

AGREEMENT  
ESTABLISHING THE SOUTH PACIFIC APPLIED  
GEOSCIENCE COMMISSION

The Governments of Australia, ~~the~~ Cook Islands, Fiji, Guam, Federated States of Micronesia, Kiribati, ~~the~~ Marshall Islands, New Zealand, Papua New Guinea, Solomon Islands, Tonga, Tuvalu, Vanuatu and Western Samoa;

Recognising the importance of the development of the non-living resources of the South Pacific to the maximisation of benefits to the peoples of the region;

Recalling the important contribution of the United Nations and its agencies, in particular the Economic and Social Commission for Asia and the Pacific and the United Nations Development Programme, in the formation in 1972 of the Committee for Coordination of Joint Prospecting for Mineral Resources in South Pacific Offshore Areas (herein referred to as 'the Committee') to facilitate and promote their effective cooperation in the prospecting, research and development of such non-living resources;

Recognising the important contribution of the <sup>Commission</sup>~~Committee~~ in assisting Pacific Island countries to identify non-living resources of potential economic significance in the offshore, coastal and onshore areas of the South Pacific and to develop greater knowledge and expertise concerning these areas and the non-living resources in them;

Wishing to continue the cooperative joint activities in the prospecting, research and development of the non-living resources in these areas;

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*SS* *JN*

Acknowledging the importance for such cooperation of establishing working arrangements between the <sup>Commission</sup>~~Committee~~ and other relevant regional and international organisations;

Recognising the important role of the South Pacific Forum in the South Pacific for the promotion of political and economic cooperation;

Taking account of the desire to reconstitute the Committee which was first established in 1972 and reconstituted in 1984;

HAVE AGREED as follows:

Article 1

Establishment of the Commission

The Committee is hereby reconstituted as the South Pacific Applied Geoscience Commission or "SOPAC" (herein referred to as 'the Commission').

Article 2

Purpose

The purpose of the Commission shall be:

- (a) to promote, facilitate, undertake, co-ordinate, advise on, and cooperate in, the prospecting of and research into, the non-living resources in the offshore, coastal and onshore areas of those countries whose Governments are Members of the Commission as well as in the other oceanic areas of the South Pacific region;

SRK *[initials]* D.T *[initials]* LE *[initials]* *[initials]* *[initials]* RLCC.


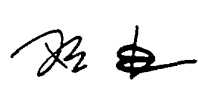


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- (b) to otherwise assist in the development of such resources; and
- (c) to undertake such other activities related to prospecting, research and development of these resources as the Governing Council shall determine.

The term 'non-living resource' in this Agreement shall include corals and such other resources having potential for minerals or energy exploitation as the Governing Council may determine.

Article 3  
Membership

1. The Members of the Commission shall consist of:
  - (a) those Governments which are listed in the Schedule as founding Members of the Commission, and
  - (b) any other Government which is the Government of an independent island state of the South Pacific or is the government of a self-governing island country in the South Pacific which is in free association with another state, and whose application for Membership has been approved by consensus of the Governing Council.
  
2. Any local Administration of a non-self governing territory in the South Pacific region may be admitted to Associate Membership of the Commission if its application for admission to such Membership is approved by the Governing Council by consensus. Associate Membership shall entitle the local Administration to participate in the activities of the Commission as herein provided, subject to such conditions as the Governing Council may from time to time prescribe.

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## Article 4

Legal Status, Privileges and Immunities

1. The Commission 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 movable and immovable property and to sue and be sued.
2. The Commission shall enjoy in the territory of each Member of the Commission, such privileges and immunities as may be necessary to enable the Commission to fulfill its purpose and carry out its functions. The specific privileges and immunities referred to in this paragraph shall be defined in separate agreements to be entered into between the Commission and Members of the Commission when the prospect of activities of the Commission in the territory of such Members of the Commission makes such agreements appropriate.

