



THE CANBERRA AGREEMENT
AND RELATED RESOLUTIONS
ADOPTED BY CONFERENCE

First edition – January 1976
Second edition – December 1976
Third edition – September 1980
Fourth edition – August 1984
Fifth edition – July 1999

Secretariat of the Pacific Community (SPC)
Noumea, New Caledonia
July 1999

10
11
12

13
14
15

CONSOLIDATION OF AGREED PROVISIONS AND PRACTICES
RELATING TO THE ESTABLISHMENT AND OPERATION OF
THE SOUTH PACIFIC COMMISSION, INCLUDING THE
CANBERRA AGREEMENT OF 1947 AS AMENDED

[Incorporating all Amendments made up to and including the modifications agreed to at the Thirty-Fifth Session of the South Pacific Commission, October 1972 and the Amendment which Entered into Force on 4 June, 1980]

[Note: Important related documents are the Memoranda of Understanding signed by representatives of participating Governments at Rarotonga, Cook Islands, on 2 October, 1974 and at Noumea, New Caledonia on 20 October, 1976, which, subject to any provision therein to the contrary, will be construed as one with the Canberra Agreement. The texts of the two Memoranda are appended to this document as Appendices A and B respectively.]

The Governments of Australia, the French Republic, New Zealand, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, (hereinafter referred to as "the participating Governments"),

Desiring to encourage and strengthen international co-operation in promoting the economic and social welfare and advancement of the peoples of the non-self-governing territories in the South Pacific region administered by them,

Have, through their duly authorized representatives met together in Canberra, made an Agreement in the following terms:

ARTICLE I

Establishment of the Commission

1. There is hereby established the South Pacific Commission (hereinafter referred to as "the Commission").

ARTICLE II

Territorial Scope

2. The territorial scope of the Commission shall comprise:
- (a) all those territories in the Pacific Ocean which are administered by the participating Governments and which lie wholly or in part south of the Equator and east from and including the Australian Territory of Papua and the Trust Territory of New Guinea; and Guam and the Trust Territory of the Pacific Islands; and
 - (b) all the territory of any State, the Government of which accedes to this Agreement pursuant to the provisions of Article XXI, paragraph 66.

3. The territorial scope of the Commission may be altered by agreement of all the participating Governments.

ARTICLE III

Composition of the Commission

4. Each participating Government may appoint two Commissioners and shall designate one of them as its Senior Commissioner.

5. Each participating Government may appoint such alternates and advisers to its Commissioners as it considers desirable.

ARTICLE IV

Powers and Functions

6. The Commission shall be a consultative and advisory body to the participating Governments in matters affecting the economic and social development of the territories within the scope of the Commission and the welfare and advancement of their peoples. To this end, the Commission shall have the following powers and functions:

- (a) to study, formulate and recommend measures for the development of, and where necessary the co-ordination of services affecting, the economic and social rights and welfare of the inhabitants of the territories within the scope of the Commission, particularly in respect of agriculture (including animal husbandry), communications, transport, fisheries, forestry, industry, labour, marketing, production, trade and finance, public works, education, health, housing and social welfare;
- (b) to provide for and facilitate research in technical, scientific, economic and social fields in the territories within the scope of the Commission and to ensure the maximum co-operation and co-ordination of the activities of research bodies;
- (c) to make recommendations for the co-ordination of local projects in any of the fields mentioned in the previous sub-paragraphs which have regional significance and for the provision of technological assistance from a wider field not otherwise available to a Territorial Administration;
- (d) to provide technical assistance, advice and information (including statistical and other material) for the participating Governments;
- (e) to promote co-operation with non-participating Governments and with non-governmental organizations of a public or quasi-public character having common interests in the area, in matters within the competence of the Commission;

(f) to address inquiries to the participating Governments on matters within its competence;

(g) to make recommendations with regard to the establishment and activities of auxiliary and subsidiary bodies.

[Individual territories and the South Pacific Commission may enter into arrangements for technical assistance from the Commission on the basis of the territory making counterpart contributions.] (1)

7. The Commission may discharge such other functions as may be agreed upon by the participating Governments.

8. The Commission may make such administrative arrangements as may be necessary for the exercise of its powers and the discharge of its functions.

9. With a view to facilitating the inauguration of the work of the Commission in matters immediately affecting the economic and social welfare of the local inhabitants of the territories within the scope of the Commission, the Commission shall give early consideration to the projects set forth in the resolution (appended to this Agreement) relating to important immediate projects adopted by the South Seas Conference at Canberra, Australia, on February 6, 1947.

10. The participating Governments undertake to secure such legislative and administrative provision as may be required to ensure that the Commission will be recognized in their territories as possessing such legal capacity and as being entitled to such privileges and immunities (including the inviolability of its premises and archives) as are necessary for the independent exercise of its powers and discharge of its functions.

ARTICLE V

Procedure of the Commission

11. Irrespective of the place of meeting, each Senior Commissioner shall preside over sessions of the Commission for one calendar year in rotation, according to the English alphabetical order of the participating Governments.

12. The Commission may meet at such times and in such places as it may determine. It shall hold one regular session in each year, and such further sessions as two-thirds of all the Senior Commissioners may decide to be necessary. [The annual regular Session of the Commission shall be held immediately following the Session of the South Pacific Conference.] (2)

(1) See Annex to the Agreement Establishing the South Pacific Commission, published as Annex II to the Proceedings of the Thirty-Fifth Session of the South Pacific Commission, held at Apia, Western Samoa, 2 - 5 October 1972.

