SOUTH PACIFIC REGIONAL ENVIRONMENT PROGRAMME AGREEMENT

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

AGREEMENT ESTABLISHING THE SOUTH PACIFIC REGIONAL ENVIRONMENT PROGRAMME, DONE AT APIA ON JUNE 16, 1993

NOVEMBER 7, 1997.—Agreement was read the first time and, together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate
LETTER OF TRANSMITTAL


To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Agreement Establishing the South Pacific Regional Environment Programme, done at Apia on June 16, 1993 (“the Agreement”). The report of the Department of State with respect to the Agreement is attached for the information of the Senate.

The South Pacific Regional Environment Programme (SPREP) has existed for almost 15 years to promote cooperation in the South Pacific region, to protect and improve the South Pacific environment and to ensure sustainable development in that region. Prior to the Agreement, SPREP had the status of an informal institution housed within the South Pacific Commission. When this institutional arrangement began to prove inefficient, the United States and the nations of the region negotiated the Agreement to allow SPREP to become an intergovernmental organization in its own right and enhance its ability to promote cooperation among its members.

The Agreement was concluded in June 1993 and entered into force in August 1995. Nearly every nation—except the United States—that has participated in SPREP and in the negotiation of the Agreement is now party to the Agreement. As a result, SPREP now enjoys a formal institutional status that allows it to deal more effectively with the pressing environmental concerns of the region. The United States and its territories can only participate in its activities as official observers.

The Agreement improves the ability of SPREP to serve the interests of American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam. Its ratification is supported by our territories and will demonstrate continued United States commitment to, and concern for, the South Pacific region.

Under its terms, the Agreement entered into force on August 31, 1995. To date, Australia, Cook Islands, Federated States of Micronesia, Fiji, France, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Papua New Guinea, Solomon Islands, Tonga, and Western Samoa have become parties to the Agreement.

I recommend that the Senate give early and favorable consideration to the Agreement and give its advice and consent to ratification.

WILLIAM J. CLINTON.
LETTER OF SUBMITTAL

DEPARTMENT OF STATE,

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you the Agreement Establishing the South Pacific Regional Environment Programme ("the Agreement"), done at Apia, Western Samoa, on June 16, 1993, and signed by the United States on that day.

The Agreement, which entered into force on August 31, 1995, provides for increased cooperation among the United States, Australia, New Zealand, France and twenty-two island States and territories of the South Pacific region in addressing issues affecting environment and development in the region. The Agreement accords the South Pacific Regional Environment Programme (SPREP) formal status as an intergovernmental organization. SPREP originated at the Conference on the Human Environment in the South Pacific held at Rarotonga, Cook Islands, March 1982, as an informal institution housed within the South Pacific Commission (SPC). As such, it was tied to the Regional Seas Program of the United Nations Environment Program, and was supported by the United Nations Economic and Social Commission for Asia and the Pacific, as well as by the South Pacific Forum and the South Pacific Conference.

In July 1991, the members of SPREP agreed to negotiate a treaty establishing SPREP as an autonomous intergovernmental organization. Autonomy was viewed as an important step in maintaining and improving SPREP's ability to serve its members, particularly in light of serious logistical constraints that had emerged as a result of SPREP's co-location with the SPC in Noumea, New Caledonia. The Agreement was concluded at a Plenipotentiary Conference held in Apia, Western Samoa, June 14–16, 1993.

The United States and its insular areas now participate in SPREP as observers. It is the view of the interested Departments and Agencies of the United States Government, as well as of American Samoa, Guam and the Commonwealth of the Northern Mariana Islands, that United States' interests would be best served by moving rapidly to become a Party to the Agreement, which entered into force on August 31, 1995.

The Agreement provides for cooperative activities of direct and positive benefits to American Samoa, Commonwealth of the Northern Mariana Islands, and Guam. By becoming a Party, the United States will promote more effective participation in regional activities by United States insular areas, who share both the culture and
the concerns of many of the island States and territories of the region. It will also demonstrate the continued commitment of the United States to the South Pacific and to working with the region to protect and conserve the marine environment that we share.