## Article 5

## Organisation

1. The Commission shall comprise:
  - (a) a governing committee (herein called 'the Governing Council'); and
  - (b) a secretariat (herein called 'the ~~Technical~~ Secretariat'); and
  - (c) a technical advisory group (herein called 'the Technical Advisory Group').
2. The seat of the Commission shall be at such place as the Governing Council shall determine.

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Article 6

The Governing Council

1. The Governing Council shall consist of the members of the Commission, each of which shall be represented by a ~~designated~~ national representative<sup>or</sup> ~~if, however, the National Representative is unable to be present for a session of the Governing Council, that National Representative may be represented by an alternate representative (herein referred to as 'the Alternate'). Any National Representative or Alternate may be accompanied by one or more~~ <sup>and</sup> advisers.

~~Between Sessions communications from the Chairman or the Technical Secretariat shall be directed unless otherwise specified to the Members of the Commission through the National Representative.~~

Powers and Responsibilities

2. The Governing Council shall be responsible for:
- (a) the determination of the general policies of the Commission;
  - (b) the finalising and adopting of the Commission's work programme;
  - (c) the finalising and adopting of the budget for the coming financial year;
  - (d) the making of recommendations to Members of the Commission;
  - (e) the provision of direction to, and control of, the ~~Technical~~ Secretariat;
  - (f) the establishment of regulations for the administration of the Commission and all its constituent bodies; and
  - (g) the carrying out of such other functions as may be necessary to give effect to the purpose of this Agreement.

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3. The Governing Council by consensus may extend the benefits of the work programme to any Associate Members or Members under such terms and conditions it deems appropriate.

Sessions

4. The Governing Council shall hold a regular session at least once every year to be known as the Annual Session of the Governing Council. In addition a Special Session of the Governing Council shall be held at any time upon the request of the Chairman, if the Chairman or any National Representative with the support of at least two thirds of the membership of the Governing Council considers that such a Special Session is necessary in order to ensure adequate policy direction and control of the ~~Technical~~ Secretariat as well as for any other reason deemed necessary. Following such a request or decision, the Chairman shall convene a Special Session of the Governing Council as soon as is reasonably practicable.

5. <sup>be</sup> The quorum for Sessions of the Governing Council shall <sup>^</sup>two thirds of the membership.

6. The Annual Session of the Governing Council shall be held, unless otherwise decided, in the countries of Members of the Commission on a rotation basis.

7. The Governing Council at its Annual Session shall approve:

- (a) the annual report of the Director;
- (b) the work programme;
- (c) the Budget for the succeeding year; and
- (d) such further reports as the Governing Council may from time to time require.

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- Handwritten initials: "J", "SST", "JN", "D.T.", "RLCC" (underlined), and other illegible scribbles.
- A large handwritten "2" or "R" symbol on the right side.

A report of the work programme and budget, following their approval, shall be forwarded to the South Pacific Forum, for the information of the members of that body.

Chairman

8. The Governing Council shall elect a Chairman and a Vice Chairman at each of its Annual Sessions from among the Members of the Commission. The Chairman and the Vice Chairman shall each retain that office, unless they earlier resign, or until the next Annual Session. In the event of the Chairman resigning his or her office, the Vice Chairman shall exercise all functions and powers of the Chairman until the expiration of the Chairman's term of office or until a fresh election, whichever is the earlier.

9. The Chairman shall have the power to take decisions on behalf of the Commission between Sessions of the Governing Council on policy questions of urgency after consultation with the National Representatives. The Chairman shall have authority to delegate this power to the Vice Chairman of the Governing Council.

Decision Making

10. The Governing Council shall endeavour to take decisions at its sessions by consensus of all the National Representatives or Alternates present. If consensus cannot be achieved, and where a decision by consensus is not expressly required, decisions of the Governing Council shall require support by a majority of the National Representatives or Alternates present and voting which equates to at least two thirds of the full Membership of the Governing Council, whether present or not at that Session. Where a vote is taken, each National Representative or Alternate present at the Session shall have one vote.

