



SUMMARY RECORD

3rd Meeting of the SOPAC Council Committee of the Whole (SCW¹)
on the Regional Institutional Framework (RIF)

Banyan Room, Holiday Inn, Suva, Fiji
Wednesday, 16 July 2008

Agenda Item 1 – Welcome

The Chair of the SOPAC Governing Council (Hon. Tuita of Tonga) chaired the 3rd Meeting of the SOPAC Council Committee of the Whole (SCW03). He welcomed his fellow members of the SCW, and the observers.

Observers in attendance were representatives of the United States of America, France and the Pacific Islands Forum Secretariat (PIFS); the Director-General of the Secretariat of the Pacific Community (SPC); and the Director of the Secretariat of the Pacific Regional Environment Programme (SPREP) (see Annex 1 for a List of Participants).

The Chair made Opening Remarks (see Annex 2), and outlined the two major objectives of the SCW03, which was to consider (i) progress since SCW02; and (ii) the progress report of the SCW to the 2008 Forum Leaders' meeting.

The Chair stated that while he was of the opinion that the SOPAC Committee had “responded positively to the Leaders' Communiqué and the SOPAC Governing Council decision;” the task being undertaken was not a straightforward matter as learned in the course of the Committee's work so far, and would “require long-term and steady dedication.”

The Chair ranked the task as “an urgent priority” which he believed could be moved forward with confidence to identify the “most effective institutional arrangements based on the logic of the most effective means of meeting [the] needs of member states with excellence in quality, relevancy and timeliness”.

Agenda Item 2 – Adoption of Agenda

The meeting adopted the Agenda attached as Annex 3.

Agenda Item 3 – Approval of Minutes of SCW02

The summary record and minutes of the Second SCW Meeting (SCW02) were adopted.

¹ Acronyms used in the report are in Annex 7

Agenda Item 4 – Matters Arising

Chair recorded that in response to his writing to the SOPAC Governing Council to seek approval to, on its behalf, send a progress report on the SCW work to the Forum Leaders' meeting scheduled for mid-August in Niue – that he had received formal assents from Samoa, the Cook Islands and Nauru. Fiji confirmed their agreement verbally with intent to formalise very shortly.

The Chair took the absence of dissenting voices to his request for further comments from other members round the table as tacit approval of his intent to provide a progress report to the Forum Chair.

Agenda Item 5 – Update since SCW02

The SOPAC Director reported the following 'concrete' actions after the Second Committee Meeting: (a) a very brief trilateral of the three CEOs immediately following the SCW02; (b) a second programme trilateral meeting (23-24 June) among SPC, SPREP and SOPAC programme staff; and (c) the review by the Secretariat and receipt of the final draft report of the legal assessment commissioned by the SOPAC Director. The three CEOs also finalised and transmitted a joint letter of request for financial assistance to Australia and New Zealand which has received a response requesting more information. The letters of request and response were distributed to participants at the SCW03 for their information.

The Independent Facilitator of the programme trilateral meetings of the three organisations, Mr Garry Wiseman, was invited to present his reflections on the whole programme trilateral process, given that he hadn't had the opportunity to do so before the Committee since his involvement from the first programme trilateral meeting.

Mr Wiseman had found the process educational, observing that it was probably just as educational for the other organisations to hear from each side what they were doing and perhaps revealed that "insufficient opportunity had been taken for greater collaboration and coordination" of some of things they could have been doing together. Hence the first programme trilateral "just pointed to the need for better cooperation, coordination within organisations and across organisations regardless of where SOPAC's work programme might end up being located."

The Independent Facilitator observed that the second programme trilateral which came together to progress further the first trilateral discussion on synergies (with respect to the option of "SOPAC's work programme to be absorbed primarily into either SOPAC or SPREP with minor elements into the other") found it "very difficult [...] to focus on what might be an appropriate split." He had tried to push it but he thought it seemed "very hard for the programme staff to actually come up with a firm position either way" and that in the end there "seemed to be much more comfort in SOPAC's work programme going wholly into one or the other."

Based on those observations Mr Wiseman advised the Committee that it all depended on which angle SOPAC's work was viewed from – if members "would like to see SOPAC's work focus greater on environmental management, then the SPREP home" seemed obvious; but if the desire was to see "SOPAC's work strengthen [...] the resource use management aspects of the work of SPC", then the SPC home was logical.

Mr Wiseman also raised aspects of the rationalisation/absorption process that would be critical to consider for a good outcome to this exercise. These included the sizes of the two recipient organisations in relation to SOPAC, hence the changes that would need to occur in them to accommodate the absorbed entity so that quality of services didn't suffer and actually improved. Also the modes of interaction with the membership of each organisation would certainly affect the quality of services to be delivered.

The Independent Facilitator concluded with the general agreement at the end of the second programme trilateral that “programme staff had taken the process as far as they could and there was now a need for a greater level of independence in final decision making.” He was of the opinion that the trilateral meetings were important steps in this process but “because of the obvious and normal defensive nature of those closest to programme delivery that a more ‘hard-nosed’ decision-making process” needed to be invoked at this stage. He also later attributed the inability of programme staff to go beyond where they got to because they were not “necessarily able to talk about the institutional and other aspects of absorption in either one of the organisations” as it was part of a broader discussion that had to take place within the recipient organisations.

See the minutes of the meeting in Annex 4 for full details of the presentations by the Director of SOPAC and Mr Wiseman.

Members all appreciated the very useful presentation by Mr Wiseman, which generated some good debate (see Annex 4 for details) with the Committee noting the points raised. The Director of SOPAC was also commended for the idea of engaging an independent facilitator at the programme trilateral meetings.

The Committee also noted the agreement of the SOPAC Director to a request initiated by the Marshall Islands for the development of a detailed matrix which outlined actions within the RIF process and more detailed costs associated.

Agenda Item 6 – Consideration of Progress Report to the Forum

The Committee noted the representative of the PIFS outline of the reporting procedures for the wider RIF process via the PPAC, to the Forum Leaders.

The attached Progress Report (see Annex 5) was confirmed by the Committee as the report to be sent by the Chair of the SCW on behalf of the SOPAC Council to the Chair of the Forum. It was amended by Committee and approved (see the Minutes of the Meeting for detailed discussions on this item).

Agenda Item 7 – Consideration of [SOPAC] Council Chair Covering Letter

The attached Cover Letter (see Annex 6) to accompany the progress report was also slightly amended and approved by the Committee (see the Minutes of the Meeting for detailed discussions on this item).

Agenda Item 8 – Date of Next Meeting, Update on Timelines and Constraints

The Committee noted the proposal for a fourth SCW meeting (SCW04) in the period late August/early September to look at the 2008 Leaders’ Communiqué; have some discussion around the recently completed legal assessment; and prepare its report to the SOPAC 37th Session scheduled for late October in Funafuti, Tuvalu.

Agenda Item 9 – Other Business

The French representative directed a question at Jimmie Rodgers of SPC on whether someone had studied the legal implications surrounding membership issues given that France (and the US) were members of both SPC and SPREP, but not of SOPAC. The SPC CEO informed the

meeting that apparently the French Government had supported working towards implementation of the Communiqué decision in 2007, and had done an initial legal assessment, outcome of which they had accepted.

The US representative confirmed that they were in a similar situation to France, of being a member of both SPC and SPREP but not of SOPAC; and neither was it a participant in the Forum where the decision (referred to as para. 19b of the 2007 Communiqué) was taken. The US had expressed some concerns which required a legal response; and the representative informed that they had evaluated the response to those concerns and their attorneys came up with still more questions that needed answering. He remarked that both SPREP and SPC had their own internal processes that would have to be respected as this regional and institutional structuring moved ahead.

10 Closing

In closing the Chair expressed sincere appreciation to all the participants for the good progress achieved by the meeting. He especially thanked the Deputy Prime Minister of Tuvalu for his attendance; and expressed the hope of seeing them all at the next Committee meeting.

The meeting ended at 1:24 pm.

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ANNEX 1

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ANNEX 2

Opening Remarks

Honorable Tavau Teu
Deputy Prime Minister of Tuvalu
Members of the Committee
Representative of France and the USA, present as participants observes,
Director General of SPC and The Director of SPREP
Mr Garry Wiseman, Head of the UNDP Pacific Resource Centre and Facilitator of the Trilateral Meeting
Ladies and Gentleman

Hon. Deputy Prime Minister, on behalf of myself and the Committee I would like to extend to you a very special welcome. The committee is looking forward to your contribution and guidance and the continuity of the work of the Committee is assumed. As the incoming Chairman of the SOPAC Governing Council to be held in Tuvalu later this year we are encouraged by your attendance and participation as it will ensure that what happens here is fully understood.

It is also my privilege and an honour to welcome all of you to the 3rd SCW Meeting. Your commitment as per your continuity participation, support, cooperation and in honestly sharing ideas and debating issues critical to the task set for us by Council has been and is, I believe, the major driving force in finding our way forward. You have taken us from environments of tension and cultures of uncertainty to a more positive platform. For these and more I on behalf of Council thank you.

I would also like, with your indulgence, to extend my deep appreciation to His Excellency Hon. Tine Leuelu for agreeing to Chair our 2nd meeting in the very last minute as I was unable to attend. From what I have studied and heard, he did an outstanding job and Your Excellency, please feel free to take the Chair at anytime – even now with my sincere thanks!

And lastly to Mr Garry Wiseman of UNDP Pacific Resource Centre who so graciously agreed to be the facilitator for the Trilateral Programme Meetings. Facilitating a non competitive absorption process “ is always rather difficult but from what we have read and studied you have with members of the Trilateral Programme Meeting provided an overview as guidance. On behalf of the Committee, I thank you.

Honorable Deputy Prime Minister and members of the Committee, the first and second SCW had given guidance on the work programme to the Director of SOPAC and her staff in cooperation with the CEO of SPC and SPREP and their staff and much of it has also been acted upon, preliminary findings has been examined and developed. For our 3rd meeting, there are two major objectives:

- To discuss progress since our 2nd meeting; and
- to consider the Progress Report – since our work is still in progress – as the Committee's report to the 2008 Forum Leaders' meeting.

You will note, of course, that the Draft Progress Report covers all the areas which was of concern to us and activities approved by the Committee. Therefore if I may suggest, we would need to spend most of this meeting on the Progress Report. I am sure that you have studied it carefully and I look forward to useful, analytical and wise contribution.

You will recall in that my opening remarks in our 1st meeting I had stated that it would be necessary for us to submit a report to the Forum Leaders. I have no doubt that it is our responsibility to do so but as our task is not yet completed and Council is yet to meet, I had to write to members of Council for approval to send the Progress Report to the Leaders.

Hon. Deputy Prime Minister and Members of the Committee

There is a Tongan saying – TAUMULIVALEA. In the old days when Polynesians were moving into the Pacific – into the unknown to seek new opportunities, the only thing of which they certain was their homeland or the last port-of-call. And the meaning of TAUMULIVALEA is that if you don't know from whence you came how can you know where you are going – you may be sailing round and round in circles instead of going forward towards future opportunities.

I believe that this is most appropriate here for, in my humble opinion, we now know from whence we started and have the confidence to move forward without fear of going round in circles nor of re-inventing the wheels.

I am of the opinion that our Committee has responded positively to the Leaders Communiqué and the SOPAC Governing Council decision. Indeed as Edward Gibbon's wrote: the wind and the waves are always on the side of the ablest navigators. There is no Taumulivalea now. Nonetheless the task we are undertaking is not a straight forward matter as we have learned and will require long-term and steady dedication. But it is an urgent priority and I believe we can move forward with some confidence to complete our task and responsibility to Council and our Leaders and not so much based on the logic of rationalization as such but the most effective institutional arrangements based on the logic of the most effective means of meeting needs of member states with excellence in quality, relevancy and timeliness.

