
AGREEMENT ESTABLISHING THE SOUTH PACIFIC
REGIONAL ENVIRONMENT PROGRAMME

AUGUST 1, 2002.—Ordered to be printed

Mr. BIDEN, from the Committee on Foreign Relations,
submitted the following

REPORT

[To accompany Treaty Doc. 105-32]

The Committee on Foreign Relations, to which was referred the Agreement Establishing the South Pacific Regional Environment Programme, done at Apia on June 16, 1993, having considered the same, reports favorably thereon with one declaration, and recommends that the Senate give its advice and consent to the ratification thereof as set forth in this report and the accompanying resolution of advice and consent to ratification.

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I. PURPOSE

The purpose of the Agreement is to promote cooperation in the South Pacific region, to protect and improve the South Pacific environment and to ensure sustainable development for present and future generations.

II. BACKGROUND

The Agreement is fully explained in the Letter of Submittal from the Secretary of State to the President, dated October 21, 1997, which is set forth in Treaty Document 105-32. What follows is a brief summary.

After World War II, a number of regional organizations came into being in the South Pacific, including the South Pacific Commission (SPC), established in 1948 by the governments of Aus-

tralia, France, the Netherlands, New Zealand, the United Kingdom, and the United States. The SPC was to serve as a “consultative and advisory body to the participating Governments in matters affecting the economic and social development of the non-self-governing territories (in the South Pacific) and the welfare and advancement of their peoples.” The SPC has been periodically amended to provide, *inter alia*, for the accession to the agreement of newly independent states in the South Pacific and of territories associated with fully independent states. As a consequence, the parties to the agreement now include all 22 of the island states and territories of the region and five of the six states cited above (the Netherlands withdrew in 1974; the United Kingdom withdrew in 1995 but rejoined in 1998).

The South Pacific Regional Environmental Programme (SPREP) was an outgrowth of a conservation program established by the SPC in the 1970s. Specifically, it came into being as a result of the 1982 Conference on the Human Environment in the South Pacific held in the Cook Islands. The SPC, the United Nations Economic and Social Council for Asia and the Pacific, the United Nations Environmental Programme, the South Pacific Forum, and the South Pacific Conference all supported the creation of SPREP as a means of fostering research and cooperation on environmental problems in the region.

SPREP was initially established as an informal entity within the SPC. Among its major accomplishments during its time as an entity within the SPC were the negotiation and entry into force of three multilateral agreements protecting the environment in the South Pacific—the Convention for the Protection of the Natural Resources and Environment of the South Pacific, the Protocol for the Prevention of Pollution of the South Pacific Region by Dumping, and the Protocol Concerning Cooperation in Combating Pollution Emergencies in the South Pacific Region. These agreements created general legal obligations to protect the marine environment of the South Pacific region from pollution from various sources, including ships, seabed activities, and nuclear testing.

In 1991, the members of SPREP agreed to negotiate a treaty establishing SPREP as an autonomous intergovernmental organization, which was concluded at a conference in June 1993. The Agreement 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. The United States currently participates as an observer.

SPREP now participates in, and has initiated, a wide variety of environmental projects. Its range of concerns include natural resource conservation, the prevention and control of pollution, the protection of endangered species, waste management, climate change, environmental education, protection of the stratospheric ozone layer, and preservation of coral reefs. Its funding has come from many sources, including the United States, the European Union, Australia, New Zealand, France, Denmark, Canada, Japan, and China. Funding also comes from the Global Environment Facility, as well as from voluntary contributions by member island states.

III. SUMMARY OF AGREEMENT PROVISIONS

Article 1 of the Agreement establishes SPREP as “an intergovernmental organization,” creates two organs—the SPREP Meeting and the Secretariat, and provides that the Secretariat is to be based in Apia, Western Samoa.

Article 2 states that the purposes of SPREP to be “to promote cooperation 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” and provides that these purposes are to be achieved through Action Plans adopted from time to time by the SPREP Meeting.

Article 3 establishes the SPREP Meeting as the “plenary body” for SPREP and provides for participation by all the Parties to the Agreement as well as by several territories. Article 3 further defines the functions of the Meetings to include the provision of a consultative forum for common concerns, the approval and review of Action Plans, the adoption of work programmes for SPREP, the adoption of a budget, and the appointment of the Director of SPREP.

Article 4 provides for the meeting procedures.

Article 5 relates to the budget of the Programme.

Article 6 designates the Director as the administrative head of SPREP and of the Secretariat.

Article 7 describes the functions of the Secretariat to implement the activities of the Programme.

Article 8 confers on SPREP legal personality and contains a provision on privileges and immunities.

Article 9 provides that nothing in the Agreement may be interpreted as limiting the sovereignty of the Parties over their territories or their sovereign rights in their exclusive economic and fishing zones and over their continental shelves.

Article 10 contains the final clauses on ratification and designates Western Samoa as the depositary of the treaty.

Article 11 provides that the Agreement may be amended by a consensus of the Parties at a SPREP Meeting, subject to ratification, acceptance, or approval by the Parties. It further provides that any Party may withdraw from the Agreement one year after giving written notice to that effect.

IV. ENTRY INTO FORCE

Under Article 10, the Agreement entered into force on August 31, 1995, 30 days from the date of the deposit of the tenth instrument of ratification. If the United States becomes a party, it will enter into force 30 days after the deposit of the instrument of ratification.

V. WITHDRAWAL

Under Article 11, any party may withdraw by giving written notice. The withdrawal takes effect one year after receipt of the notice by the depositary.

VI. COMMITTEE ACTION

The Committee held a hearing to review the Treaty on May 7, 2002.¹ On July 25, 2002, the Committee considered the Treaty, and ordered it favorably reported by voice vote, with the recommendation that the Senate give its advice and consent to the ratification of the Treaty.

VII. TEXT OF RESOLUTION OF ADVICE AND CONSENT TO RATIFICATION

Resolved (two-thirds of the Senators present concurring therein),

SECTION 1. ADVICE AND CONSENT TO RATIFICATION OF THE AGREEMENT ESTABLISHING THE SOUTH PACIFIC REGIONAL ENVIRONMENT PROGRAMME, SUBJECT TO A DECLARATION.

The Senate advises and consents to the ratification of the Agreement Establishing the South Pacific Regional Environment Programme, done at Apia on June 16, 1993 (Treaty Doc. 105-32), subject to the declaration in Section 2.

SECTION 2. DECLARATION.

The advice and consent of the Senate is subject to the declaration that the “no reservations” provision in Article 10 of the Agreement has the effect of inhibiting the Senate in its exercise of its constitutional duty to give advice and consent to ratification of a treaty, and that the Senate’s approval of the Agreement should not be construed as a precedent for acquiescence to future treaties containing such provisions.

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¹S. Hrg. 107-594, “Hearing to Consider 6 Treaties.”