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Participation

11. The Governing Council may invite representatives of any Governments, international agencies, academic and research organisations, foundations, and private industry, or advisors participating in meetings of the Technical Advisory Group to attend specific sessions of the Governing Council in a consultative capacity or otherwise whether in respect to specific agenda items or more generally. The Governing Council may accord Observer Status to any Government, administration, organisation or institution, in respect of sessions of the Governing Council, in accordance with such criteria as the Governing Council may determine.

Procedures

12. The Governing Council may establish Standing Committees and other Ad hoc Committees dealing with financial, fund-raising, management, programmes, planning and any other matters deemed necessary, having either executive or advisory powers, and reporting to the Governing Council.

13. All Sessions of the Governing Council shall be closed to the public unless the Governing Council shall decide otherwise.

14. English shall be the working language of the Commission.

15. The Governing Council may adopt and amend rules of procedure on the conduct of any session or meeting of the Commission and all its constituent bodies consistent with this Agreement.

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## Article 7

Technical Secretariat

1. The ~~Technical~~ Secretariat shall comprise the Director and Deputy Director, and such technical and administrative staff as the Governing Council may require.

Responsibilities

2. The ~~Technical~~ Secretariat shall be responsible for the administration and management of the affairs of the Commission, the implementation of its policies and such further functions consistent with its purpose as the Commission through the Governing Council may from time to time determine. Subject to the foregoing, the ~~Technical~~ Secretariat shall:

- (a) promote, undertake and coordinate the implementation of the work programme;
- (b) establish working arrangements with relevant regional and international organisations;
- (c) promote manpower development and training;
- (d) subject to appropriate authorisation, disseminate relevant information and data to Members of the Commission and other interested organisations;
- (e) assist Members of the Commission in the interpretation and evaluation of technical data;
- (f) advise Members of the Commission on problems and opportunities (including the management of non-living resources) with regard to activities consistent with the purpose of the Commission;
- (g) review and report regularly the progress made with all projects included in the work programme; and
- (h) undertake such other activities and follow such procedures as the Governing Council may decide.

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The Director and Deputy Director

3. The Director and Deputy Director shall be appointed by the Governing Council on such terms and conditions as it may determine. The Director shall be the chief officer of the Commission. In the absence or incapacity of the Director, the Deputy Director shall assume the responsibilities of the Director.

4. The Director shall be ex officio Secretary to meetings of the Governing Council.

5. Subject to Paragraph 2 of the Article, the Director shall:

- (a) be responsible for the administration of the work programme and other activities of the Commission;
- (b) prepare and submit to the Governing Council for review and approval at its Annual Session a report on the past and projected activities of the Commission, the budget estimates, and the accounts of the Commission;
- (c) make arrangements for meetings of the Governing Council and the constituent bodies of the Commission;
- (d) arrange all matters relating to the publication of materials produced by the Commission;
- (e) appoint technical and administrative staff of the Commission on such terms and conditions and for such purposes as the Governing Council, or the Director acting under the authority of the Governing Council, may determine;
- (f) seek out and attract possible sources of financial and technical support for such Commission projects; and
- (g) perform such other duties as may be required or delegated by the Governing Council.

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*CSJ JA*

Article 8

Technical Advisory Group

1. The Technical Advisory Group shall comprise advisors who have been:

- (a) nominated by Governments which are Members or Associate Members of the Commission;
- (b) nominated by supporting Governments and organisations which have been approved by the Governing Council; or
- (c) invited for specific purposes by the ~~Technical~~ Secretariat acting under the authority of the Governing Council.

Responsibilities

2. The Technical Advisory Group shall be responsible for providing advice requested by the Governing Council on the technical, scientific, training and research and other relevant aspects of the work programme of the Commission.