Article 1 of the Agreement establishes SPREP as an intergovernmental organization, with a regular conference of participants (“the SPREP Meeting”) and a secretariat located in Apia, Western Samoa. Prior to the Agreement, participants in SPREP met on an annual basis at locations that rotated among them. As a result of the Agreement, participants have agreed, as a way to reduce costs, to meet instead on a biennial basis, with alternate meetings to be held at the Secretariat in Apia.

The purposes of SPREP, as set forth in Article 2 of the Agreement, include the promotion of cooperation in the South Pacific region, the provision of assistance to protect and improve the environment, and the ensurance of sustainable development for present and future generations. SPREP is to achieve these purposes through Action Plans to be adopted from time to time by the SPREP Meeting. Article 2 enumerates several broad components which are to be included in these Action Plans.

The Agreement designates the SPREP Meeting as the forum for consultations on matters of common concern, for overseeing SPREP activities and for the adoption and review of the Action Plan. Article 3 of the Agreement provides that membership in the SPREP Meeting is open to Parties to the Agreement and, with the appropriate authorization of the Party responsible for their international relations, to American Samoa, French Polynesia, Guam, New Caledonia, the Commonwealth of the Northern Mariana Islands, Tokelau and Wallis and Futuna. (Although Article 3 includes Palau in the list of these entities, Palau has since become a sovereign State with responsibility for its own international relations, in accordance with the Compact of Free Association between Palau and the United States.)

In accordance with Article 4, the Parties to the Agreement undertake to ensure the full involvement of all Members in the work of the SPREP Meeting, which is to be conducted on the basis of consensus of all SPREP Members, taking into account the practices and procedures of the South Pacific region. If a decision is required in the SPREP Meeting, that decision is to be taken by a consensus of the Parties to the Agreement, with the Parties obligated to consider and take into account the views of all Members.

Articles 3 and 4 of the Agreement represent a compromise that resolved difficult issues relating to the role and participation of territories and entities in the region that are not responsible for their own foreign relations. Prior to the negotiation of the Agreement, the informal legal status of SPREP obviated the need to distinguish between independent States and such territories and entities in undertaking SPREP activities. The effort to establish SPREP as a formal intergovernmental organization on the basis of the Agreement raised complicated and sensitive issues of participation and decision-making.

Articles 3 and 4, reached after extensive negotiation, reflect the traditions and practices of the South Pacific region, which place great emphasis upon cooperation and consensus. While permitting
full participation of territories in the region that are not responsible for their own foreign relations in the SPREP Meeting and in the work of the SPREP Meeting, they comport with generally accepted principles of international law and practice regarding which members of the international community may become parties to treaties and which may exercise rights to participate in decision-making.

Article 5 addresses SPREP’s budget. The article tasks the Director of the SPREP Secretariat with preparing an estimated budget, provides for consensus adoption of the budget and related budgetary questions, and empowers the SPREP Meeting to adopt financial regulations for the administration of SPREP. As envisioned in Article 5, SPREP financial regulations authorize the organization to accept contributions from private and public sources, but do not impose assessed contributions on Parties to the Agreement. The United States has been involved with SPREP since its inception in 1982. Since that time, we have made regular contributions to the upkeep of SPREP and to specific projects implemented under its auspices. All such contributions have been voluntary in nature and subject to fluctuation according to our satisfaction with the activities in question and our ability to contribute.

Article 6 makes the SPREP Director the head of the SPREP Secretariat and assigns to the Director certain administrative and managerial tasks. Since the entry into force of the Agreement, the SPREP Meeting has adopted Rules of Procedure which limit the term of SPREP Directors to no more than two consecutive three-year terms. New Directors are appointed upon the recommendation of a SPREP subcommittee. Unless the United States becomes a party to the Agreement, we cannot participate on that subcommittee.

