

Report of the Ninth Conference of the Parties to the Noumea Convention

4 September 2008
Pohnpei, Federated States of Micronesia



Secretariat of the Pacific Regional Environment Programme (SPREP)

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Introduction

1. The Ninth Ordinary Meeting of the Contracting Parties to the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region and Related Protocols (Noumea Convention), was held from 4-5 September 2008 in Palikir, Pohnpei, Federated States of Micronesia.

2. Representatives from the following Parties attended: Australia, Cook Islands, Federated States of Micronesia, Marshall Islands, Nauru, Papua New Guinea, Solomon Islands and United States of America. The list of participants is attached as Annex 1.

3. Representatives from Guam, Niue, Tonga and Wallis and Futuna attended the meeting as observers.

4. Apologies were received from Fiji, France, New Zealand, and Samoa.

Agenda Item 1: Opening of the Meeting

5. The Representative of Australia, as outgoing Chair, called the meeting to order and invited the Deputy Director of SPREP to dedicate the meeting with a prayer. Mr. Kosi Latu of the Secretariat then led the Meeting in prayer.

6. The Chair invited the Representative of the Federated States of Micronesia to welcome the delegates on behalf of the Federated States of Micronesia Government.

7. In her welcoming remarks, the Representative of the Federated States of Micronesia informed the meeting that the FSM was honoured to host this meeting and hoped that the hospitality accorded to delegates was adequate, noting that many had travelled long distances. She encouraged Parties to enjoy the surroundings and to enjoy their stay in the FSM.

8. The Director of SPREP Mr Asterio Takesy then delivered his opening remarks on behalf of the Secretariat. His address is attached to this report as Annex 2.

9. The Chair invited the meeting to consider Agenda Item 2. The Secretariat stated that the Meeting did not have a quorum under the rules of procedures for the Convention but advised that the delegation from

Solomon Islands was arriving later in the day and that its participation would constitute the quorum. It further advised that the meeting would proceed informally, with the record of the Meeting made available to all delegations, including the Solomon Islands delegation when they arrived, for consideration and adoption.

Agenda Item 2: Organisation of the Meeting

Rules of Procedure

10. The Secretariat outlined the rules of procedure.

Election of Officers

11. The Chair called for nominations of the Chair and Vice-Chairs of the meeting. The Representative of the Federated States of Micronesia nominated the Cook Islands to serve as Chair, with the United States seconding the nomination. The meeting then elected the Cook Islands as Chair.

12. The Representative of the Cook Islands assumed the chair and thanked the outgoing Chair for his leadership of the meeting and the Federated States of Micronesia and the US for the nomination. He then called for nominations for the Vice-Chair post.

13. The Representative of Australia nominated the Marshall Islands for the post of Vice-Chair, seconded by the Federated States of Micronesia and Nauru. The meeting elected the Marshall Islands as Vice-Chair.

Organisation of Work

14. The Secretariat outlined the procedure of how the COP is to be conducted, and invited the Parties to review reports of the previous meetings and relevant documents pertaining to the Convention for further guidance.

Agenda Item 3: Adoption of the Agenda

15. The Chair called for any additional agenda items from the Parties for inclusion in the agenda. There being none, he then moved and the meeting agreed that the agenda be adopted without change. The agenda as adopted is attached as Annex 3.

Agenda Item 4: Report by the Secretariat under Rule 12 of the Rules of Procedure of the Noumea Convention

16. A report was tabled by the Secretariat under Rule 12(vi) of the Rules of Procedure of the Noumea Convention outlining work achieved from July 2006 through June 2008 in fulfilment of the provisions of the Noumea Convention under the SPREP work programme, including a summary of the main points of the report.

17. The Parties noted the report of the Secretariat outlining work achieved since the Eighth Meeting of the Parties in fulfilment of the provisions of the Noumea Convention under the SPREP work programme.

Agenda Item 5: Country Reports on Implementation of Obligations under the Noumea Convention

18. This agenda item provided the opportunity for Parties to the Noumea Convention to report on the implementation of their obligations over the past two years (2007-2008) in monitoring national developments taking place consistent with the objectives of the Convention.

19. The Chair invited Parties to report on the status of their country reports. Although only New Zealand provided a written report in advance of the meeting, he suggested that verbal presentations be made by each of the Parties present. The national report of New Zealand is attached as Annex 4.

20. The Representative of Australia presented Australia's country report including an overview of marine environment protection and marine pollution activities ongoing in Australia. The national report of Australia is attached as Annex 5.

21. The Representative of the Marshall Islands thanked the parties for electing the Marshall Islands as Vice-Chair. She then asked to return to Agenda Item 4, as this was linked to the national report, to which she stated that resource and capacity issues have hampered the work of the Marshall Islands in this area. She stated that the report takes into account pollution in general as a major priority issue for her country, as it affects progress of sustainable development issues. She added that the primary issues relating to pollution were biodiversity conservation, water issues, improving waste collection, coastal management and monitoring, and public awareness. She stated that this was not only an issue in the urban areas but also in the neighbouring

islands. She also spoke about how pollution has historically impacted tourism and other economic sectors. She stated that the Marshall Islands was currently reviewing national instruments and policy development. She informed the meeting that the SPREP Secretariat had helped the Marshall Islands to develop a marine spill plan involving their maritime entities and relevant agencies and ministries and that SOPAC had also provided assistance in the area of disaster management.

22. In addition, she stated that the RMI recognised the need to address dredging to minimise current unsustainable suction dredging activities in the country and explained how limited resource issues have affected enforcement. She expressed her delegation's concern over how climate change adaptation in the Marshall Islands will affect issues ranging from food security to water conservation and security. She welcomed development of an initiative in this regard and stated that she looked forward to its implementation once approved by the GEF. Therefore she fully supported Pacific participation in the regional Pilot Adaptation Project.

23. She concluded by stating that the Marshall Islands' marine pollution data and land-based data is currently being compiled and will be made available to the Secretariat once it is completed.

24. The Representative of Nauru informed the meeting that they were not aware of the need to prepare a country report for the meeting and asked if they could be allowed to submit their report at a later time. He expressed concern over the general lack of advocacy of the Noumea Convention in his country due mainly to the lack of information dissemination within his government and the country's lack of active participation at the regional level. He advised that Nauru currently has a draft Environment Management Bill and that the Noumea Convention forms an important part of that bill.

25. He stated that his country was concerned about dumping at sea as a possible solution to management of asbestos waste. He concurred with earlier delegations that lack of human and financial resources was hampering their progress in this and other areas of work.

26. The Representative of Papua New Guinea similarly informed the meeting that they were not aware of the need for a country report presentation to the meeting, but highlighted some relevant work ongoing in this area of work in the PNG's marine protected areas and with regard to sea-base marine pollution, which was coordinated through the maritime division of the Department of Transport who are

currently developing a Marine Protection Bill.

27. The Representative of the US advised the meeting that their report is currently in draft form and stated that the final report would be submitted when completed. He also took the opportunity to direct the meeting's attention to a side event on these issues to be held by a US Coast Guard Representative in conjunction with the COP meeting.

28. The Representative for Cook Islands informed the meeting that there was ongoing work on the conservation of marine species, particularly turtles and other migratory species. He further added that there was a five-year joint venture project between the marine resources and NES, funded by NZAID, that addresses marine ecosystem and environment assessment on marine protected areas. Regarding pollution, he expressed appreciation to the Government of Australia for their assistance in removing hazardous waste from the Cook Islands and other PICs under the "POPs in PICs" project. However, he stated that more work remained in order to clean up the region and encouraged the involvement of the other metropolitan countries such as France, New Zealand and the United States of America. He stated that the removal of asbestos was an issue that needed to be addressed through the Convention and other relevant mechanisms in the region, particularly regarding disposal of asbestos at sea. He stated that there has been discussion of the importance of this issue for many years, but that to date few concrete results have been achieved. He added that this issue was of concern not only to his country, but also to other PICTs in the region such as Niue.

29. Regarding oil pollution, he advised that the Cook Islands had experienced contamination incidents from fishing vessels from Taiwan, Korea and China. He explained that due to a lack of resources, the Cook Islands were unable to adequately monitor and apprehend the offenders. However, through assistance from New Zealand his country was made aware of these pollution incidents. He stressed the importance of the Noumea Convention to the Cook Islands and the region and encouraged other non-parties to consider becoming parties at the earliest opportunity.

30. The Representative of Marshall Islands sought clarification on the concerns regarding oil pollution from fishing vessels and inquired if the Cook Islands had any national instruments covering incidents in national waters. To this, the Representative of the Cook Islands replied that his country does have in place instruments designed to prevent such incidents from occurring, but that in these cases the incidents were brought to his government's knowledge

after the incident had occurred, and that little could be done at that time.

31. Upon request, the meeting agreed to allow the Representative of Niue to address the meeting as an observer. The Representative of Niue expressed concern about the COP's recurring difficulties achieving a quorum and informed the meeting of their intention to becoming an active party to the Convention, which he hoped would help alleviate the problem in the future. He encouraged the Secretariat to increase its efforts toward encouraging regional non-parties to join the Convention. He also spoke about asbestos dumping at sea and inquired as to the implications of the Cook Islands' dumping, including whether the Cook Islands were in non-compliance with the Noumea Convention as a result of these actions.

32. The Chair thanked the Representative of Niue for his statement and expressed his pleasure at Niue's intention to become a party to the Convention. He then outlined what the Cook Islands had done leading up to the dumping of asbestos out at sea and how they sought advice and information from the Secretariat to assist them with this decision. He advised that the dumping of asbestos out at sea was coordinated by his Department of Transport. He also made mention that due to the lack of positive response from their development partners to requests for land-based options, they had little choice but to proceed with the dumping at sea.

33. The Secretariat added that it had provided advice and information to the Cook Islands on the management of this material consistent with the requirement of the Convention, and the Chair thanked the Secretariat for the clarification.

34. The Representative of Niue then asked that the Secretariat provide similar advice to countries which have situations like that of the Cook Islands on the management of asbestos waste on their islands. He also spoke about how these materials deteriorate quickly and pose a risk to the environment, including human health.

35. The Chair then explained some of the reasons why the Cook Islands took this action, mainly due to a lack of available land to bury the waste. He also made reference to the management of other hazardous waste on the islands.