Honorable Deputy Prime Minister and Members of the Committee, and Participants – Observers

May I, in closing, welcome you again and thank all of you for your commitment to the vision of our Leaders, our Council and our people.

Malo and ofa atu.

Thank you.

ANNEX 3

Adopted Agenda

- 1 Welcome
- 2 Adoption of Agenda
- 3 Approval of Minutes of SCW02
- 4 Matters Arising
- 5 Update since SCW02
- 6 Consideration of Progress Report to the Forum
- 7 Consideration of Council Chair Covering Letter
- 8 Date of Next Meeting, Update on Timelines and Constraints
- 9 Other Business
- 10 Closing

ANNEX 4

Minutes of Third SCW Meeting

Agenda Item 1 – Welcome

The meeting was called to order around 9:35 am.

The Chair read his opening remarks, attached in full to the SCW03 meeting record (Annex 2).

Agenda Item 2 – Adoption of Agenda

The Provisional Agenda was adopted (Annex 3).

Agenda Item 3 – Approval of Minutes of SCW02

The meeting heard that the summary record and minutes of the meeting had been circulated to the participants on 1 July inviting comments by Friday, 11 July. No amendments had been received and no further comments came from the floor with respect to it.

The Chair ruled the record approved by the Committee.

Agenda Item 4 – Matters Arising

Chair informed the meeting that he had written to Council under Circular 16/08 of 8 July requesting approval from Council to submit on their behalf as Chair of SOPAC a progress report (on the SCW activities) to the Forum meeting scheduled for mid-August in Niue. Letters of approval had been received from Samoa, Cook Islands and Nauru. He invited further comments from the Committee.

Fiji extended a general welcome as host country to the honourable Chair and the honourable Deputy Prime Minister [of Tuvalu] and to all of the distinguished members around the table, especially those who had travelled in to attend the meeting. He extended, on behalf of the Fiji Ministry of Foreign Affairs, best wishes to all visitors during their short stay. He looked forward to again engaging in very positive discussions at this sub-committee meeting. On the item under discussion Fiji stated they had informally conveyed their agreement to the request received by member states – an agreement that would be formalised shortly.

Chair thanked Fiji; and on there being no other comments he took it that the meeting agreed with the course of action. He moved to item 5 and invited the Director to introduce it.

Agenda Item 5 – Update since SCW02

The Director before providing an update to members chose to recognise the presence of the Deputy Prime Minister of Tuvalu (and Vice-Chair of SOPAC Council) as well as Mr Garry Wiseman, the Independent Facilitator for the SPC-SPREP-SOPAC Programme Trilaterals. Mr Wiseman was present to address the meeting under this item. She also welcomed participating observers France and the United States; and her fellow CEOs Dr Jimmie Rodgers and Mr Asterio Takesy, although it seemed the CEO of SPREP was delayed because he did not confirm that he would be attending the meeting so she hoped he wouldn't miss the meeting altogether.

The Director of SOPAC informed the meeting about the concrete actions of progress since SCW02 on 4 June: (1) the CEOs had a very brief trilateral meeting immediately following the second committee meeting; (2) a two-day programme trilateral meeting was held on the 23rd and 24th of June, and Mr Wiseman was in attendance at SCW03 to provide reflections to the Committee on that process; (3) the legal assessment commissioned by the SOPAC Secretariat was completed by the Consultant and the report was before the Committee, although there probably hadn't been time enough given to members to

study the report given that it had been sent out on July 10th to the Committee and the full SOPAC Council so she wasn't expecting much discussion on it at this meeting.

The Director also mentioned the joint letter of request by the three CEOs submitted to Australia and New Zealand. The letter was received by Australia and New Zealand on the 25th of June, and a joint response from Australia and New Zealand had been received. The CEOs of SPC, SPREP and SOPAC had yet to sit down and consider that. They intended to use the opportunity of this week to look at the response from them; and to provide them with the additional information they had requested in order to gain the necessary additional resources that was needed for the rationalisation process.

The Director of SOPAC at this point asked for the Chair's indulgence to invite Mr Garry Wiseman, the Independent Facilitator of the programme trilateral meetings to reflect on the two programme trilateral meetings held so far, for the benefit of the Committee. Also that the SPC and SPREP CEOs be also invited by the Chair to add to Mr Wiseman's contributions with their perspectives on developments in the programme trilateral process since SCW02.

The Chair invited Mr Wiseman to take the floor.

Mr Wiseman was aware that the Committee knew of his involvement in both the programme trilateral meetings; and thought it would be useful to make a couple of observations and points about them given the Committee's own discussions about a whole range of issues around the process that was being followed.

He said the process provided an opportunity for programme staff in each of the organisations to learn more about what the others were doing. From the perspective of being a complete outsider from the work of SOPAC, he found it very revealing and very educational. He thought it educational as well for the organisations themselves to hear from each side what it was doing and how perhaps that insufficient opportunity had been taken for greater collaboration and coordination of some of the things that they were doing together; or could have been doing together more effectively. He also thought that was very helpful in raising the awareness of effective rationalisation leading to the conclusions which people wanted, which was primarily the retention of the basic integrity of the work of SOPAC together with an improvement in service delivery. Hence the first trilateral just pointed to the need for better cooperation, coordination within organisations and across organisations regardless of where SOPAC's work might end up being located.

He had approached the exercise with some trepidation once he had agreed to participate because he realised that when programme staff were brought together there would be a certain defensiveness about how they might end up working together or be absorbed into one or the other of the organisations. He noted that the first trilateral proved to be quite enjoyable personally and found people were very open and willing to talk about issues. He also noted that there was a general collegial view that programme people should seek to honour the views of the Leaders in terms of rationalisation.

Mr Wiseman reported that the efforts to identify the synergies and potential linkages between SOPAC with the current work of either SPREP or SPC also highlighted a few things which he felt were important during the first trilateral. Firstly, that the basic integrity of SOPAC's work was to be retained. There was an inherent difficulty in splitting aspects of its work between one or the other of the organisations. Secondly, that for service delivery to be enhanced it would be important to examine carefully both the mode of delivery and the client base at country level – this called into question what might also need to change in the way the services were delivered by either SPC or SPREP before and upon absorption of SOPAC.

Mr Wiseman therefore stressed the importance of not only examining the capacity for rationalisation of SOPAC programmes but also what changes were required in potential host organisations, i.e. what might be required to change in the way SPC or SPREP delivered programmes when assimilating aspects of SOPAC's work. He observed that this got very complex at one point and he noted that a number of delegates had raised the highly technical nature of SOPAC work during SCW02; and that it seemed difficult to identify parts that might be carried out by one organisation and not the other.

At the second trilateral in June, Mr Wiseman attempted to progress the discussion about synergies recognising that there were possibly three options on the table: 1) was to see the SOPAC work programme completely absorbed by SPC; 2) was to see it completely absorbed by SPREP; or 3) to see some splitting of the activities of SOPAC between the two. Two working groups were established one for

SPC and the other for SPREP; with SOPAC programme staff alternating between the two to have more detailed discussion about the benefits, cost, etc. of SOPAC's work being absorbed into one or the other. The working groups were also expected to think about what parts of SOPAC's work might better fit with the other organisation.

As mentioned earlier, Mr Wiseman observed that there was obvious difficulty to get people to think about that latter option. It was either everything fitted with SPC or everything fitted with SPREP; and it was very difficult for the programme group to focus on what might be an appropriate split. Mr Wiseman tried to push this by asking in plenary about what might happen in the case of the IT function for example; in that it seemed that SPC was taking leadership in that area and so therefore could the IT functions be moved to SPC in isolation of other aspects of SOPAC's work. There was a lot of arguments given for why that would be difficult and it was very hard for the programme staff to actually come up with a firm position either way. Mr Wiseman concluded that there seemed to be much more comfort in SOPAC's work programme going into one or the other.

The discussions of the second trilateral revealed a further complication in terms of the angle from which SOPAC's work was viewed from, i.e. if it was desirable to see SOPAC's work focus greater on environmental management, then the SPREP home seemed to be the more obvious. If the preference was to see SOPAC's work strengthen the resource use management aspects of the work of SPC, then obviously an SPC home seemed more logical. He observed that it probably came down to one critical point of deciding where members wanted to see the current work of SOPAC grow more strongly. For example, a lot of SOPAC's work evolves around completing the puzzle around environmental management work and therefore there appeared to be a strong case being made by SPREP programme people for absorption in their direction and vice versa.

Mr Wiseman pointed out another issue which he felt was really important to bear in mind in terms of absorption, which was the relative size(s) of SPC and SPREP and how that might impact a rationalisation exercise, i.e. SPC as a much larger organisation would appear (at least superficially) to be better placed for easier absorption of SOPAC, because of its existing structure and infrastructure. On the other hand, SPREP as a slightly smaller organisation than SOPAC would, in essence, be bringing together two organisations to make a bigger whole. What pressure would this amalgamation bring to other aspects of the work would need to be considered; and he felt this was important when one started to focus on the quality of services that was expected to be delivered.

Another aspect which came out very strongly in the first trilateral and then continued in the discussions was some reflection on how each organisation approached its membership, or put another way – the areas of focus of their work programmes – whether in fact they placed more importance on country and community-level delivery or on following up on regional and international commitments. He surmised that it probably was a balancing act within all three organisations, as all had roles in both areas but he thought the balance tipped more to country/ community-level support in the SPC case, whereas the SPREP tendency was to focus on regional delivery and following up on regional and international commitments – although not negating what SPREP did carry out at country level.

The outcome of the second trilateral led people to think that maybe this had gone as far as it could go with the programme staff. They had been able to identify potential areas of rationalisation; and had looked at their own work programmes and how they might marry more effectively, but Mr Wiseman repeated a point he had made earlier – that the final decision of which absorption methodology was more meritorious, either all into SPREP or all into SPC, was not a decision they could make. This admittance then led to some discussions about how this matter could be moved forward. Mr Wiseman's view (which he thought was shared by the trilateral) was that more hard-nosed independent advice on firstly, where and what direction SOPAC's work programme must go; and secondly some advice about what would need to change, and what needed to be reflected in those changes in either of the organisations or both the organisations should they end up absorbing aspects of SOPAC's work programme. The independent advice was described in terms of a business case that would provide the two or three options for the Leaders to decide on.

In closing, Mr Wiseman thanked the Committee for the opportunity given him to facilitate. He expressed disappointment that the programme trilateral wasn't able to take it further than where it had got to; but he acknowledged the obvious sensitivity of the whole issue. He noted that the Committee had discussed staff morale at its last meeting; however he thought that though very critical to this process it was not

sufficient reason to delay the process any further because everybody was quite conscious of the need to reach some sort of decision for the Leaders.

The Chair thanked Mr Wiseman for his very useful comments which he was sure would be of great assistance to committee members in their discussions. Before he opened the floor to the Committee for questions or comments he invited the CEOs of SPC and SPREP for their perspectives on Mr Wiseman's presentation.