Article 7 sets out that the SPREP Secretariat will implement the general activities of SPREP. Among the general responsibilities entrusted to the Secretariat are: implementing the SPREP Action Plan, reporting on progress to SPREP members, carrying out research and studies required to implement the SPREP Action Plan, advising and assisting members with implementation, coordinating with organizations active in the region, gathering and disseminating relevant information, facilitating personnel development and public education, assisting in the use of scientific and technical data, and seeking financial and technical resources for SPREP.

Article 8 of the Agreement grants SPREP legal personality with authority necessary to discharge its functions and responsibilities, in particular the capacity to enter into contracts to acquire and dispose of property and to sue and be sued. Privileges and immunities for the officers and employees of SPREP, as well as for representatives to the SPREP Meeting, are to be those agreed upon between SPREP and the Party in whose territory the Secretariat is located (Western Samoa) and as may be extended by other Parties to the Agreement.

Article 9 ensures that nothing in the Agreement may be interpreted as prejudicing the sovereignty of the States over their respective territories, territorial seas, internal or archipelagic waters, or their sovereign rights regarding their respective exclusive economic zones and continental shelves.
Pursuant to Article 10, the Agreement was open for signature from June 16, 1993, until June 16, 1994, subject to ratification, acceptance, or approval and thereafter remains open to accession by States either located in the South Pacific Region or having territories in that area. The following are party to the Agreement at this time: Western Samoa, the Republic of Fiji, New Zealand, the Republic of Nauru, the Republic of Kiribati, Australia, Papua New Guinea, Tuvalu, the Federated States of Micronesia, Niue, the Cook Islands, Tonga, the Solomon Islands and France. Article 10 further designates the Government of Western Samoa as Depositary for the Agreement. Reservations to the Agreement are not permitted.

Article 11 provides that any Party may propose amendments to the Agreement. Amendments enter into force only after their adoption by consensus of the Parties at the SPREP Meeting and receipt by the Depositary of instruments of ratification, acceptance or approval by all Parties. A Party may withdraw from the Agreement upon one year’s notice.

I recommend, therefore, that the Agreement Establishing the South Pacific Regional Environment Programme (SPREP) be transmitted to the Senate as soon as possible for its advice and consent to ratification.

Respectfully submitted.

MADELEINE ALBRIGHT.
AGREEMENT ESTABLISHING THE SOUTH PACIFIC REGIONAL ENVIRONMENT PROGRAMME (SPREP)

Certified as True Copies of the Original.

(Mose Pouvi Sua)
SECRETARY FOR FOREIGN AFFAIRS
THE PARTIES,

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

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

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

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

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

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

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

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

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

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

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

Article 1

Establishment of SPREP

1. The South Pacific Regional Environment Programme (hereinafter referred to as SPREP) is hereby established as an intergovernmental organisation.

2. The organs of SPREP are the SPREP Meeting and the Secretariat.

3. The Secretariat shall be located in Apia, Western Samoa, unless the SPREP Meeting decides otherwise.

Article 2

Purposes

1. The purposes of SPREP are to promote co-operation in the South Pacific region and to provide assistance in order to protect and improve its environment and to ensure sustainable development for present and future generations. SPREP shall achieve these purposes through the Action Plan adopted from time to time by the SPREP Meeting, setting the strategies and objectives of SPREP.

2. The Action Plan shall include:

   (a) co-ordinating regional activities addressing the environment;

   (b) monitoring and assessing the state of the environment in the region including the impacts of human activities on the ecosystems of the region and encouraging development undertaken to be directed towards maintaining or enhancing environmental qualities;

   (c) promoting and developing programmes, including research programmes, to protect the atmosphere and terrestrial, freshwater, coastal and marine ecosystems and species, while ensuring ecologically sustainable utilisation of resources;
(d) reducing, through prevention and management, atmospheric, land based, freshwater and marine pollution;

(e) strengthening national and regional capabilities and institutional arrangements;

(f) increasing and improving training, educational and public awareness activities; and

(g) promoting integrated legal, planning and management mechanisms.