36. The Representative of Nauru informed the meeting about his country's lack of capacity and the importance of undertaking a proper EIA on the dumping of asbestos at sea in order to ensure informed and expeditious decision-making.

37. The Representative of the United States informed the meeting that countries should be aware of the dangers posed by these materials and members should take adequate steps to provide for the safety of the workers who handle these materials.

38. The Representative of the Federated States of Micronesia aligned itself with those countries which had spoken about the management of asbestos, particularly with the US on the protection of workers handling the asbestos waste. On ecosystem management, she mentioned that overfishing was beginning to have an impact on the fish stock to be harvested locally and that the FSM was working on addressing the issue. A practical example of an initiative that they have put in place involved the conservation of mangrove crabs and that, in one of the FSM States, a crab farm was now in operation to improve food security. On oil spills she mentioned that they have cleaned up a number of oil leaks from sunken ships but remained concerned about the oil that continues to leak from the numerous sunken ships in FSM waters. She further added that dumping of solid waste from ships on land needed to be monitored properly, as this had led to cholera and related ailments in some instances. She concluded by stating that the use of disposable plastics and foam materials was increasingly becoming an issue for the country. The national report of the Federated States of Micronesia is attached as Annex 6.

Agenda Item 6: Items Requested from Previous Meetings

Agenda Item 6.1: Draft Amendments to the Noumea Convention text

39. This was an update to the Parties on progress with proposed changes to the Noumea Convention. The Secretariat outlined the proposed amendments circulated in WP.6.1. The Secretariat sought guidance from Noumea Convention Parties on the process for agreeing on the amendments. The Secretariat explained the ratification process and highlighted that this can take more than a decade to complete. The Secretariat however advised that a major proposed change to the Convention was in regard to Article 24 bis., which provides that if 1/4 of the Parties do not object to the matter requiring ratification, the required number of ratifications is implied.

40. The Representative of Australia noted that Australia was not in a position to agree to any changes, but suggested a way forward such that comments would need to be submitted by a certain timeline and that the Working Group might be convened in

the margins of the next SPREP Meeting to look into the suggested amendments for consideration by the 2010 COP.

41. The Representatives of the Marshall Islands and Nauru sought clarifications on the number of Parties required for amendments to be adopted and also the associated ratification process. In response, the Secretariat advised that adopting any amendments to the Convention required a 3/4 majority of the quorum while ratification was up to the national legislative requirements of the concerned Party.

42. The Representative of the United States stated that, for the US, any amendments to the Convention would require a lengthy internal legislative process requiring consideration by the US Senate. He stressed that amending the convention was, therefore, a significant undertaking that should only be attempted when there are specific substantive problems to be addressed and he felt the proposed amendments do not meet that test. He therefore advised that his delegation was not in a position to agree to any changes to the Convention at this stage.

43. The Representative of the Marshall Islands recalled from the discussions during the last COP in 2006 that it was agreed to by the Parties that updates were necessary to make the Convention consistent and aligned with other MEAs and current regional institutional arrangements. The Secretariat noted that these were only minor amendments and that the only major change was in relation to the tacit approval process.

44. The Representative of the United States noted that while the US did not disapprove of a technical working group being established to look into these possible amendments, he felt that ultimately the US would have difficulty in adopting any agreed changes irrespective of the outcome of such a process.

45. The Representative of Australia recalled that it was the decision of the last COP to form a working group to look into whether or not there was a need to make changes and, if so, to determine what changes would need to be made. The Secretariat reaffirmed that this was the agreement from the last COP. However, since the working group did not meet during the past two years, the Secretariat had proposed a compromise solution by soliciting agreement among the Parties to the proposed changes during this meeting.

46. The Representative of the United States stated that there was a need to ascertain from the Parties whether there was a need to make any changes to the Convention before agreeing to any further steps.

47. The Representative of Australia supported the proposal of the United States that Parties needed to first consider whether there was a need to make any changes before deciding on the process for making those changes.

48. The Chair also sought guidance from the Parties on the timeframe required for submitting to the Secretariat their comments. The Secretariat suggested that it would issue a circular seeking to clarify the Parties' position on the question sought by the United States as to whether the Convention needed amending. Secondly, the Parties would be asked their views on the draft amendments. The Parties would be asked to respond within two months.

49. The Representatives of Papua New Guinea and the Federated States of Micronesia sought clarification on the role and status of the working group. The Secretariat advised that the proposal on the table now was to obtain agreement first on whether there was a need to amend the Convention before a decision was taken on the process for taking those changes forward. Any further consideration by the working group would await that outcome.

50. The Chair noted that the Cook Islands had intended to make some changes and that his delegation's written comments would be submitted to the Secretariat.

51. The meeting agreed therefore that the Secretariat would issue a circular inviting views from Parties on whether there was a need to make changes to the Convention and, if so, to obtain any preliminary feedback on the proposed draft amendments.

Agenda Item 6.2 Feasibility paper on how to improve attendance at the Noumea Convention COP

52. The Secretariat presented a feasibility paper on how to improve attendance at the Noumea Convention COP, offering six options for consideration by the meeting along with possible benefits and disadvantages associated with each.

53. The Representative of Niue advised that it was in favour of holding the two COPs back-to-back, as it also provided a cost-effective opportunity for the Parties to the Waigani Convention to attend the Noumea Convention. This would also provide an added opportunity for non-Parties to accede to the Noumea Convention.

54. The Representative of the Marshall Islands observed that maintaining the status quo allows the

opportunity for those who are not Parties to the Waigani Convention to also attend the COP, which was a particularly cost-effective means of encouraging participation, particularly for small island states.

55. The Chair noted that the Cook Islands favoured option 2 based on cost reasons, distance and location, particularly when meetings are hosted away from the Secretariat headquarters. The Secretariat noted that the Waigani COP would also require a full day and thus needed to be factored in these considerations. He also noted that another possible option was to see if it was possible to lower the quorum requirement.

56. The Representative of the Federated States of Micronesia noted that it preferred option 4 as it would drastically cut down on the number of transit days, especially for those travelling from long distances.

57. The Representative of Nauru stated that he favoured Option 6 due to the funding mechanisms already in place and the synergies between the two Conventions.

58. The Representative of the Federated States of Micronesia withdrew her earlier comments on Option 4 in support of option 6. She sought clarification on the sequence of the Noumea and Waigani COPs. The Secretariat advised that the Noumea COP required translation and thus needed to be conducted before the Waigani COP to allow time for processing the outcomes to the SPREP Meeting.

59. The Representative of the Marshall Islands suggested that perhaps a smaller group be invited to discuss this issue in the margins of the meeting.

60. The Representative of the United States noted that while the US was not party to Waigani it appreciated the possible complications for Waigani Parties and, as such, option 2 appealed strongly to his delegation. He proposed that another possible option was to alternate the holding of Noumea and Waigani COPs rather than holding both together in any one year.

61. The Chair asked the Marshall Islands to convene a small group and report back on the agreed option, taking into account the views already expressed by Parties, including the option proposed by the United States on alternating the two COPs.

62. Following consultations, the Representative of Federated States of Micronesia indicated her support for option 6.

63. The Marshall Islands Representative reported that the informal small group involving the FSM, Nauru, PNG, and Marshall Islands had convened and supported option 6.

64. The Chair concluded that, based on the reported positions of the Parties, option 6 was the agreed option, and the meeting endorsed that option.

Agenda Item 7: Financial statement for the Noumea Convention, 2006 and 2007

65. The Chair invited the Secretariat to present the financial statements for the Noumea Convention during the specified period.

66. The audited Financial Statements for the Noumea Convention for the 2006 and 2007 financial years were tabled.

67. The Secretariat advised the meeting that the Convention requires the Secretariat to provide such a statement.

68. The Chair then invited the meeting for comments.

69. The Representative of the Marshall Islands recommended that the report be adopted.

70. The Representative of the United States sought clarification on how the closing negative balances for 2006 were covered in the interim.

71. The Secretariat advised that the negative balances were due to late receipt of contributions by the Secretariat.

72. The Representative of the United States thanked the Secretariat for the explanation, but sought assurances that the balances were at no time in the red.

73. The Secretariat further explained that the account is replenished as the funds are received from the Parties.

74. The Representative of the United States thanked the Secretariat and stated that he wanted to ensure that the Secretariat was not borrowing funds from other sources to fund the operations of the Convention.

75. There being no further comments from the Parties, the meeting adopted the audited Financial Statements for 2006 and 2007.

Agenda Item 8: Consideration and Adoption of Budget for the Biennium 2009- 2010

76. The Chair invited the Secretariat to present its budget for the coming biennium.

77. The biennial budget for 2009-2010 for the Noumea Convention was presented for consideration and adoption by the Meeting. The Secretariat explained that because there is no work program, there are no allocations for any activities and are allocated only for the holding of Convention meetings and for provision of advice to members.

78. The Chair then invited comments from the meeting regarding the budget of the Convention.

79. The Representative of the Marshall Islands supported the views of Niue for the need to indicate benefits of becoming a Party, and of Nauru for greater awareness of the Convention. She suggested this might start with a programme of public awareness. Due to the limited funds it is important to prioritise, for example, indentifying benefits, incentives, and linking the Convention to national instruments and priorities which address national goals as well as contribute to regional or Convention goals.

80. The Representative of Niue referred to the earlier comments he had made. He proceeded to ask if the work of the convention is included in the SPREP work programme and whether there was a need for a program of work to be developed separately but relating to the work of the Secretariat, drawing similarities to what the Convention on Biological Diversity and other conventions had done. He reiterated that Niue still needed to be convinced of the benefits of becoming a Party to the Convention.

81. The Secretariat responded by thanking both the Marshall Islands and Niue for their intervention and stated that these identified the key considerations for the Convention. He further added that the Convention's current work is focused on the work of marine pollution based around the protocols as the other aspects of the convention are covered by global conventions such as Ramsar and the CBD. He further explained that he would work with the Coastal Management Adviser on developing a work plan that would relate the coastal ecosystem and species work to the Convention.

82. The Chair then spoke about the need to make the convention relevant to the issues at the national level, the need for more substantive outcomes, and for a clearer statement of what the Noumea Convention stands for and the importance of its continued existence, particularly with regard to marine species and

hazardous materials. He stated this was essential to convince non-parties to become parties. He reminded the meeting of similar discussions by the parties during the Tahiti meeting in 2004.

