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Pacific Island Countries Case Study



Inter-Linkages

Synergies and Coordination among Multilateral Environmental Agreements

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Abbreviations / Acronyms

AOSIS	alliance of small island states
CBD	Convention on Biological Diversity
CCD	Convention to Combat Desertification
CDM	Clean Development Mechanism
CITES	Convention on International Trade of Endangered Species of Wild Flora and Fauna
COP	Conference of the Parties
FCCC	Framework Convention on Climate Change
EIA	environmental impact assessment
GEF	Global Environment Facility
IEAU	International Environmental Advisory Unit (Cook Islands)
IMO	International Maritime Organization
MEA	multilateral environmental agreement
MOP	Meeting of the Parties
MOU	memorandum of understanding
NFP	national focal point
NGO	non-governmental organization
OERC	Office for Environmental Response and Coordination (Palau)
OILPOL	Convention for the Prevention of Pollution of the Sea by Oil
PACPLAN	Pacific Islands Regional Marine Spill Contingency Plan
PACPOL	Pacific Ocean Pollution Prevention Programme
PIC	prior informed consent (Rotterdam Convention)
POPs	persistent organic pollutants (Stockholm convention)
SPREP	South Pacific Regional Environment Programme
UNEP	United Nations Environment Programme
UNU	United Nations University

Forewords

“The ability of a country to follow sustainable development paths is determined to a large extent by the capacity of its people and its institutions [...]. Specifically, capacity-building encompasses the country’s human, scientific, technological, organizational, institutional and resource capabilities”.
(Agenda 21, Chapter 37)

Over the past 50 years, numerous multilateral environmental agreements (MEAs) have been established. Some agreements support and strengthen the aims of others, while the objectives of others overlap or contradict one another. The call for better coordination and harmonization between MEAs during the negotiation, ratification and implementation stages is thus increasing.

In response to these needs, the United Nations University (UNU) in 1999 launched the Inter-linkages Initiative with the aim of promoting a better integrated approach towards sustainable development through synergy and coordination among MEAs. To generate further understanding of key issues and to institutionalize inter-linkages principles, the initiative focuses on five main areas: scientific mechanisms, information systems, institutions, finance, and issue management. Research activities aim at the analysis of international environmental governance procedures and institutions along with the identification and development of model implementation frameworks at regional and national levels.

The present study of environmental policies and implementation of MEAs in Pacific island countries, conducted in close collaboration with the South Pacific Regional Environment Programme (SPREP), is part of a series of case studies undertaken in the Asia and Pacific region that was agreed upon during a regional workshop on inter-linkages, held in Kuala Lumpur, Malaysia in February 2001. These case studies aim at providing a practical approach to support synergies and coordination on a national and regional level as well as a means of identifying the gaps and opportunities in both national and global environmental governance.

Success or failure of environmental policies cannot be explained by choice of instruments or intervention mechanisms alone. Of equal importance are structural conditions such as institutional, legal and information frameworks and human and financial capacities to implement a particular policy. This includes quantitative and qualitative aspects of capacity and its sustainability in terms of continuity and transfer of know-how.

By looking at the needs and abilities of a country to improve these capacities, the Inter-linkages Initiative builds upon the UNU’s mission “to contribute, through research and capacity building, to efforts to resolve the pressing global problems that are the concern of the United Nations, its Peoples and Member States.” On a practical level, this involves a greater extent of cohesiveness among institutional, issue-based, and development-focused responses to the challenges of sustainable development, shared by a range of international, regional and national mechanisms.

It is hoped that this report will not only serve as the end of a fruitful process of research, but more importantly facilitate concrete follow-up activities in the region based on the recommendations in this study. This would not only form the basis for further cooperation between the UNU and SPREP, an important goal of the project, but also provide one concrete step towards the creation of the inter-linkages national and regional toolkits, that one day could serve as an instrument for replication of good initiatives on MEA synergies.

Faced with the challenges and opportunities that the World Summit on Sustainable Development provides, it is our hope that the concrete steps outlined in the study could serve as one foundation for the further implementation of Agenda 21.

Hans van Ginkel
Rector, United Nations University

The South Pacific Regional Environment Programme (SPREP) was established in 1982 within the framework of the Regional Seas Programme of UNEP. In 1993, it was accorded formal legal status to become an autonomous intergovernmental organization to ensure the sustainable development of the region through its main programme areas and priorities in support of national, regional and global initiatives. These are nature conservation, pollution prevention, climate change and variability and economic development. Its members comprise twenty five states and territories of which four are developed countries.

SPREP is also the secretariat for the following regional conventions:

- 1) The Convention on Conservation of Nature in the South Pacific Region (Apia Convention),
- 2) The Convention for the protection of Natural Resources and Environment of the South Pacific Region (Noumea Convention) and its related protocols, and
- 3) The Convention to ban the importation into Forum Island Countries of Hazardous and Radioactive Wastes and to control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region (Wai-gani Convention).

The SPREP four-year action plans go beyond the role of containing activities for the implementation of these conventions by also identifying a number of concerns arising at the global level. Such an approach calls for the need to amend the regional conventions for which SPREP is the secretariat, to address global issues of relevance for the region. The United Nations University's Inter-linkages Initiative therefore provides a promising approach of synergistic tools for the implementation of global instruments. Such synergy becomes a cornerstone for stronger regional frameworks, ensuring that the specific requests and needs of the Pacific region form part of global environmental initiatives. The region cannot afford to be let aside as global environmental initiatives are keys for sustainable development at the regional and national levels.

In recognizing the increasing number and the growing technical complexity of MEAs which often exceed the capacity of Pacific island countries, SPREP has dedicated much effort to assisting members with their numerous requests for assistance. In this context, the Inter-linkages case study in the Pacific region is a very valuable initiative through addressing the most critical concerns at the national and regional levels. Further to the lack of capacities, adequate technical and human resources, is the requirement for effective legal and institutional frameworks to support member governments to efficiently meet their obligations as parties to MEAs. In the long-term, linking MEAs will better utilize existing capacities and at the same time strengthen institutional competences and technical resources in the countries.

This publication is the result of consultations with key agencies involved in the management of the environment and goes beyond the assessment of existing national institutions through identifying advantages and challenges within the countries. It also proposes a number of valid recommendations for action at no cost through better coordination and sharing of skills at the national and regional levels to improve the involvement of the Pacific island countries in MEA processes.

The collaboration between the United Nations University and SPREP with the full support of three of its members, namely Vanuatu, Palau and the Cook Islands, has been an opportunity to gather and assess much needed information for necessary actions to be undertaken to allow better participation of Pacific Island Countries in the improvement of environmental frameworks, including international law, as a prerequisite for better compliance.

My acknowledgements are extended to the following people: Mr. Michael Mangawai from the Ministry of Lands, Survey, Environment, Energy, Minerals and Water Resources of Vanuatu, Ms. Youlsau Bells from the Office of Environmental Response and Coordination of the Republic of Palau and Ms. I'o Tuakeu-Lindsay previously from the International Environment Advisory Unit, Government of the Cooks Islands for their active participation resulting in the successful completion of this project. All have dedicated precious time to efficiently organize the country visits, arrange meetings, and actively participate in debates and discussions.

I also would like to express my most sincere appreciation to the United Nations University for their financial support and academic input, in particular Jerry Velasquez and Uli Piest as well as my staff Jacques Mougeot for compiling all the information gained from the country visits.

The friendship developed between the governments, the United Nations University and my staff is an encouragement for greater collaboration and allows me to foresee further joint efforts to implement the recommendations addressed in this publication.

I hope that this publication will be used as an important source of information for a better understanding of the challenges that Pacific Island Countries face when negotiating, ratifying and implementing MEAs. It definitely is a useful and important tool when deciding on measures to address these challenges.

Tamari'i Tutangata
Director, SPREP

1

Executive Summary

This report summarizes the findings of a study focusing on the situation of three small Pacific island nations with regard to the negotiation, ratification, and implementation of a number of key multilateral environmental agreements (MEAs). While there was a wide variation in the specific details of each of the states studied, they shared several underlying characteristics. These common characteristics, and the challenges derived from them, are likely to be found in the majority of smaller developing countries as they seek to negotiate and implement their national responsibilities under various MEAs. As such, while the body of this report addresses the specific situations in the Cook Islands, Palau and Vanuatu, it is firmly believed that its findings have broader implications for the South Pacific and for developing tropical countries in general.

Twenty-nine MEAs were examined within the study, with particular attention being paid to the Waigani and Basel Conventions as possible examples of regional or global synergy. In each of the three countries examined, the MEA processes proved to be placing substantial demands on the capacity of a broad range of government agencies. At times, these international demands actually competed against domestic policy implementation for limited resources. In this context, while MEA processes may be the key to building up resources and capacities to address the full range of environmental issues over the medium to long term, in the short term they can impose significant additional stresses on smaller developing countries. The underlying objective of this study is to identify ways in which the interlinkages principle can be utilized in ways that would reduce these burdens.