Article 3

SPREP Meetings

1. The SPREP Meeting shall be open to the Membership of the Parties to this Agreement and, with the appropriate authorisation of the Party having responsibility for its international affairs, of each of the following:
   American Samoa
   French Polynesia
   Guam
   New Caledonia
   Northern Mariana Islands
   Palau
   Tokelau
   Wallis and Futuna.

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

3. The SPREP Meeting shall be the plenary body and its functions shall be:
(a) to provide a forum for Members to consult on matters of common concern with regard to the protection and improvement of the environment of the South Pacific region and, in particular, to further the purposes of SPREP;

(b) to approve and review the Action Plan for SPREP and to determine the general policies of SPREP;

(c) to adopt the report of the Director on the operation of SPREP;

(d) to adopt the work programmes of SPREP and review progress in their implementation;

(e) to adopt the Budget estimates of SPREP;

(f) to make recommendations to Members;

(g) to appoint the Director;

(h) to give directions to the Director concerning the implementation of the Work Programme;

(i) to approve rules and conditions for the appointment of the staff of the Secretariat; and

(j) to carry out such other functions as are specified in this Agreement or are necessary for the effective functioning of SPREP.

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

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

(a) the Convention on Conservation of Nature in the South Pacific adopted at Apia on 12 June 1976;
(b) the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region adopted at Noumea on 24 November 1986 and related Protocols; and

(c) any other international or regional Agreement that may be concluded for the protection of the environment of the South Pacific region,

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

Article 4

Meeting Procedure

1. The SPREP Meeting shall elect from among its Members a Chairperson and such other officers as it decides, who shall remain in office until the next SPREP Meeting. In principle, the role of the Chairperson shall rotate as decided by the SPREP Meeting.

2. The SPREP Meeting shall adopt its own Rules of Procedure.

3. (a) The Parties shall ensure the full involvement of all Members in the work of the SPREP Meeting. The work of the SPREP Meeting shall be conducted on the basis of consensus of all Members, taking into account the practices and procedures of the South Pacific region.

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

4. The attendance by observers in SPREP Meetings shall be provided for in the Rules of Procedure.
5. The SPREP Meeting shall be convened by the Director.

6. The working languages of SPREP shall include English and French.

Article 5

Budget

1. The Budget estimates for SPREP shall be prepared by the Director.

2. Adoption of the Budget of SPREP and determination of all other questions relating to the Budget shall be by consensus.

3. The SPREP Meeting shall adopt financial regulations for the administration of SPREP. Such regulations may authorise SPREP to accept contributions from private and public sources.

Article 6

Director

1. The Director of SPREP shall be the head of the Secretariat.

2. The Director shall appoint staff to the Secretariat in accordance with such rules and conditions as the SPREP Meeting may determine.

3. The Director shall report annually to the South Pacific Conference and the South Pacific Forum on the activities of SPREP.

4. The Director shall be responsible to the SPREP Meeting for the administration and management of SPREP and such other functions as the SPREP Meeting may decide.
Article 7

Functions of the Secretariat

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

(a) to promote, undertake and co-ordinate the implementation of the SPREP Action Plan through the annual Programmes of Work, and review and report regularly on progress thereon to Members;

(b) to carry out research and studies as required to implement the SPREP Action Plan through the annual Programmes of Work;

(c) to advise and assist Members on the implementation of activities carried out under the SPREP Action Plan or consistent with its purpose;

(d) to provide a means of regular consultation among Members on the implementation of activities under the SPREP Action Plan and on other relevant issues;

(e) to co-ordinate and establish working arrangements with relevant national, regional and international organisations;

(f) to gather and disseminate relevant information for Members and other interested Governments and organisations;

(g) to promote the development and training of personnel of Members and to promote public awareness and education, including the publication of materials;

(h) to assist Members in the acquisition, interpretation and evaluation of scientific and technical data and information;

(i) to undertake such other activities and follow such procedures as the SPREP Meeting may decide; and

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

(a) the Convention on Conservation of Nature in the South Pacific;

(b) the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, the Protocol for the Prevention of Pollution of the South Pacific Region by Dumping, and the Protocol Concerning Co-operation in Combating Pollution Emergencies in the South Pacific Region; and

(c) any other international or regional Agreement that may be concluded for the protection of the environment of the South Pacific region.