The Director-General of SPC thanked the Chair for the opportunity to address the item; and began by commending the Director of SOPAC's vision in engineering the appointment of an independent chair (facilitator) for the programme trilaterals; and given that the person was someone from outside but who was also a partner to the three organisations put that aspect of the process in very good stead. He reported that what he heard Mr Wiseman say was essentially a duplicate of what SPC staff had reported back to him with respect to the SPC participation in the process. Rather than belabour the point of difficulties, he thought the three agencies worked in excellent cooperation to try to make things work. He did not sense any defensiveness from his troops and they thought the openness from all three organisations was very useful. At the end of the day, SPC's stance was to try for the best outcome in terms of benefit for the region. He commended the programme staff and the leadership by Mr Wiseman that ensured that the focus of the group was the same, i.e. that the outcome benefits the member countries.

The Director-General of SPC continued by emphasising the last point made by Mr Wiseman in that looking at synergies at the programme level had gone as far as it could. He expressed that unless there is much clearer guidance, like "this is the end point we'd like you to see can you do the chop!" – this the programme people would not be able to do that. He proposed that the question now was whether that instruction should come from the three CEOs, or whether more objective assistance should be sourced from the outside. The outcomes or outputs achieved in the process to date could be made a part of the terms of reference for a more independent assessment that could look firstly at what was the best arrangement for the region, and then on that basis come up with what might be the best split or even just to say, "well really we need to go back and say this is probably the better package to achieve what the leaders [want to] see." He thought a point had been reached where the CEOs could quite confidently recommend a much better focussed external assessment. The difference between the external assessment he was speaking of here and the previous RIF exercise, was that the previous RIF exercise had a much wider focus. From the perspective of SPC, he was quite happy to support the view that had come up and that it was something that the three CEOs themselves had also started to think through. Depending on what the Committee of the Whole thought, a terms of reference for an external assessment (which has been floated around [in the lead up to the second programme trilateral]) could be refined for circulation before that assessment moved forward.

The Chair invited the CEO of SPREP to make additional comments.

The Director of SPREP apologised for his late arrival, which he blamed on travel arrangements "gone wrong". He went on to echo the sentiments of the SPC CEO, in that SPREP had participated in broad examinations of the issues for areas of possible fit; and how the agenda could be better advanced. The examination had been from the CEO point of view initially; and taken down to the programme level where the technical basis for the best way forward could be advised to the CEOs. The Director thought an admirable job had been done, and he too commended the independent chair for his leadership in the process. He was of the view that it helped bring about a very important consideration to the matter at hand – and that was that an objective view of what was the best for the member countries of SOPAC should be formulated. He recalled that one of the critical importance of rationalisation was that SOPAC services not only continue but in fact improved and he acknowledged this to be a goal that all three CEOs were trying to achieve in their consideration and deliberation.

Director of SPREP continued that without trying to skirt around the issue, his view was that when it came down to deciding where SOPAC would end up, that it was ultimately a political issue and advised facing up to that fact. Whether or not it was time to kick this back up to the politicians but that the process so far had actually identified three possible scenarios. The independent assessment mentioned by the SPC CEO was really to look at the three possible scenarios and inform the decision makers as objectively as possible on what would be the most advantageous way to move forward; i.e. which of the three options of all (SOPAC) into SPC; all into SPREP or a combination of the two. While this may be so, he remained mindful of the concern that had been raised initially by the Council of SOPAC, which was that the services

of the organisation are not fragmented; and that staff morale and the confidence of donors, both very critical to the sustaining of services were not eroded.

Director of SPREP pointed out that in taking all these together the focus needed to be on what particular advantage(s) was/were in going one way or the other; or alternatively members could say "we think it should go with only one of them"; and cut out the third option so the field was even further narrowed down to two, the merits of either could then be examined. He also advised being conscious of the time, the financial resources and the human time element that was being devoted to this question and urged members to seriously consider the political component and quicken the decision making without rushing it; however, members needed facts to help them make the decisions. He believed that some of those facts now lay on the table; although there could be scope for some more independent facts and views to be tabled for members to conclusively come to a definitive decision.

Director of SPREP recorded that SPREP was conscious of its size, as pointed out by Mr Wiseman; and was not claiming to have all the answers. SPREP was fully aware of the capability of SPC; the outreach programme that it had and SPREP did; and suggested that this be one angle that the members should consider. Should the services to environment be provided on an outreach basis? If so, then as Mr Wiseman pointed out the environmental puzzle would not only be filled out but that the footprint would also be broadened. His belief was that it would be well for the region that it did not just have a social and economic strength to stand on, but indeed the environmental component needed strengthening within the three pillars of sustainable development.

Director of SPREP concluded that the options were now drawn to the fore. Members could either take a decision at this point and say "let's go with one or the other", or instruct the CEOs to continue to examine the three options. He cautioned that time was ticking away, and resources not unlimited, particularly in SPREP's case where he didn't have a budget base for his engagement in the process, so he suggested that the due diligence assessments could be begun on the options. This was the main reason SPREP attended the last programme trilateral and suggested that a way forward was to actually give it to an independent consultant to assist in better analysing these things and then presenting the facts and the way forward to members to consider.

The Chair opened the floor for questions and comments from members.

Cook Islands thanked the Chair and greeted the Honourable Deputy Prime Minister (of Tuvalu) and his fellow members. He went on to thank Mr Wiseman for his report and acknowledged the views expressed by the CEOs of SPC and SPREP. He noted it as "quite obvious" that there was still a lot more work to be done; for instance in the changes within the two receiving organisations', their own arrangements and mandates and how the improved delivery of services to the Pacific Islands could be accomplished.

Cook Islands while agreeing with some of the principles as raised highlighted an ongoing concern that was mentioned by the Director of SPREP, which was that in building up the needs of each country's programme intervention areas from SOPAC the SOPAC programmes must never be fragmented – a view he wanted to take in this case. On what needed to change in the receiving organisations, he highlighted that a report that was currently in front of the Committee, by legal consultants, covered what needed to change. He would go along with what had just been suggested by the Chair and the Director of SOPAC, that we go back and analyse the report. Some of their concerns, which he believed were also concerns raised by other member countries since Tonga are again highlighted in the (legal assessment) report. In view of the interventions by the CEOs of SPREP and SPC, he certainly agreed that more work needed to be done in clarifying positions on this particular matter. He also recorded his appreciation of the work done so far by the three CEOs particularly in analysing a way forward for the whole exercise.

Cook Islands was also mindful of what Mr Wiseman mentioned in terms of taking this forward bearing in mind the technical aspects of SOPAC, and how it was to be merged into SPC or SPREP. He noted the points made on the changes to accommodate the delivery of the programmes; and the changes in the recipient organisations' mandates to accommodate the programmes and the activities of SOPAC, and also the 'business case' for the Leaders to decide, come August.

Cook Islands in also being mindful of the political aspects of this issue (as raised by Director of SPREP) and he thought that around the table everybody would know where they stood currently in terms of how Fiji was driving a process for when the issue came to the Leaders' meeting in August. In the progress report, it was quite obvious that [SOPAC] had done its part – and the Committee had done its part to

accommodate the Leaders' decision, concluding that it was only fitting that SOPAC present a progress report on that progress to the Leaders.

New Zealand greeted the honourable ministers and distinguished representatives at the meeting and went on to submit that the presentations by Mr Wiseman and the CEOs of SPREP and SPC seemed to indicate that the Committee had a "pretty fundamental decision point" at this particular meeting. He noted that the kind of process model that the Committee had been following since the Council meeting in Tonga, could be termed a model of collaborative consultation among three CEOs with reference to this group, to come up with a path forward. At the second sub-committee meeting, he noted that the Committee was presented with a competitive collaborative model whereby potentially competing business plans would be put up with a preference for trying to come up with some compatibility between them. These business cases would then be subject to scrutiny by the Secretariat and independent advisers. As it sounded, and it would appear to be the general model that was being presented in the Chair's own progress report to the Forum; however, if there was movement to a different model; he was of the view that the shape of the report that needed to go to the Leaders would fundamentally change. New Zealand observed that the new model appeared to be one where (having said the endpoint of the immediate discussions among the three Secretariats had been reached) some independent advice was being sought to come up with what would be a preferred business plan rather than subjecting the two SPC and SPREP business plans to independent (separate) advice.

New Zealand recounted that another theme that appeared to be coming through from the comments now was that once the business case was in place, SOPAC would potentially need to refer back to Leaders for a political decision which would then guide the shape of the actual implementation. He proposed via the "rather long-winded statement" that a very fundamental decision needed to be made about how the SOPAC Committee reported to Leaders, and how to further move forward on the item.

New Zealand also referred to the immediate implication (of the change in process model) for the proposal that was submitted to Australia and New Zealand for funding by the three CEOs – that it also was affected in a very large way because that proposal was based upon the previous model of assisting trilateral discussions, elaborating and reviewing different business plans. It seemed that the proposal may be somewhat overtaken if a different path was being taken; hence a lot of what was contained in the report or what it was based on may no longer be relevant. New Zealand also indicated at this juncture that they would like to table correspondence associated with the proposal from the CEOs for reasons of transparency, so all the members of the sub-committee may cite the correspondence that was received by New Zealand and Australia on the 25th of June; and the joint reply indicating issues.

Fiji thanked the Chair and proceeded to place on record Fiji's appreciation for the Trilateral meetings that had taken place, especially noting the usefulness of having an independent chair of that process, which had contributed significantly to progressing the meetings among CEOs. He also extended appreciation to the three CEOs for bearing with the process and commended their ironing out of any sense of apprehension that might have been there in the beginning to work toward a positive outcome.

In reference to the comments made by New Zealand on the change in process model; Fiji requested clarification from the Secretariat, or even the Chair of the programme trilateral consultation group.

The Chair invited the Director of SOPAC to respond to the Fiji request for clarification.

SOPAC Director explained that the process that was presented to the Committee at its second meeting would still hold. What was being suggested however, was that to reach the preferred arrangement (in terms of rationalisation before absorption even though there had already been considerable work completed by way of the programme trilaterals as well as our CEO discussions); there needed to be some independent validation of what the preferred institutional arrangements would be that would be moved forward to become the absorption plans. She would suggest that those absorption plans still needed to be a collaborative effort between the Secretariats of SPC and SPREP, and the independent consultants that would be commissioned to undertake this work. Furthermore, she suggested that the due diligence on the actual absorption plan(s) developed would also require some level of independent validation to provide assurance to the SOPAC Council, so that in fact what resulted was improved service delivery in the receiving organisations, SPC and SPREP or SPC or SPREP. On the issue around "potential competitive collaborative models" – it was hoped that engagement of independent consultant(s) would remove the level of vested interests and commitments of Secretariat staff and provide an objective recommendation. She clarified that she saw the process as largely the same, and that SOPAC was not

disengaging; and that simply there would be a milestone in the rationalisation process where a number of [validated] institutional arrangements would be presented to the Committee.

The Director, on the matter of whether this was a political or an operational decision, pointed out that the discussion and debate must be amongst members – members and not the heads of the three secretariats would decide the institutional arrangement of choice for the Leaders. She offered that there was much in the progress report that still held valid. Many of the discussions had already been agreed and without challenging New Zealand's intervention she thought that within the progress report was outlined a logical and sensible flow of what must go forward as the roadmap towards absorption. The suggestion was really more a matter of the CEOs contending that some level of independence at this juncture would be helpful to be able to reach the preferred institutional arrangements that was hoped would dispel any sort of competitiveness as the absorption plan(s) are developed. She was mentioning absorption plans because she thought that both SPC and SPREP would need absorption plans to present to their respective committees and councils; but that an absorption plan for the entire initiative would in fact be presented to the SOPAC Council, to see how all of the services and functions of SOPAC would be received by SPC or SPREP; or SPC and SPREP.