Participation

3. Experts participating in meetings of the Technical Advisory Group shall do so on a full and equal basis and in accordance with such rules of procedure as the Governing Council may from time to time determine. Advice tendered to the Governing Council by the Technical Advisory Group shall be based on the consensus of the advisors present or, where this is not achievable, the advice given by the Technical Advisory Group shall fairly and accurately reflect the range and strength of views within the Technical Advisory Group. Such advice shall be contained in a report to be submitted by the Technical Advisory Group to the Governing Council before the end of the Annual Session.

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Procedure

4. Meetings of the Technical Advisory Group shall be held in conjunction with meetings of the Governing Council in Annual Session and at such other times and places as the Governing Council may determine. The Governing Council shall at its Annual Session appoint a Chairman for the meeting of the Technical Advisory Group held in conjunction with that Annual Session and the Chairman shall retain that office until the meeting of the Technical Advisory Group held in conjunction with the next Annual Session of the Governing Council.

Article 9

Budget

1. The budget of the Commission and all issues related to it shall be approved by the Governing Council at its Annual Session with the consensus of all those Members of the Commission represented at such Annual Session.

2. The budget shall be financed by:

- (a) assessed contributions from Governments which are Members of the Commission;
- (b) by voluntary contributions from Members of the Commission, Associate Members of the Commission, or other Governments, administrations, organisations and institutions; and
- (c) from investments, fees, grants and other sources as approved by the Governing Council.

Voluntary contributions may be of a financial or non-financial nature. The Governing Council shall determine at its Annual Session by consensus the assessed level of contributions for the following year.

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3. The Governing Council shall adopt financial regulations for the administration of its finances, including the administration of contributions received from Governments which are not Members of the Commission or from any interested institutions or organisations.

Article 10

Sovereign Rights of States

Nothing in this Agreement shall be interpreted as prejudicing the sovereignty of parties to this Agreement over their territory, territorial sea, internal waters or archipelagic waters, or their sovereign rights over the non-living resources of their exclusive economic zones or continental shelves in accordance with the relevant rules of international law, including the United Nations Convention on the Law of the Sea.

Article 11

Area beyond National Jurisdictions

The Commission shall ensure that any activities which it conducts in the areas beyond national jurisdictions are carried out having due regard to, and in accordance with, international law.

Article 12

Memorandum Conferring Status on the Committee

Upon the entry into force of this Agreement, the Memorandum of Understanding to confer upon the Committee status as an intergovernmental organisation which came into effect on August 25, 1984 shall cease to have effect.

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## Article 13

Signature, Ratification, Accession, Entry into Force

1. This Agreement shall be open for signature by the founding members of the Commission listed in the schedule hereto who may become party to it either by:

- (a) signature without reservation in respect of ratification or;
- (b) signature subject to ratification, followed by such ratification.

2. The Agreement shall enter into force thirty days after the date on which the sixth Government signs the Agreement without reservation as to ratification or deposits its instrument of ratification. For any Government that becomes party to the Agreement after that date, the Agreement shall enter into force for that Government thirty days after the date on which it signs the Agreement without reservation as to ratification or deposits its instrument of ratification.

3. Following the entry into force of the Agreement in accordance with paragraph 2 of this Article, the Agreement shall be open for accession by other Governments referred to in paragraph 1(b) of Article 3 ~~and in accordance with the terms of that Agreement~~. The Agreement shall enter into force for any such Government thirty days after the date of deposit of its Instrument of Accession.

4. This Agreement shall be deposited with the Government of Fiji who shall act as Depositary and be responsible for the registration of the Agreement with the United Nations. The Depositary shall inform the Governments listed in the Schedule hereto of the date of entry into force of the Agreement and shall inform those Governments and any other Governments which accede to this Agreement of each signature or ratification of or accession to the Agreement.

5. Reservations to the Agreement shall not be permitted.

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*KT TW*

Article 14

Amendment

1. Any member of the Commission may propose amendments to the Agreement for consideration by the Governing Council. The text of any amendment shall be circulated to members of the Commission no less than three months in advance of any Session of the Governing Council.