A number of common themes emerged within the study:

- * The negotiation and signature of protocols requires substantial internal coordination involving many different ministries, such as, foreign affairs and environment and any other departments or agencies that may be involved in implementation and enforcement. Where line departments have limited staff, it is often not possible to allocate adequate time to the development of briefings on complex issues. Consequently, and while each situation was unique, it was generally found that small island countries were rarely able to send delegations with high levels of technical training to negotiations.

There is a core need, therefore, to achieve an adequate level of technical briefing for negotiators whose professional background is typically more likely to be legal/diplomatic than scientific/technical. It is also critically important that once these negotiators return to their own countries, they have the mechanisms in place to report effectively, quickly, and widely on events, and that they are able to ensure the appropriately broad availability of materials distributed during the negotiating session.¹

- * Much of the technical background to negotiating sessions is complex but generic. This creates scope for convention secretariats and regional organizations to provide meaningful assistance to countries through the development of clear briefing papers with executive summaries of the technical issues. Regional organizations could also help countries develop their responses to key negotiation issues by providing timely, relevant, and accurate materials relating to the merits of consolidated regional positions.
- * The speed and efficacy of the ratification and implementation processes depend on the constitutional requirements of countries. In terms of formulating and implementing the required legislation, countries differ considerably with regard to timelines and political complexity. The best possible way for convention secretariats, or regional organizations, to support countries with regard to their legal processes is through the production and distribution of clear technical documentation. This should cover the commitments and responsibilities of countries implementing the convention in question, and should, again, include concise executive summaries.
- * The implementation of many MEAs requires the coordination of activities at the national, provincial, municipal, and rural community levels. To ensure that this coordination takes place in an efficient and effective manner (or even at all), focused analysis is required during the early stage of the negotiation and ratification processes. This analysis should aim to identify the broader human and financial resources, as well as training and public information requirements, that are necessary for the effective implementation of conventions. This is a highly specialized and resource intensive task and, as such, represents an area in which the international community and relevant regional organizations could play a useful, if not crucial, support role.
- * The environments of small island oceanic countries, their marine ecosystems in particular, and their efforts to address their environmental goals are of fundamental global importance. In almost all instances, the achievement of these goals requires resources beyond the internal scope of their small island developing economies.

¹ The Republic of Palau has addressed this challenge through the establishment of the Office of Environmental Response and Coordination, which offers a model that may prove to be adaptable to the situation of other countries.

Given this reality it is becoming increasingly important that an overall strategy be developed for the medium to long term support of small island developing countries as they attempt to meet their responsibilities under various MEAs. This strategy must be developed subject to an appropriate needs analysis and involve all relevant members of the global community, such as, UN bodies, regional and bilateral funding agencies, and non-government organizations.

Small island oceanic states have two key needs in this regard:

1. Sufficient means: to enable them to manage and meet their responsibilities under the conventions and protocols to which they are signatories.
2. Effective regional support mechanisms: which reflect the regional interest in promoting in-country capacity development and, at the same time, are able to represent regional interests in the global context. For both the global community and the relevant regional mechanism, the ultimate goal is to attain the best balance between the benefits offered by approaching different issues and functions at different levels. It is crucial, for example, that the specific technical capacity and support needs that exist at the national level be balanced with the benefits and efficiency to be gained by collective capacity development at the regional level.

MEAs have a critical role to play in addressing serious global environmental issues. It is for this very reason that a way must be found for developing countries, small island states included, to participate in the work of MEAs without disrupting, or overloading, their capacity to implement environmental management. As a sign of our continued global commitment, the follow up to the World Summit for Sustainable Development would represent an appropriate time to explore the development of a system for strengthening national capacities. Such a system would utilize the natural environmental synergies that exist at the regional and global levels, and would explore new roles for the Global Environment Facility and other potential sources of support.

2

Introduction and Background

This report summarizes a set of three case studies on *Inter-linkages: Synergies and Coordination among Multilateral Agreements* that was conducted by the United Nations University (UNU) in collaboration with the South Pacific Regional Environment Programme (SPREP) in 2001.

The UNU developed the *Inter-linkages Initiative* throughout a three year programme that began in 1999, with the aim of providing a meaningful input into the World Summit for Sustainable Development in late 2002. The core aim of the programme has been to identify practical ways to promote a more integrated and comprehensive approach to the negotiation, ratification, and implementation of multilateral environmental agreements (MEAs). As part of its effort to meet this aim, the inter-linkages initiative has focused on the need to strengthen the institutional and legal frameworks of countries in ways that would avoid overlap and contradiction within their efforts to implement multiple MEAs.

The overall objective of this study is to use the inter-linkages principles to assist the participating countries and SPREP as a body for regional co-operation in assessing the implementation of MEAs, identifying constraints to implementation, and proposing solutions to these constraints. MEAs represent an appropriate focus for this study because they have been identified as one of the leading areas for greater regional environmental cooperation.

The study takes the form of case studies because this is the best way to provide concrete examples of how the inter-linkages principle can effectively be operationalized at a practical policy level. In this instance, the case studies were conducted at the national level and focused on the experiences of three SPREP member countries. These countries were selected for close examination because they represent the three principal Pacific island environs; Vanuatu/Melanesia, Cook Islands/Polynesia, and Palau/Micronesia.

The Inter-linkages Approach to Managing Sustainable Development

The inter-linkages approach to managing sustainable development is comprised of two fundamental elements: synergism and coordination. It is believed that a synergistic approach to sustainable development will lead to the more effective and resource efficient assessment, negotiation, decision-making, planning, and implementation of policies. Similarly, improved coordination at the international, regional, and national levels, and between institutions, will minimize inadvertent conflicts between environmental policies and measures, and between different international regimes.

Inter-linkages assumes that the key to developing a strong integrated approach to sustainable development is the identification of the inherent *synergies* that exist between different aspects of the environment and an exploration of the potential for more effective *coordination* between sustainable development issues and their responses. The inter-linkages approach not only promotes systemically dynamic responses to environmental problems, but also cooperation between the societal institutions (government, civil society, laws, attitudes and behaviors) that catalyze these responses.

National Actions are Key to the Implementation of Inter-Linkages

Significant progress has already been made with regard to the promotion of inter-linkages at the regional and global levels. These efforts have included the extensive use of Memorandum of Understanding (MOU) arrangements and joint work programs between MEA secretariats.

The core function of secretariats is to facilitate the implementation of their respective MEAs, and there is a growing recognition that the inter-linkages principle can help them achieve this goal. Quite often this recognition begins with the parties themselves, who approach the secretariat and request that it attempt to optimize the possible benefits of establishing some form of linkage with other secretariats, or other international bodies. For some small MEA secretariats with limited resources, these types of linkages are crucial because it would be very difficult, if not impossible, for them to achieve their goals adequately without the cooperation of others. What the inter-linkages principle aims toward, is the establishment of linkages that are genuinely useful and that contribute to the more effective and efficient pursuit of environment and sustainable development goals.

While progress is already beginning to be made at the global and regional levels, there is still much need for improvement at the national level. It may actually be the case, in fact, that it is at the national level where the best opportunities to promote inter-linkages exist. This is because, ultimately, it is national governments that are required to make the decision to utilize naturally existing synergies and engage in meaningful policy coordination. It is also national governments that are

in the position to determine which issues to prioritize, which could be usefully inter-linked, and through what practical measures. National decision makers are also in the best position to most sensitively consider a country's environmental priorities within the broader context of its other socio-economic and development concerns. It is also national governments that are responsible for the inter-governmental processes that guide numerous global and regional agreements.

Identifying Gaps and Opportunities: More Research Needed

At both the national and regional levels, more research is needed on how the inter-linkages approach may be used to the genuine advantage of countries. A much greater level of understanding is also required in order to create inter-sectoral implementation models based on an eco-systems approach to sustainable development. For example, countries should try to understand how national planning processes for the implementation of MEAs could be mainstreamed into national development activities, while at the same time taking into account the physical inter-relationships among different MEA issue areas.

The existing system of negotiation, ratification, and implementation in many countries is complex and often disjointed institutionally. There is an urgent need for case studies to be conducted that can examine a number of countries in detail and consider, at a practical level, the steps that can be taken to strengthen their implementation systems. The key challenge for these case studies is to identify existing gaps and opportunities (e.g. political, financial, capacity, legal) that influence the effective implementation of multiple MEAs. It is with this purpose and these goals in mind that the UNU is developing a framework for the use of inter-linkages in the national implementation of MEAs.

A very useful place to begin a study that aims to develop a framework for the use of inter-linkages principles within a national implementation context, is with the weaknesses and limitations that we are already aware of.

For example:

- * Many national experts have pointed out that the inter-linkages concept assumes more capacity in national governments than may exist. Right now, there are significant capacity constraints even to deal with separate MEAs, much less their inter-linkages. If greater emphasis is devoted to the development of inter-linkages, policy-makers and negotiators could end up spending even more time in lengthy meetings and even less time implementing conventions;
- * Financial and other incentives, sometimes promote independent action rather than synergy/harmonized action;

- * Even if there is a willing and capable group of people within a national government that seek to utilize the principle of inter-linkages, it may be difficult for them to get the accurate data they need in relation to the linkages among specific issues (i.e., existing data is generally collected and disseminated sectorally);
- * Finally, a precondition for applying the inter-linkages principle at the regional level is that countries within a given region have all ratified, or intend to ratify, MEAs that are to be inter-linked.