The Chair invited the SPC CEO to comment.

Director-General SPC added to the SOPAC Director's explanation that SPC's perspective on two competitive cases had changed and that their understanding at this point was that SPREP would develop its case, SPC would develop theirs to present to members for a decision. He didn't think the process "changed" but rather "varied" with the suggestion that the independent assessment was to come up with the various options. His best-case scenario was first mentioned at the SCW02 – that once the options were clearly articulated on what was to go to SPREP and what was to go SPC, then the development of [absorption] plans would be based on those and would be complementary. So the suggested additional component was just to ensure objectivity in delineating what goes where – it may not actually come out with "this is what you do" – but it would definitely come out with a number of options we could have a look at.

Director-General SPC to further clarify, shared some of the progress in its work with SPBEA; because it followed a similar kind of an arrangement. The decisions on what would happen with SPC and SPBEA would actually take place in October this year – both governing councils would meet at that point and it was hoped to present the roadmap to both governing councils. Between now and October it was hoped that an assessment would be jointly commissioned by the agencies to look at the issue of absorption. This would include consideration of how the structure might be, the accountability, the reporting to countries; and how best to sustain the current freedom and services offered by SPBEA to members. A cost-benefit assessment would also be undertaken. Based on the outcome of both analyses, a joint paper would be prepared to present to both governing bodies. This is similar to the objectivity being suggested in the SCW process; where SPC and SPBEA were looking to commission outside help to prepare something that would jointly be presented to their respective councils.

Director SPREP wanted to be more concise and said that the consultancy that was being proposed would take over much of the role that the programme staff/managers had been doing. SPREP did not believe (as Mr Wiseman reported) that the programme people could take this any further; and it was their view that one of the compelling reasons for this development was the need to introduce an element of objectivity, because the programme people had their own views and their own interests and were not necessarily clearly objective on how to move forward however well intentioned they were.

The Chair invited Mr Garry Wiseman to comment.

Mr Wiseman added two points: Firstly, it had been clear to him from the discussions at the trilaterals that they had gone as far as they could and he thought that part of the reason for that was programme staff were not necessarily able to talk about the institutional and other aspects of absorption in either one of the organisations – that was a broader discussion that had to take place within the relevant organisations that were to absorb these new activities. Secondly, the other important aspect which needed to be looked at more carefully was the actual cost of the absorption to either organisation; because he had noted that the legal review referred to that aspect in some detail. What the trilaterals focussed on was more on the rationalisation and less on the absorption. The absorption – having a decision made about where programmes might be absorbed into – implied that more detailed discussion needed to take place in those so-called new host organisations about how that absorption could most effectively be achieved.

Mr Wiseman also suggested another aspect on the way the absorption could be approached – it could be approached by suggesting a particular [cut-off] date when the absorption would be complete; or the approach adopted in the case of SPC taking on responsibility for the Regional Rights Resources Team (RRRT) (which was with UNDP) as an additional set of activities for SPC pending absorption into the programme in the future, i.e. more comprehensive absorption at a future date. In short, a staged approach or deadlined approach; and that was where the independent advice would be important.

Republic of Marshall Islands joined other members congratulating and thanking Mr Wiseman for the work accomplished for the programme managers. He also thanked the CEOs of SPREP and SPC for their report on how they saw the process progressing and the SOPAC Director and staff for organising the meeting. On hearing talk on costs, he recollected that he had requested an update on the costs of the whole RIF process. He was still interested in knowing how much had been spent from the beginning of the process to date.

Marshall Islands continued that he welcomed the suggestion by CEO SPC about narrowing the field of options and suggested that maybe SPC and SPREP (even the three CEOs) to develop the plan(s) for absorption could work with the programme managers to advance the narrowing down of options. He also thought it useful for the councils of the three regional organisations if a matrix of activities could be developed that included costs.

The Chair asked the Director of SOPAC to comment on the Marshall Islands' request for information on costing.

Director SOPAC tendered apologies to the representative of the Republic of the Marshall Islands for not having the requested information available for circulation at this meeting. She acknowledged that there had been some considerable in-kind resources from various senior staff from the three agencies as well as Mr Wiseman's time spent on the programme trilateral process. The three CEOs, outside of actually delivering on the respective organisational work programmes have also spent some attention and time on responding to paragraph 19b, inclusive of actual costs of travel and per diems of those non-residents of Suva who had to travel in. The CEOs have consciously taken advantage of other meetings to meet on the matter. She agreed to work with SPC and SPREP to pull some of those numbers together because it would be useful to see what level of in-kind as well as actual resources was being channelled into this initiative. In terms of how much had been spent since the RIF initiative started some years ago, the group would need to look to the Forum Secretariat (the agency that had led the initiative since it was first mentioned in the Pacific Plan) for those costs. She undertook to write to the Forum Secretariat on the Committee's behalf to request that information.

Cook Islands supported the view expressed by the Marshall Islands on the establishing of a matrix of activities of the process forward with costs. He thanked New Zealand for making available the proposal from the CEOs and the reply; and expected to also cite the independent consultant's studies when they became available from SPC and SPREP on the options.

Cook Islands also expressed, with respect to one of SPREP CEO's comments on the different processes within the RIF exercise, whether it be rationalisation, absorption, or any other objective planning that would be undertaken – these would still require the clear articulation of the issues raised in the Facilitator's intervention, i.e. the legal, the financial and whatever other implications that could arise. From experiences in carrying out restructuring of the government back in 1996/97, Cook Islands was sure that every plan had associated costs that had to be articulated. The 'national example' in the Cook Islands of trying to create a ministry of works from various separate divisions of Government like the Survey, Building Control and others with their individual mandates in terms of being custodians of Government records couldn't be done without having the costs, the merits, the implications of what could happen and so whatever plan was formulated still had to have all the financial implications articulated. The legal, financial and other issues were considered right throughout the Cook Islands restructuring. The view the delegate was trying to emphasise was that to come to a good end outcome of the whole process, the articulation of those implication issues should not be sidelined and therefore concurred with the view from the Marshall Islands that a matrix of activities would be useful for members to keep track. The matrix of activities, he pointed out, would always end with a column for cost implication of any activity. While the matrix might contain issues dissected or articulated, the Cook Islands view was that the implications would also need to be considered throughout process (as raised in SCW02, SCW01 and now SCW03), whatever the title of the entity [roadmap] for implementation.

Cook Islands then turned to the overall issue of rationalisation in view of in-country consultations and international organisations, scientists, geologists, biologists and so forth. He deemed these groupings to be some of the most important people that should come to the table, and in fact should be among those to advise on the nature of the technicalities of each programme that SOPAC has – similarly for SPC and SPREP. With due respect to other representatives at the table, some member representatives were actually technical people and had a different approach to considering the issues surrounding the programme areas of SOPAC. Without really knowing what SPREP and SPC could actually deliver on; the Cook Islands was mindful that these would need to be articulated as viewed earlier by the two CEOs of the recipient organisations should the rationalisation and absorption take place. Logically, (and this had been raised in a couple of meetings) after absorption, the budget would increase; hence the discussions leading up to the Forum Meeting in August (in Niue) would evolve around what the [RIF] exercise was meant to achieve – whether it was to cut back on costs to allow a smoother transition into the other (with respect to absorption); or whether it was meant to increase the budget; or to decrease the capacity of costs involved without consideration of the technical attributes to the programme areas for the Pacific islands countries. Cook Islands had already tabled intervention which concluded that it would be small island states that stood to be deprived of technical advice should the new arrangements not work; hence the need to have the options articulated properly. These issues should also be part of the presentation to the SOPAC annual session in Tuvalu; and respectively, the SPC and SPREP council meetings of 2008.

Papua New Guinea acknowledged the presence of the Honorable Deputy Prime Minister of Tuvalu and thanked the presenters: Mr Wiseman and the three CEOs. She thought the members got a good view of what had transpired during the programme trilateral discussions; and from what she could glean from the comments there were some difficulties. She emphasised a point made by Director SPREP on the diligence in articulating issues within the process itself. She suggested that if the three organisations were comfortable with one or two of the programmes that they could split or either get that absorbed into their own programmes; and further suggested that [the Committee] could go programme by programme (rather than having everything done together) and do the division on a trial basis to see if the programmes could be taken on board. The basis for this Papua New Guinea view was the concern that if everything went together at the same time, then some of the programmes of SOPAC could lose its significance. This was in line with concerns by the States on the services, as expressed at the other two meetings and emphasised that all along they wanted to be party to all the documentation from the meetings and she suggested that programme trilateral documents be circulated so members had a sense of what they would be missing out on or what they would benefit out of or even if some of the programmes would lose its significance on absorption. Papua New Guinea pointed out that the Leaders' meeting was just round the corner and the Leaders would want to have some confidence on how SOPAC went about the RIF process itself; hence she proposed that the group should just go programme by programme to see how things went. She was certain that the organisations had very capable programme officers and scientists who would be able to get a process going.

The Chair asked Mr Garry Wiseman whether he would like to comment.

Mr Wiseman was reluctant to comment at first; then ventured that he thought it was really a matter for the CEOs on whether going programme by programme were feasible or not. The approach had been the way the programme trilaterals were conducted – looking at each SOPAC programme and seeing how it could or not be absorbed by one or the other. An issue that kept coming up was the inter-relationship that had been developed among the programmes of SOPAC; hence if one of the programmes were to move to either SPC or SPREP, there would need to be careful analysis to ensure that link back to the programmes still with SOPAC was effective. He had begun his address to the Committee by noting that at the first trilateral, there was better appreciation by all attending of what the other organisations were doing; and this highlighted just a coordination/cooperation issue between the organisations. There was clearly room for more effective ways of communication across organisations, hence when SOPAC became part of another organisation there was a need to address that issue because of the interlinkages which obviously the programmes in SOPAC have developed within itself.

The Chair asked the Director of SOPAC to add to the discussion.

SOPAC Director while appreciating comments by members and Mr Wiseman deferred to the latter's view and cautioned members to think of rationalisation/absorption in a slightly more comprehensive sense. She acknowledged that concerns expressed in discussions at various meetings so far have suggested nothing that was not insurmountable – but advised that the agreed process be followed on the way

forward from rationalisation then onto absorption; and that the decision for absorption be made and then absorption actually following.

With respect to the New Zealand comments, SOPAC Director suggested that when the progress report was considered, she could advise the meeting how it could be amended to reflect the issues around the independent advice at the rationalisation level as well as the absorption level. On the non-competitiveness of the absorption plans; she suggested looking at that language to see that it fact emphasised and reflected that sentiment. On reflection she was of the view there was probably no need for any major redrafting to get the document to reflect the variations to the process that had already been discussed at length in previous Committee meetings.

SOPAC Director also confirmed hearing from the Marshall Islands and the Cook Islands some support toward developing a detailed matrix which outlined actions forward in terms of the rationalisation process for paragraph 19b; and more detailed costings associated with those actions. She thought it was an excellent suggestion and one that could tie back to the proposal for additional resources submitted to New Zealand and Australia. She went on to thank New Zealand and Australia for printing out the copies of the letters; saying that the quantity of copies she had prepared were probably not enough for the number in the room. There had also been reference to an outcomes document for the programme trilaterals; and she promised to have copies distributed to members by after morning tea.

SOPAC Director concluded by expressing interest in hearing initial comments (if any) on the legal assessment recently transmitted to members. She conveyed a suggestion from the consultant that the SOPAC legal assessment document be read in conjunction with the legal review under the Pangelinan RIF Review Report; which was the reason the two papers were distributed together – to understand the perspective that was covered in her legal opinion on the implications of dissolving or suspending SOPAC.