(2) See Annex to the Agreement Establishing the South Pacific Commission, published as Annex II to the Proceedings of the Thirty-Fifth Session of the South Pacific Commission, held at Apia, Western Samoa, 2 - 5 October 1972.

13. At a meeting of the Commission, two-thirds of all the Senior Commissioners shall constitute a quorum.

14. The decisions of the Commission shall be taken in accordance with the following rules:

- (a) each of the participating Governments shall have the number of votes set out below. Each participating Government shall transfer one of its votes to the Government of each territory which shall cease to be administered by it and shall be admitted to the Commission as a participating Government.(3)

Australia

(in respect of itself and its territories) 2 votes*

*with the proviso that Australia will not exercise the second vote until such time as Norfolk Island participates in the Conference.

Fiji

1 vote

The French Republic

(in respect of itself and its territories) 4 votes

Nauru

1 vote

New Zealand

(in respect of itself and its territories) 4 votes

Papua New Guinea

1 vote

Solomon Islands

1 vote

Tuvalu

1 vote

The United Kingdom

(in respect of itself and its territories) 1 vote

The United States

(in respect of itself and its territories) 4 votes

Western Samoa

1 vote

The number of votes assigned to each of the participating Governments and the total number of votes may be altered by the unanimous agreement of the participating Governments;

- (b) only Senior Commissioners shall be entitled to cast the votes referred to in sub-paragraph (a) of this paragraph;
- (c) procedural matters shall be decided by a majority of votes cast;
- (d) decisions on budgetary or financial matters which may involve a financial contribution by the participating Governments (other than a decision to adopt the annual administrative budget of the Commission) shall require the concurring votes of all the Senior Commissioners;

(3) See paragraph 33 of the Proceedings of the Thirty-Fifth Session of the South Pacific Commission, held at Apia, Western Samoa, 2 - 5 October 1972. The number of votes assigned to each participating Government has been amended in the light of current practice, brought about by the Accession to the Canberra Agreement of the independent Pacific countries of Fiji, Nauru, Papua New Guinea, Solomon Islands, Tuvalu and Western Samoa.

- (e) decisions on all other matters (including a decision to adopt the annual administrative budget of the Commission) shall be taken by two-thirds of all the votes referred to in sub-paragraph (a) of this paragraph.

15. In the absence of a Senior Commissioner, his functions shall be discharged for all purposes of this Article by the other Commissioner appointed by his Government or, in the absence of both, by an Alternate designated by his Government or the Senior Commissioner.

16. The Commission may appoint committees and, subject to the provisions of this Agreement, may promulgate rules of procedure and other regulations governing the operations of the Commission, of its auxiliary and subsidiary bodies and such committees as it shall establish, and of the Secretariat and generally for the purpose of carrying into effect the terms of this Agreement.

17. The official languages of the Commission and its auxiliary and subsidiary bodies shall include English and French.

18. The Commission shall make to each of the participating Governments, and publish, an annual report on its activities, including those of its auxiliary and subsidiary bodies.

ARTICLE VI

Research Council

19. In view of the special importance of research for the carrying out of the purposes of the Commission, there shall be established a Research Council which shall serve as a standing advisory body auxiliary to the Commission.

ARTICLE VII

Composition of the Research Council

20. Members of the Research Council shall be appointed by the Commission on such terms and conditions as the Commission may decide.

21. (a) The Commission shall appoint, as members of the Research Council, such persons distinguished in the fields of research within the competence of the Commission as it considers necessary for the discharge of the Council's functions;

(b) among the members of the Council so appointed, there shall be a small number of persons highly qualified in the several fields of health, economic development and social development who shall devote their full time to the work of the Research Council.

22. The Research Council shall elect a Chairman from its members.

23. The Commission shall appoint a full-time official who shall direct research and be charged with the general responsibility for supervising the execution of the programme of the Research Council. He shall be, ex officio, a member of the Deputy Chairman of the Council and, subject to the directions of the Commission, shall be responsible for arranging and facilitating co-operative research, for arranging and carrying out research projects of a special nature, for collecting and disseminating information concerning research and for facilitating the exchange of experience among research workers of the area. He shall be responsible to the Secretary-General for all administrative matters connected with the work of the Research Council and of its committees.

24. In all technical matters, full-time members shall be under the direction of the Deputy Chairman of the Research Council. In all administrative matters, they shall be responsible to the Secretary-General.

25. Recommendations of the Research Council in connexion with research projects to be undertaken shall be first submitted to the Commission for approval.

ARTICLE VIII

Functions of the Research Council

26. The functions of the Research Council shall be:
- (a) to maintain a continuous survey of research needs in the territories within the scope of the Commission and to make recommendations to the Commission on research to be undertaken;
 - (b) to arrange, with the assistance of the Secretary-General, for the carrying out of the research studies approved by the Commission, using existing institutions where appropriate and feasible;
 - (c) to co-ordinate the research activities of other bodies working within the field of the Commission's activities and, where possible, to avail itself of the assistance of such bodies;
 - (d) to appoint technical standing research committees to consider problems in particular fields of research;
 - (e) to appoint, with the approval of the Commission, ad hoc research committees to deal with special problems;
 - (f) to make to each Session of the Commission a report of its activities.

ARTICLE IX

The South Pacific Conference

27. In order to associate with the work of the Commission representatives of the local inhabitants of, and of official and non-official institutions directly concerned with, the territories within the scope of the Commission, there shall be established a South Pacific Conference with advisory powers as a body auxiliary to the Commission.