Case Study Framework

Each of the three case studies has been carried out within the same overall framework. This framework has three phases: (1) design, (2) assessment and recommendation, and (3) review.

The design phase used the concept of clustering to help identify priority areas for consideration within the case study. There are different ways at approaching clustering, such as:

- * Issue or ecosystem - Climate, bio-related, chemicals, trade-related, ocean
- * Function - Capacity building, information, meetings, assessment, etc.
- * Impacts - Deforestation, land degradation, drought, etc.
- * Goods - Agricultural products, industrial products, etc.

When considering the national level it is best to focus on the functional aspects of clustering as this is likely to provide the best opportunities for locating inter-linkages. The best opportunities at the national level are also more likely to be found among the low level functions, such as; focused capacity building, information management and communications as opposed to the higher level functions, such as; institutional, legal, financial, etc. The low level functions provide the best opportunities at the national level because they have the least political implications. Any changes at this level would involve less bureaucracy, less costs, less resources to implement. Any reforms at this level would also divert the least amount of attention and capacity away from the ongoing task of implementation.

A focus on the low level functions is a useful place to start when considering a broader approach to inter-linkages. Success with the low level, low risk functions would help gain support among rank and file policymakers for a broader application of the inter-linkages principle over the longer term and in relation to the higher level functions.

The design phase of the case studies has been used to narrow down the issues that needed to be considered, and identify the needs and problems that were unique to each case study country. Initiated through national stakeholder meetings where problems, priorities, gaps and opportunities (including possible solutions) were identified

and discussed, the design phase provided a narrow focus where only relevant issues were considered.

After the design stage was completed the assessment phase of the case studies began. It is here that the specific status of each case study country's scientific, institutional, and political conditions were determined through consultations and research. The specific information drawn out during the design and assessment was then analyzed and a number of possible policy options put forward at three levels. In other words, the possible solution for each national problem or issue is presented in a national, regional, and international context.

Background to the Pacific Island Case Studies

On 26-27 February 2001, an informal *Regional Consultation on Inter-Linkages* was held in Kuala Lumpur, Malaysia. At this meeting, one of the working groups focused on the possibility of conducting national level case studies by applying the principles of inter-linkages to Pacific island cases. Group members agreed that within the countries of this region, the lack of, or weakness of, national policies, legal and institutional arrangements, and human resource capabilities are the core obstacles to the effective negotiation, ratification, and implementation of MEAs. They also believed that the principles of inter-linkages could play a key role in the crucial task of strengthening these national governance structures.

The working group members agreed that the best way to develop practical solutions for these national governance structures, while encouraging greater regional and international coordination, was to carry out case studies in the Pacific island region. These case studies would be used to identify ways in which states could take advantage of the natural synergies that already exist between environmental issues, identify gaps and weaknesses within their current institutional structures that may prevent them from taking advantage of these synergies, and explore ways in which their government structures could be strengthened in this regard.

In Kuala Lumpur it was also agreed that the case studies would focus on the following tasks:

- * Standard criteria for data collection at the national level would be prepared within the scope of the case study and be submitted to SPREP for comments prior to distribution to the selected countries.
- * MEAs of paramount significance to the three countries, and which could address the issue of waste management, would be identified and clearly understood. Consultants should undertake a general review of SPREP national experiences in the implementation of international commitments, using waste management as a starting point. Possible subjects for closer examination included the implementation of the Waigani, Basel, Persistent Organic Pollutants

(POPs), Prior Informed Consent (PIC or Rotterdam), Marine, and SPREP conventions, as well as the conventions relating to the conservation of natural resources such as the Apia or the Convention on Biological Diversity (CBD).

- * National workshops, and other required consultations for MEA data collection, would be undertaken for stakeholders. Workshops would focus on obtaining data associated with policy, planning, capacity building, financing, information, communication, relevant institutions, and legislation, etc.
- * One point of communication (leader) would be identified in each country to facilitate the provision of additional information where necessary.
- * The state of implementation of the identified MEAs would be reviewed, and their relevance to synergetic negotiations at regional and global levels assessed, in order to determine the general state of synergetic negotiations at the regional level, and the status of ratification and implementation at the national level.
- * Potential areas of opportunity and weakness with regard to the synergetic negotiation, ratification and implementation of conventions would be identified.
- * Detailed recommendations would be formulated with the aim of improving institutional and governance capacity, at the national level, for the negotiation, ratification, and implementation of MEAs.
- * The next steps to be undertaken in order to implement recommendations at the national, regional, and global levels would be identified in order of priority and their costs estimated.

Case Study Methodology

The case studies were conducted in 2001 by a study team comprised of UNU staff, SPREP, and a consultant from the Centre for Maritime Policy, University of Wollongong, Australia. The team visited Vanuatu from 16 to 20 July, Palau from 30 July to 2 August, and the Cook Islands from 7 to 10 August 2001. The study began with introductory meetings with officials from relevant national departments. These meetings covered the current situation regarding numerous MEAs, the question of whether countries had signed and/or ratified, and the development of policy concerning MEAs that were not yet signed. The more specific agency-level issues were explored at a number of follow-up meetings held with smaller groups.

The key case study discussions were based on a questionnaire that had been prepared and presented to relevant national representatives. This questionnaire sought to identify and explore issues arising in connection with the negotiation, ratification and implementation of

MEAs. These were addressed first by considering the Convention on Biological Diversity as an example of an MEA that all three countries had signed and ratified. The Basel and Waigani conventions, both dealing with waste management, were examples of conventions that some of the case study countries had not yet signed. These were still included in the questionnaire because they addressed priority issues recognized at the national and South Pacific regional levels.

The discussions sought primarily to identify opportunities for synergy in the management of conventions in order to achieve the necessary levels of efficiency for effective functioning of the MEA system in the Pacific island countries. Discussions ranged beyond these MEAs, however, and also addressed the need for synergy with policies and programs relating to intended membership of the World Trade Organization (WTO).

3

Negotiation of MEAs

At the national level the operation of the MEA system requires significant time and resources to address policy considerations for negotiation, signature and ratification of conventions. The same is true for the implementation of national commitments under ratified conventions. For small nations such as the Pacific islands, these requirements are very large in relation to the total number of personnel and their other responsibilities. Specifically much of the responsibility of focal point activities and national coordination of implementation of MEAs in the Pacific rests with a small number of personnel in environment units or departments set up relatively recently.

Negotiation is possibly the most important step in the creation of the global environment agenda. It is during negotiations where the respective country positions are voiced, incorporated and fought over. At MEA negotiation level, the presence of delegations equipped with both technical and negotiation skills is critical in order to derive the best compromise and ensure that issues that are dear to respective countries are reflected in the negotiated texts.

Since most of these negotiated agreements find their way into the national laws and regulations in some form or another, it becomes important that countries give priority to this stage of environmental policy making.

However, it is here where the biggest possible disparity could exist, through quantity and expertise of delegates that are sent to these negotiations. Quantity ensures that important issues to be negotiated are properly covered and responded to. Since some negotiations tend to be long-winded, tiring, and tedious, it might become a matter of attrition, whether people present are those that can make input. Skills on the other hand ensure that critical technical details are both raised and responded to. This refers to briefing, consultation and preparation during the negotiations and analysis, research, and experience prior to, during and after negotiations.

In the Pacific, although constrained by resources, once initiated, the process of consultation and preparation for signature of conventions appears to operate reasonably well. The main issue of concern is the triggering of this process linked particularly to proper information flow and access to information within the countries.

Policy, strategy and planning

One of the core requirements of effective governance is the existence of a policy or strategy in approaching any issue. In the negotiation, ratification and implementation of MEAs, the mainstreaming of issues with a country's own development framework (if existent) is necessary in order to develop clear strategies with regard to particular MEAs. In a number of countries in the Pacific, the challenge is in bridging this gap of national interest in development and issues and obligations connected with MEAs, in order to clarify strategies and policies.

In many countries including those covered by the case study, for example, MEA-related communication within an agency, between agencies, and with the MEA secretariat is focused extensively on reporting. Often, there is a lack of an effective, well-developed and transparent process for the development and articulation of national positions on key issues before delegates attend international meetings to negotiate MEAs. In most countries, there is also an absence of an effective national process to consolidate views of government agencies and other stakeholders. The view was expressed that in many cases the opinion of the ministry of foreign affairs, mostly in charge of the negotiations, becomes the de facto national position. This might lead to a strategy that is well-developed in terms of diplomatic and negotiation skills, but then could possibly lack technical details and views of other agencies later to be involved in the implementation of a specific MEA. Obviously, this is where environmental coordination agencies such as in Palau and Cook Islands (see Boxes 1 and 2) can contribute by developing a better assembled national position on the negotiation of MEAs.