The Chair called for the morning tea break at this point.

MORNING TEA BREAK

The Chair outlined to members the plan to break for lunch at around 1:00 pm, and encouraged a focussed attempt on advancing the agenda so that there could be a short meeting after lunch or even a finish before lunch.

The Chair asked for initial comments on the legal assessments, before getting on with Item 6 of the agenda.

Marshall Islands requested the Secretariat to convey appreciation to the consultant that did the report, even though he hadn't had the time yet to review it thoroughly yet.

The Chair agreed to convey appreciation to the legal assessment consultant and invited the Deputy Prime Minister of Tuvalu to address the meeting.

The Deputy Prime Minister of Tuvalu thanked the Chair for the opportunity to make a statement. He thanked the Secretariat for the invitation and honour to participate and represent the people of Tuvalu at such an important meeting (something their Suva Embassy had been undertaking on Government's behalf). He also thanked SPC, SPREP and all the delegates for the views expressed. He understood that the meeting was primarily to sort out a report to the Leaders' meeting in August. Tuvalu was supportive of this initiative, and he advised that it should be carefully noted that even though Leaders had resolved for SOPAC to be absorbed into SPC and SPREP, Tuvalu's concern was the time frame for the process. Looking back at the work undertaken by SOPAC in the past decade, Tuvalu confirmed and appreciated those contributions and didn't want to see those services handicapped, or not reaching the small island states in the Pacific. It was important that even though the Leaders' resolution was being honored, it should be appreciated that the difficult part of that resolution was what was being faced by this Committee. Tuvalu would like to see that a slow absorption process be put in place through the legal aspect of it as well as the technical part; and more importantly the resourcing aspect of the different services which had been provided by SOPAC in the part years. He was on record with Tuvalu's opinion on this matter, in that the timeframe had to be put at the forefront so that the services were not jeopardized by the speed and the urgent need to absorb the functions and roles of SOPAC into SPC as well as SPREP.

The Chair thanked the Deputy Prime Minister of Tuvalu for his comments, and noted his concern about the timeframe for the process, and that it should not adversely affect the services delivered to island states. Since he saw no further requests for the floor under this item he invited the Director of SOPAC to introduce the 'progress report to the Forum' and invited the representative of the Pacific Island Forum Secretariat (PIFS) to outline the reporting process for the Pacific Islands Forum Meeting on the RIF, after the Director's presentation.

Agenda Item 6 – Consideration of Progress Report to the Forum

SOPAC Director introduced the progress report, which had been circulated to Committee members on 10th July by e-mail, reminding delegates that all [RIF] SOPAC documentation were on the SOPAC website. She outlined the parts of the reports; highlighting that the emphasis was on the "work in progress"; hence the reason for a 'progress report' to Leaders. She reminded members that the progress report was pulled together on the basis of paragraph 19b, using the SOPAC Council Decision (November 2007), records, summary records and papers presented to the SCW01 and SCW02, and outcomes documents from the programme trilaterals.

The Chair thanked the Director for her introduction and asked the representative of the Forum Secretariat to please outline the reporting procedures for members.

The Representative of the PIFS informed the meeting that the process envisaged for reporting back on the RIF (generally) would be that the Chair of the Pacific Plan Action Committee, which is the other officials standing committee for the Forum Leaders; would prepare a report looking at all of the entire RIF process involving all three pillars that would be drafted next Monday and Tuesday (21-22 July) which is the convening of this meeting in Suva at the Secretariat with representatives from all Forum members. It was understood that there would be a letter prepared by the PPAC or the Chair of PPAC to the Forum Chair (Tonga in 2008). The PIFS representative proposed that the SOPAC Chair letter be actually appended to the PPAC Chair's letter which was the overall report on the RIF – the idea being that one report went to the Forum Leaders this year and not two separate reports talking about parts of one process. He said the advantage of such a process was that it was presented to an officials committee of all members present and the letter would be drafted by all members. It was drafted by committee and approved by the membership in the Pacific Plan Action Committee, which was very similar in composition with the Forum Officials Committee. All Forum members would have representation on that [committee] and PIFS proposed that that letter was effectively a progress report to the Leaders through the PPAC Chair on the RIF process, which meant that members prepared a report and not the respective technical agencies. Hence the letter and report from the SCW process would be appended to the Chair of the Pacific Plan Action Committee's Letter, to ensure some consistency across the board and hopefully streamline some of the paper work.

The Chair thanked the PIFS representative and asked for comments on the procedures outlined before opening the discussion on the progress report.

Fiji thanked the PIFS for the explanation. The delegate admitted not having much of an institutional memory on how these things had been followed up before and asked if he could be informed of a similar case where a report on a Leaders' decision that affected SOPAC was needed.

The Chair asked the Director to respond to the Fiji request.

SOPAC Director reminded the meeting that as part of the SOPAC RIF decision taken in Tonga in November 2007, the SOPAC Chair undertook to inform the Chair of the Forum as well as the chairs of SPC and SPREP and our development partners on the decision that SOPAC Council took on the matter of paragraph 19b. During the first committee meeting there was some discussion around how that level of reporting would continue and the suggestion at the time was that the Chair of SOPAC would write to the Chair of the Forum to provide a report on SOPAC's response and the progress. She recalled the Chair outlining at the opening of this particular meeting that he had written to the SOPAC Council to seek approval to be able to write on behalf of SOPAC to the Forum Chair to provide advice on the progress that's been made by SOPAC with respect to responding to paragraph 19b. A commitment had been made at that first SCW meeting, but more importantly a commitment had been made by SOPAC to keep all partners in this initiative informed.

Marshall Islands wanted to be really clear in his mind on the process of reporting to the Leaders; and asked the PIFS for clarification – was it the Chair of PPAC or the Chair of FOC that was reporting to the Leaders?

In reply the PIFS representative stressed two things in how the matter went forward (1) the Forum Officials Committee was the Governing Council of the Forum Secretariat. (2) The RIF exercise was in effect a Pacific Plan process. The Forum Officials Committee with respect to greater regional integration and cooperation was the Pacific Plan Action Committee, which stood on the same footing as the FOC with respect to the Leaders' meeting; so it would be appropriate for the SOPAC reports on RIF events to be tabled through the PPAC process because it was the mandate of the PPAC to actually oversight that process ultimately.

Marshall Islands expressed that the only problem with that was that members of the PPAC were not official representatives of countries whereas the members of FOC were official representatives of member countries.

The PIFS representative offered that at the Forum Secretariat it was assumed that representation provided at these meetings would be bona fide and representative of their country and they would be speaking on behalf of their countries, and their national positions. In practice, the members of FOC were the members of the PPAC, which suggested a degree of transition or of continuity in practice – these were more or less the same people.

Cook Islands having heard the clarification on the process; and acknowledging the views expressed by the Republic of the Marshall Islands and the Forum Secretariat tabled a motion that the progress report that was before the meeting in draft form be a confirmed report of the progress by this Committee through the SCW Chair (also the Chair of the SOPAC Governing Council) to the Leaders. Having heard the process outlined by the PIFS he enquired whether language would then be crafted from the SOPAC progress report to go into the PPAC report?

The PIFS representative clarified that the SOPAC report would be an attachment to the PPAC Chair's letter to the Forum Leaders, and therefore there was no intention to condense the [SOPAC] report. The PPAC Chair's letter to the Forum Leaders would note that this was part of the broader process.

Cook Islands thanked the PIFS and alluded to the next paper up, which was the cover letter by the SCW Chair, noting that the language as established according to the two papers would essentially constitute the SCW progress report. Cook Islands had no problems with how this was going to be reported as long as there was assurance me that there were no other amendments to the report beyond that undertaken by the SCW. He was mindful of what Marshall Islands was saying in that the Committee had actually established since SCW01 that members wanted to take ownership of the whole process right through to its destiny in terms of being a Committee as decided by SOPAC Council in Tonga in 2007. Hence the Cook Islands motion was that the draft progress report that was before the Committee be established as the final report from SCW to the Leaders.

The PIFS representative further clarified and reiterated that the SCW report was representative of one part of the RIF process, and advised that it would be viewed in that context. He reassured members that PIFS would not look to change the content of the report. The report was what the report was, and was presented by members around the table as representative of their national positions on this particular issue. He reminded the Committee that the SOPAC report and letter would be presented through the PPAC Chair's letter, as an attachment, which would ensure that it was tabled at the Leaders' Forum as being actually part of a broader process.

Australia wanted to clarify their own understanding of the discussion that had taken place before morning tea. They had noted some proposals coming forth and that the Director had actually said that [the progress] report would need to be amended before it could be considered to go forward for tabling wherever. There had been a lot of discussion prior to morning tea, and there were some proposals made by Papua New Guinea and others because of Garry Wiseman's presentation on the trilateral meeting proposing a different process, in terms of business plans for the rationalisation of SOPAC. Given that [the different process] was currently not reflected in the progress report, Australia was seeking some clarity as to what was being proposed in terms of the progress report.

SOPAC Director recalled that she had suggested during her presentation of the report that the Committee consider some changes under the section pertaining to the roadmap for a way forward and the possible timelines; as well as some variations in language, particularly with relation with steps 1 and 3 relating to the rationalisation and then the absorption. She read some drafted language which she was submitting as a starting point for added language that reflected the discussions around independent advice

"Independent advice to examine and recommend optimum institutional arrangement options for rationalisation is being sought with the terms of reference for this initiative currently under development for both the rationalisation and then absorption plans to be realised." – the text was for tacking on to the end of the second paragraph on page 6.

Director of SOPAC also pointed out that under step 3, which was development of plans for absorption, the second sentence of the first paragraph did refer to the fact that the CEO trilaterals had outlined their preference that the plans for absorption be non-competitive; and again a reference to the Terms of Reference framework being developed. The Director informed the meeting that the Terms of Reference for the rationalisation and the absorption were one and the same, and she expressed the hope that that would accommodate the variations that were being suggested by the programme trilaterals as well as the general comments from members at this meeting.

Australia apologised for taking the floor again and thanked the Director for the clarification. She commented that it was difficult not having the document in front of the meeting and that obviously some changes may impact other parts of the document. She expressed some confusion on the reading of para. 2 on page 6, [*It is agreed at various levels that that SOPAC's work programme must be kept "together" in one institution and thus not jeopardise the established practice in SOPAC of the production of "integrated solutions" across the programme of work. Indeed, the linkages and synergies should demonstrate new and a broader range of integrated solutions.*] and wondered whether it would be helpful if the Director would actually propose some clarity around the wording. It appeared to her [in the way it was worded] as contradictory to a process of rationalisation/absorption.

SOPAC Director explained that at Council, Committee as well as the trilateral levels (even in the presentation by Mr Garry Wiseman) there was convergence in the view of limiting fragmentation. The paragraph referred to did allude to some of the reasons why she believed Council members were so strong in their position on the issue of limiting fragmentation of SOPAC's work programme; or put another way 'maintaining the integrity of the SOPAC Work Programme'. She acceded that in terms of the actual language itself, the first sentence saying *SOPAC's work programme must be kept "together"* was perhaps too strong a language and the Committee might consider softening the 'must'. She held the view that she had observed during discussions at committee, council as well as at trilateral levels of maintaining the integrity of SOPAC's work programme based on the modalities of delivery, which was providing integrated solutions.

Cook Islands expressed the wish to change the way he proposed his earlier motion. He re-proposed that the Committee endorse the draft with the new language that was being established by the Committee and sign off on it at the meeting; i.e. that all views on the report be expressed at the current meeting and Committee endorse the progress report to Leaders.

