at both Parties and non Parties in the region. The workshop introduced a draft package on key Pacific CBD issues as identified by countries. This package is now being 'pacified' with information from the workshop participants. The workshop also agreed on key areas for regional support for Party's CBD implementation and for action needed at the CBD's Fourth Conference of the Parties (COP4) in Slovakia in May 1998. These agreed priorities and actions are embodied in the participants' Nadi Statement. I am pleased to report that this statement proved extremely useful at COP4 and by working together, Pacific island countries (PICs) have achieved nearly all they wanted in COP4 decisions. The responsibility is now back on the region to follow through and develop

programmes to implement these key actions. Copies of the Nadi Statement, COP4 analysis and draft information packages on key CBD issues—including biosafety, access to genetic resources, intellectual property rights and others—are available from SPREP. As well, FIELD, WWF and SPREP are planning further work to help PICs implement this important convention based on PIC priorities embodied in the Nadi Statement. Watch this space...

Turtles, birds, bats, dugongs, whales, dolphins, and...

A reminder that SPBCP has resources to assist countries address conservation and management of the above species through SPREP's Regional Species Conservation Programme. If you are looking for resources, sources of expertise or some key information or contacts we will do our best to help. The 'and...' is to show that we will also do our best to help with other species related requests you have. Some brief news from these programmes:

A proposal to significantly upgrade the resources and services co-ordinated by SPREP for turtle conservation and wise use has been completed—logframe and all—and forwarded to the Canada – Pacific Ocean Development Program (C-SPOD II). This four-year project will significantly increase resources for turtle management in Pacific island countries and provide for training opportunities and network building.

- *Marine Mammals in the area served by SPREP* is due back from the printers soon. This will be widely distributed in the region and available from SPREP.
- The Palau Conservation Society is pro-gramming follow-up activities after their highly successful *1997 Year of the Dugong*. SPREP plans to further support their dugong awareness and education work which will also involve a re-survey of dugongs in Palau later this year.
- Tonga, particularly Vava'u, is gearing up for another successful and profitable whale watching season in 1998. Humpback whales return to Tonga and neighbouring countries each year to calve and breed. Spectacular courtship displays, newborn calves, whale singing and other behaviour can be easily observed in Tonga.

Commercial whale watch operators have been taking advantage of this seasonal tourist attraction for the past four years and in the same time SPREP's Regional Marine Mammal Conservation Programme has provided assistance in training, research, management, promotion and education and awareness initiatives. The Tongan Government and private sector tour operators have worked together to develop, trial and evaluate guidelines for whale watching operations. This process, facilitated by SPREP with NGO partner "Whales Alive", has resulted in a comprehensive set of agreed rules that serve well the interests of tourism development and actively protects the endangered humpback whales on this crucially important breeding ground. Lessons learnt from this ecotourism initiative will be shared at NZODA's forthcoming Pacific islands ecotourism workshop in Fiji in July. Copies of *Whale Watching—Lessons learned in Tonga* are available from SPREP.

The long-awaited *Guide to the Birds of Niue* will be back from the printers very shortly. If you would like a copy, contact myself or [Fatu Tauafiafi](#), our Information and Publication Officer here at SPREP.

If you would like further information or want to follow up any of the above, please contact me at SPREP email: smiller@sprep.org.ws

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Press Release

30 March 1998

Pacific countries focus on using international law to protect their biodiversity

This week 13 Pacific island countries get together for the region's first-ever workshop on how to implement the international Convention on Biodiversity.

This Convention has so far been signed by 171 countries world-wide, including 11 Pacific island countries. The convention forms a framework that promotes the conservation and sustainable use of biodiversity, and the fair and equitable sharing of the benefits arising out of the use of genetic resources.

Underscoring the importance of this week's workshop is the first-ever visit to the Pacific islands region from members of the Montreal-based Secretariat which administers the Convention. Workshop co-organiser Sue Miller, SPREP's Biodiversity Officer, said it would give the Secretariat a first-hand understanding of the constraints, priorities and issues which Pacific island countries face when trying to make the Convention on Biodiversity work.

The workshop has been jointly organised by the South Pacific Regional Environment Programme (SPREP), the Foundation for International Environmental Law and Development (FIELD) and the World-Wide Fund for Nature (WWF). It will focus on three issues which Pacific island countries have identified as the top priority concerns of their region:

- intellectual property rights and their role in the conservation and use of biodiversity in the Pacific islands region;
- regimes needed in the Pacific to make sure countries have control over their plant and animal genetic resources;
- regulations and regimes needed to monitor the movement of genetically modified organisms between countries.

"Pacific island countries have similar difficulties in implementing this convention, which is why key issues such as intellectual property rights are at the top of the regional workshop's agenda," Ms Miller said. "An increasing number of companies are looking to the natural world for potential new inventions and pharmaceutical benefits. Pacific island countries need to know they will get good deals out of any bioprospecting being done in their countries."

In addition the workshop will give a legal and institutional overview of the realities involved in implementing the Convention and will help Pacific countries considering signing onto the Convention weigh up the pros and cons of doing so.

At this week's workshop, Pacific island countries will also prepare for the fourth meeting of parties to the Convention on Biodiversity, being held in May in Slovakia. "Because we're all such small delegations when we attend these big international meetings, it's important to work together so we cover everything adequately," Ms Miller said.