83. There being no further comments, the Chair proposed that the 2009-2010 budget for the Noumea Convention as presented be adopted. The meeting then adopted the 2009-2010 budget. The budget is attached as Annex 7

Agenda Item 9: Other Business

84. No other matters were raised by Parties.

Agenda Item 10: Date and Venue of the Next Meeting

85. The Secretariat advised that, in line with current practice, the next meeting would be held in 2010 in the margins of the SPREP Meeting in order to minimise the costs of attendance for delegations. The meeting endorsed this recommendation.

Agenda Item 11: Adoption of the Report

86. The Chair stated that the Secretariat proposed that the draft report be circulated to members for their comment. The Secretariat consolidated these changes and provided a final draft for consideration by the meeting. He added that the meeting would likely need to adopt the report in principle pending satisfaction of the quorum requirement for formal adoption.

87. The Secretariat collected corrections supplied by Parties and produced a revised draft version for consideration by the meeting. The report was adopted in principle pending the presence of a quorum. The Representatives of the Solomon Islands and the Marshall Islands stated that they would offer several amendments to the report, to which the Chair requested they work with the Secretariat to reflect.

88. A quorum being present, the record of the proceedings of the Conference was adopted.

Agenda Item 12: Closure of the Meeting

89. The Chair thanked the Parties for a productive discussion and, there being no further business, called the meeting to a close.

Annex 1: List of Participants

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Annex 2: Opening Statement by SPREP Director

4 September 2008

Mr. Chairman
Distinguished Representatives of Contracting Parties
to the Noumea Convention
Distinguished Observers
Ladies and Gentlemen

Thank you sir for your cordial welcome to FSM. I also extend a warm welcome to you all to FSM, especially those visiting for the first time. And of course welcome to this the 9th meeting of the Conference of the Parties to the Noumea Convention.

This is the first year since 1998 that the Noumea Convention meeting will be held separately from the Apia Convention meeting. In 2006, the Parties to the Apia Convention decided to suspend the operation of that Convention. The work of the Apia Convention had become increasingly sidelined by global conservation conventions, primarily the Convention on Biodiversity (the CBD). The comprehensive work-programmes under the CBD and other conservation conventions and the availability of funds rendered redundant the necessity for a separate work programme under the Apia Convention. The suspension of the Apia Convention in 2006 came only after exhaustive efforts were made to revitalise it.

The Noumea Convention faces similar headwinds. The focus of the Noumea Convention - the preservation of coastal and marine areas from pollution and resource degradation - is the subject of numerous plans, strategies and international agreements, many of which have financial mechanisms. Work relevant to the implementation of the Noumea Convention is therefore being carried out under these other arrangements. This greatly reduces the need for a separate work programme under the Noumea Convention and consequently the Parties are spared from incurring costs. The downside is that the Convention risks becoming a dead letter.

The Coastal Management Adviser position has recently been filled and ways will be sought to directly link the coastal and marine work within SPREP to the concerns of the Noumea Convention.

Currently the only activity happening under the Noumea Convention relates to the amending of its text, mainly to update its provisions. However, the most important amendment relates to the process of making the ratification process easier. Ratification of new instruments and amendment of existing ones is slow. It can take years before changes enter into force and implementation can begin. The suggested "tacit

approval" is designed to fast track the ratification process. If the tacit approval process is accepted for the Noumea Convention, consideration can be given to adopting it for other SPREP treaty documents.

The survival of the Noumea Convention is assured for the present by its two Protocols dealing dumping at sea and marine pollution by oil and hazardous substances. The Protocols are regional counterparts to two IMO treaties and IMO provides substantial funding through the Marine Pollution Adviser's post for the implementation of these two Protocols. The Dumping Protocol came into prominence this year when countries enquired about the legality of the dumping of asbestos at sea.

In 2006 the two Protocols were updated in order to comply with changes to the two international treaties on which they are based. The result was the adoption of 3 instruments: an amended Dumping Protocol, a new Protocol on pollution by oil and a new Protocol on pollution by hazardous and noxious substances. As yet, none of these instruments have entered into force, as the required number of ratifications has not been met. I would encourage countries to proceed to ratify the 3 treaties as soon as they can.

The number of multilateral environmental agreements continues to grow and within the numerous obligations created we need see where our own Noumea Convention fits.

I wish you all a productive meeting today.

Annex 3: Agenda

Agenda Item 1: Opening of the Meeting

Agenda Item 2: Organisation of the Meeting

2.1 Rules of Procedure

2.2 Election of Officers

2.3 Organisation of Work

Agenda Item 3: Adoption of the agenda

Agenda Item 4: Report by the Secretariat under Rule 12 of the Rules of Procedure of the Noumea Convention

Agenda Item 5: Country Reports on the implementation of obligations under the Convention

Agenda Item 6: Items Requested from Previous Meetings

6.1 Draft amendments to the Noumea Convention text

6.2 Feasibility paper on how to improve attendance at the Noumea Convention Conference of the Parties

Agenda Item 7: Financial statements 2006 and 2007

Agenda Item 8: Consideration and Adoption of Budget for the Biennium 2009- 2010

Agenda Item 9: Other Business

Agenda Item 10: Date and Venue of the Next Meeting

Agenda Item 11: Adoption of the Meeting Record

Agenda Item 12: Closure of the Meeting

SPREP CONVENTION: COUNTRY REPORT – NEW ZEALAND

AUGUST 2008

1. What are the main issues and priorities concerning marine pollution for your country? You can attach relevant sections of annual reports, policy documents etc.

New Zealand's current marine pollution priority is to ensure a clean and safe marine environment and effective marine pollution protection. Key to this priority is the prevention of and response to oil pollution from commercial and recreation vessels and offshore installations. We also have initiatives to prevent pollution by garbage, noxious liquid substances in bulk, harmful substances carried by sea in packaged form and ocean dumping of waste. All of these priorities are implemented in accordance with New Zealand's obligations under international instruments, most notably, as required under IMO Conventions for Safety of Life at Sea (SOLAS), MARPOL, OPRC and the London Convention.

2. What measures generally have you initiated to implement this Convention and Protocols?

Obligations beyond 12 nautical miles from the Convention and its respective Protocols are implemented in New Zealand through the **Marine Transport Act 1994 (MTA)** and the **Marine Protection Rules**. These Rules specify technical standards to protect the marine environment from pollution from ships, offshore installations and the dumping of waste at sea, in accordance with, and as required under, the MTA.

Obligations under the Convention and its Protocols within the 12 nautical miles from land are implemented in New Zealand through the **Resource Management Act** and the **Resource Management (Marine Pollution) Regulations 1998**. These regulations provide standards to protect the coastal marine area from discharges and the dumping of waste both from land-based sources and vessels.

3. Give details of new or amended legislation that covers marine pollution beyond internal waters including any definition of "pollution" and the institutions responsible.

As advised in question 2, there are two key pieces of legislation and several pieces of delegated legislation that deal with marine pollution beyond internal waters in New Zealand. Marine pollution beyond 12 nautical miles falls within the scope of the **Marine Transport Act 1994** and the **Marine Protection Rules**. The responsibility for marine pollution issues within these instruments is the Minister for Transport and Maritime New Zealand.

The Government is currently considering proposed amendments to the Maritime Transport Act 1994 to give effect to the International Convention on the Limitation of Liability for Maritime Claims 1976, the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001, the Protocol Relating to Intervention on the High Seas in Cases of Pollution by Substances other than Oil 1973 and proposed amendments to both the Maritime Transport Act 1994 and the Biosecurity Act 1993 to give effect to the International Convention for the Control and Management of Ship's Ballast Water and Sediments 2004. Once adopted, the Ballast Water convention will be

jointly implemented by Maritime New Zealand and Biosecurity New Zealand.

Marine pollution within the 12 nautical miles falls within the scope of the **Resource Management Act (RMA)** and the **Resource Management (Marine Pollution) Regulations 1998**. One of the underlying principles in the Resource Management Act is that decision-making is left to those who are directly affected by the results of those decisions. It therefore devolves the authority for making decisions to the most appropriate level. Where there is some advantage in setting consistent policy at a national level, this role lies with the Minister for the Environment and the Minister of Conservation. Decision that directly impact on local communities are made by councils, which under the RMA are called local authorities. These local authorities are responsible for implementing the bulk of the RMA such as: the discharge of contaminants to land, air or water, the effects of activities in the coastal marine area (together with the Minister of Conservation), the introduction of plants into water bodies, maintaining indigenous biodiversity, and land use for matters such as soil conservation, maintaining and enhancing ecosystems in water bodies, water quality and quantity, and controlling natural hazards and hazardous substances. The RMA is the most devolved system of environmental management in the world. New Zealand has 86 local authorities deciding approximately 50,000 resource consents each year.

The Resource Management Marine Pollution Regulations were updated in early 2004 to introduce tighter controls on treated sewage discharges, on-board sewage treatment systems and instant fines for breaches of the Regulations. Further amendments are being considered to further restrict the discharge of sewage from large vessels within 12 nautical miles of land.

4. What is the estimated volume/type of marine pollution per year in the Convention area from the following sources; the number of permits/licences issued; and any other measures taken to prevent, reduce and control such pollution:

a. vessels (article 6)

Parts 120 and 140 of the Marine Transport Rules specify the permitted operational discharges of harmful substances and provides for reporting of non-operational discharges (further outlined under question 8 and 9). A total of approximately 30 tonnes of oil was reported as being spilled in 2007.

b. land based sources (article 7)

In 2003/2004 a total of 1640 consents were granted for a variety of activities that may have impacts in the coastal area.

c. mining and coastal erosion i.e. dredging, land reclamation (article 14)

Under the provisions of the London Convention a total of 2,239,000 m³ of waste material was dumped in the ocean under permit. This waste consisted mostly of dredge spoils from ports and harbours, although some was waste from the shellfish industry. No radioactive waste was dumped.

d. sea-bed and sub-soil activities (article 8)

The exploration and extraction permits and licenses issued in New Zealand may be viewed on www.crownminerals.govt.nz.

There were a total of 35 incidents of discharges of oil from offshore oil and gas production activities during 2007. Of these the vast majority were related to an ongoing problem with production water from an installation having greater than 100ppm of oil in the

production water, which was reported as an “oil spill” on a daily basis that the discharge occurred, although the total volume of oil from this source was not great. There was one significant spill of greater than 20 m³ from an offshore installation.