Director SPREP wanted to go on record for clarifying his understanding of the points made in the fifth paragraph under the subheading "Trilateral Meetings between SPC, SPREP, and SOPAC" – his understanding was that the bulleted items that mentioned SPREP would happen after the SPREP Council had been given a chance to decide on the whole issue of rationalisation. He clarified that that was the understanding when he agreed on behalf of the Secretariat; because there was no way that he could proceed without first getting a "Yes, go ahead" decision by the SPREP Council. He also corrected the reference to the timing of the SPREP meeting in the report from "late August" to "early September".

The Chair asked the Secretariat to note the SPREP comment on the correct dates for their meeting. He then recounted the motion moved by the Cook Islands to accept the Progress Report with the amendments proposed. He asked for comments on the motion.

The Republic of the Marshall Islands indicated they had no problem with accepting the Progress Report; and seconded the motion proposed by the Cook Islands.

The Director of SOPAC proposed some alternate wording to soften the piece of language in the paragraph referred to earlier by Australia. To replace the word "must" she proposed "should as much as

possible”; i.e. that the integrity of SOPAC's work programme “should as much as possible” be maintained. [The document was at this time was being amended on overhead screen].

The Director (SOPAC) also proposed the following text “this would need to commence, following consideration of para. 19b (of the 2007 Communiqué) by the SPREP Council” to be added to the first bullet point referred to by the Director of SPREP.

Director SOPAC also proposed amending the reference to “observers” to “participating observers” in the paragraph on page 2 referring to the representatives of the Committee.

Fiji viewed that the replacement of the word “must” with “should ... ” as proposed by Director SOPAC, to address the comment by Australia, removed that element of necessity that was reflected in the various commentaries on the issue. To retain a stronger element of necessity he suggested “as far as possible” or “as far as necessary” or something to that effect – his point being that the SOPAC Work Programme should “as much as possible” be kept together.

The Chair asked for further comments on the motion by the Cook Islands; which had been seconded by the Marshall Islands, along with the amended wording to the report. With no further comments from the floor and nods of approval from round the table, the Chair ruled that the Committee had approved the Progress Report, as amended.

The Chair moved the meeting to Item 7.

Agenda Item 7 – Consideration of Council Chair Covering Letter

The Director of SOPAC introduced the Chair's cover letter for the Progress Report to the Forum Leaders, [re]stating the undertaking to keep all stakeholders informed of the process underway. The beginning of the Letter outlined that SOPAC was responding positively to paragraph 19b, and provided the SOPAC Governing Council decision of November 2007 along with an outline of the due process it was following in realising its decision. Some background on the beginnings of the RIF initiative also featured in the letter. There was also an undertaking to continue its work on this RIF initiative leading up to its October session in Tuvalu as well as continuing to provide an update to the Forum as well as other stakeholders after the 37th SOPAC Meeting.

The Chair opened the floor for comments on the Covering Letter.

New Zealand took the floor with some degree of reluctance to point out that one of things that came through during earlier discussions of the day and was reflected in more direct terms in this covering letter was the presentation of the notion that “keeping [the] work programme entirely intact” was a Council decision. The delegate respectfully suggested to the Chair that there was no such Council decision. New Zealand certainly recognised it as a view expressed by a number of members round the table and that it had been a matter of contention at the Council meeting – but he suggested that the Committee avoid a presentation of this notion as being a consensus view of the SOPAC Council. Similarly, he contended that the way that it was presented in the letter would suggest that there was somewhat of a dichotomy, i.e. “either we keep everything together or else it gets fragmented up into little bits and pieces”. New Zealand's preference in the whole exercise was to look at new ways of working together among the three organisations; and this didn't really fit the label of ‘fragmentation’. On a smaller point here, the delegate wondered whether language on the second page of the letter reading “rather than spending so much of our limited resources on being driven to regional integration ...” was a little bit harsh in the first sentence of the third paragraph. The first part of the sentence was obviously very positive for identifying that such cooperation amongst the agencies was a positive and he suggested ending the sentence at ... “achieved through cooperation” – and then going on with the rest of it.

Marshall Islands thanked the Chair for sharing the contents of his letter, particularly for conveying the progress of the [SOPAC] work to the Chair of the Forum. He found it interesting that the report of the Eminent [Persons] Group was mentioned; because the EPG report, he understood, neither recommended that RIF proceed nor that rationalisation should take place. The EPG recommended that the Forum should be reviewed and that had not taken place. The Chair's letter mentioning this was a reflection of what really had taken place, progressing to this point. He expressed the view that perhaps it would be an opportunity for other leaders to become more aware of the report from the Eminent Persons Group. There

were a lot of things (like recommendations) in that report that seem to be neglected, which he said was unfortunate.

Cook Islands offered its view on the letter, which was that they were comfortable with it as stated and likewise the progress report itself. He tabled the motion that the Committee accept the letter as is. On New Zealand's intervention, Cook Islands suggested a rehashing of the particular language in question but he believed the proposed letter should be established as sufficient to cover the areas under discussion since the Tonga 2007 meeting and the SCW meetings to date.

The Chair repeated the motion proposed by the Cook Islands to approve the Covering Letter with some rewording to reflect the concerns expressed by New Zealand.

Fiji agreed with the intervention by the Cook Islands. They had no problems with the text as it stood; but in recognition of the comments by New Zealand, would consider alternative text before the Committee accepted the text in total.

SOPAC Director confirmed the point made by New Zealand that the conclusion (or the decision) by Council did not state the notion of keeping of the SOPAC Work Programme intact in the final decision of their RIF discussions in Tonga (2007). She went on to read Paragraph 246 of the Summary Record of the 36th Session, where the whole discussion around fragmentation led to the words in Paragraph 246 being part of the agreed record: *"The majority wanted to respond positively to the Leaders' decision; and generally agreed that the processes for rationalisation neither disrupt service delivery; nor subject SOPAC's current work programmes to fragmentation; and that the excellent science being mobilised through the STAR network must be retained as a highly valued resource for the region."*

The SOPAC Director therefore submitted to the meeting that in terms of addressing the New Zealand point that only the paragraph that talked about limiting fragmentation could be amended by lifting some of the wording out of paragraph 246 i.e. "the majority wanted ..." to make that particular paragraph more palatable and factually reflect what was discussed and agreed at the Council meeting in 2007.

The representative of the Forum Secretariat exercised his right as a 'participating' observer to comment on the protocol of reporting back to the Leaders' Forum. He apologised for rehashing [issues], but he found it peculiar that the 2004 Eminent Persons' Group Report was being invoked in the context of the current discussion. The work of the SCW as the PIFS understood it, was to follow up a Leaders' decision, as they related to the previous year's Communiqué. While he offered no solution he suggested that it would be prudent in the letter to draw some connection to the 2007 Communiqué, because the mandate of the SCW group was to respond to it. In terms of the broader review process, the SCW was neither looking across the entire RIF nor following up on previous EPG reports, the SCW was tasked to respond to the direction offered by Leaders in their 2007 Communiqué. He tabled the comment as something to remember when going forward and adding value to anything that SCW might say to the Leaders in Niue.

Cook Islands thanked the representative of the Forum Secretariat for his intervention. He returned to the motion he tabled earlier and that he was comfortable with the language as established in the letter. He recalled that during an earlier intervention he had pointed out that in [planning] progress or any item that required changes, there was a need to recap on issues. Key to the current process was what the EPG report had established; and subsequently the creation of the Pacific Plan. The delegate was one who had had the opportunity to go through the Pacific Plan itself and with regard to the interventions, he thought it only appropriate that the views of delegates be reflected in the letter from the Chair of the SOPAC Committee and also how SCW intended to facilitate the process. He agreed that this would in future be a broader issue, hence he preferred that the views be tabled at this point. He supposed that the notes or the letter itself would read by the advisers accompanying Leaders to the Forum; and was sure it would bring about meaningful outcomes of the whole process.

The Chair drew attention to some (re)wording that the Director was having placed on a projector's screen with text borrowed from the Council meeting record for 2007, para. 246.

The Director of SPREP proposed slight amendments to the paragraph beginning – "In my humble opinion" on page 2 of the letter; and the insertion of the sentence – "I hasten to commend to the Forum Leaders to encourage this along" – at the end it. These changes were accepted.

The Chair asked if there any further amendments to the recast text projected overhead.

Fiji corrected the placement of the additional text suggested by the Director of SPREP.

The Chair saw no further requests to comment and ruled that the Committee had approved the Cover Letter to the Progress Report.

The Chair also saw that the remaining agenda items were minor ones so he recommended forging ahead to complete the meeting agenda by lunch time.

Agenda Item 8 – Date of Next Meeting, Update on Timelines and Constraints

The SOPAC Director informed the Committee that due to the Forum Leaders' meeting date being confirmed significantly earlier than normal, for the middle of August that there would be somewhat of a yawning gap between SCW03 and the end-of-October SOPAC annual meeting. The Director believed it prudent that the Committee hold a fourth meeting (SCW04) before the 37th Session of SOPAC Council and suggested a time following the Leaders' meeting in Niue so the Committee could look at the 2008 Leaders' Communiqué and any further communications that the Leaders may have for SOPAC, with respect to para.19b [of 2007]. That timing was also just in advance of the SPREP meeting, hence a good sense of what was going forward for consideration at the SPREP meeting could be got. The SPC meeting was a week in advance of the SOPAC session so supplementary outcome papers from out of the SPREP and SPC meetings would feature at the SOPAC Session. It would also provide an opportunity for discussion on the legal assessment just received by the Committee; and by then it was also hoped a finalised terms of reference for the rationalisation and then absorption initiative that SPC and SPREP would need to undertake over the next months would be available. While an actual date was not set at this point, the suggestion was to hold it during late August/early September in Suva.

The Chair requested comments and ruled the proposal for the fourth meeting (SCW04), late August/early September, noted.

Marshall Islands wondered at the usefulness of actually meeting after the SPREP Council meeting, given it would be the first time the SPREP Council considered para. 19b of the 2007 Communiqué.

The Director of SOPAC informed the meeting that if a meeting after the SPREP Council was preferable to members that it would have to go ahead without her as she was hoping to take some annual leave immediately after the SPREP meeting and before the SOPAC Council meeting.

The Chair thanked the Director for her explanations regarding the proposed timing for SCW04. He ventured that perhaps it would be very helpful to have the Director present at the SCW04 meeting; hence probably appropriate to hold it at a timing which suited her; as suggested in the period late August/early September. He asked that the Committee confirm the general timing and the Committee would be informed duly, once the date was confirmed.

Agenda Item 9 – Other Business

The Chair called for other business matters to be brought up.

France expressed appreciation for their invitation to be participating observer at SCW meetings. He directed a question at the [SPC CEO] Mr Rodgers on the issue of the differing memberships of SPREP and SPC (having common membership) compared to SOPAC. France was not a member of SOPAC; but was a member of SPC [and SPREP]. If SOPAC went into SPC entirely, or not entirely; he enquired after the consequences (legal and otherwise) and wondered if that could be indicated somewhere in the report. He wanted a quick answer as to whether someone was studying that issue.

The Director-General of SPC replied that at the previous year's SPC conference, the position by the French Government was supportive of working towards the implementation of the Communiqué and that was communicated at the conference. France had undertaken a legal assessment themselves, accepting the report that was presented. It was therefore supposed that France supported going through with the process and to deal with other issues when they arose.