ARTICLE X

Sessions of the Conference

28. [There will be a Session of the Conference each year and it will be held immediately before and at the same venue as the regular Session of the Commission.] (4)

29. Each Session of the Conference shall be held in one of the territories within the scope of the Commission at a place designated by the Commission with due regard to the principle of rotation.

30. [The Conference is empowered to elect the Chairman and Deputy Chairman of each Session of the Conference. Commissioners and the representatives of all member Territories and Governments of the South Pacific Conference, including the representatives of those Territories and Governments that are not in a position to be the venue of the Conference, may accede to the Chairmanship of the Conference.] (5)

When the Conference is held in a State or Territory other than New Caledonia, the Chairman shall be a representative of the host State or Territory. When the Conference is held at Headquarters the Chairman shall be a representative of a territory not in a position to be the venue of the Conference.

31. The Secretary-General shall be responsible for the administrative arrangements of the Conference.

(4) See Annex to the Agreement Establishing the South Pacific Commission, published as Annex II to the Proceedings of the Thirty-Fifth Session of the South Pacific Commission, held at Apia, Western Samoa, 2 - 5 October 1972.

(5) See Annex to the Agreement Establishing the South Pacific Commission, published as Annex II to the Proceedings of the Thirty-Fifth Session of the South Pacific Commission, held at Apia, Western Samoa, 2 - 5 October 1972.

32. The Conference shall adopt its own Rules of Procedure. The Agenda shall be formally approved by the Conference within the competence of the Commission as defined in paragraph 6 of Article IV of the Canberra Agreement.⁷⁽⁶⁾

33. The Conference may make recommendations to the Commission on procedural questions affecting its Sessions. It may also recommend to the Commission the inclusion of specific items on the Agenda for the Conference.

ARTICLE XI

Composition of the Conference

34. Delegates to the Conference shall be appointed for each territory which is within the scope of the Commission and which is designated for this purpose by the Commission. The maximum number of delegates for each territory shall be determined by the Commission. In general, the representation shall be at least two delegates for each designated territory.

35. Delegates shall be selected in such a manner as to ensure the greatest possible measure of representation of the local inhabitants of the territory.

36. Delegates shall be appointed for each designated territory in accordance with its constitutional procedure.

37. The delegations for each designated territory may include alternate delegates and as many advisers as the appointing authority considers necessary. Those territories which have attained self-governing status, or countries within the Commission region that are independent shall have the right to participate fully in all meetings and activities of the South Pacific Conference.⁷⁽⁷⁾

ARTICLE XII

Functions of the Conference

38. The Conference may discuss such matters of common interest as fall within the competence of the Commission, and may make recommendations to the Commission on any such matters.

(6) See Annex to the Agreement Establishing the South Pacific Commission, published as Annex II to the Proceedings of the Thirty-Fifth Session of the South Pacific Commission, held at Apia, Western Samoa, 2 - 5 October 1972.

(7) See Annex to the Agreement Establishing the South Pacific Commission, published as Annex II to the Proceedings of the Thirty-Fifth Session of the South Pacific Commission, held at Apia, Western Samoa, 2 - 5 October 1972.

ARTICLE XIII

The Secretariat

39. The Commission shall establish a Secretariat to serve the Commission and its auxiliary and subsidiary bodies.

40. The Commission shall, subject to such terms and conditions as it may prescribe, appoint a Secretary-General and a Deputy Secretary-General. They shall hold office for five years unless their appointments are earlier terminated by the Commission. They shall be eligible for reappointment.

41. The Secretary-General shall be the chief administrative officer of the Commission and shall carry out all directions of the Commission. He shall be responsible for the functioning of the Secretariat, and shall be empowered, subject to such directions as he may receive from the Commission, to appoint and dismiss, as necessary, members of the staff of the Secretariat.

42. In the appointment of the Secretary-General, the Deputy Secretary-General and the staff of the Secretariat, primary consideration shall be given to the technical qualifications and personal integrity of candidates. To the fullest extent consistent with this consideration, the staff of the Secretariat shall be appointed from the local inhabitants of the territories within the scope of the Commission and with a view to obtaining equitable national and local representation.

43. Each participating Government undertakes so far as possible under its constitutional procedure to accord to the Secretary-General, to the Deputy Secretary-General, to the full-time members of the Research Council and to appropriate members of the staff of the Secretariat such privileges and immunities as may be required for the independent discharge of their functions. The Commission may make recommendations with a view to determining the details of the application of this paragraph or may propose conventions to the participating Governments for this purpose.

44. In the performance of their duties, the Secretary-General, the Deputy Secretary-General, the full-time members of the Research Council and the staff of the Secretariat shall not seek or receive instructions from any Government or from any other authority external to the Commission. They shall refrain from any action which might reflect on their position as international officials responsible only to the Commission.

45. Each participating Government undertakes to respect the exclusively international character of the responsibilities of the Secretary-General, the Deputy Secretary-General, the full-time members of the Research Council, and the staff of the Secretariat and not to seek to influence them in the discharge of their responsibilities.

ARTICLE XIV

Finance

46. The Commission shall adopt an annual budget for the administrative expenses of the Commission and its auxiliary and subsidiary bodies, and such supplementary budgets as it may determine. The Secretary-General shall be responsible for preparing and submitting to the Commission for its consideration the annual administrative budget and such supplementary budgets as the Commission may require.

[The Secretariat, in consultation with Territorial Administrations and Governments and participating Governments as necessary, shall prepare an annual Work Programme and Budget and a budget forecast for as many of the succeeding years as current Commission Policy may determine.