Also, there is an apparent lack of clear guidelines for seeking mandate by delegates attending negotiation meetings. This not only weakens the mandates of delegations but also their capability to appropriately disseminate information to the national agencies concerned after the negotiations.

Missing feedback requests from other ministries and agencies result in a national position being made by default or even a lack of a national position. It was noted that where a regional position has been strengthened through regional groupings and organizations such as SPREP, the regional position often influences the national position and thus national interests might be replaced by regional concerns. At the same time, regional organizations such as SPREP face the dilemma to stay at the policy advice level only and not to mold a country's policy itself.

BOX 1

Negotiations in the Cook Islands

In the Cook Islands, the International Environmental Advisory Unit (IEAU) was established to coordinate the negotiation and implementation of MEAs. This was seen as a positive development by many agencies, ministries and NGOs working in their respective areas. Historically, the responsibility for the negotiation of MEAs by the Cook Islands was with the Ministry of Foreign Affairs and Immigration even where the implementation of specific convention obligations was the responsibility of other agencies.

However, procedures for consultation with regard to the negotiation and ratification of MEAs have not been formalized between the IEAU and the Ministry of Foreign Affairs and Immigration. This could potentially lead to differing views and positions between the IEAU and the Ministry. If the relationship is properly developed, however, the IEAU has much potential to enhance the coherence of national policy making and the implementation of MEAs.

Obviously, it could be useful if extensive communication evolved at the policy and strategy development stage, particularly before actual negotiations take place. Although the implementation of particular MEAs may not need to be linked and can be done by separate agencies somehow, it is critical that the planning and strategy development is done jointly to meet the aims of different agencies and to foster integration into a national development strategy.

Moreover, at the policy and strategy stage, governments have the opportunity to play an agenda setting role for MEAs to be negotiated. Currently countries spend their time reacting to demands of conventions and many discussions focus on how to enable countries to become more efficient in their response to those demands. Instead, there is a lot of opportunity for inter-linkages to expand towards agenda setting.

At present, most national governments do not see MEAs as central to their development concerns neither are they given incentives to link policies that are usually separated along sectors. But, taken together, the set of issues addressed by MEAs are unquestionably of importance for sustainable development. Therefore, an opportunity for regional institutions exists to help promote this perspective, educate and communicate the importance of inclusive policy agendas or frameworks to the ministries that could get involved and to other stakeholders (e.g., the private sector, NGOs, media etc.).

Lead Agency Responsibility

One particular issue that was raised several times in the course of the case studies relates to the ministry or agency that should play the lead role in the negotiation and implementation of MEAs. Usually, the ministry of foreign affairs has been the lead agency in the negotiation of international obligations. This is intended to achieve a coordinated government approach on matters of international relations to ensure

consistency. The foreign affairs ministries also play a supporting role in other cases where technical agencies have carriage of negotiations.

Problems arise, however, when there is a lack of consultation between the ministry of foreign affairs and other ministries and agencies, especially those responsible for the eventual implementation of, and compliance with, MEAs. For example, in the Cook Islands, the Waigani Convention was not refereed to any other ministry during the negotiations, even though its implementation requires the active involvement of other ministries. There are examples, however, of good information management. In Palau, the government administrative centres are concentrated in Koror and there appears to be a good flow of formal and informal consultation and information exchange. As a result, the consultative processes for the signature of conventions and ongoing communication proceeds reasonably well. Despite this example, it was expressed in Palau that there is still a need for coordination across departments and agencies for the broader range of MEAs.

Whilst the political and diplomatic roles of foreign affairs ministries were acknowledged, it was mentioned by many people that to ensure effective implementation of obligations assumed it would be preferable that agencies responsible for the eventual implementation of, and compliance with, MEAs also assume the lead role in their negotiation. Some people noted the fact that, in most cases, the ministries of foreign affairs have no specialized desk for international environmental issues.

BOX 2

Palau's Office of Environmental Response and Coordination

The Office of Environmental Response and Coordination (OERC) was established initially with the role of coordinating activities relating to negotiations and outcomes of meetings of conferences of the parties for the atmospheric pollution conventions. It has subsequently been given coordination responsibilities with respect to the Biodiversity Convention and a number of other instruments. It has the functions of ensuring that Palauan delegations to meetings of parties to conventions in its area of responsibility are well prepared, that the national position is clearly developed in briefing papers for delegates and that there is prompt and informative feedback to the rest of government following the return of delegations.

Where an environmental coordinating unit was created to solve some of these problems of coordination, such as in the Cook Islands and Palau, many people expressed the view that the relationship between the ministry of foreign affairs and these agencies still requires some clarification. If the relationship were properly developed as in Palau's Office of Environmental Response and Coordination (OERC), the creation of a coordinating agency would seem to have a lot of potential in enhancing the effective implementation of obligations under MEAs and for harnessing funding opportunities under such conventions.

The issue of focal points goes beyond the role of the ministry of foreign affairs. Other examples of the lack of clarity on lead agency roles in the negotiation and implementation of MEAs include:

- * The PACPOL/PACPLAN program, which is intended to implement the SPREP Convention, is placed under the Ministry of Transport in the Cook Islands despite the fact that there is a pollution component of the program and the Environment Service is the overall focal point for the SPREP Convention. The Ministry of Transport intends to recruit a marine pollution officer under the program, with a potential risk of duplication with the Environment Service. The Environment Service was also not involved in the development of legislation related to marine pollution and aimed at implementing IMO Conventions and the protocols to the SPREP Convention.
- * Again in the Cook Islands, the international waters project is under the Ministry of Marine Resources but there seems to be no coordinated relationship between the Ministry of Marine Resources and the Environment Service with regard to the implementation of this project. At the time of drafting this report, no meeting had been organized between the two agencies concerned.
- * In some countries, the Convention on Biodiversity is under the responsibility of an environmental service and yet its related Biosafety Protocol is under a different agency, e.g., an agricultural ministry.

Information Management

Interestingly, prior notice of meetings is a serious concern in the Pacific. Interviewed negotiators noted that they sometimes found out 'by accident' about key information on upcoming meetings and on the results of past meetings. This raises two important issues.

The first is the apparent lack of notice of forthcoming meetings and preparation of briefing and position materials for delegates. It would be unthinkable that the MEA Secretariats would fail to notify country representatives of upcoming meeting dates and other related information. In fact, in Palau, there is a steady flow of communication, particularly on reporting and technical issues between convention secretariats and national focal points. This means that somewhere along the line of information, a break occurs, either through the stoppage of the flow of information along the line towards the negotiators or the negotiators themselves forgetting or missing to retrieve key information.

The second is the apparent lack of high quality and consistent reporting back by delegates of the outcomes of meetings and consultation sessions. This is more serious, however, as it assumes that by negligence or due to a lack of a proper information transfer system, negotiators do not brief their local counterparts on the issues raised and decided in negotiations. It can be argued that most information is now

widely available, prepared on a substantive, complete and objective base, thanks to reporting services such as the Earth Negotiations Bulletin.² However, critical information can only come directly from negotiators themselves and thus needs to be transferred to local counterparts.

A related issue linked to these two is the apparent lack of a system of housing information and providing access to materials brought back by delegates from meetings. If a common repository of information would exist, then it could immediately resolve the problems mentioned. More importantly, issues of overlap and unproductive duplication between MEAs are primarily matters that should be considered during preparations for, and conduct of, negotiations. Aside from the usual means of information exchange, a system of regularly scheduled meetings would greatly assist information flow. These meetings could be held once or twice a year and would provide an important means for update and coordination among officials involved in the negotiation, ratification, and implementation of MEAs and linked processes. Similarly, frequent ad hoc and informal meetings of focal points and key staff are as equally important.

Palau has addressed this with respect to the atmosphere conventions through the creation of its Office of Environmental Response and Coordination (OERC). The OERC is tasked with the coordination of information flow in the preparation for negotiation sessions and with reporting back to implementing and other government agencies concerned or interested, including the public, community and private sector groups, as well as with the follow-up of meetings and communication with convention secretariats. There is also a high level committee chaired by the president of Palau.

A major issue in information flow was seen to be the bottlenecks that can arise when a focal point is on travel and incoming documents cannot be copied on to relevant officials. For this and for general information flow it is important that officials be provided with email and that a culture of copying documentation to relevant personnel is developed. Subject to a proper protocol it would be helpful to authorize SPREP and MEA secretariats to provide information simultaneously to relevant officials of major agencies concerned in addition to the focal point. Unfortunately, information management does not seem to be one of the key strengths in the Pacific region.³

Assembling the Delegation

Another important aspect in the negotiation of MEAs is the logistics of assembling appropriate delegations. Although rarely discussed, the selection of delegates is oftentimes based on several aspects. First is

² ENB is located at <http://www.iisd.ca/>

³ United Nations University Policy Report, *Inter-linkages: Synergies and Coordination among Multilateral Environmental Agreements: National & Regional Approaches in Asia and the Pacific*, Tokyo: UNU, January 2002.

the selection of the usual delegate. Although this is the strongest and best approach now available, and often creates “super delegates” that are the perfect sources of identifying inter-linkages among various issues, serious problems might come about when these delegates leave government service as replacements of equal caliber are seldom available.