The US delegate echoed the thanks expressed by the French Republic for the kind invitation to participate in observing the SCW process. The US was in the same situation as France in being a member of SPREP and SPC, but not of SOPAC nor was it a participant in the Forum where this decision was taken. Going forward the US did have a number of concerns expressed as a request for a legal response. US attorneys had evaluated the response to those questions and came up with still more questions that needed answers. The delegate remarked that both SPREP and SPC had their own internal processes that would have to be respected as this regional and institutional [re]structuring goes forward.

The Chair on seeing no other business being put forward, moved to close the meeting.

10 Closing

The Chair again thanked all the participants sincerely for attending the meeting today. He believed good progress was made. He took the opportunity to especially mention the attendance by the Deputy Prime Minister of Tuvalu and thanked him for being here. He looked forward to the next Council meeting that would be held in Tuvalu later this year.

The Chair concluded by thanking all those who had come from overseas to attend the meeting, wishing them a safe trip back and expressed the wish to see everyone back at the next meeting.

The meeting closed at 1:24 pm.

ANNEX 5

SCW Progress Report to 2008 Forum Leaders' Meeting

SOPAC Council Committee of the Whole on the Regional Institutional Framework Progress Report to the 2008 Pacific Islands Forum Leaders Meeting

Submitted by:

Honourable Siosaia Tuita
Minister for Lands, Survey, Natural Resources
Kingdom of Tonga

Chair of SOPAC Governing Council

PREAMBLE

- 1) Following the 2007 Leaders Meeting, the SOPAC Governing Council considered paragraph 19(b) of the Communiqué which states “*the need to rationalise the functions of SOPAC with the work programmes of SPC and SPREP, with the view to absorbing those functions of SOPAC into SPC and SPREP*”.
- 2) The Council agreed to accept the challenge offered by the 2007 Leaders Communiqué. In arriving at their decision the Council noted *inter alia* that:
 - (a) The core business of SOPAC is excellence in applied scientific and technical information and knowledge of earth systems, and demonstrating how this knowledge contributes to sustainable development for its island Members.
 - (b) SOPAC has grown substantially over the past 35 years in many aspects into a well-established, and well respected regional organisation serving its Pacific Island Members in developing natural resources, principally non-living resources, in a sustainable manner and strengthening resilience through integrated solutions in its three programme areas: Ocean and Islands management, Community Lifelines development and Community Risk management.
 - (c) Council is fully cognisant of the need to maintain the momentum established by the Leaders decision, in order to ensure the continuity in both the quality and effective delivery of service in meeting the needs of the people.
- 3) During the debate on this issue Members generally agreed that the processes for rationalisation neither disrupt service delivery; nor subject SOPAC's current work programmes to fragmentation; and that the excellent science being mobilised through the STAR network must be retained as a highly valued resource for the region.
- 4) The SOPAC Governing Council agreed to establish a Committee of the Whole (SCW) on the Regional Institutional Framework to meet during the coming inter-sessional period between Council meetings. At its first meeting it would consider and agree on its Terms of Reference.
- 5) During the first half of 2008 the Committee met 3 times, 19th March, 4 June and 16th July. Representatives attended from the following Member countries: Australia, Cook Islands, Federated States of Micronesia, Fiji Islands, Kiribati, Marshall Islands, Nauru, New Zealand, Papua New Guinea, Tonga and Tuvalu together with the CEO of the SOPAC Secretariat. Participating observers from the USA, France, PIFS, and including the CEOs of the SPC and SPREP Secretariats attended the second and third meetings.
- 6) The agreed summary records of the three Committee meetings are annexed to this report.

TERMS OF REFERENCE FOR THE COMMITTEE OF THE “SOPAC COUNCIL AS A WHOLE” (SCW)

7) The SOPAC Governing Council during its 36th Annual Session meeting made the following decision:

- (a) Agreed to accept the challenge offered by the 2007 Leaders Communiqué which states “the need to rationalise the functions of SOPAC with the work programmes of SPC and SPREP, with the view to absorbing those functions of SOPAC into SPC and SPREP”.
- (b) Agreed the following course of action as a way forward in responding to the Leaders decision:
 - (i) Agreed that a Committee of the “SOPAC Council as a Whole”, be established and adequately resourced, to guide and advise the Director during the consultative process with the Terms of Reference to be agreed at its first meeting.
 - (ii) Agreed that the Director of SOPAC engage in a consultative process with the Director General of SPC and Director of SPREP, with the option of engaging the SG of PIFS as appropriate, providing regular briefings to the Chair of SOPAC Governing Council in the preparation of a draft road map to be submitted to the SOPAC Governing Council for consideration and approval with the intent of a final road map submitted to the Forum by 2010.
 - (iii) Agreed that during this consultative process some of the issues to be considered will include:
 - Proposing possible options for rationalisation and possible organisational models for the new arrangements taking into account realities such as the wider range of technical programmes, the possible rationalisation of certain common support services, the geographic location, and the Membership differences.
 - Examining the costs and benefits of the options considered during the process, the technical programmes, the Memberships, and the external supporting agencies, identifying opportunities for improved service delivery.
 - Proposing a realistic timing for implementation that would need to be taken into account including practical, legal, contractual obligations, and or any other problems that might require prior resolution as a result of rationalisation.
 - Finding a mechanism that will enable the benefits of STAR to be continued.
 - (iv) Agreed to emphasise to all stakeholders, especially Members, donor partners, and Secretariat staff, that in the interim the Commission would continue with its current work and efforts to secure resources for sustained service delivery keeping in mind consultations with the Director General of SPC and Director of SPREP.
 - (v) Agreed to immediately respond by writing to the Forum Chair, Chairs of the SPC and SPREP Governing Councils, Chair of STAR, donor partners and key stakeholders advising of the outcomes of its consideration of the issue at the 2007 Council Meeting.

8) To implement the SOPAC Council decision (Summary Record of 36th SOPAC Session, paragraph 252(ii) a), the Committee agreed that its Terms of Reference is as follows:

- (a) Examine the work programme of SOPAC with a view to identifying which activities they consider may be rationalised and absorbed within SPC and/or SPREP.
- (b) Examine how these activities of priority to the Island Member States may be delivered more effectively and efficiently, including governance and funding aspects.
- (c) Consider and comment on progress reports from the Director on her discussion with the CEOs of SPC and SPREP and other key SOPAC stakeholders, as the CEOs consider options toward preparing a draft roadmap.
- (d) Ensure adequate resources are provided for the Director to carry out the tasks required.
- (e) The Chair of the Committee to report to Council at its next session.

SOPAC DIRECTOR'S WORK PROGRAMME

- 9) At the first SCW meeting it was agreed that the Director was expected to:
- (a) Hold the first in a series of trilateral discussions with the CEOs of SPC and SPREP, in time to report the outcome to the second SCW meeting tentatively scheduled for mid-May.
 - (b) Present a more elaborate 'rationalisation at a glance' picture capturing the substance of trilateral discussions that would show the trends emerging in terms of institutional arrangements, at the May meeting.
 - (c) Provide a progress report on the legal assessment; and findings on contractual agreements SOPAC currently has with donors; also at the May meeting.
 - (d) Further articulate the preferred institutional arrangements after SCW advice received at the May meeting.
 - (e) Elaborate on a draft roadmap to implement or achieve the preferred institutional arrangement(s).
 - (f) Commission benefit-cost analyses between the second and third meetings (tentatively scheduled for mid-July) on the narrowed field of institutional arrangement options.
 - (g) Prepare documentation to report on progress to the SOPAC Governing Council in October 2008.

CONSIDERATION OF OVERARCHING ISSUES

10) During its meetings the Committee had discussions around a number of issues are summarised below.

11) **The Road Map and Responsibilities** – Whilst SOPAC Council has decided to have ownership and take the lead in this process, equally important is the imperative that wherever the components of the current SOPAC work programme are to be placed institutionally there is a need to be assured from that governing body or bodies that service support to island Members currently provided through SOPAC will continue and will improve.

12) In SOPAC's programme the underlying conceptual framework is that applied geoscience, technology and social science are integrated into unified and multifaceted outputs allowing for evidence-based policy and strategy formulations. It allows for better informed and more realistic decisions regarding policies and strategies by clients and Members to achieve desired outcomes such as improved coastal management, resource use, and disaster risk management. This conceptual framework is not unique but it is critical, and recognition of it is essential in the proposed rationalisation, absorption and new institutional arrangements exercise.

13) **Rationalisation First, Then Absorption Follows** – Necessarily, initial tasks of the road map process are dominated by examining issues surrounding rationalisation; (i) what are the guiding principles; (ii) an examination of the SOPAC, SPC and SPREP work programmes to determine what elements of the SOPAC work programme may be rationalised and (iii) what the preferred new institutional arrangements might be.

14) SCW, having reached agreement on what rationalisation will look like (what the preferred future institutional arrangements will be), will also by that time need to determined the process of absorption and have addressed and resolved any legal and contractual implications.

15) **Managing the Change Process (the Road Map) to ensure a Sustainable Outcome** – Before the change process can be determined, finalised and managed, the outcome of the change process needs to be considered and agreed upon in order that sustainability is addressed and assured. It will also be necessary to set a timeline framework for the change process.

16) **Improved Service Delivery and Effectiveness** – In order to guide further development of the road map, SCW continues to revert to the issue of "improved service delivery and effectiveness", and recognises that this must be demonstrated as it remains an underlying purpose of the regional institutional framework.

17) **Plans for Absorption** – “Due Process” within the context of SOPAC Council responding positively to the Leaders Communiqué, will require that each of the proposed recipient organisations (SPC) and /or SPREP) must develop a plan for absorption to: (i) support their claims in regard to SOPAC’s work programmes; (ii) demonstrate how they will absorb, sustain and improve service delivery and effectiveness; and (iii) retain the services to the region of STAR. The SOPAC Director cannot take responsibility for the development of these plans, as there is no ultimate accountability since the position will have been terminated depending on the institutional arrangements outcome. The SOPAC Director will however, be required to provide any necessary data and information, particularly that pertaining to current circumstances, and which may well be used as a starting point to measure improved service delivery and effectiveness.

18) **Due Diligence** – The application of “Due Process” will require SCW to ensure due diligence checks on each of the plans for absorption, as an independent means of validation. These checks must be completed before the SCW can make a decision. As the SOPAC Director will not have responsibility for developing these plans, she will be an option for facilitating the due diligence checks.

TRILATERAL MEETINGS BETWEEN SPC, SPREP AND SOPAC

19) At the first SCW Meeting it was agreed the SOPAC Director begin trilateral consultations with the CEOs of SPC and SPREP at the earliest opportunity and that the trilateral exercise would be a first step in which the CEOs can bring together their knowledge of what each organisation was doing, and narrow the options for the new institutional arrangement.

20) During the first half of 2008 the CEOs met twice (16/18th April and 5 June). In addition two trilateral meetings at Programme Level have been convened (15/16th May and 23/24th June).

21) As of the date of this report considerable time has been dedicated to these trilateral meetings by the participating organisations. In addition to preparatory time, some 11-16 senior staff have been committed over a four-day period supported by an independent Facilitator. Discussions at this level have progressed well but remain incomplete. Staff from each of the Secretariats have acknowledged the immediate benefits gained from the opportunity to become better informed about the respective work programmes.

22) It is clear from the meetings that the ultimate objective, regardless of the final institutional arrangement, is that SOPAC’s work programme should remain intact and net improvement in service delivery realised. Furthermore, during discussions there was no clear elaboration on the issue of how “all round” improvement of service delivery would be realised. It was acknowledged that during the discussions SOPAC staff had not expressed any preference toward either of the potential receiving organisations.