In addition to oil discharges from offshore oil and gas installations there are some exploration and production drilling activities associated with this industry. The use of synthetic or oil-based drilling fluids is strictly regulated under Marine Protection Rule Part 200, limiting the disposal of drill cuttings that may have residues of these substances.

e. discharges into atmosphere (article 9)

New Zealand local authorities collect this information, however, the New Zealand Government does not collate this information. It may access the information through the local government authorities.

f. dumping and disposal from vessels, aircraft, man-made structures of waste including radioactive waste or matter (article 10)

The only dumping in this category is the dredge spoils referred to in c. above, which is taken by barge to the approved dumping sites.

g. storage of toxic and hazardous wastes, including radioactive waste or matter (article 11)

See response to question 5 below with respect to measures to prevent pollution from radioactive materials.

h. testing of nuclear devices (article 12)

The testing of nuclear explosive devices is prohibited in New Zealand law pursuant to Section 7 of the New Zealand Nuclear Free Zone Act, which provides that no person shall test any nuclear explosive device in the New Zealand Nuclear Free Zone. The New Zealand Nuclear Free Zone comprises:

- (a) All of the land, territory, and inland waters within the territorial limits of New Zealand; and*
- (b) The internal waters of New Zealand; and (c) The territorial sea of New Zealand; and (d) The airspace above the areas specified in paragraphs (a) to (c) of this section. Every person who commits an offence against this Act is liable on conviction on indictment to imprisonment for a term not exceeding 10 years.*

5. Have you prohibited the storage and disposal of radioactive waste in the convention area and the continental shelf beyond the Convention area? If so, what is the legislative provision and what is the penalty? (Article 10)

New Zealand has prohibited the storage and disposal of radioactive waste in the Convention area, except with the written consent of the Minister for the Environment.

Section 12 of **The Radiation Protection Act 1965** provides that no person other than the Minister shall, except with the prior consent in writing of the Minister or in accordance with or as permitted by regulations made under this Act,—

- (a) Manufacture or otherwise produce; or
 - (b) Sell; or
 - (c) Bring or cause to be brought or sent into New Zealand; or
 - (d) Take or send out of New Zealand; or
 - (e) Store or transport—
any radioactive material.
- (3) For the purposes of this section, any radioactive material shall be deemed to have been brought into New Zealand when, in any manner whatsoever, it is brought or comes

within the territorial limits of New Zealand from any place outside those limits.

(4) For the purposes of this section, any radioactive material shall be deemed to have been sent out of New Zealand when it is placed upon any ship or aircraft for the purpose of being taken or carried to any place outside the territorial limits of New Zealand.

Section 26(2) of that Act provides that *'every person who commits an offence against this Act is liable on summary conviction to a fine not exceeding [NZ\$10,000], and, where the offence is a continuing one, to a further fine not exceeding [NZ\$500] for every day or part of a day during which the offence continues.'*

The Act also provides that where an offence is committed against this Act by any person who is the agent or servant of a person licensed under this Act, or is otherwise subject to the supervision or instructions of a person so licensed, the person so licensed shall, without restricting the liability of the first-mentioned person, be liable under this Act in the same manner and to the same extent as if he had personally committed the offence: Provided that, in any proceedings which are taken against a person licensed under this Act by virtue of this section, it shall be a defence for that person to prove that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence. Where any company is convicted of an offence against this Act, every director and every officer concerned in the management of the company shall be guilty of a like offence unless he proves either—(a) That the offence was committed without his knowledge or consent; or (b) That he took all reasonable steps to prevent the commission of the offence.

The Act also provides that the Governor-General may regulate to prescribe the method of treatment or disposal of any package, container, or vessel that has been used to convey, hold, or store any radioactive material; the manner in which and the conditions subject to which radioactive materials may be stored or used; and to make provision to ensure that waste products from any source whatever which contain any radioactive substance are disposed of safely.

Part XXI of the **Maritime Transport Act** has provisions relevant to prohibitions on storing and dumping of radioactive waste. Relevant sections as follows:

258. Dumping of radioactive waste or other radioactive matter.

Radioactive waste or other radioactive matter shall not be

- (a) Taken on board any ship or aircraft in New Zealand or in the internal waters of New Zealand or in New Zealand marine waters for the purpose of dumping that radioactive waste or other radioactive matter; or*
- (b) Taken on board any ship or aircraft at any controlled offshore installation for the purpose of dumping that radioactive waste or other radioactive matter; or*
- (c) Dumped from any ship or aircraft into the sea or onto or into the seabed within the exclusive economic zone of New Zealand or onto or into the continental shelf of New Zealand beyond the outer limits of that exclusive economic zone or the sea above that continental shelf; or*
- (d) Dumped from a controlled offshore installation; or*
- (e) Dumped from any New Zealand ship or any New Zealand aircraft into the sea or onto or into the seabed beyond New Zealand continental waters.*

259. Storing of radioactive waste or other radioactive matter.

Radioactive waste or other radioactive matter shall not be stored in the sea or in or on the seabed within the exclusive economic zone of New Zealand or in the continental shelf of New Zealand beyond the outer limits of that exclusive economic zone or the sea above that continental shelf.

263. Offences in respect of radioactive waste, other radioactive matter, toxic waste, and hazardous waste

- (1) The master and the owner of a ship each commits an offence if radioactive waste or other radioactive matter is-
- (a) Taken on board the ship in breach of paragraph (a) or paragraph (b) of section 258 of this Act; or
 - (b) Dumped from the ship in breach of section 258(c) of this Act; or
 - (c) Dumped from the ship (being a New Zealand ship) in breach of section 258(e) of this Act.
- (2) The person in possession of, and the owner of, an aircraft each commits an offence if radioactive waste or other radioactive matter is-
- (a) Taken on board the aircraft in breach of paragraph (a) or paragraph (b) of section 258 of this Act; or
 - (b) Dumped from the aircraft in breach of section 258(c) of this Act; or
 - (c) Dumped from the aircraft (being a New Zealand aircraft) in breach of section 258(e) of this Act.
- (3) The owner of a controlled offshore installation commits an offence if radioactive waste or other radioactive matter is-
- (a) Taken on board any ship or aircraft at the offshore installation in breach of section 258(b) of this Act; or
 - (b) Dumped from the offshore installation in breach of section 258(d) of this Act.
- (4) Every person commits an offence who stores radioactive waste or other radioactive matter in breach of section 259 of this Act.
- (5) Every person commits an offence who stores toxic or hazardous waste in breach of section 260 of this Act.

266. Penalties

Subject to section 267 of this Act, every person who commits an offence against section 263 or section 264 of this Act is liable-

- (a) To a fine not exceeding \$200,000; and
- (b) If the offence is a continuing one, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence is continued; and
- (c) For such amount as the court may assess in respect of the costs of all or any of the following, namely, removing or dispersing, or disposing of, any waste or other matter to which the offence relates; and
- (d) To an additional penalty under section 409 of this Act.

267. Sentence of imprisonment

(1) Subject to subsection (2) of this section, the Court may sentence a person who commits an offence against section 263 of this Act to imprisonment for a term not exceeding 2 years instead of imposing a fine under section 266 of this Act.

(2) The Court shall not sentence to imprisonment any person who commits an offence against section 263 of this Act unless the Court is satisfied,

- (a) Where the person is the master or owner of a foreign ship,-
 - (i) That the offence was committed within the territorial sea; and
 - (ii) That the person intended to commit the offence, or the offence occurred as a consequence of any reckless act or omission by the person with the knowledge that that act or omission would or would be likely to cause serious damage to the marine environment within the territorial sea; and
 - (iii) That the commission of the offence has caused or is likely to cause serious damage to the marine environment within the territorial sea:

(b) In any other case, that the commission of the offence has caused or is likely to cause serious damage to the marine environment.

6. What technical guidelines and legislation do you have concerning EIA of development activities likely to impact on the marine environment? (Article 16) How many assessments occurred, what were the measures adopted to prevent pollution and what was the extent of public involvement.

The RMA requires resource consents to use or develop a natural or physical resource and/or carry out an activity that affects the environment. All applications for resource consents must be accompanied by an assessment of environmental effects including measures to avoid, remedy or mitigate any adverse impacts. A Ministry for the Environment survey found that 54,658 resource consents were processed by consent authorities during the 2003/2004 financial year.

Marine Protection Rule 124 dealing with the prevention of spills from offshore installations requires an oil spill contingency plan. Such plans incorporate an EIA process assessing the footprint of the site plus effects of accidents. This Rule is being subsumed by the new draft rule 200 on Offshore Installations Discharges which requires a discharge management plan for all harmful substances including oil held or used on the installation.

Marine Protection Rule 180 addressing New Zealand guidelines for Sea disposal of Waste requires an EIA process to look at the quality of the material, potential environmental effects of release, and monitoring of the activity.

7. Outline the cooperation/coordination with the other Contracting Parties in implementing the Convention and Protocols (such as agreements for protection, development or management of the marine environment, information sharing, research, monitoring and technical assistance, protection against the threat and effects of 'pollution incidents' (Article 4, 17 and 18)

New Zealand is party to the following agreements to protect, develop and manage the marine environment to protect against 'pollution incidents':

- IMO Safety of Life at Sea Convention (SOLAS) 1974
- The Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, as amended 1972.
- Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances other than Oil, 1973.
- International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969.
- 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 [Waigani Convention]
- International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990.
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.
- International Atomic Energy Agency Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency, 1986.

- International Atomic Energy Agency Convention on Early Notification of a Nuclear Accident, 1986.
- New Zealand is also in the process of ratifying the IMO Convention on Ships' Ballast Water.

Maritime New Zealand has provided regional assistance under the SPREP PACPOL and PACPLAN (marine pollution prevention, control and response) initiatives in three areas. Firstly, the Authority provides assistance with training, policy development and technical advice under the PACPLAN and PACPOL initiatives. Secondly, in conjunction with Australia and funding assistance from IMO and the Government of Canada, the Authority has contributed to a joint programme to define the range and type of equipment for pollution response capabilities for a range of Pacific Island Countries. Thirdly the Authority, in conjunction with the Australian Maritime Safety Authority (AMSA) is providing ongoing assistance the SPREP PACPOL secretariat on draft legislation to give effect to the international and regional agreements on pollution preparedness and response conventions and associated liability conventions.