The second category is the selection of delegates based on politics. The point was made repeatedly that because MEA meetings usually involve international travel, the selection of national delegates becomes a political matter. In some cases national delegations are selected for personal and political reasons, thereby preventing experienced negotiators from attending such meetings.

Also, it was often noted during the conduct of the case studies, that there are many meetings involving senior officials, most of whom attend meetings because of the benefits associated with international travel and not because of their expertise *per se*. On the other hand, there is a good point to this as well, since this creates multi-skilled senior officials.

One element mentioned above is the need for adequate, prior notice of meetings so that departments and ministries have time to make the necessary arrangements. Another aspect is resourcing. The situation varies between conventions but typically attendance is supported through an external donor (such as the GEF) via convention secretariats. Again typically, this funding covers a delegation of around two officials. For complex issues it is often important that the delegation includes people with technical skills in more than one subject area, diplomatic skills as well as ministerial participation – particularly when negotiations are reaching the stage of national signature. In such instances the government may decide to meet the costs of additional delegates through program budgeting, which again makes it necessary to have substantial prior notice in order to earmark funds for this purpose. Ideally there should be a process of identification of an appropriate delegation size, which addresses the complexity of the issues under consideration and does not place major demands on the limited financial resources of a government.

A further resorting issue is that of legislative support. There have been problems with signature of conventions as conditions might become difficult to meet because of national legal considerations. It is important, particularly in regard to improving synergy between MEAs and the necessary supporting legislation for ratification, that there be capacity for professional legal staff or advisors with training in international law. Such people should play a major role in the development of briefing and national position papers for negotiations and, as needed, be part of the technical expertise represented in delegations.

4

Ratification of MEAs

Ratification denotes national acceptance of an obligation to implement the provisions of an MEA. Where this has an impact on government bodies that are involved or might get involved during the implementation process, a good information flow is important to prepare them for any new or altered legal responsibilities according to legal changes in the course of the ratification of an MEA.

Even though in some countries in the Pacific, the consultative processes for the signature of conventions work well, their ratification involves a more complex and time consuming process in order to achieve the necessary legislative changes. This process is particularly vulnerable to changes in government and the processes of review and reevaluation of priorities, which usually follow such changes.

Legal Framework

There are two ways to ratify a signed agreement in the Pacific. In the Cook Islands, once negotiated, the ratification of a particular MEA is an executive decision, which does not require parliamentary approval. For Palau and other Pacific island countries, ratification requires authorization through national legal bodies.

However, in all of the countries studied, domestic implementation of an MEA requires domestic legislation. Usually, the bill to implement an international agreement is presented to parliament by the responsible ministry (typically, the ministry of foreign affairs) sometimes in consultation with the implementing national agency. Provided there is no significant opposition in parliament, this is usually a straightforward process to be achieved in a few months.

BOX 3

Historical (Non-) Ratification of MEAs in Palau

The situation for Palau is complicated by uncertainties over residual matters from independence and the Compact of Free Association between the government of the USA and the government of Palau. As a former trust territory of the US, Palau was regarded as having acceded to all conventions and protocols to which the US was a party prior to October 1, 1994. Under the independence arrangement provision was made for Palau to review all such conventions and protocols within 5 years and to determine whether to continue as a party. The review did not take place with the effect that Palau is no longer a continuing party to a number of conventions.

The processes of developing the necessary legislation, and for obtaining the necessary approvals for it to be considered by parliament, are time consuming. Changes of government with subsequent changes in parliament and policies add to this time frame.

The requirement for legislation to be developed so that a signed convention can be ratified imposes substantial resource and time demands which are often underestimated. The implementation of a convention may require new legislation and consequential changes to several chapters of existing legislation. These issues are not supported by the fact that often, only a handful of professional legal staff or advisors with training in international law are in charge of integrating new legislation into the existing national framework.

Generally, the process of ratification appears to proceed well in the Cook Islands. However, during the case study it was noted that there are no well-established protocols and procedures between the Office of International Law of the Ministry of Foreign Affairs and Immigration and other agencies. Similarly, consultation with the Crown Law Office, which is eventually responsible for advice on domestic legislation following ratification of an MEA, seems to be ad-hoc. Although the solicitor general is a member of the Core Agency Committee, which is a body responsible for vetting all cabinet submissions, there seems to be no coherent process of co-ordination between the solicitor general and the Office of International Law.

Importance of Information

During the ratification process there is also a need for good information and communication so that agencies, which are to acquire responsibilities through the ratified convention, can be prepared, reasonably resourced and trained to meet new responsibilities by the time the new legislation is passed. This means that MEA responsibilities flowing to departments or agencies should be identified during the ratification process so that they can be taken into account in business plans and program budgets.

As the number of signed and ratified conventions increases it becomes progressively more important that there are active and effective channels of information and communication between focal points and with executing agencies. The introduction of a distribution list for copying information to all officials and agencies, which already are or might become involved, and the use of email, has the potential to increase effective information flow.

Information materials, which clearly explain the roles of individuals and agencies, can support the ratification process. A specific flow chart for each convention could be developed to guide through the process from signature to ratification and implementation.

The process of ratification and particularly the development of necessary legislation should be well informed through the reports of delegates to negotiation meetings and by information collected by delegates at those meetings. This reinforces the need for good reporting and for a good library or information system, which makes materials collected at meetings readily available.

There is a steady flow of communication between convention secretariats and national focal points and an increasing need for a single point national inventory or custodial system which holds up to date information on all signed and ratified conventions and on national obligations arising from ongoing decisions by conferences of the parties.

Legal changes due to the ratification of an MEA affect, beyond government agencies, many people down to the local level. For this reason it is important to maintain and perhaps increase the practice of national forums to inform national, provincial and municipal officials of developments and responsibilities under MEAs.

5

Implementation of MEAs

MEAs usually address a multiplicity of interconnected environmental, economic and social issues, which cut across the responsibilities of different government agencies and governance levels. Given this, along with global and regional efforts, the implementation of MEAs requires coordinated activities at the national and community levels. The challenge is to translate international obligations under MEAs into national and local environmental agendas to receive political support and to make them meaningful to the general public.

One of the key problems in the implementation of MEAs identified by this case study is the lack of linkage and synergy between domestic environmental issues and the objectives of MEAs and actions they require to be addressed. The general sentiment was that especially international environmental issues are not considered a priority in the countries itself and are not deemed relevant to local circumstances. Many officials interviewed were not aware of obligations under MEAs and how they link to actions at the local level. This is despite the fact that a number of domestic environmental issues, such as waste management or nature conservation, complement obligations under MEAs.

Contrary to what seems to be a widespread view in the Pacific, the prevailing MEAs and regional environmental agreements are often designed to provide a framework for international cooperation and support to address specific domestic environmental issues. MEAs in general and regional environmental conventions in particular allow for states to monitor environmental standards at the domestic level. It is important to take into consideration what global organizations can offer to different island countries. For example, the GEF guidelines for the implementation of the POPs convention offer funding opportunities for signatories. It is therefore important to ensure that intended activities under MEAs are taken into consideration in the annual budget planning processes.

Issues of synergy and linkage are particularly important at the level of implementation because the same agencies, and the same officials within these, are often in charge of several MEAs. With appropriate management there is a potential to develop work plans and budgets for teams with responsibilities for complementary activities under several conventions. Sharing of resources and skills and joint

programmes for training, monitoring and evaluation can support an efficient use of resources and lead to a significant strengthening of national capacities and performance.

BOX 4

Obstacles in MEA-Implementation in the Cook Islands

- * Lack of awareness by politicians of the significance of international environmental issues for the national/local context;
- * Absence of sufficient regional cooperation in the South Pacific, despite the effective role played by SPREP;
- * Missing legal framework for environmental issues;
- * Many government agencies do not regard environmental issues, let alone MEAs, as part of their agenda;
- * The Ministry of Works and Energy, although officially not responsible for any MEA, undertakes a number of activities such as waste treatment and coastal protection which all feed into existing MEA obligations (e.g. CBD, CCD and FCCC);
- * The natural heritage data base, which seeks to identify and document Cook Islands' plants and animals, actually implements many of the obligations under the Biodiversity Convention and yet no linkage seems to exist between the natural heritage programme and other biodiversity initiatives in the Cook Islands;
- * A number of environmental NGOs operating in the Cook Islands undertake community conservation and education projects in isolation of the implementation of particular MEAs;
- * High costs for attendance at MOPs or COPs, as they are often held in Europe or North America where the Cook Islands has no diplomatic representation.

The implementation of MEAs requires coordinated activities at the national, state, and community levels. To meet these needs, a strategic planning process is necessary – starting already during negotiations and ratifications – that assesses the requirements to implement a newly signed convention, e.g., human and technical capacities, financial resources, stakeholders and social actors to become involved, synergies and contradictions with existing policies, public information and education needs, etc. The same applies to conventions already ratified.