23) At the conclusion of the 2nd Programme Trilateral Meeting it was agreed that:

- (a) Meaningful progress from this point could only be achieved by having the respective, receiving organisations (SPC and SPREP) develop plans outlining how they will absorb all of the services and functions of SOPAC and demonstrate how the delivery of services and functions of SOPAC and the receiving organisation will be improved as a result of absorption. This would need to commence following consideration of paragraph 19b of the 2007 Leaders’ Communiqué by the SPREP Council.
- (b) The full merits of the trilateral proceedings combined with the absorption plans would need to be considered by the CEOs and ultimately by the respective governing bodies of SPC, SPREP and SOPAC.
- (c) SPREP coordinate, out-of-session, the ToR for developing SPC and SPREP plans for absorption.
- (d) SOPAC to collate and make available all relevant documents.

LEGAL CONSIDERATIONS

24) The third SCW meeting received a draft legal assessment prepared in accordance with the following Terms of Reference. Members have yet to consider the report. The objective of this assessment

is to address the full range of legal issues that the SOPAC Members must consider, should the eventual outcome be dissolution or suspension of the Commission.

25) The Agreement Establishing SOPAC (1990), in Article 4 establishes the legal status, privileges and immunities of the Commission. Article 16 addresses the issues of dissolution and suspension.

26) **Terms of Reference** – The Consultant is required to carry out the following tasks and report to the SOPAC Director:

- (a) Examine the legal obligations, if any, that the SOPAC Council has to the Pacific Islands Leaders Forum, and thereby any requirements for a response from SOPAC Council to a Pacific Islands Forum Leaders Communiqué.
- (b) In regard to dissolution and suspension (Article 16):
 - (i) Clarify the legal processes and their implications that differentiate between dissolution and suspension of the Commission; and in regard to a resolution to suspend the Commission, describe possible options for suspension being terminated and the organisation revived.
 - (ii) A decision to dissolve or suspend requires ratification by two thirds of the Members. Examine the process(es) that will be required at the national level to enable countries to ratify such a decision.
 - (iii) Consider options for the eventuality that two thirds of the Members are not in a position to ratify by the time of the next annual session, and thereby not able to make a decision on the date of dissolution or suspension of the Commission.
 - (iv) Provide options for the Commission to consider in order to decide on the manner in which the assets and obligations of the Commission should be liquidated, distributed or borne.
- (c) Comment on the possible legal implications for SPC and SPREP of absorbing any, or all, of SOPAC's work programme functions.
- (d) Provide comments on any other legal issues the Consultant may consider relevant.

THE ROAD MAP FOR A WAY FORWARD AND POSSIBLE TIMELINES

27) The SCW considered the following as a way forward and possible timelines to progress the Council decision on this matter.

Step 1: Rationalisation

28) The first step to rationalise the SOPAC work programme and its activities with those of SPC and SPREP has commenced through trilateral meetings. In the first SCW the SOPAC Director presented "Rationalisation at a Glance". The Committee appreciated that there were various ways and levels of detail, that one could consider in this task to rationalise SOPAC's work programme.

29) Key to this step is addressing the applied technical and scientific aspects of SOPAC's work programme, as these are considered excellent and must not be allowed to be put at risk or compromised. It must be demonstrable and not intuitive that: (i) the integrity of the applied science and technical services are maintained; (ii) linkages, and synergies exist; and (ii) improved service delivery will result.

30) It is agreed at various levels that that SOPAC's work programme should as far as necessary be kept "together" in one institution and thus not jeopardise the established practice in SOPAC of the production of "integrated solutions" across the programme of work. Indeed, the linkages and synergies should demonstrate new and a broader range of integrated solutions. Independent advice to examine and recommend optimum Institutional Arrangement Options for Rationalisation is being sought, with a TOR for this initiative under development for both rationalisation and then absorption plans to be realised.

Step 2: Institutional Arrangements

- 31) SCW 1 was presented with 5 options for future institutional arrangements:
- (a) Option 1: Fragmentation: In effect a process not unlike an auction, implicitly adhoc, and with the possibility that elements of the work programme will be lost. The record of the Council discussion clearly indicates that this option must not emerge.
 - (b) Option 2: SOPAC work programme absorbed fully into SPC: This option of course was considered at length in 1999-2000, and the outcome at that time was in effect the status quo. In the interim institutional arrangements have changed in both organisations, for example SOPAC Council now has a well-developed Strategic Plan 2005-09 and new work programme structure. It is timely to review this option drawing upon the 1999 review report.
 - (c) Option 3: SOPAC work programme absorbed fully into SPREP: This option has never been considered at length and clearly this task must be undertaken before the Committee can complete its work.
 - (d) Option 4: SOPAC work programme absorbed substantively into either SPC or SPREP with the balance into the other: Clearly, arrangements to bring into effect this option will emerge as a result of the outcome of consideration of Options 2 and 3.
 - (e) Option 5: SOPAC work programme remains stand alone: Arrangements to bring into effect this option will emerge as a result of the outcome of consideration of Options 2 and 3, which may provide the opportunity to rationalise the services of all three technical organisations under Pillar Two.
- 32) The ongoing trilateral discussions will report to SCW with regard to the preferred institutional arrangement as these discussions mature. In the meantime copies of this Progress Report and other reports of the SCW will be shared with Members and Observers that are participating in this process.

Step 3: Development of Plans for Absorption

- 33) The SCW recognises that plans for absorption should be developed and agreed upon before a decision can be made by SOPAC Council, as the handover organisation, to the governing body of the receiving organisation. The CEO trilateral has outlined their preference that the plans for absorption be non-competitive and currently a Terms of Reference framework is being developed.
- 34) It is expected that these plans should be developed over a period of two to three months. The SCW acknowledged that it can only encourage these CEOs to carry out this work. However in realising this, the SCW hoped that the relevant governing bodies appreciate the need to sanction this work.
- 35) The CEOs of SPC and SPREP should take responsibility for these plans, and will be supported as necessary by the CEO of SOPAC.

Step 4: Due Diligence

- 36) Both plans for absorption would be subject to independent due diligence checks initiated by the SCW. It is expected these checks should require no more than one to two months. When the plans for absorption and their accompanying due diligence checks are completed they will be considered by the SCW.

Step 5: Other Assessments Completed

- 37) SCW should have received and considered any other assessments commissioned by them no later than when they consider the plans for absorption and the due diligence checks.

Step 6: SCW Finalises its Work

- 38) By July/August 2009 SCW should be in a position to prepare recommendations to Council.

Step 7: Absorption

39) By the end of October 2009, all relevant governing bodies should have completed their consideration of this matter leaving implementation (absorption) to commence by 1 January 2010. It may be useful to consider having these three governing bodies meet concurrently in the same location in 2009 in order to have a one day high-level joint session to endorse the way forward.

40) In accord with the timelines in the Council decision, the SCW will continue its work, and report to the SOPAC Council to be held from 22 to 29th October in Funafuti, Tuvalu. In the interim the SCW will need to convene as required to consider responses to this report from the Leaders Meeting and the SPREP and SPC governing council meetings to be held during the early September to mid October period.

41) In the future, beyond the SOPAC Council meeting, it is anticipated the SCW will need to continue to meet to finalise its work by July/August 2009.

ANNEXES

Summary Records of the three SOPAC Council of the Whole Meetings

ANNEX 6

Cover Letter from SCW (SOPAC) Chair to Chair of the Forum

16 July 2008

HE Dr Feleti Vaka'uta Sevele
Prime Minister of the Kingdom of Tonga and,
Chair – Pacific Islands Forum
Office of the Prime Minister
P O Box 62, Nuku'alofa
KINGDOM OF TONGA

Dear Honourable Prime Minister

I have the honour to write to you about the present status of SOPAC's efforts to respond positively to Paragraph 19(b) of the Leaders Communiqué after the 2007 Forum meeting in Tonga. It is a report of work in progress in relation to the SOPAC Governing Council decision, following their consideration of Paragraph 19(b) at their 36th Annual Session, about which I had written to you in my letter of 12th December 2007.

As stated in that letter, the SOPAC Governing Council felt it imperative to address the decision but through due process, to ensure that what the Leaders agreed, can be achieved. Furthermore it is undertaken transparently, it follows the principles of good governance as proclaimed by the Leaders; it achieves excellence in quality and relevance of service provided or delivered and, it is within an environment of sound economic modality. Moreover, as you are no doubt aware, the SOPAC Council also preferred that if rationalisation and absorption becomes a fact sui generis that rationalisation neither disrupt service delivery; nor subject SOPAC's current work programmes to fragmentation; and that the excellent science being mobilised through the STAR network must be retained as a highly valued resource for the region. Even more important is that the critical core function of SOPAC's applied scientific and technical services continue to be appreciated and must be protected and developed.

I believe that the Progress Report submitted with this letter is a succinct executive summary of the issues, challenges and developments of the SOPAC response to the Leaders Communiqué. This report of work in progress was finalised at the third meeting of the Committee held on Wednesday 16th July 2008. The Committee intends to continue its work, and in due course report to the SOPAC Governing Council at its 37th Annual Session in October 2007. The Council will submit its findings to the Forum and other participating stakeholders, following its next meeting.

In my humble opinion one of the most positive outcomes of this exercise thus far is the greatly improved dialogue among the three CROP organisations. That dialogue is not only at the CEO level but also at Programme Managers level. I hasten to commend to the Forum Leaders to encourage this along.

Perhaps if such platforms were established between CROP organisations in the past much more could have been achieved through cooperation. The 2004 Eminent Persons Group Report to the Leaders that recommended the establishment of the Pacific Plan, you will recall, never called for the reduction in the number of regional organisations. Rather it simply stated *"We consider it a strength of the region that it includes a wide range of regional organisations with different roles and structures. CROP agencies reflect the diversity and rich history of the Pacific. We see no practical value in replacing these agencies with one "super organisation," as some have suggested."*

I would like to assure you Sir that the SOPAC Committee has worked diligently on this critical issue for the countries and people of the Pacific. It is the SOPAC Governing Council's sincere hope that the outcome of the task undertaken will contribute to the achievement of the Leader's Vision of a *"Pacific that can, should and will be a region of peace, harmony and security and economic prosperity so that all of its people can lead free and worthwhile lives"*.

May I take this opportunity on behalf of the Committee members to commend this report to you, and wish you well with the upcoming Forum Meeting in Niue.

Please accept, Sir, the assurance of my highest consideration.

Yours faithfully

Honourable Siosaia Tuita
Minister for Lands, Survey, Natural Resources
Government of the Kingdom of Tonga &
Chair of SOPAC Governing Council

ANNEX 7

Acronyms Used in this Report

AusAID	Australian Agency for International Development
CEO	Chief Executive Officer
CROP	Council of Regional Organisations of the Pacific
EPG	Eminent Persons Group
FOC	Forum Officials Committee
NZAID	New Zealand Agency for International Development
PIFS	Pacific Islands Forum Secretariat
PPAC	Pacific Plan Action Committee
RIF	Regional Institutional Framework
SCW	SOPAC Council Committee of the Whole (on the Regional Institutional Framework)
SOPAC	Pacific Islands Applied Geoscience Commission
SPBEA	South Pacific Board of Educational Assessment
SPC	Secretariat of the Pacific Community
SPREP	Secretariat of the Pacific Regional Environment Programme
STAR	Science, Technology and Resources Network
ToR	Terms of Reference
UNDP	United Nations Development Programme
US	United States of America