The draft Work Programme and Budget and budget forecast having been submitted in advance for study by members of the Conference and the participating Governments will be fully examined at the Session of the Conference with a view to making agreed recommendations to the Commission for final decision.

Budgetary decisions of the Conference and Commission extending beyond the forthcoming year shall be taken in principle only and shall be subject to revision by succeeding Sessions of the Conference and Commission unless specific and explicit provision to the contrary is made.]⁽⁸⁾

47. Except for the salaries, allowances and miscellaneous expenditures of the Commissioners and their immediate staffs, which shall be determined and paid by the respective Governments appointing them, the expenses of the Commission and its auxiliary and subsidiary bodies (including the expenses of delegates to the South Pacific Conference on a scale approved by the Commission) shall be a charge on the funds of the Commission.

48. There shall be established, to meet the expenses of the Commission, a fund to which each participating Government undertakes, subject to the requirements of its constitutional procedure, to contribute promptly its proportion of the estimated expenditure of the Commission, as determined in the annual administrative budget and in any supplementary budgets adopted by the Commission.

(8) See Annex to the Agreement Establishing the South Pacific Commission, published as Annex II to the Proceedings of the Thirty-Fifth Session of the South Pacific Commission, held at Apia, Western Samoa, 2 - 5 October 1972.

49. The expenses of the Commission and its related bodies shall be apportioned among the participating Governments in such manner as the participating Governments may unanimously determine. Budgetary contributions by Territorial Administrations and Governments shall be on a voluntary basis and may be applied to specific projects determined by the contributing territories.7(9)

50. The fiscal year of the Commission shall be the calendar year.

51. Subject to the directions of the Commission, the Secretary-General shall be responsible for the control of the funds of the Commission and of its auxiliary and subsidiary bodies and for all accounting and expenditure. Audited statements of accounts for each fiscal year shall be forwarded to each participating Government as soon as possible after the close of the fiscal year.

52. The Secretary-General, or an officer authorized by the Commission to act as Secretary-General pending the appointment of the Secretary-General, shall at the earliest practicable date after the coming into force of this Agreement submit to the Commission an administrative budget for the current fiscal year and any supplementary budget which the Commission may require. The Commission shall thereupon adopt for the current fiscal year an administrative budget and such supplementary budget as it may determine.

53. Pending adoption of the first budget of the Commission, the administrative expenses of the Commission shall be met, on terms to be determined by the Commission, from an initial working fund of £40,000 sterling to which the participating Governments undertake to contribute in the proportions provided for in paragraph 49 of this Agreement.

54. The Commission may in its discretion accept for inclusion in its first budget any expenditure incurred by the Governments of Australia or New Zealand for the purpose of paragraph 64 of this Agreement. The Commission may credit any such expenditure against the contribution of the Government concerned. The aggregate of the amounts which may be so accepted and credited shall not exceed £5,000 sterling.

(9) See Annex to the Agreement Establishing the South Pacific Commission, published as Annex II to the Proceedings of the Thirty-Fifth Session of the South Pacific Commission, held at Apia, Western Samoa, 2 - 5 October 1972.

ARTICLE XV

Relationship with Other International Bodies

55. The Commission and its auxiliary and subsidiary bodies, while having no organic connexion with the United Nations, shall co-operate as fully as possible with the United Nations and with appropriate specialized agencies on matters of mutual concern within the competence of the Commission.

56. The participating Governments undertake to consult with the United Nations and the appropriate specialized agencies at such times and in such manner as may be considered desirable, with a view to defining the relationship which may in future exist and to ensuring effective co-operation between the Commission, including its auxiliary and subsidiary bodies, and the appropriate organs of the United Nations and specialized agencies dealing with economic and social matters.

57. The Commission may make recommendations to the participating Governments as to the manner in which effect can best be given to the principles stated in this Article.

ARTICLE XVI

Headquarters

58. The permanent Headquarters of the Commission and its auxiliary and subsidiary bodies shall be located within the territorial scope of the Commission at such place as the Commission may select. The Commission may establish branch offices and, except as otherwise provided in this Agreement, may make provision for the carrying on of any part of its work or the work of its auxiliary and subsidiary bodies at such place or places within or without the territorial scope of the Commission as it considers will most effectively achieve the objectives for which it is established. The Commission shall select the site of the permanent Headquarters within six months after this Agreement comes into force. Pending the establishment of its permanent Headquarters, it shall have temporary Headquarters in or near Sydney, Australia.

ARTICLE XVII

Saving Clause

59. Nothing in this Agreement shall be construed to conflict with the existing or future constitutional relations between any participating Government and its territories or in any way to affect the constitutional authority and responsibility of the Territorial Administrations.

ARTICLE XVIII

Alteration of Agreement

60. The provisions of this Agreement may be amended by consent of all the participating Governments.

ARTICLE XIX

Withdrawal

61. After the expiration of five years from the coming into force of this Agreement, a participating Government may withdraw from the Agreement on giving one year's notice to the Commission.

62. If any participating Government ceases to administer non-self-governing territories within the scope of the Commission, that Government shall so notify the Commission and shall be deemed to have withdrawn from the Agreement as from the close of the then current calendar year.

63. Notwithstanding the withdrawal of a participating Government, this Agreement shall continue in force as between the other participating Governments.

ARTICLE XX

Interim Provisions

64. Preliminary arrangements for the establishment of the Commission shall be undertaken jointly by the Governments of Australia and New Zealand.