Also in partnership with AMSA, NZ is an active participant on an Interpol led forum – **Project Clean Seas**. This group, which also includes the USA and Canada as well as several European nations, is comprised of government enforcement and regulatory representatives. The aim of the forum is to exchange information and develop international best practice in tackling illegal discharges from vessels. In late 2007, the group published '*Illegal Discharges from Vessels - Investigation Manual*' and is currently developing supporting training resources. The pilot program delivery is scheduled to occur in 2009, with participants exploring the Pacific Island nations as preferred location. Other work items include compilation of a prosecutions/worst offenders database.

New Zealand fully supports Multilateral Environment Agreements (MEAs) and is a party to the following MEAs:

- Convention on Biological Diversity (CBD)¹
- UNESCO Convention for the Protection of the World Cultural and Natural Heritage.
- UNFCCC, United Nations Framework Convention on Climate Change
- Kyoto Protocol (to UNFCCC)
- Vienna Convention on Protection of the Ozone Layer
- Montreal Protocol (to the Vienna Convention on Ozone)
- Stockholm Convention (Persistent Organic Pollutants) (yet to be deposited).
- Rotterdam Convention (Prior Informed Consent)
- Convention on International Trade in Endangered Species of Wild Fauna and Flora, with Appendices. (CITES)
- Convention on Wetlands of International Importance especially as Waterfowl Habitat (RAMSAR)

New Zealand is also party to the following agreements related to the protection of the marine environment:

¹ New Zealand has signed the Cartagena Protocol to CBD on Biosafety

- Agreement on the Conservation of Albatrosses and Petrels
- The United Nations Convention on the Law of the Sea
- Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks
- Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean
- Convention for the Regulation of Whaling
- Convention on Migratory Species

As a Member State of the **Convention on Migratory Species (CMS)** New Zealand co-sponsored (in conjunction with the Government of Australia, the CMS Secretariat and the Packard Foundation) the 2nd SPREP/CMS Workshop on the CMS and Marine Mammal Conservation in the South Pacific, held at SPREP headquarters in March 2004.

New Zealand also has an International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries and an International Plan of Action for the Conservation and Management of Sharks and;

New Zealand is also in the process of developing a domestic Oceans Policy. The sustainable development approach set out in New Zealand's draft Oceans Policy begins with the recognition of three imperatives affecting the choices and decisions we can make about the oceans. First is the recognition that a healthy ocean is the natural capital that underpins our sustainable development approach – and the need to sustain ecological health as a fundamental policy baseline. The Policy also recognises the rights and duties conferred by the Treaty of Waitangi and international law.

Proposed primary objectives are therefore to:

- Sustain the ecological health of ocean ecosystems
- Meet obligations under the Treaty of Waitangi
- Meet international obligations.

One of the complementary measures proposed to improve the current management regime and align it with the proposed new framework is a programme to better link domestic and international policies and identify where we need to work to meet our international obligations. New Zealand has actively participated in the development of the Pacific Islands Regional Oceans Policy

8. How many 'pollution incidents' have there been and what were the laws, regulations, institutions and operational procedures used in each? (Protocol on Pollution Emergencies)

A total of 133 oil spills were reported for the period January 2007 to December 2007, all but three of which were less than 1 m³ in volume. The three larger spills included one of 1 m³ and 1 of 2 m³ and one of approximately 25 m³.

Details of other pollution incidents affecting the marine area are held by local authorities and records are not held by the national government.

Section 226 of the **Marine Transport Act 1994** provides that harmful substances may only be discharged into the sea in accordance with the **Marine Protection Rules**.

Part 120 of the Rules defines oil as a class of harmful substance and includes a list of the various categories of mineral hydrocarbon falling within the definition of oil. The rule then sets out the permitted operational discharges of oil from ships into the seas and provides for reporting of non-operational discharges to the appropriate coastal authorities. The permitted discharges differ according to whether the oil is the residue of a cargo carried by an oil tanker or is oily bilge water from the machinery space of a ship. Part 120 gives effect to standards found in regulations 9, 10 and 11 of Annex I of MARPOL 73/78 and to that instrument's Protocol I.

Part 140 of the Rules categorised all noxious liquid substances as specified in the list of substances set out in chapters 17 and 18 of the IMO International Code for the Construction and Equipment of Ships carrying Dangerous Chemicals in Bulk 1994 as harmful substances for the purposes of section 226. The rule then sets out the permitted operational discharges into the sea of cargo residues from noxious liquid substances carried in bulk by chemical tankers. It applies to all ships carrying such substances in bulk as cargo and sets limits on total quantity and concentration of discharges and specifies minimum water depths and distance from land. More stringent discharge conditions apply to those substances that are categorised as most harmful to the marine environment. Part 140 gives effect to regulations 1, 2(5), 5A, 13 and 14 of Annex II of MARPOL 73/78.

Standards for discharges within the 12 nautical mile coastal marine area for all ships are found in section 4 of the Resource Management (Marine Pollution) Regulation 1998 which make it an offence to dump waste or other matter in contravention of the regulations.

9. What are the reporting requirements regarding 'pollution incidents' of:

a. Government officials

Under the New Zealand system it is the polluter's responsibility to report to the appropriate agency, so government officials do not have reporting requirements as such. However, local authorities do provide data to Maritime New Zealand on the number of oil spill incidents that occur in their region.

b. Masters of vessels flying your flag; and

The Marine Protection Rules specify the reporting requirements of Masters of New Zealand ships involved in a pollution incident in contravention of the Rules.

Part 120 of the Rules sets out the permitted operational discharges of oil from ships into the sea and provides for reporting of non-operational discharges to the appropriate coastal authorities. The permitted discharges differ according to whether the oil is the residue of a cargo carried by an oil tanker or is oily bilge water from the machinery space of a ship. The operational discharge requirements set out in Part 120 apply to New Zealand ships and warships and other ships of the New Zealand Defence Forces operating outside the 12 nautical mile coastal marine area.

Part 140 of the Rules sets out the permitted operational discharges into the sea of cargo residues from noxious liquid substances carried in bulk by chemical tankers. It applies to all ships carrying such substances in bulk as cargo and sets limits on total quantity and concentration of discharges and specifies minimum water depths and distance from

land. More stringent discharge conditions apply to those substances that are categorised as most harmful to the marine environment. The operational discharge requirements set out in Part 140 apply to New Zealand ships and warships and other ships of the New Zealand Defence Forces operating outside the 12 nautical mile coastal marine area.

c. Masters of all vessels and pilots of all aircraft in the vicinity of your coasts (Article 5)

Foreign ships operating within areas of the sea under New Zealand jurisdiction are subject to the reporting requirements of Part 120 and Part 140 as outlined above.

**AUSTRALIA'S REPORT ON THE CONVENTION FOR THE PROTECTION
OF THE NATURAL RESOURCES AND ENVIRONMENT OF THE SOUTH
PACIFIC REGION AND RELATED PROTOCOLS
(NOUMEA/SPREP CONVENTION)**

2006 - 2008

1. What are the main issues and priorities concerning marine pollution for your country? You can attach relevant sections of annual reports, policy documents etc.

The main issues and priorities concerning marine pollution in Australia are set out in the report *A National Approach to Addressing Marine Biodiversity Decline*. This report was released by Federal, State and Territory Environment Ministers (through the Natural Resource Management Ministerial Council) in April 2008.

The aim of the report was to identify the threats and causes of marine biodiversity decline and to identify high-level gaps in information. The report identified the five most significant, broad-scale threats to marine biodiversity which included marine pollution as well as land-based impacts (e.g. diffuse pollution from urban and agricultural areas, point source emissions and solid wastes).

Australian waters may be affected in parts by marine pollutants such as sewage, marine debris, pesticides, nutrients (e.g. agricultural fertilisers and nutrients from finfish farming), residues in industrial wastewater, antifoulants, antibiotics, metals, radioactive waste and thermal pollution. The activities that cause marine pollution generally include shipping, boating (e.g. vessel maintenance activities and littering), oil and gas exploration, mineral resource extraction, stormwater run-off and poor land management practices.

Land-based sources of marine pollution impact on inshore waters, with the water quality in Australian bays and estuaries varying considerably. Particular problem areas are those near large coastal population centres and those receiving waters from highly modified agricultural catchments. In these areas, the ongoing effects from existing activities and additional impacts from new development place greater pressure on marine ecosystems and on the economic and social services they support.

The Natural Resources Ministerial Council prepared *Australia's National Programme of Action for the Protection of the Marine Environment from Land-based Activities*, which was released in October 2006. The plan discusses major challenges for Australian jurisdictions and proposes solutions that are being pursued by relevant institutions. Major challenges highlighted by the plan include catchment degradation, coastal development, industrial development and habitat loss.

For further Information see:

A National Approach to Addressing Marine Biodiversity Decline
(<http://environment.gov.au/coasts/publications/marine-diversity-decline/pubs/marine-diversity-decline.pdf>)

Australia's National Programme of Action for the Protection of the Marine Environment from Land-based Activities

(<http://www.environment.gov.au/coasts/pollution/npa/index.html>)

The Australian Maritime Safety Authority also has responsibilities that include (a) participating in the development and implementation of national and international environment protection standards, primarily through active participation in activities of the International Maritime Organization (IMO) and (b) managing Australia's National Plan to Combat Pollution of the Sea by Oil and Other Noxious and Hazardous Substances.

The main issues and priorities are:

- Implementation of amendments to Annex VI of MARPOL 73/78 dealing with air pollution from ships;
- Ratification of the International Convention for the Control and Management of Ships' Ballast Water and Sediments;
- Implementation of the International Convention on the Control of Harmful Anti-fouling Systems on Ships 2001;
- Implementation of the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001;
- Ratification of the Supplementary Protocol to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage;
- Supporting moves at IMO to review and assess the effectiveness of Annex V of MARPOL 73/78 dealing with the disposal of garbage from ships;
- Consider Australian adoption of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996, and assist progress towards international entry into force;
- Progress IMO consideration of several current or proposed work program items;
 1. Development of a guidance document for minimising the risk of ship strikes with cetaceans;
 2. Development of international measures for minimising the transfer of invasive aquatic species through bio-fouling of ships;
 3. Issues relating to noise in the marine environment;
 4. Measures to reduce greenhouse gas emissions from ships;
 5. Action Plan on waste reception facilities; and
 6. Development of regulations relating to ship to ship transfer of oil.