Much of the responsibilities for such analysis will probably be with the respective convention focal points. To prevent an overburdening of existing and mostly limited planning capacities, it is important to resource these focal points adequately. It is essential for such an analysis to focus on the design of the process and not only on the outcome as such, e.g., a planning document that is likely to be filed away. Important elements of this planning process should be to:

- * Take stock of and identify problems;
- * Set priorities based upon clear criteria;
- * Prioritize measures;
- * Select and link policy measures;
- * Analyze institutions;
- * Propose realistic conditions for implementation.

Implementing an MEA will probably lead to additional costs and change the allocation of existing funds. The mobilization of financial resources, both internally and externally, should thus be integrated into the planning process. Again, linking policies and actions has a high potential for sharing and reducing supplementary costs and to decrease additional burdens within and between implementing agencies. A well-developed plan for implementation, together with political commitment and budget pledges at the national level, also increases the possibilities of attracting external funding, e.g. through convention secretariats or the Global Environment Facility.

Legal Framework

The first and foremost problem that states in the Pacific face in the implementation of MEAs is the absence of an effective and comprehensive legal framework, or its incoherence. For example, the Cook Islands do not have a unified national environmental legislation. The *Rarotonga Environment Act 1944-1995* applies only to the main island of Rarotonga and not to the outer islands. Since 1992, and with a view to developing comprehensive national environment legislation, an environment bill has been proposed, but until today it remains a proposal. It envisages the setting up of an environment council to formulate and coordinate national environmental policy and the establishment of a national environmental forum to meet at least once a year. The general view expressed during the conduct of the case study was that the legislative implementation of MEAs in the Cook Islands is not adequate. The government appears to regard domestic issues as more important than international environmental concerns and, consequently, is reluctant to promote legislation to implement MEA obligations.

Another problem identified in the Cook Islands is the lack of consultation with major stakeholders in developing legislation to implement MEAs. The Crown Law Office appears not to be consistently involved in the negotiation and provision of legal advice regarding the implementation of MEAs. It also seems to lack legal capacity in this specific area, as for the past two years the Crown Law Office has had only two lawyers. The situation slightly improved with the hiring of a lawyer from New Zealand to assist with legislative drafting. However this additional position is only for one year. Furthermore, there is no international legal adviser in the Crown Law Office.

Vanuatu ratified, among others, the Convention on Biological Diversity and the Framework Convention on Climate Change. Also, as a party to the International Convention on the Trade of Endangered Species, Vanuatu restricted the import and export of products from a number of listed endangered species. However, the awareness of these provisions by visitors and nationals is poor, leading to requests to export souvenirs made of endangered species. The requirements under the OILPOL convention (Prevention of Pollution of the Sea by Oil) have been incorporated into national law under the maritime regulations.

Vanuatu is not a party to the regional Apia, Noumea, or Waigani Conventions, but recognizes them as important mechanisms to work with other Pacific island nations to ensure the sustainable development of the South Pacific region.

In Vanuatu, there is already a substantial body of environmental laws. However, they consist mostly in sectoral legislation, which allows for major gaps. The areas of waste management, water resources and dangerous substances are the most critical. Under the law related to conservation and the environment, a number of ministries and departments have sectoral responsibilities. The agriculture department is in charge of regulations related to wildlife protection (birds), which gives total protection to 16 species and bans the export of 11 species. The forestry department is, under the Forestry Act of 1982, responsible for forest plantations and conservation measures. The fisheries department implements the Fisheries Act of 1982 with provisions for fisheries management, marine reserves and species protection.

Recent environmental pressures in Vanuatu, especially in the coastal zone, highlight an urgent need for the extension of planning control to the littoral zone. This calls for a statutory environmental impact assessment for major projects. Such concern is being addressed through the introduction of a comprehensive environmental legislation, which still is in a draft form. The bill for the environmental management and conservation act of 2001 will cover environmental impact assessment, biodiversity and protected areas including bioprospecting. The act might be a useful element in promoting synergies and better negotiation, ratification and implementation of conventions. It contains provisions for the establishment of a department of environment and conservation, being responsible for the development, coordination and, where appropriate, implementation of environmental policies and programs. Such functions include the preparation of advice on international environmental treaties and instruments, including implementation strategies.

Along with such developments aiming at providing the legal implementation of MEAs, mention should be made to the national biodiversity conservation strategy. This is a tool aiming at assisting countries with the implementation of MEAs related to biodiversity and in particular the CBD. The strategy contains six main objectives for effective management of biological resources: 1) Ensure sustainable management and conservation of Vanuatu's biodiversity; 2) Develop appropriate policy, planning and legal mechanisms for the management of biodiversity; 3) improve knowledge about biodiversity in Vanuatu; 4) improve the capacity of national, provincial, NGO and community organizations to manage biodiversity; 5) Increase local awareness of the importance and value of biodiversity; and 6) foster community participation in the management and conservation of biodiversity.

Also, the Environmental Advisory Unit's business plan 2000-2004 addresses the most urgent actions to be implemented in order to achieve

the aims and objectives of sustainable development. The business plan focuses on a work programme, which has been developed in line with the limited capacity of the unit. Its achievement will call for close partnership and collaboration. Areas prioritized are: a) the protection of the environment, especially a waste management plan, EIAs, and the development of legislation; b) improve the management, protection and conservation of biodiversity including the commitments under the CBD, CITES and Ramsar conventions; c) facilitate extension and training on environment issues for provincial councils, governmental agencies, NGOs and the private sector; d) improve information management; e) improve the technical capacity and competence of all staff; and f) improve financial management.

Consultation and Coordination

The effective implementation of MEAs not only calls for cooperation and collaboration at the national level, but also is a requirement under most MEAs. Generally, there is a tendency to pursue coordination at the project level rather than in the political and institutional arena as this makes it possible to avoid conflicts of interests and long-term decisions. Nevertheless, a well-established consultation process including all stakeholders could decrease overlapping activities, improve joint problem identification and solution finding, increase the degree of ownership of implementation measures and assign clear responsibilities within the existing governmental structures.

Many people consulted identified the need for an adequate framework for consultation in all aspects of environmental issues, including the negotiation and implementation of MEAs. It was noted that to some degree consultation takes place in the Cook Islands, although this process is often disrupted between the negotiation, ratification and implementation phases (see Box 5). There is also a lack of transparency regarding the responsibilities among ministries and agencies. Cooperation and communication between government agencies and NGOs have improved, especially since the establishment of the International Environmental Advisory Unit. For example, the World Wildlife Fund (WWF) South Pacific has entered into a memorandum of understanding (MOU) with the Cook Islands government providing a framework for cooperation on environmental issues generally. WWF Cook Islands is also exploring the possibility of developing an MOU with SPREP with regard to the implementation of SPREP projects in the Cook Islands.

In Palau, the Office of Environmental Response and Coordination (OERC, see Box 2) serves as an important national focal point in collecting and disseminating information during negotiations and ratifications of MEAs and subsequent secretariat meetings. Although its initial role was limited to one MEA, it surpassed these limitations and became a nodal point for information sharing and cooperation in implementing activities in Palau.

BOX 5

Consultation and Collaboration in the Cook Islands

- The Ministry of Works and Energy collaborates with the Ministry of Agriculture to implement the Convention to Combat Desertification.
- To implement the Convention on Biological Diversity (CBD), the Cook Islands have established a steering committee with representatives from all sectors of government and the outer islands.
- The country team for the implementation of the Climate Change Convention includes the Environmental Service, meteorological services, the Ministry of Foreign Affairs and Immigration, the offices of the prime minister and the deputy prime minister, the Disaster Management Office, Ministry of Works and Energy and the Ministry of Agriculture.
- The Core Agency Committee, consisting of the Solicitor-General, the Public Services Commission, the chief of staff of the Prime Minister's Office and the Secretary to Cabinet. The role of this Committee is to vet all cabinet submissions before they are presented to Cabinet.
- A national task force for the International Waters Programme is defunct at the moment, but attempts are being made to reactivate it by including NGOs and the private sector.

Despite these encouraging examples, consultation and collaboration appear to be sporadic. There seems to be no institutionalized process that could streamline and increase joint efforts and ease the integration of newly ratified MEAs into the existing ones.

In April 2001, SPREP organized, together with UNEP, a workshop on toxic chemicals and hazardous waste issues in the Pacific region. The participating island countries used this opportunity to exchange experiences and to jointly identify needs in implementing MEAs. The synergetic approach of the meeting was highly appreciated by the participants, as it linked the Basel, Waigani, Rotterdam and Stockholm Conventions. One goal set was the development of national and regional action plans for implementing these conventions. However, the regional consensus on giving priority to chemicals and waste issues might be countered on the country level, if there is insufficient cooperation or only a vague differentiation of responsibilities among national agencies in charge of respective MEAs.

Beyond the national governance level, coordination and cooperation with NGOs, private businesses and the communities is necessary in order to convert a national policy into local action (and vice versa). Including societal actors into the planning and implementation processes enhances local ownership of implementation and can serve as an important feedback practice into the planning itself.