ARTICLE XXI

Entry into Force

65. The Governments of Australia, the French Republic, New Zealand, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall become parties to this Agreement by:

(a) signature without reservation, or

(b) signature ad referendum and subsequent acceptance.

Acceptance shall be effected by notification to the Government of Australia. The Agreement shall enter into force when all the abovementioned Governments have become parties to it.+

+ The Governments of Australia, New Zealand, the United Kingdom and the United States signed the Agreement without reservation. The Government of the French Republic deposited an Instrument of Acceptance on 15 July 1965.

66. Any government, the territory of which is within the territorial scope of the Commission as defined in Article II and which is either fully independent or in free association with a fully independent Government, may accede to this Agreement, if it is invited to do so by all participating Governments, by depositing an Instrument of Accession with the Government of Australia.* This Agreement shall enter into force for each acceding Government upon the date of the deposit of its Instrument of Accession. Such Government shall thereupon be deemed a participating Government for the purposes of this Agreement other than those specified in Article XIX, paragraph 62. The Government of Australia shall notify the participating Governments of the date of deposit of each Instrument of Accession to this Agreement.

67. The Government of Australia shall notify the other above-mentioned Governments of each acceptance of this Agreement, and also of the date on which the Agreement comes into force.

68. The Government of Australia shall, on behalf of all the participating Governments, register this Agreement with the Secretariat of the United Nations in pursuance of Article 102 of the Charter of the United Nations.

This Agreement, of which the English and French texts are equally authentic, shall be deposited in the archives of the Government of Australia. Duly certified copies thereof shall be transmitted by the Government of Australia to the other participating Governments.**

* Instruments of Accession to the 1947 Agreement Establishing the South Pacific Commission as amended were deposited by the Independent State of Western Samoa on 17 July 1965; by the Republic of Nauru on 24 July 1969; by the Dominion of Fiji on 5 May 1971; by the Government of Papua New Guinea on 25 September 1975; by the Government of Tuvalu on 17 November 1978; by the Government of Solomon Islands on 21 November 1978.

** Done at London this 6th day of October, 1964, in the English and French languages, each equally authentic, the original of which shall be deposited in the archives of the Government of Australia. The Government of Australia shall transmit certified copies thereof to all other signatory Governments and to the Government of Western Samoa.

IN WITNESS WHEREOF the duly authorized representatives of the respective participating Governments have signed this Agreement.

Opened in Canberra for signature on the sixth day of February, one thousand nine hundred and forty-seven.***

*** The Agreement has been amended by the following documents:

Agreement Extending the Territorial Scope of the South Pacific Commission, Noumea, 7 November 1951 (Aust. T.S. 1951, No.18. The Agreement was signed for Australia, 7 November 1951, and entered into force on that date).

Agreement Relating to the Frequency of Sessions of the South Pacific Commission, Canberra, 5 April 1954 (Aust. T.S. 1954, No.18. The Agreement was signed for Australia on 5 April 1954, and entered into force 1 July 1954).

Agreement Amending the Agreement Establishing the South Pacific Commission, London, 6 October 1964 (Aust. T.S. 1965, No.11. The Agreement was signed for Australia on 6 October 1964, and entered into force 15 July 1965).

Annex to the Agreement Establishing the South Pacific Commission, published as Annex II to the Proceedings of the Thirty-Fifth Session of the South Pacific Commission, held at Apia, Western Samoa, 2 - 5 October 1972.

Agreement Amending the Agreement Establishing the South Pacific Commission, Noumea, 12 October 1978 (The Agreement was signed for Australia on 5 October 1979 and entered into force 4 June 1980).

Note: Where a provision is not of treaty status, this has been indicated by enclosing the provision in brackets [] ; the source of the provision is shown in a footnote.

MEMORANDUM OF UNDERSTANDING

Done at Wellington and signed at Rarotonga, Cook Islands,
this 2nd day of October 1974

The Governments of Australia, Fiji, Republic of France, Republic of Nauru, New Zealand, United Kingdom of Great Britain and Northern Ireland, United States of America and Western Samoa HEREBY record their understanding regarding the modified procedure to be adopted pending revision of the Agreement establishing the South Pacific Commission signed at Canberra on 6 February 1947, as amended (hereinafter referred to as the "Canberra Agreement").

1. Subject to any provision herein to the contrary, this Memorandum will be construed as one with the Canberra Agreement.
2. Subject to the provisions of paragraphs 5 and 16 of this Memorandum, the South Pacific Commission and the South Pacific Conference will meet once a year in a joint session to be known as the South Pacific Conference (hereinafter referred to as "the Conference").
3. Each Government and each Territorial Administration will have the right to send to the Conference a Representative and alternates, each of whom will have the right to speak.
4. Each Representative, or in his absence an alternate, will have the right to cast one vote on behalf of the Government or Territorial Administration which he represents.
5. The Conference may discuss any matter within the competence of the South Pacific Commission.
6. The Conference will meet for not more than two weeks.
7. The official languages of the Conference and its Committees and sub-committees, will include English and French.
8. Rules of procedure consistent with the provisions of this Memorandum will be adopted by the Conference.
9. (1) Procedural matters will be decided by a simple majority of votes cast. An abstention will not count as a vote.
(2) Substantive matters and the classification of matters as procedural or substantive will be decided by a simple majority of votes cast, provided that the number of affirmative votes equals at least half the total number of Governments and Territorial Administrations represented at the Conference. An abstention will not count as a vote.
10. (1) The Conference will elect the Government or Territorial Administration which will provide the Chairman for the succeeding Conference when that Conference is to be held at the Headquarters of the South Pacific Commission.
(2) Such a Government or Territorial Administration will normally be one which will not in the foreseeable future be in a position to act as host to the Conference.