2. What measures generally have you initiated to implement this Convention and Protocols?

Australia has been working to implement this Convention through a range of mechanisms. Australia's work on a number of key areas is set out below. For further detail about other measures Australia has implemented, see answers to question 4.

Coastal zone management framework

As noted above, in 2006 Australia's Natural Resource Management Ministerial Council published the *National Cooperative Approach to Integrated Coastal Zone Management: Framework and implementation plan*. The framework is an agreement by federal, state and territory governments about how to deal with problems like coastal pollution and marine pests. This agreement is currently being implemented by all jurisdictions in Australia.

In 2008 the Australian Government referred the issue of *Climate change and environmental impacts on coastal communities* to a parliamentary standing committee (House of Representatives Standing Committee on Climate Change Water, Environment and the Arts). This inquiry will report on issues related to climate change and environmental pressures experienced by Australian coastal areas, including coastal pollution, and existing policies and programs for coastal zone management, taking in the catchment-coast-ocean continuum. The inquiry is expected to report in late 2008.

Coastal water quality and wetlands conservation

Federal, state, territory and local governments in Australia have identified coastal and urban water quality 'hotspots'. Water quality hotspots include places like the Peel Inlet-Harvey Estuary System, Moreton Bay and Port Phillip Bay, where management action is needed to protect or improve water quality.

A particular priority for the Australian Government is to protect the Great Barrier Reef from pollution due to land-based activities in Queensland. An important aspect of this work is protecting Queensland's coastal wetlands, which filter the water entering the Great Barrier Reef lagoon.

The Department of Environment, Water, Heritage and the Arts administers three linked programmes to protect or improve water quality in these hotspots:

- The Coastal Catchments Initiative
- **Reef Water Quality Protection Plan**
- Queensland Wetlands Programme

For more information about these programmes, please see the coasts and oceans section of the Department of the Environment, Water, Heritage and the Arts 2005-06 and 2006-07 Annual Reports (<http://www.environment.gov.au/about/publications/annual-report/index.html>).

The National Water Quality Management Strategy (NWQMS)

The National Water Quality Management Strategy (NWQMS) was introduced by the Commonwealth, State and Territory Governments in 1992 as a response to growing community concern about the condition of the nation's water bodies and the need to manage them in an environmentally sustainable way (for further details visit www.daff.gov.au/nwqms). In 1994 the NWQMS was included in the Council of Australian Governments (COAG) Water Reform Framework.

The Australia and New Zealand Guidelines for Fresh and Marine Water Quality were developed as part of the Strategy to cover issues across the whole of the water cycle - ambient and drinking water quality, monitoring, groundwater, rural land uses and water quality, stormwater, sewerage systems and effluent management for specific industries. The aim of the guidelines is to help the community, catchment managers, environment protection agencies and water authorities protect water quality including developing local action plans for water quality management. A total of 21 guideline documents have been released.

Through the application of the NWQMS the Australian Government is working in collaboration with States and Territories to develop water quality improvement plans (Coastal Catchments Initiative) to reduce pollution being released into coastal hotspots across the country. The plans, prepared consistent with the *Framework for Marine and Estuarine Water Quality Protection*, will amongst other matters identify the most cost-effective and timely projects for investment by all parties - including the Australian Government, State and Local Governments, and community and environment groups.

Marine Debris

A current priority for Australia is the development of a coordinated national approach to implement measures to prevent and mitigate the impacts of harmful marine debris on vertebrate marine life. The Government is currently drafting a *Threat abatement plan for the impacts of marine debris on vertebrate marine life*, which is expected to be finalised in late 2008.

3. Give details of new or amended legislation that covers marine pollution beyond internal waters including any definition of 'pollution' and the institutions responsible.

The *Protection of the Sea (Harmful Anti-fouling Systems) Act 2006* was enacted to give effect to the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001. The *Protection of the Sea (Civil Liability for Bunker Oil Pollution Damage) Act 2008* was enacted to give effect to the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001. A number of amendments to the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* were passed. This Act gives effect to the International Convention for the Prevention of Pollution from Ships (MARPOL), and the amendments included giving effect to Annex VI of MARPOL relating to air pollution from ships. The Australian Maritime Safety Authority is responsible for this legislation.

The *Environment Protection (Sea Dumping) Act 1981* was amended in 2006 to ensure it correctly relates to the *1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972*.

4. What is the estimated volume/type or marine pollution per year in the Convention area from the following sources; the number of permits/licence issued; and any other measures taken to prevent, reduce and control such pollution:

a. Vessels (article. 6)

The number of pollution incidents in Australian waters reported to AMSA for the period was 387. This includes all incidents, confirmed and unconfirmed, regardless of the amount reported spilled. There is no data available on the volume spilled, as very few reports include such information. Measures taken to prevent and reduce such pollution are primarily based on active administration and enforcement of International Maritime Organisation conventions, such as the International Convention for the Prevention of Pollution from Ships (MARPOL) through mechanisms such as port State control. Controlling action in responding to pollution incidents is undertaken under the National Plan to Combat Pollution of the Sea by Oil and Other Noxious and Hazardous Substances (“the National Plan”). Of the 387 reports received during the period, 181 required some form of follow up activity under the National Plan arrangements.

b. Land based sources (article. 7)

Australia is implementing a *Reef Water Quality Protection Plan* (Reef Plan) to halt and reverse the decline in water quality entering the Great Barrier Reef lagoon within ten years. The Reef Plan is a joint initiative of the Australian and Queensland Governments, launched by the Australian Prime Minister and Queensland Premier in December 2003. The Reef Plan is aimed at addressing diffuse pollution from broad-scale land use. The strategies in the Reef Plan provide for actions to minimise pollutants (nutrients, chemicals and sediment) from diffuse sources and reduce the entry of those pollutants to the Reef lagoon. The Reef Plan is a non-regulatory approach to address diffuse sources of pollutants, such as the cumulative effect of fertiliser run-off from numerous agricultural properties, which are not covered by regulation. Point source pollutants, such as aquaculture and sewage, are already captured by regulation.

The Reef Plan was developed in consultation with industry and the public and is being implemented by government agencies, peak industry bodies and regional NRM groups. It is to be initially implemented over a 10 year period, with further strategies considered after a review in 2010. The Reef Plan acknowledges that the results of actions will be seen over a much longer period, with improvement in water quality continuing to be measured and further actions taken past this time frame.

Under the Reef Plan, the Reef Water Quality Partnership (RWQP) was established in July 2006 and builds collaboration between Australian Government agencies, Queensland Government agencies and regional natural resource management (NRM) bodies of the Great Barrier Reef (GBR) Catchments. The role of the RWQP is to

facilitate and coordinate water quality target-setting, monitoring and reporting to reduce land management impacts on water quality that may impact the GBR ecosystems. The RWQP thus supports regional water quality plans and the Reef Water Quality Protection Plan (the Reef Plan). Within the Reef Plan the RWQP coordinates and facilitates the delivery of actions related to water quality target setting and monitoring. Individual partner institutions maintain responsibility for delivery of their programs.

The RWQP Strategic Plan 2007-2013 contains a vision for the RWQP, and identifies collaborative objectives, goals, strategies and actions. The Strategic Plan therefore provides a reference document for partners and stakeholders to identify activities and responsibilities within a logical and strategic framework. The vision of the Strategic Plan is that by 2013 the RWQP has engaged communities and institutions in improving land use and management practices for demonstrated water quality benefits and predicted ecological outcomes in the Great Barrier Reef through the delivery of regional water quality plans and the Reef Plan by:

- Ensuring alignment of partners activities
- Coordinating collaborative and integrative science, and
- Evaluating and reporting progress towards targets.

The 2006-07 Reef Plan Annual Report indicates that as of 30 June 2007, 41 of the 65 actions within the Reef Plan had met their original milestone. 18 actions had not met their original milestone but were progressing well, while six actions did not meet their original milestones and were showing inconsistent or unsatisfactory progress.

In July 2008 the Australian Government launched the new Reef Rescue Plan. Reef Rescue is a 5 year/\$200 million program that will improve the quality of water entering the Reef lagoon by reducing diffuse source agricultural pollution. Improved water quality will increase the resilience of the Reef to climate change. Reef Rescue builds on the knowledge, achievements and partnerships generated by Reef Plan and is being integrated with Reef Plan. The components of Reef Rescue are described below.

A Great Barrier Reef Water Quality Grants Program will provide matching grants to landowners and managers in reef catchments for land management practices which improve far m productivity and reduce loss of nutrients and sediments. The grants program will be delivered in partnership with peak industry groups and existing regional Natural Resource Management groups.

The Healthy Reef Partnerships Program will boost partnerships between the Australian Government and the state agencies, peak industry organisations and non-government organisations which support landowners with increased local expertise and extension staff. The partnerships program will build on existing programs in rural industry bodies and Non Government Organisations.

The Great Barrier Reef Water Quality Research and Development Program is a competitive research funding program aimed at improving understanding of the link between land management practices and environmental impacts and will lead to the

development and application of new water-quality monitoring techniques for nutrient, chemical and sediments.

The Water Quality Monitoring & Reporting Program will expand existing monitoring and reporting of water quality in the Great Barrier Reef and provide additional funding for further development and implementation of a coordinated catchment-wide water quality monitoring program. This will include monitoring and reporting of land use, land condition and uptake of best management practices, and the publication of a Great Barrier Reef Water Quality & Land Condition Report Card.

The Land and Sea Country Indigenous Partnerships Program includes funding for the employment of Sea Country Officers in indigenous communities and provides additional funding for the Great Barrier Reef Marine Park Authority (GBRMPA) to strengthen partnerships with indigenous communities.

c. Mining and coastal erosion, ie, dredging, land reclamation (article. 13)

Management of Australia's coastal areas is a responsibility of both the States and the Commonwealth. The Commonwealth has in place a range of programs and policies designed to minimise the environmental impact of, amongst other things, land based sources of marine pollution. Examples include:

- The *Coastal Catchments Initiative*, which aims to reduce pollution discharges from key coastal and urban water quality hotspots; and
- The regional program of the Natural Heritage Trust, which supported the development and implementation of integrated natural resource management (NRM) plans. NRM plans were required to address a range of resource management issues, including preventing the disturbance of coastal acid sulfate soils and the protection of coastal ecosystems. The National Heritage Trust has now been integrated into Australia's new natural resource management initiative, *Caring for our Country*. This initiative focuses on achieving strategic results and invests in six national priority areas, of which coastal environments and critical aquatic habitats is one.