Both the Cook Islands and Palau already took first steps in the direction of a more comprehensive approach, although many environmental NGOs hope for broader participation opportunities and a continuous and institutionalized procedure of including civil society into the national and regional implementation of MEAs. At the last SPREP Governing Council in September 2002 – after the study was conducted in the Cook Islands – the delegation from the Cook Islands

comprised a representative from the prime minister's office, two representatives from the environment service and a NGO-representative.

Capacity Building

A key problem identified by all ministries, agencies and social actors approached during the case study relates to the lack of institutional, financial and human capacity. The urgent need for capacity building to address physical, human resource and skill requirements was often expressed. The most abundant needs identified relate to skills, including international law, programme management, communication capacities, staff training, and public and community education.

BOX 6

Limited Human Resources in Vanuatu

In Vanuatu, the Environmental Unit consists of three officers in a section that is attached to the Department of Health. The functions of the unit are mainly: (i) To advise the government on environmental issues; (ii) Implement environmental policies; (iii) Gather environmental information; (iv) Produce environmental information for the government, NGOs and the interested public; (v) Develop public awareness programmes.

Apart from a general heavy burden of work, the unit faces difficulties in implementing MEAs ratified by the government, particularly given the lack of national legislation and technical capacity to advise the concerned government officials prior to and following the negotiations. Delegates participating in MEA negotiations and related intergovernmental processes usually come from the Ministry of Foreign Affairs. To offset the scarce resources of small island countries, the delegations often "team-up" with other countries in the Alliance of Small Island States (AOSIS). While this "teaming-up" may respond to immediate capacity constraints faced by the delegation during negotiations, it may also have longer-term repercussions when it comes to implementing commitments at the national level.

The State Law Office currently has six law officers, but lacks both the capacities and the resources to establish an international legal division. Because of frequent changes of government, continuity of policy development and implementation is rare, accompanied by changes of political commitment and support.

Capacity building not only improves responses to and the effectiveness of MEA implementation, but also the ability to prepare for and participate in regional and global negotiations. A capacity development strategy should take account of: the facilitation of training, education and awareness raising; the facilitation of an environment where training can exist, including the availability of programmes and the existence of a critical mass of people to be trained; and the sustainability of these activities, including transfer of know-how and continuity of training programmes themselves.

Key issues found during the case study can be summarized as follows:

- * Apart from some exceptions, e.g. in-house training programmes developed by the Ministry of Works and Energy of the Cook Islands, all Pacific island countries visited require a human resource development policy.
- * The large volume of information produced by convention secretariats and the mostly short response times required are difficult to manage. The shortage of personnel is adding to this situation in many government agencies.
- * Officers are usually multi-tasked, which leads to critical gaps in the capacity of key agencies to negotiate and implement MEA obligations. For example, the newly established International Environmental Advisory Unit of the Cook Islands is not adequately funded and resourced to deal with the complexity of tasks it is in charge of.
- * Government rationalization policies and missing employment possibilities for personnel trained under specific programmes result in the exodus of many experienced and well-trained personnel from the Pacific islands.

One key problem in many developing countries is the lack of continuity of capacity after it has been created. Before conducting capacity building activities, national and regional surveys should assess and prioritize needs in order to minimize the costs and prevent duplication. These assessments should also focus on the institutional sustainability of actions to be taken and new challenges that might be caused by capacity development, in order to avoid the “brain drain” phenomenon that occurs when trained personnel leave public service, either because professional incentives are greater elsewhere or because programmes are discontinued due to a lack of funding or commitment at higher levels.

From an inter-linkages perspective it is striking, that the capacity development requirements expressed are almost the same in the three countries. This calls for a regional approach to join forces, reduce costs and foster cooperation. A joint regional capacity development strategy could not only address several core issues at the same time but could also serve to address external funding opportunities. The Global Environment Facility (GEF) for example, provides funding for activities related to biodiversity, climate change, international waters and ozone through its various grant programmes and project types. Projects on land degradation projects are also eligible for funding provided that they address links to one or several of the four focal areas. The role of SPREP in addressing some of these needs was recognized and highlighted by many in the islands. It was suggested that SPREP should e.g. conduct international environmental law trainings for the Pacific region.

Financing

The examined need to enhance capacities in the Pacific islands is very closely linked to scarce financial resources. In order to improve that situation, it is essential to mobilize funds. This applies not only but mostly for the implementation of MEAs – the earlier a consistent financing strategy is included into the overall planning process, the better existing and future needs and opportunities can be assessed.

Introducing a policy for financing the implementation of MEAs however, should not result in producing a “shopping list” to be presented to bilateral or international donors and institutions. This might generate an overly ambitious strategy that is not feasible, considering the limited human and institutional capacities in the countries. Instead, such a strategy should mainly focus on the possibilities and limits of additional burdens and incentives, saving options, new ways of joining forces within a country and within a region, as well as reshuffling existing funds.

Precisely because the present level of internal funding in the Pacific islands appears to be insufficient for the proper implementation of single MEAs, opportunities for promoting efficiency together with effectiveness should be explored by using the inter-linkages approach. Just as the nature of funding sources provides an incentive for synergistic work at the international level, national governments could use the type of funds made available to promote synergy at national and regional levels.

It appears that the availability of external funding sources has been a criterion of preference for global conventions over regional conventions by the governments in the Pacific islands. However, such a donor-driven approach favoring global conventions does not make an allowance for internal ownership, and consequently the continuation and sustainability of projects might become endangered.

From an inter-linkages perspective, greater exploration of ways for financing multipurpose projects is needed. An example is the Waigani Convention; a regional treaty on hazardous waste within the Southern Pacific region, to synergistically join activities related to various international conventions (e.g. the Rotterdam, Stockholm and Basel Conventions). Here, regional organizations like SPREP should play an important role to assist with consolidated regional positions to address common issues both internally and externally. This approach can provide the means for meeting national and regional responsibilities while avoiding some of the costly and time consuming duplications that emerge when all nations single-handedly attend the meetings and consultations at the global level. An effective and consultative regional secretariat within the SPREP framework could play a substantial role in achieving synergy and efficiency in the administration and implementation of MEAs in the South Pacific.

Other possible strategies to address funding issues include:

- * Enhancing public-private partnerships to explore new opportunities to generate financial resources locally and to broaden and foster the ownership of projects.
- * Greater support for, and commitment to, the active and effective role of coordinating bodies such as the International Environmental Advisory Unit in the Cook Island or the Office for Environmental Response and Coordination in Palau.

Institutional Issues / Organizational Changes

The implementation of MEAs as well as follow-up negotiations and regular reviews through conferences of the parties (COP) connect a range of parallel and linked processes at the national and international levels of policy-making. The designation of lead agencies or national focal points (NFPs), tasked with the coordination of implementing MEA obligations, can support this process. Such a lead agency would typically be the most experienced ministry or agency with regard to a particular agreement. National preparations for follow-up negotiations or meetings of the subsidiary bodies can be assisted through lead agencies, which do not necessarily have to be those bodies nominated to manage the implementation of commitments.

Given the multitude of MEAs to be taken into consideration in one country, there will be several bodies or officials in charge, at least one for implementation and one for negotiations. This dispersion creates administrative and coordinative challenges for most countries, particularly for the developing ones that lack the necessary capacity – both institutional and individual – to respond to and comply with environmental treaty obligations.

A distribution of responsibilities among different lead agencies and focal points might lead to an adequate sharing of work and resources according to competences, as long as the division of responsibilities is comprehensible and agreed upon by those involved. Another requirement would be a continuously functioning system of communication between the different bodies.

However, shared responsibilities also might lead to institutional fragmentation or even to rivalries among government bodies that are in charge of MEAs with related or overlapping issues, especially when it comes to financial resources.

As the Pacific island countries mostly include many smaller islands within one nation, their governmental system naturally tends to be decentralized. With decentralization, however, the objectives of national-level environmental policies may be weakened if local governments assign higher priorities to local issues or even to economic development rather than environmental protection. Again, a national coordina-

tion process or consent is needed to assure commitment and ownership on the different levels involved in the implementation of MEAs.

A fundamental concern with the inter-linkages approach is ensuring that the necessary institutional structures for increased coordination and synergy exist, while avoiding the negative consequences associated with over-coordination and administrative fatigue among government officials. Therefore, it is important that institutional responses be country-driven, and that horizontal and vertical divisions of labour be allocated efficiently and effectively, and consistent with the country's political decision-making systems and cultures.

Information and Data Management

An effective information flow is essential for synergy and efficiency. The foundation of any information flow is the capacity to collate, organize and share data assembled during negotiations and implementation. Often, data and information accumulated in the context of a specific MEA can be useful in the context of others.

In all of the countries visited, some environmental databases exist; however, they are only loosely connected or not at all. One reason lies in the fact that none of the countries has yet developed an information and communication policy, including important topics such as a standardized format for data collection and storage. Information gathered during negotiations and implementation mostly stays exclusively with the agency or an officer in charge. The lack of information often leads to the duplication of efforts.

Building up a national environmental database does not necessarily mean a centralized system, but a coordinated one in which focal points or lead agencies keep its own data, organized according to an agreed and standardized format and accessible for other stakeholders.