(3) When the Conference is held elsewhere than at Headquarters, the Chairman will be nominated by the host country.

(4) The Vice-Chairman of the Conference will be elected at each Conference.

11. The Secretary-General will be responsible for administrative arrangements for the Conference.

12. To assist the Conference in its work, the following Committees will be set up:

- (a) a Planning and Evaluation Committee with the functions specified in paragraph 13;
- (b) a Committee of Representatives of Participating Governments with the functions specified in paragraph 14(2);
- (c) such other committees as the Conference may determine.

13. (1) The Planning and Evaluation Committee will normally meet each year at Headquarters, preferably in April or May, in order to:

- (a) evaluate the effectiveness of the preceding year's Work Programme;
- (b) examine the draft Work Programme and Budget presented by the Secretary-General;
- (c) agree on two themes, one economic and the other social, to be discussed by the Conference; and
- (d) to make a report to the Conference.

(2) In order to assist the Secretary-General in preparing the draft Work Programme and Budget, each participating Government will endeavour to indicate, if possible in January of each year, the level of its assessed financial contribution. Similarly, each Government and each Territorial Administration will endeavour to indicate the level of any voluntary contribution and any other assistance which it is willing to make available in the following year.

(3) Each Government and Territorial Administration may participate in the work of the Planning and Evaluation Committee and cast one vote.

(4) The Secretary-General and the Programme Directors may participate but without a vote.

14. (1) The Conference will, before considering other matters on the agenda for each meeting:

- (a) examine in detail the draft Work Programme as revised by the Secretary-General in the light of comments made by the Planning and Evaluation Committee and in the light of the confirmation by Governments and Territorial Administrations of the level of their financial contributions;
- (b) consider, as appropriate, any aspect of the administration of the South Pacific Commission; and
- (c) adopt the Work Programme and Budget, taking into account the Administrative Budget as approved in accordance with the provision of sub-paragraph (2) below and confirm the nomination of principal officers.

(2) The Committee of Representatives of Participating Governments will, in accordance with Article V of the Canberra Agreement, consider and approve the Administrative Budget and, in the light of the views of the Conference on the matter, nominate the principal officers of the Commission, and report thereon to the Conference.

15. (1) The Conference will each year direct the Secretary-General as to the policy to be followed in the preparation of the Work Programme and Budget.

(2) Such policy directive will contain instructions on the preparation and the control of long-term projects.

16. Each participating Government has the right to invoke at any time the present provisions of Article XVII of the Canberra Agreement.

17. The new procedure established by this Memorandum of Understanding will be effective as from the date on which it has been signed by all participating Governments and will remain in effect either:

(a) until there is a comprehensive revision of the Canberra Agreement; or

(b) until the Memorandum is amended or replaced by another Memorandum signed by all participating Governments.

DONE at WELLINGTON and SIGNED at RAROTONGA this 2nd Day of October 1974 in the English and French languages, each being equally authentic.

(Signed) W.L. Morrison
For the Government of Australia:

(Signed) K.K.T. Mara
For the Government of Fiji:

(Signed) H. Nettle
For the Government of the Republic of France:

(Signed) Hammer DeRoburt
For the Government of the Republic of Nauru:

(Signed) W.E. Rowling
For the Government of New Zealand:

(Signed) E.N. Larmour
For the Government of the United Kingdom of Great Britain and Northern Ireland:

(Signed) Stanley S. Carpenter
For the Government of the United States of America:

(Signed) Fiame Mata'afa F.M.
For the Government of Western Samoa:

MEMORANDUM OF UNDERSTANDING

Done at Canberra and signed at Noumea, New Caledonia,
this 20th day of October, 1976

The Governments of Australia, Fiji, Republic of France, Republic of Nauru, New Zealand, Papua New Guinea, United Kingdom of Great Britain and Northern Ireland, United States of America and Western Samoa HEREBY record their understanding regarding the voting procedure to be adopted in the Committee of Representatives of Participating Governments pending a possible revision of the Agreement establishing the South Pacific Commission signed at Canberra on 6 February 1947, as amended (hereinafter referred to as the "Canberra Agreement").

1. Paragraph 14 of the Memorandum of Understanding signed at Rarotonga, Cook Islands, on 2 October 1974 is amended by:
 - (a) inserting in sub-paragraph (2) the words "and with sub-paragraph (3) below", after the words "Canberra Agreement"; and
 - (b) adding the following new sub-paragraph "(3) Each Government participating in the work of the Committee of Representatives of Participating Governments will have the right to cast one vote."
2. Subject to any provision herein to the contrary, this Memorandum will be construed as one with the Canberra Agreement.

DONE at CANBERRA and SIGNED at NOUMEA this 20th Day of October 1976 in the English and French languages, each being equally authentic.