The Australian Government has pursued a range of measures to improve the community's awareness of coastal acid sulfate soils, and to develop and demonstrate effective management strategies such as the development of the National Atlas of Australian Acid Sulfate Soil. This has principally been through (a) supporting the development of the National Strategy for the Management of Coastal Acid Sulfate Soils and (b) ensuring coastal acid sulfate soil management is addressed in Natural Heritage Trust regional natural resource management planning and investment strategies.

d. Sea-bed and sub-soil activities (article. 8)

The Department of Resources, Energy and Tourism administers all aspects of petroleum exploration and production activities in Commonwealth waters through the *Offshore Petroleum Act 2006*, and the *Petroleum (Submerged Lands) (Management of*

Environment) Regulations 1999. State and Northern Territory legislation applies similar arrangements to coastal and inland waters.

From 1 October 2001, no petroleum exploration or production activity can take place in Commonwealth waters without an accepted Environment Plan under the Management of Environment Regulations. The development of an Environment Plan requires an operator to identify the potential environmental risks for an activity and to demonstrate how those risks will be managed. Individual Plans differ depending on the activity, location and time of year in which it will take place. All Environment Plans must contain an up-to-date emergency response manual which includes an oil spill contingency plan, includes detailed response and investigative arrangements and incident recording and reporting protocols.

This objective-based regulatory regime (along with the requirements under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) serve to safeguard environmental interests in offshore areas, and ensure industry best practice. The 1999 Regulations were updated in 2005 to reflect this.

Industry activities may also be subject to the EPBC Act which deals with potential impacts on matters of national environmental significance. Commonwealth marine areas are determined as a matter of national environmental significance.

e. Discharges into atmosphere (article. 9)

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area resulting from discharges into the atmosphere from activities under their jurisdiction.

The Australian Government considers air pollution a serious environmental issue in urban settings and is implementing an integrated air quality program with a focus on tackling the major sources of air pollution, including motor vehicles and industry as well as specific pollutants that pose threats to human health and the environment. While the potential impact of air pollution on the Convention Area from Australian sources is likely to be minimal, actions being taken in Australia to reduce emissions of pollutants will help ensure there are no adverse consequences for the marine environment.

A key strategy for improving air quality is the development and implementation of national standards. In 1998 the *National Environment Protection Measure for Ambient Air Quality* was established to set acceptable levels for six common air pollutants: particles, ground-level ozone, carbon monoxide, lead, nitrogen dioxide and sulfur dioxide. Levels of these pollutants are much lower now than before the introduction of this measure. These standards are currently under review to ensure they remain consistent with latest scientific evidence.

In 2004 the *National Environment Protection (Air Toxics) Measure* was established to monitor pollutants that may be a hazardous at concentrations not readily detected at general ambient levels. There are currently 5 listed air toxics - benzene; formaldehyde; benzo(a)pyrene as a marker for Polycyclic Aromatic Hydrocarbons;

toluene; and xylenes. Other pollutants are currently being considered for possible future inclusion as listed air toxics.

Overall, air pollution in our major cities is now at levels which are not harmful to humans for pollutants like carbon monoxide, nitrogen oxides, lead and sulfur dioxide. Other pollutants like ozone, particulates and certain point sources of air toxics remain of concern in some large cities and regional areas. A national air quality database has been developed to allow better assessment of the status and trends in air quality and inform future decisions on standard setting.

Any impacts to the marine environment from air pollutants are likely to be restricted to local settings dominated by commercial shipping (as discussed under article 6) and to a lesser extent from the emissions of small engines used in recreation or pleasure crafts, particularly engines using two stroke fuels.

The Australian Government is working with industry and State and Territory governments to consider future management options, whether they be voluntary or regulatory, for reducing emissions from outboard engines. Any future controls would reduce impacts on the atmosphere and water quality, given that outboard engines discharge exhaust emissions directly into the water.

With regard to emissions from shipping, Annex VI of the International Convention for the Prevention of Pollution from Ships entered into force for Australia on 10 November 2007. This Annex sets out regulations to reduce air emissions from ships and deals with sulphur oxides, nitrogen oxides, ozone depleting substances and emissions from shipboard incineration of waste.

f. Dumping and disposal from vessels, aircraft, man-made structures of waste including radioactive waste or matter (article. 10)

Summary of items disposed in Australian Pacific waters in 2006

Material	Permits issued this year	Number active permits (including those issued this year)	Permitted volume/amount	Actual volume/amount disposed
Dredge material	3	14	21,699,822 m ³	9,712,046 m ³
Vessels, platforms or manmade objects	2	5	4	2
Organic material of natural origin (human burials)	2	2	2	2
Total	7	21		

The Sea Dumping Act prohibits ocean disposal of radioactive waste, in accordance with the provisions of the London Protocol.

g. The storage of toxic and hazardous wastes, including radioactive wastes or matter (article. 11)

The Commonwealth and each state and territory have passed laws establishing a regulatory framework for the acquisition, use, storage, transfer and disposal of radioactive material (including radioactive waste).

These laws reflect internationally accepted recommendations and focus on protecting people and the environment from the harmful effects of radiation. Further information can be found at <http://www.arpana.gov.au/Regulation/index.cfm>.

h. Testing of nuclear devices (article. 12)

Australia does not test any nuclear devices, and has signed and ratified the Comprehensive Test Ban Treaty (CTBT). We firmly support the entry into force of the CTBT and establishment of a fully effective treaty reduction system.

5. Have you prohibited the storage and disposal of radioactive waste in the Convention area and the continental shelf beyond the Convention area? If so, what is the legislative provision and what is the penalty (article. 10)

The Sea Dumping Act prohibits ocean disposal of radioactive waste, in accordance with the provisions of the London Protocol.

6. What technical guidelines and legislation do you have concerning EIA of development activities likely to impact on the marine environment (article.16)? How many assessments occurred, what were the measures adopted to prevent pollution and what was the extent of public involvement.

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), in its environmental impact assessment process, assesses the potential effects of proposed projects on the Commonwealth marine environment. The EPBC Act provides for extensive public consultation in deciding whether an action requires approval under the Act, and in undertaking the environmental assessment process. All proposals submitted for environmental impact assessment are made available on the internet for public viewing and comment.

The operation of the EPBC Act is delivering important benefits for the Australian community. The Act enables the Commonwealth to join with the States and Territories to provide a national scheme of environment protection and biodiversity conservation both on land and in marine areas. Under the Act, actions that are likely to have a significant impact on matters of national environmental significance (NES) are triggers for rigorous assessment and approval processes (an action includes a project, development, undertaking, activity, or series of activities and Commonwealth marine areas are considered matters of NES).

In addition to the environmental impact assessment and approval processes contained within the EPBC Act, the Act provides an integrated approach to the conservation of biodiversity. Once again the EPBC Act provides for public consultation in relation to such matters as the preparation of management plans for protected areas, recovery plans for threatened species, wildlife conservation plans and threat abatement plans for key threatening processes. The Act outlines statutory timeframes for these public comment periods.

The EPBC Act gives adequate emphasis to environmental, social and economic factors by requiring that, in deciding whether to grant approval for an action, the Environment Minister must consider any impacts on matters protected by the Act together with social and economic matters. In considering these matters, the Environment Minister is required to take into account the principles of ecologically sustainable development.

The EPBC Act also requires that each Commonwealth managed fishery and state export fishery undergoes an independent assessment to determine whether it is being managed in an ecologically sustainable way and to encourage continuous improvement in environmental performance. The Department of the Environment, Water, Heritage and the Arts is conducting these assessments on behalf of the Australian Government, to ensure that, over time, all fisheries are ecologically sustainably managed. These assessments are ongoing, with decisions reviewed every three to five years, or when management arrangements change, or as new export markets for fisheries are established.

The assessment is conducted against the *Guidelines for the Ecologically Sustainable Management of Fisheries* (the Guidelines), which outline specific principles and objectives designed to ensure a strategic and transparent way of evaluating the ecological sustainability of fishery management arrangements.

To date, the assessment process has been driving positive environmental change in our fisheries and has acted as a catalyst to shift fisheries management away from a target species only focus towards an ecosystem-based approach. Bycatch issues and impacts on protected species and ecological communities are increasingly being addressed. The end results are real ecological benefits and increased certainty for the fishing industry.

Under the *Sea Dumping Act*, Australia implements the London Protocol. In accordance with the London Protocol, the only wastes that Australia will consider permitting for ocean disposal, following a rigorous assessment process, are:

1. dredged material;
2. sewage sludge;
3. fish waste, or material resulting from industrial fish processing operations;
4. vessels and platforms or other man-made structures at sea;
5. inert, inorganic geological material;
6. organic material of natural origin;

7. bulky items primarily comprising iron, steel, concrete and similarly unarmful materials for which the concern is physical impact, and limited to those circumstances where such wastes are generated at locations, such as small islands with isolated communities, having no practicable access to disposal options other than dumping; and
8. Carbon dioxide streams from carbon dioxide capture processes for sequestration.

Applications for sea dumping of dredge spoil are assessed in accordance with the National Ocean Disposal Guidelines for Dredged Material (published in May 2002, Commonwealth of Australia, Canberra, ISBN 0 642 54831 5). These guidelines are under review and will be available for public comment until 26 September 2008.

Where exploration and exploitation of the seabed is likely to have significant impact on the environment (*Article 8: Pollution from Sea-bed Activities*), these are referred and assessed under the *EPBC Act 1999*.

7. Outline the cooperation/coordination with the other Contracting Parties in implementing the Convention and Protocols (such as agreements for protection, development or management of the marine environment, information sharing, research, monitoring and technical assistance, protection against threat and effects of ‘pollution incidents’ (articles. 4, 17 and 18)).

Australia is an active participant in the Pacific Islands Regional Marine Spill Contingency Plan (PACPLAN), developed as part of the SPREP Pacific Ocean Pollution Prevention Programme (PACPOL). Australia also has bilateral arrangements for oil spill response with New Caledonia, Singapore, Papua New Guinea, New Zealand and Indonesia. Under the PACPLAN arrangements, Australia is the primary source of assistance in the event of a spill in Nauru, Papua New Guinea, Solomon Islands, Tuvalu, Vanuatu and Kiribati.