2. Any amendments to this Agreement proposed by a member of the Commission shall only be adopted by a consensus decision of all members of the Commission represented at the Session and shall enter into force thirty days after receipt by the Depositary of instruments of acceptance or ratification from all members of the Commission.

Article 15

Withdrawal

1. Any Member of the Commission may withdraw from this Agreement by giving written notice to the Depositary. The Depositary shall immediately inform all Members of the Commission of receipt of a withdrawal notice. Withdrawal shall take effect one year after receipt of such notice by the Depositary.

2. A withdrawing Member of the Commission shall remain liable for all obligations to the Commission to which it was subject at the date of receipt by the Depositary of the withdrawal notice. If the withdrawal becomes finally effective, the Member of the Commission shall not incur any liability for obligations resulting from operations of the Commission effected after the date on which the withdrawal notice was received by the Depositary.

*J. S. K. H. D. T. A. L. J. Q. R. RLCC.*  
*SST JN*

Article 16

Dissolution or Suspension

1. The Governing Council may resolve that the Commission be dissolved or that its activities be suspended.
2. Such a resolution shall take effect immediately following the conclusion of the next Annual Session of the Governing Council provided that it has at the time of that next Annual Session been ratified by two thirds of the Members of the Commission. The Governing Council shall at that next Annual Session decide the manner in which the assets and obligations of the Commission should be liquidated, distributed or borne, prior to the dissolution or suspension of the Commission.
3. The Governing Council shall also at that next Annual Session adopt a declaration prescribing the date on which the Commission shall be deemed dissolved or suspended. The declaration shall be communicated by the Chairman of the Commission to the Members and Associate Members of the Commission.
4. In the case of a resolution of suspension, the Commission shall in its declaration prescribe the procedure whereby the suspension may be terminated and the organisation revived.

IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments, have signed this Agreement.

Opened for signature at *Tarawa, Kiribati* this *tenth* day of *October*, 1990

*J. EK* *D.T* *Am* *f* *Al* *R* *TRUCE.*  
*ST* *JN*



SCHEDULE

Founding Members of the South Pacific  
Applied Geoscience Commission

- Australia
- Cook Islands
- Fiji
- Federated States of Micronesia
- Guam
- Kiribati
- Marshall Islands
- New Zealand
- Papua New Guinea
- Solomon Islands
- Tonga
- Tuvalu
- Vanuatu
- Western Samoa

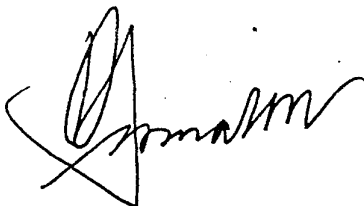
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FOR THE GOVERNMENT OF:

AUSTRALIA	<u>RL Cotton</u>	DATE 4 <u>January</u> 1990
COOK ISLANDS	Stuart G. Kingston	DATE 10 <sup>th</sup> Oct 1990
FEDERATED STATES OF MICRONESIA	Abel P. Gah	DATE 24 Oct. 1990
FIJI	<u>Tomasit Watatoni</u>	DATE 24 <sup>th</sup> October, 1990.
GUAM	Luigi J. Lujan	DATE 10 Oct 1990
KIRIBATI	<u>Fiduk</u>	DATE 10 October, 1990.
MARSHALL ISLANDS	<u>P. A. Cantwell</u>	DATE 19 October 1990
NEW ZEALAND	Don Alabon	DATE 7 November 1990

FOR THE GOVERNMENT OF:

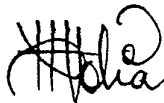
PAPUA NEW GUINEA



DATE

16/12/91

SOLOMON ISLANDS



DATE

10/10/90

TONGA



DATE

27.9.91

TUVALU



DATE

4/1/91

VANUATU



DATE

16 January 1991

WESTERN SAMOA



DATE

10 Oct. 1990