For the Government of Australia:
(Signed) Robert Cotton

For the Government of Fiji:
(Signed) William B. Toganivalu

For the Government of the Republic of France:
(Signed) Pierre Revol

For the Government of the Republic of Nauru:
(Signed) Hammer DeRoburt

For the Government of New Zealand
(Signed) Duncan MacIntyre

For the Government of Papua New Guinea:
(Signed) N. Ebia Olewale

For the Government of the United Kingdom of Great Britain
and Northern Ireland:
(Signed) Brian Miller

For the Government of the United States of America:
(Signed) Lester E. Edmond

For the Government of Western Samoa:
(Signed) Manuleleua Fouvale

RESOLUTION ADOPTED BY THE TWENTY-THIRD SOUTH PACIFIC
CONFERENCE HELD AT SAIPAN, NORTHERN MARIANA ISLANDS,
1 - 7 OCTOBER 1983

The following resolution adopted by the Twenty-Third South Pacific Conference and contained in paragraph 18 of the Report of the Conference modifies the application of Articles III, and V to XIII of the Canberra Agreement:

The Conference then considered and adopted a resolution contained in the report of the Committee of Representatives of Participating Governments in reference to modified procedures for the conduct of the South Pacific Commission as follows:

The Conference,

- Wishing to establish modified procedures affecting the implementation of Articles III and V to XIII of the Agreement Establishing the South Pacific Commission, opened for signature in Canberra on 6 February 1947 as amended,
- Considering that these new modified procedures would replace those in operation which were formulated at the Thirty-fifth Session of the South Pacific Commission held at Apia from 2 to 5 October 1972 and in the Memorandum of Understanding signed at Rarotonga on 2 October 1974 as amended by the Memorandum of Understanding signed at Noumea on 20 October 1976,
- Noting that the Committee of Representatives of Participating Governments, which would cease to exist under the new modified procedures, has approved the proposed modifications,

Has resolved that the following procedures shall apply:

1. The members of the Commission shall be the following participating Governments and territorial Administrations:

American Samoa
Australia
Cook Islands
Federated States of Micronesia
Fiji
France
French Polynesia
Guam
Kiribati
Marshall Islands
Nauru
New Caledonia
New Zealand
Niue
Northern Mariana Islands

Palau
Papua New Guinea
Pitcairn Islands
Solomon Islands
Tokelau
Tonga
Tuvalu
United Kingdom
United States of America
Vanuatu
Wallis and Futuna
Western Samoa

2. The Conference shall be the supreme decision-making body of the Commission.

3. Each member may appoint a representative to attend sessions of the Conference and may appoint such alternates and advisers to its representative as it considers desirable.

4. Two-thirds of the members entitled to attend shall constitute a quorum of the Conference.

5. The decisions of the Conference shall be taken in accordance with the following rules:

(A) Members shall make every effort to reach agreement on matters, other than procedural matters, by way of consensus and there should be no voting on such matters until all efforts at consensus have been exhausted;

(B) Each member shall have one vote;

(C) Procedural matters shall be decided by a majority of votes cast;

(D) Decisions on the scale of assessment having the effect of increasing the proportional contribution of a member shall require the consent of that member;

(E) Decisions on all other matters, including whether a matter is procedural, shall be taken by the affirmative vote of two-thirds of all members present and entitled to vote; and

(F) An abstention shall not count as a vote.

6. Until the Conference decides otherwise there shall be a Committee of Representatives of Governments and Administrations (CRGA) which shall operate as a Committee of the Whole. It shall meet at least four months prior to the annual Conference and shall:

- (a) consider and recommend the Administrative Budget and other administrative matters;
- (b) evaluate the effectiveness of the preceding year's Work Programme;
- (c) examine the draft Work Programme and Budget presented by the Secretary-General;
- (d) agree on a suitable and relevant theme of economic, social or cultural importance to the region to be discussed by the Conference;
- (e) nominate the Principal Officers of the Commission; and
- (f) report thereon to the Conference.

7. The Conference may establish such other auxiliary and subsidiary bodies and committees as it considers necessary.

8. The Conference may promulgate rules of procedure and other regulations governing the operations of the Commission, of its auxiliary and subsidiary bodies and committees, and of the Secretariat and generally for the purpose of carrying out the powers and functions of the Commission.

9. The Secretary-General shall be the chief executive officer of the Commission and shall carry out directions of the Conference. He shall be responsible for the functioning of the Secretariat, and shall be empowered, subject to such directions as he may receive from the Conference, to appoint and dismiss, as necessary, members of the staff of the Secretariat excepting for the Director and Deputy Director of Programmes.

10. This resolution will take immediate effect upon its adoption by the Conference. The Secretary-General shall draft consequential changes to the Rules of Procedure and Regulations for submission to the Conference.

**RESOLUTION ADOPTED BY THE THIRTY-SEVENTH SOUTH PACIFIC CONFERENCE,
HELD IN CANBERRA, AUSTRALIA,
20-21 OCTOBER 1997**

The Conference.

- Noting the recommendation by the 1996 organisational review team that 'Conference incorporate the key points of the re-structured relationships in a comprehensive resolution which varies or expands upon the provisions of the Canberra Agreement',
- Reaffirming the relevance of the Commission's mandate to the continuing development of Pacific Island countries and territories.
- Conscious of the need for the Commission to have orderly operational procedures as it stands upon the threshold of the year 2000,

Hereby resolves that the following procedures shall apply:

I. RELATIONSHIP BETWEEN THE CHIEF EXECUTIVE OF THE SOUTH PACIFIC COMMISSION AND THE ORGANISATION'S GOVERNING BODY, THE SOUTH PACIFIC CONFERENCE AND ITS COMMITTEE OF REPRESENTATIVES OF GOVERNMENTS AND ADMINISTRATIONS (CRGA)

The Conference is the governing body of the Commission. Its key focus is to appoint the Director-General and to establish policy of the organisation. The Director-General has full responsibility and authority to manage the organisation within the guidelines of established policy. He or she is fully accountable for any failure to meet the organisation's objectives.