Australia continues to facilitate scientific and technical capacity building in relation to the implementation of CITES obligations by Parties in the region, including in our role as CITES Oceania Regional Representative. In the last 18 months, Australia has:

- assisted in the establishment of a Timber Officer position in the CITES Secretariat, with initial funding of \$350,000. The role is to help increase international capacity to effectively address deforestation, illegal logging and unsustainable trade in timber species, with an initial focus on the Asia-Pacific region;
- provided ongoing support for an Australian Youth Ambassador for Development (AYAD) to assist the CITES Management Authority of Vanuatu implement its obligations under CITES;
- delivered wildlife trade awareness sessions to Customs officers and executives from the Asia-Pacific region as part of the Customs International Executive Management Program and the Pacific Customs Management Forum;
- distributed CITES species identification and training resources to regional parties upon request;

- hosted an officer from the CITES Management Authority of Papua New Guinea in the department for work experience and information sharing;
- funded the attendance of regional representatives at CITES Plants Committee meetings.

Australia will host a CITES regional capacity building workshop in 2009, focussing on enforcement issues.

8. How many ‘pollution incidents’ have there been and what were the laws, regulations, institutions and operational procedures used in each? (Protocol on Pollution Emergencies)

See answer to question 7. The number of pollution incidents in Australian waters reported to AMSA for the period was 387, with 181 of these requiring some form of follow up or response activity under Australia’s National Plan arrangements. There were no major oil spills during the period.

The National Plan is a national integrated Government and industry organisational framework enabling effective response to marine pollution incidents. The Australian Maritime Safety Authority (AMSA) manages the National Plan, working with State/Northern Territory (NT) Governments and the shipping, oil, exploration and chemical industries and emergency services to maximise Australia's marine pollution response capability.

The aim of the National Plan is to protect the community and the environment of Australia’s marine and foreshore zones from the adverse effects of oil and other noxious or hazardous substances. It also aims to minimise those effects where protection is not possible.

The National Plan provides a national framework for responding promptly and efficiently to marine pollution incidents by designating competent national and local authorities, and maintaining:

- the National Marine Oil and Chemical Spill Contingency Plans;
- detailed state, local and industry contingency plans;
- an adequate level of strategically positioned response equipment;
- a comprehensive national training program, including conducting regular exercises.

9. What are the reporting requirements regarding ‘pollution incidents’ of:

- a. Government officials;**
- b. Masters of vessels flying your flag; and**
- c. Masters of all vessels and pilots of all aircraft in the vicinity of your coasts (article. 5).**

- a) As a signatory to the International Convention for the Prevention of Pollution from Ships (MARPOL), Australia is required to provide an annual report to IMO, which includes information on significant pollution incidents. This obligation can be found in Article 11 of the Convention. In respect of domestic reporting

obligations, the Inter-Government Agreement on the National Plan places an obligation on Australian States and the Northern Territory to report pollution incidents to AMSA.

- b) Under Australian legislation applying the regulations of MARPOL 73/78, masters of Australian vessels must comply with the reporting requirements set out in the Convention. Article 8 and Protocol I of MARPOL 73/78 contain comprehensive requirements for the nearest coastal state to be notified, without delay, of incidents involving:
- a discharge or probable discharge of oil or chemicals resulting from damage to a ship;
 - a discharge or probable discharge of harmful substances in packaged form; and
 - a discharge during the operation of a ship of oil or noxious liquid substances in excess of the rate permitted under the Convention.

A report also must be made when an incident involves damage, failure or breakdown of a ship (15 metres in length or more) that:

- affects the safety of the ship, including but not limited to collision, grounding, fire, explosion, structural failure, flooding and cargo shifting; or
- results in the impairment of the safety of navigation, including but not limited to failure or breakdown of steering gear, propulsion plant, electrical generating system and essential shipborne navigational aids.

The master or other person having charge of any ship involved in an incident is required to make the report. If this cannot be done, then the owner/charterer/manager/operator of the ship, or their agent is responsible for making the report.

- c) The same obligations as set out in (b) above apply to all ships in Australian waters, regardless of flag. The obligations do not formally apply to aircraft, although it is understood reporting pollution incidents is part of standard operating procedure for commercial pilots.

Federated States of Micronesia

Country Report to the Ninth Meeting of the Conference of the Parties to the Noumea Convention, September 04, 2008, in Pohnpei, Federated States of Micronesia

The Federated States of Micronesia (FSM) has a huge and pristine marine environment rich with many species of fish, corals and other marine life which its people depend on for their livelihood and as source of income. The FSM population is growing and so is the need for greater economic development which resulted in the expansion and development of the agriculture, fisheries, tourism, transportation, health, and other sectors including the basic infrastructures that support their development. Although these developments are beneficial, they also have negative consequences such as pollution of the environment. Over the years, the pristine marine environment of the FSM have deteriorated as a result of increased dredging, over-fishing and harvesting of marine products, and pollution from land-based sources and sea vessels.

The main issues concerning marine pollution for FSM today include oil and chemical spill from grounded and sunken vessels, raw sewage discharge to sea and rivers, improper use and storage of pesticides and hazardous chemicals which ended up in the marine environment, disposal of garbage and other hazardous materials in coastal areas, sediment and silt deposits as result of land erosion, discharge of oil, sewage, garbage and ballast water from fishing and other sea-going vessels, and illegal dumping or trans-boundary movement of hazardous and radioactive wastes in FSM's exclusive economic zone.

Of greater concern to FSM now are the sunken World War II ships in the Chuuk Lagoon. There are approximately 52 shipwrecks, one which was found to be leaking small amounts of oil/diesel, according to a recent assessment conducted in July and August 2008. It is not clear how much oil/diesel may still be contained in these ships, several of them together were estimated to have the capacity to store over seven million gallons of oil/diesel. FSM currently does not have the technical and financial resources to deal with these shipwrecks and will need to seek both bi-lateral and multi-lateral assistance to address this issue to prevent a major oil spill disaster from occurring.

Over the last two years FSM has initiated some measures to help maintain and minimize pollution of its marine environment. Following are some of the activities and projects that have been undertaken in FSM to help combat marine pollution.

- Through the "POPs in PICs" project, stockpiles of obsolete chemicals which include pesticides, PCBs and other hazardous chemicals that have been stockpiled over the last twenty years were successfully collected, tested, repackaged, shipped and safely disposed of in Australia. Capacity building and training on the effective management of POPs and hazardous materials, and public awareness were also carried out under this project.
- With funding assistance from the Global Environment Facility, FSM completed its National Implementation Plan (NIP) for the management of persistent organic pollutants (POPs) for the Stockholm Convention. The NIP sets out a number of key action plans for POPs management including one which specifically addresses the World War II shipwrecks in Chuuk. Four national stakeholder workshops were held and eight key public awareness messages on POPs were disseminated nationwide throughout the NIP development process.
- Workshops were conducted in all four FSM states and due date Marine Spill Contingency Plans have been completed for the states of Yap and Kosrae under the PACPOL program. Plans for Pohnpei, Chuuk and the National Government are still under way.

- To further protect marine life and keep them abundant and healthy from over-fishing or harvesting, a number of Marine Protected Areas have been established throughout FSM under conservation programs. In addition, the Micronesian countries have also launched the Micronesian Challenge project with the goal to protect 30% of Micronesia's marine biodiversity.
- Recycling projects and removal of scrap metals, aluminum cans, PET bottles, and car batteries are already happening in all the FSM states.
- A semi-aerobic landfill known as the Fukuoka Landfill is currently being piloted in Kosrae. The Fukuoka Landfill is cost effective and if the pilot project in Kosrae is successful, it could pave the way for the other states to follow. Ineffective management of solid waste contributed to pollution of the marine environment throughout FSM. Improvement in solid waste collection and disposal will prevent further pollution of the marine environment.
- Shoreline or coastal clean-up activities by schools, youth and government agencies are carried out several times a year on Earth Day, FSM Environment Day (World Environment Day), and Clean-Up the World, as part of FSM's on-going effort to keep our marine environment clean and healthy.
- Public awareness on marine pollution control is also promoted in schools throughout FSM every year by both government and non-governmental organizations.
- The FSM Government recently established a new Office of Environment and Emergency Management to consolidate, streamline and improve coordination of environmental functions at the National level.
- National stake-holders workshops have recently been held to develop FSM National Waste Strategy and Five-Year Environment Sector Plan.

Article XIII (General Principles), Section 2 of the FSM Constitution prohibits testing, storing, using or disposal of radioactive, toxic chemical, or other harmful substances within the jurisdiction of the FSM without the express approval of the National Government of the FSM.

Estimated volume and type of marine pollution from vessels, land based sources, mining and coastal erosion, dredging, land reclamation, sea-bed and sub-soil activities, discharges into atmosphere, dumping and disposal from vessels, aircraft, and man-made structures of waste including radioactive waste or matter, are not available at the writing of this report.

With regards to storage of toxic and hazardous chemicals, including radioactive wastes and matters, there have been instances in the past where storage of pesticides and other hazardous chemicals have leaked into the environment due to flooding by rain. However, there is no data on how much may have ended up or gone into the marine environment.

Finally, testing nuclear devices is not carried out in the FSM.

NOUMEA CONVENTION BUDGET 2009 & 2010

EXPENDITURE (USD)

1 10th Meeting of the Parties, 2010

Per diem - participants (small island states)

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

Resource person x1 900

Interpretation/Translation

- Translation of Working Papers	2,000	
- Interpretation/translation during the meeting	2,500	
- Per diem for 4 translators x 1 day	<u>840</u>	5,340

Other Meeting Costs

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

\$ 12,880

2 Technical Advisory Services and Support to Parties, 2009-2010

\$ 4,000

TOTAL EXPENDITURE

\$ 16,880

NOUMEA CONVENTION CONTRIBUTIONS FOR 2009-2010

Australia	20.000%	3,376
Cook Islands	2.500%	422
Federated States of Micronesia	2.500%	422
Fiji	2.500%	422
France	20.000%	3,376
Marshall Islands	2.500%	422
Nauru	2.500%	422
New Zealand	20.000%	3,376
Papua New Guinea	2.500%	422
Solomon Islands	2.500%	422
United States of America	20.000%	3,376
Samoa	2.500%	422

TOTAL CONTRIBUTIONS

\$ 16,880