Article 8

Legal Status, Privileges and Immunities

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

2. SPREP, its officers and employees, together with representatives to the SPREP Meeting, shall enjoy such privileges and immunities necessary for the fulfillment of their functions, as may be agreed between SPREP and the Party in whose territory the Secretariat is located, and as may be provided by other Parties.
Article 9

Sovereign Rights and Jurisdiction of States

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

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

(b) over their continental shelves for the purpose of exploring them and exploiting the natural resources thereof.
Article 10

Signature, Ratification, Acceptance,

Approval and Accession

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

Australia
Cook Islands
Federated States of Micronesia
Republic of Fiji
Republic of France
Republic of Kiribati
Republic of the Marshall Islands
Republic of Nauru
New Zealand

Niue
Papua New Guinea
Solomon Islands
Kingdom of Tonga
Tuvalu
United Kingdom of Great Britain and Northern Ireland on behalf of Pitcairn Islands
United States of America
Republic of Vanuatu
Western Samoa.

2. This Agreement is subject to ratification, acceptance, or approval by the Signatories.

3. Reservations to this Agreement shall not be permitted.

4. This Agreement shall enter into force thirty days from the date of deposit of the tenth instrument of ratification, acceptance, approval, or accession with the Depositary, and thereafter for each State, thirty days after the date of deposit of its instrument of ratification, acceptance, approval, or accession with the Depositary.
5. Following the expiry of the period when this Agreement is open for signature, and provided that this Agreement has entered into force, this Agreement shall be open for accession by any State other than those referred to in this Article which, desiring to accede to this Agreement, may so notify the Depositary, which shall in turn notify the Parties. In the absence of a written objection by a Party within six months of receipt of such notification, a State may accede by deposit of an instrument of accession with the Depositary, and accession shall take effect thirty days after the date of deposit.

6. The Government of Western Samoa is hereby designated as the Depositary.

7. The Depositary shall transmit certified copies of this Agreement to all Members and shall register this Agreement in accordance with Article 102 of the Charter of the United Nations.

Article 11
Amendment and Withdrawal

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

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

3. Any Party to this Agreement may withdraw from this Agreement by giving written notice to the Depositary. Withdrawal shall take effect one year after receipt of such notice by the Depositary.
IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments, have signed this Agreement.

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

For the Government of Australia: ........................................
this ........ day of .............. 1993

For the Government of the Cook Islands: ........................................
this ........ day of .............. 1993

For the Government of the Federated States of Micronesia: ........................................
this ........ day of .............. 1993

For the Government of the Republic of Fiji: ........................................
this ........ day of .............. 1993
For the Government of the Republic of France:
this [signature] day of June 1993

For the Government of the Republic of Kiribati:
this [signature] day of June 1993

For the Government of the Republic of the Marshall Islands:
this [signature] day of June 1993

For the Government of the Republic of Nauru:
this [signature] day of June 1993
For the Government of New Zealand:

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this ........ day of ............. 1993

For the Government of Niue:

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this .......... day of .......... 1993

For the Government of Papua New Guinea:

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this ........ day of ............. 1993

For the Government of Solomon Islands:

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this .......... day of .......... 1993
For the Government of the Kingdom
of Tonga:
this ........ day of ........... 1993

For the Government of Tuvalu:
this ........ day of ........... 1993

For the Government of the United
Kingdom of Great Britain and
Northern Ireland on behalf
of Pitcairn Islands:
this ........ day of ........... 1993

For the Government of the United States of
America:
this ........ day of ........... 1993
For the Government of the Republic of Vanuatu:

[Signature]
this ... day of ... 1993

For the Government of Western Samoa:

[Signature]
this ... day of June 1993