The Director-General shall be appointed by Conference based on strict criteria for selection, in keeping with the requirements for the position set out in the Canberra Agreement, as follows:

- *possesses understanding of technical and regional issues;*
- *displays sensitivity to the needs of the organisation and of the region;*
- *has prior technical experience in areas relating to the purpose of the organisation;*
- *has understanding of the geopolitical aspects of the region;*
- *has demonstrated experience as a good manager of research, technical and administrative staff;*
- *possesses leadership qualities;*
- *possesses communication skills both within and outside the organisation;*
- *possesses ability to work well with donors;*
- *possesses ability to formulate vision.*

The position should be widely advertised in the region in order to attract a broad range of candidates. After an initial screening, CRGA shall rank the candidates and recommend one to Conference for appointment.

There shall be a six-year limitation for the executive posts of the Director-General and the Deputy. The Director-General may hold office for three two-year terms, with renewal of contract after each term being dependent on performance. The Deputy Director-General may hold office for two three-year terms, with renewal of contract after the first being dependent on good performance.

The performance of the Director-General shall be evaluated annually by the CRGA. The examination of the Deputy's work performance shall be done each year by the Director-General.

The laws governing SPC operations are contained in existing Staff Regulations and Financial Regulations. If Conference wishes to change its laws, it shall change the regulations to reflect its decision.

II. OFFICE OF THE DIRECTOR-GENERAL

To clearly reflect the technical/advisory role of the SPC, the title of Secretary-General is changed to Director-General. The deputies shall be called Deputy Directors-General and the divisional heads shall be called Directors.

The Director-General has the authority to appoint his Deputy. The Director-General shall consult with member governments and administrations in this process.

The number of deputies in SPC shall be reduced from two to one. This arrangement shall take effect upon expiration of the existing contracts for the Director of Programmes and Director of Services. In the interim periods:

- (a) the two Directors shall be called Deputy Directors-General, and*
- (b) they will have equal oversight responsibility over all programmes and services units, but with the first line of reporting distributed between them.*

Restrictions on the transfer of funds to the Administrative Budget as provided in Financial Regulations 9(b) and (c) shall be deleted so that management can have the necessary flexibility in grappling with budgetary problems.

For new projects which come with funds but which are not already included in the total approved work programme budget, the Director-General shall have the authority to vary the programme budget within a limit of 20 per cent of the approved budget. This variation shall be reported to the governing body at the earliest possible opportunity.

III. MEETINGS OF CONFERENCE AND CRGA

With effect from 1998, CRGA shall meet once a year in Noumea to:

- (a) consider the outcome of an effective work programme evaluation conducted annually in-house by the Secretariat,*
- (b) fully discuss a comprehensive analysis of work programme changes proposed by the Secretariat in the context of regional priorities;*
- (c) consider and approve the work programme resulting from the in-depth discussions;*
- (d) debate and approve policy issues for the organisation put forward by the Secretariat and by member countries and territories;*
- (e) consider applicants for the post of Director-General and recommend one to Conference for appointment;*
- (f) approve administrative and work programme budgets;*
- (g) approve amendments to the Financial and Staff Regulations; and*
- (h) conduct annual performance evaluations of the Director-General.*

In years when the Conference is not convened, CRGA shall meet in Noumea. In years when the Conference is convened, CRGA shall meet immediately before the Conference, at the same venue.

With effect from 1997, the Conference shall be convened every two years in October, either in Noumea or in a host country or territory if a member offers to host:

(a) to appoint the Director-General;

(b) to consider major national or regional policy issues in the areas of competence of the organisation; and

(c) to note changes to the Financial and Staff Regulations approved by the CRGA.

IV. THE RESTRUCTURING OF SPC

With effect from early 1999, the organisational structure shall have a senior management of:

Director-General;

One Deputy Director-General;

Three Directors:

Marine Resources Division,

Land Resources Division,

Social Resources Division.

The Agriculture, Community Education Training Centre and Regional Media Centre programmes and the Suva administration shall be brought together under the Land Resources Division, which will become a sub-regional office of the SPC.

V. THE WORK PROGRAMME

In widening its focus, SPC shall be guided by general criteria to ensure that the new programmes will be in the best interest of the region, are sufficiently funded and fall within its mandate.

SPC's approach to the preparation of its work programme shall feature a continuous pipeline of integrated projects over a three-year period. To assure funding, these should reflect prioritised needs of member governments, be well-integrated, be fully costed, be well-packaged and meet the prescribed format requirement of donors.

A specific Small Islands Fund is hereby established within SPC. It will provide technical assistance, training and other services as required by the SPC's small Island members. Island member countries and territories, traditional and non-traditional donors are invited to contribute to the corpus of the fund on a continuing basis.

VI. THE CORE BUDGET AND FINANCE ISSUES

The formula for core contributions shall reflect the principle of burden sharing. In particular, it shall include provision for the following.

(a) special grants by SPC host governments;

(b) a 90:10 split between the four metropolitan members and the Island countries and territories;

(c) Pacific Island countries' and territories' share being based on capacity to pay;

(d) more equitable distribution among donor members; and

(e) review every three years.

The Commission shall take a new approach to budgeting, establishing clear and rational guidelines designed to make the core budget inflation-proof.

VII. CHANGE IN THE ORGANISATION'S NAME

The Conference agreed:

- (a) to re-name the South Pacific Commission 'Pacific Community', with effect from 6 February 1998;
- (b) to defer consideration of a new acronym*.

* Subsequently to this Conference decision and following consultations with members, it was agreed to retain the acronym SPC (Secretariat of the Pacific Community).