Transparency of such a system, together with established procedures of information sharing for the implementation of MEAs, e.g. a flow chart of involved organizations and societal actors or the development of distribution lists for copying information, would help to increase synergies between agencies and projects. Including the community level and NGOs in this structure could foster cooperation with local actors and create a feedback system that also allows for monitoring and evaluation of activities.

Again, one reason for the heterogeneity of reporting and information sharing in the Pacific islands is missing technical and human capacity to organize pool and communicate data. High-level commitment within the countries, together with a joint regional strategy could be useful to address this issue and to get support from regional and international organizations.

Awareness Raising and Public Education

MEAs are means to address widespread and long-term environmental issues. Most are developed with the explicit intention to provide for future generations and thus stress the necessity to translate international obligations under MEAs into national and local environmental agendas and to link their implementation with local activities. The aim is to create an understanding that sustainability means meeting immediate human needs while conserving the biological diversity and maintaining the ecological processes, which produce natural resources and underpin human health.

In Palau, there are well-established community education programmes operated through partnerships between government agencies, the Palau Conservation Society and the Palau Community College. The Cook Islands introduced an educational and awareness raising programme on environmental issues including a weekly education programme by the national Environment Service and school materials produced by the Ministry of Works and Energy.

BOX 7

Vanuatu: The One Bag Theatre

Inefficient resources in Vanuatu considerably limit governmental programmes for public education in the areas of environment and sustainable development. A private theatre company named "One Bag Theatre", however, undertakes a well-established awareness raising activity. This group of young people travels around the country and educates the spectators on issues that link local behavior with environmental impacts on the regional and international levels.

However, there is a general lack of coordination both between activities undertaken by different government agencies to fulfill various obligations under MEAs and activities at the community level. Apparently there is a continuing need for resources and capacity to develop and deliver attractive, locally appropriate and easily comprehensible materials on the subject issues behind MEAs and how they relate to local actions and individual behavior by linking problems, ecosystems and solutions. As NGOs and private businesses mostly operate in close relationship with the local population, they are well positioned to support governments in producing information adapted to local needs. There is also a need for understandable materials for officials and community leaders describing the nature of the MEA process, the responsibilities it confers and timelines or flow charts from signature to implementation.

Most countries share the same needs with a great potential for mutual regional programmes, which reduces the costs for each country and improves the probability of attracting donor support. It was also pointed out that SPREP has a well-developed media and education programme frequently sending education material to the national focal

points. Unfortunately, there seems to be a break down in the distribution of such materials when they get to the islands.

Linking Global to Local Issues and Vice Versa

Recently, there has been increasing pressure to meet MEA obligations efficiently and effectively at the national, and as an extension, at the local levels. But national coordination mechanisms are so far geared more towards satisfying MEA obligations mostly through reporting, without serious effort to 'take the global message to the local level'. This is true at the local level too – the impact of local actions, activities and lifestyles do not take global impacts into consideration – and therefore global and MEA objectives are seldom included in local projects and programmes.

There is also a need at the local level to understand the policies, programmes, projects and plans that address national objectives and obligations of several or multiple MEAs, including understanding the economic consequences of MEA obligations.

In this sense, it is important to keep in mind the cyclical links between global environmental problems and their implications at the local level. Besides the horizontal inter-linkages between MEAs, and between MEAs and other regimes, it is imperative to understand the links between the problems addressed by the MEAs and their local implications – both in terms of their contribution to the problem, and being affected by it. Also, the solutions to solving the problems have a clear local starting point.

BOX 8

Global-Regional Linkages in the South Pacific

The Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Waste and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region (Waigani Convention), for example, has links with a number of MEAs, and is an important vehicle to implement the Basel, Rotterdam (PIC) and Stockholm (POPs) Conventions at the regional level.

Source: Jacques Mougeot, SPREP.

There is also a need to create an environment to facilitate subsidiarity of decision-making. The level and type of decisions taken have to match with the scale at which it happens, and this has long-term implications for empowerment of communities – the ability to decide for themselves those aspects that affect their everyday lives. Creating an environment that facilitates such subsidiarity is a challenge indeed for local governments and the stakeholders they work with.

Future Perspectives

The case studies have highlighted the need to consider the following core principles at the national level:

- * Proposed inter-linkages should clearly be in the national interest rather than 'donor-driven' – inter-linkages could undermine negotiated agreements if they divert attention or resources from agreed on problems. Linking of policies and MEA-implementation must go together with adjustments in institutional frameworks, the sharing or shifting of competencies, joint awareness raising and capacity development, and regional coordination. If not embedded in a holistic approach, linking bears the risk of further institutional fragmentation, if new institutions or tasks are added without making the proper organizational adaptations.
- * The approach should focus on implementation. The aim of promoting inter-linkages should be to help countries pursue sustainable development strategies in all its economic, social, and environmental dimensions. There needs to be a clarification of the links between MEA implementation with sustainable development. This would involve the internalization of MEA policies in national development strategies. There should also be a shift of focus from bureaucratic rule making to the mobilization of resources (human and financial) for implementation and from sectoral to integrated planning processes.
- * Proposed inter-linkages should have substantial value added prospects – coordination for coordination's sake, i.e. without clearly set priorities and targets, will simply add to the workload with no results. High value adding opportunities are likely to exist at all stages from negotiation, to development of national strategies, implementation of strategies, reporting and monitoring, etc.
- * Although the project is focused on MEAs, opportunities for inter-linkages exist across both agreements focused on related issues (e.g., the environmental agreements) and agreements focused on non-related issues. Thus, inter-linkage opportunities should also be explored with trade agreements or agreements that rely on similar enforcement mechanisms such as the involvement of Interpol, or international customs (e.g., transboundary chemical movements, CITES, ozone)

- * Not all inter-linkages are best promoted or established at a national governance level – regional or international agencies sometimes can play an important role in fostering inter-linkages regionally without adding greater burden to national governments.
- * Different ‘inter-linkages’ issues arise across different levels (global, regional, national, local) and at different stages (planning, implementation, monitoring) and the actions need to be tailored to these specific needs.
- * Special attention should be paid to capacity building and national system facilitation, particularly integrated capacity building. Capacity in this sense includes aspects that are physical (i.e., the number of professionals involved in negotiation and implementation), qualitative (i.e., the knowledge required to analyze information), and sustainability-related (i.e., continuity and transfer of know-how). The focus should be on function rather than structure (principles of issue management).

Synergies and Coordination among MEAs: Pacific Islands Case Study

Attachment 1 – The table below contains the main multilateral environment agreements applicable for the Pacific island countries.

® indicates ratification and * represents signature of a convention

Multilateral Environment Agreements and Pacific Island Parties to Conventions

	Civil Aviation	Climate Change (UNFCCC)	Kyoto Protocol	Ozone Layer Convention (Vienna)	Montreal Protocol	Montreal Amendment	Copenhagen Amendment	Basel Convention	Ban Amendment	Waigani Convention	Distribution & Use of Pesticides	POPs Convention (Stockholm)	Marine Pollution Convention (London)	London Amendment	1996 Protocol to London Convention	Marine Pollution from Ships (MARPOL)	Liability for Oil Pollution (CLC 1969)	1971 CLC Trust Fund	1992 CLC Protocol	1992 CLC Fund Protocol	HNS Convention-Hazardous Substances	OPRC (Oil Pollution Response & Coop.)	Intervention Convention	UNCLOS (Law of the SEA)	SPREP Convention	Regulation of Whaling Treaty	World Heritage Convention	Convention on Biological Diversity	Biosafety Protocol	Migratory Species of Wild Animals	CITES	Ramsar Convention	Desertification (CCD)	Plant Genetic Resources	Apia Convention			
Cook Islands		*	®							®													®	®		*	®	*					®		®			
Fiji	*	®	®	®	®		®			®	*	®		®					®	®			®	®			®	®	®		®			*		®		
Kiribati	*	®	®	®	®			®		®	*		®	®					®	®							®	®	®					®				
Marshall Islands	*	®	®	®	®		®				*			®		®			®	®			®	®			*	®						®				
Micronesia	*	®	®	®	®			®		®													®	®				®						®				
Nauru	*	®						®		*			®										®	®			*	®						®				
Niue		®	®							*													*				®	®						®				
Palau	*	®	®	®		®	®			*	*			®									®	®	*			®	*					®				
Papua New Guinea	*	®	*	®	®			®		®	*	*	®	®		®	®	®	®	®			®	®			®	®			®	®		®	*			
Samoa	*	®	®	®	®					®	*	*											®	®			*	®	*					®	*		®	
Solomon Islands	*	®	*	®	®	®	®			®	*			®									®	®	®		®	®						®				
Tonga	*	®		®	®					*	*		®			®			®	®		®	®				*	®						®	*			
Tuvalu		®	®	®	®	®	®			®			®	®	®			®					*	*				*						®				
Vanuatu	*	®		®	®		®			*	*		®	®	®	®	®	®	®	®		®	®				*	®			®		®					



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