



# High level briefing on the status of deep sea minerals in the Pacific Islands region and Planning for a regionally integrated way forward

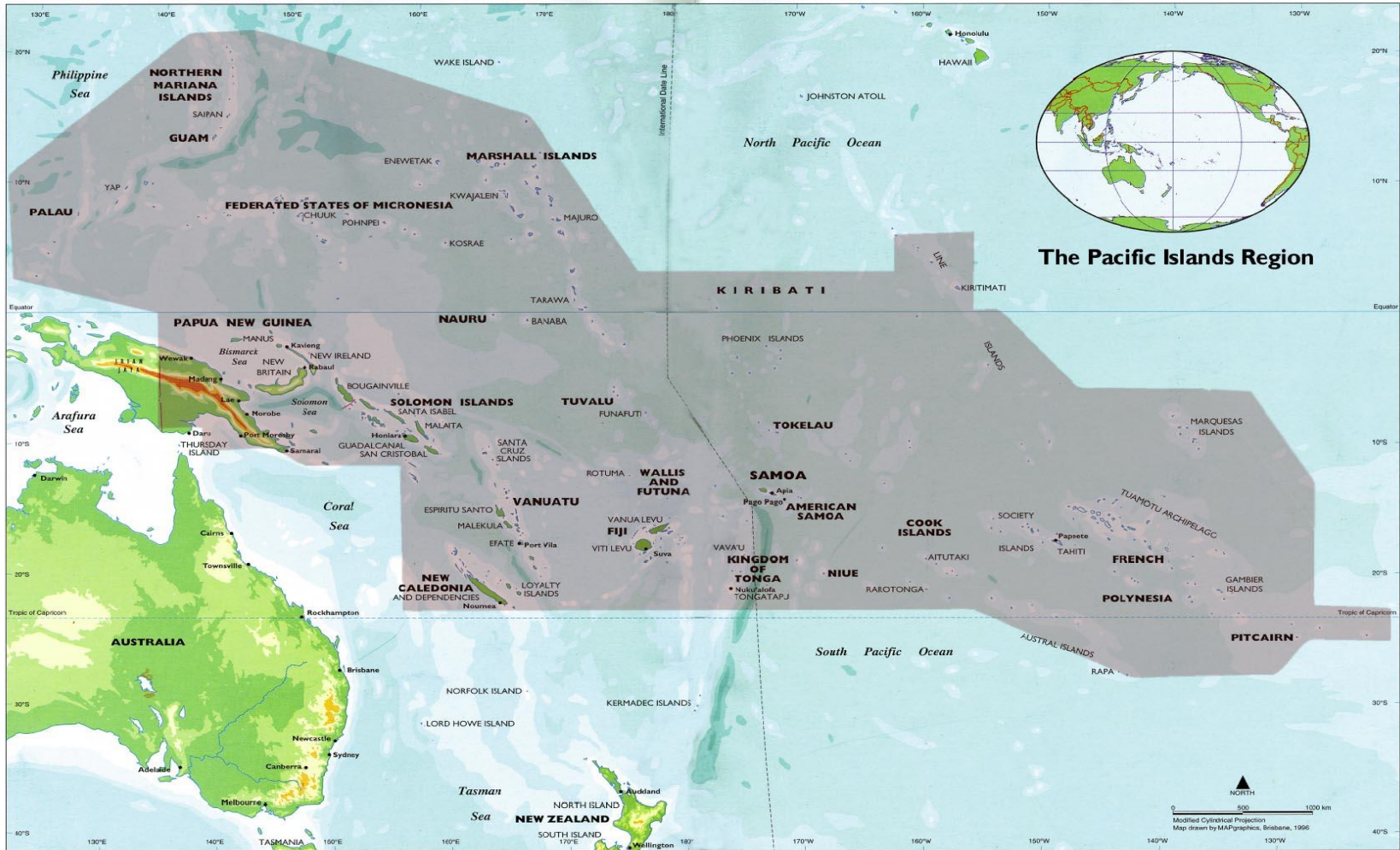
Tanoa International Hotel, Nadi, Fiji  
6 -10 June 2011

## Challenges of Policy & Legislation development in PICs and suggestions for improvement

Clark peteru  
Legal Advisor, SPREP  
clarkp@sprep.org  
www.sprep.org



# Seabed Mining in the Pacific, the beginning...





## Vision

*The Pacific environment, sustaining our livelihoods and natural heritage in harmony with our cultures*

## Mandate

*To promote co-operation in the Pacific region and provide assistance in order to protect and improve its environment and to ensure sustainable development for present and future generations*





## 4 Pillars

- Biodiversity
- Waste
- Climate Change
- Governance



## Areas of focus

- Legal
- Waste
- Sustainable development



## Challenges of Policy & Legislation development

### Policy formulation in the environment sector

- 20 years since Rio
- Engagement in international environmental policy-making
- National Multi-sector stakeholder consultations prior and after
- Novel areas: access to information



## Challenges of Policy & Legislation development

### Legislative drafting

- In-house counsel
- Country access to funding for TA, consultants
- By request...





## Challenges of Policy & Legislation development

- > Liaison with environment agency
- > Specialist drafter familiar with environmental issues and country
- > Liaison with Attorney General's office
- > Liaison with Foreign Affairs office
- > Drafting instructions
- > Environmental legislative review
- > Multi-agency consultations
- > Draft
- > Multi-agency consultation
- > Final draft for environment agency to progress
- ...later, implementation, enforcement



## Resources

- Drafting handbook
- [www.sprep.org](http://www.sprep.org)
  - Legal documents>national
  - Legal documents>regional



## Modalities of law making

<p>Regional Treaty</p>	<p>State level          To address a problem          Regional meetings          May or may need domestic law          May use administrative measures          Secretariat</p>
<p>Regional Model law (RLRF)</p>	<p>Sector level          Generic          Harmonised regime          Regional meetings          Secretariat (eg, fisheries, TK)          Madang GL as a Protocol?</p>
<p>National law</p>	<p>country-specific          a priority          short assignment</p>



## Waste

Pollution sources: sea-bed, ship, land

- Sea-bed: develop something under UNCLOS or Noumea Convention or Madang Guidelines
- Ship: Noumea Protocols, IMO conventions
- Land: National laws

Special categories: hazardous, radioactive



## Waste & Noumea Convention (12 Parties)

- 5.1 to prevent, reduce and control pollution of the Convention Area, from any source, and to ensure sound environmental management and development of natural resources,
- 8: to prevent, reduce and control pollution in the Convention Area resulting directly or indirectly from exploration and exploitation of the sea-bed and its subsoil.
- 16.1:... technical guidelines and legislation giving adequate emphasis to environmental and social factors to facilitate balanced development of their natural resources and planning of their major projects which might affect the marine environment in such a way as to prevent or minimise harmful impacts on the Convention Area.
- 20: ...appropriate rules and procedures in conformity with international law in respect of liability and compensation for damage resulting from pollution of the Convention Area.





## Sustainable Development

- Rio Declaration, Pacific Plan
- Intergenerational equity & Non-renewable resource
- Challenges: Technical - revenue - benefit
- Benefits: distribution and sustainability  
Transparency: EITI+, NGOs, media: corporate as well as government governance
- Special SBM fund. How to use? Stakeholders?
  - Improved health and education, then
  - Develop productive sector
  - Upskilling workforce
  - Develop services
  - Investments
  - Relocating

