

Appendix 5 of Proceedings of the SOPAC 38th Session

VERBATIM – RIF at the SOPAC 38th Session (in the order discussions occurred during the meeting)

Post-morning tea session on Day 1, the Minister (Iarris Iauko) is Chair

Monday, 26 October 2009

AGENDA AND WORKING PROCEDURES (Item 3)

3.1 Adoption of Agenda

[Deputy Director presented the papers and asked for feedback to papers that needed input from participants. Within this presentation is a request from the Secretariat to take item eight before item seven because certain CRP staff were to catch a flight to country mission]

Chair – Thank you Deputy Director, Cook Islands?

Cook Islands – Like the issue raised by the Deputy Director in bringing forward Item eight, for presentation before seven, in the order eight, seven, nine due to the staff member [inaudible] ... I would also like to make a proposal also at this stage to request round the table from my colleagues to bring forward item number ten to be looked at straight after five ... for many reasons, one being that particular item will dominate the discussions for us this session. And I believe we can deliver on eight should time permit tomorrow or today; however as has been established by the Secretariat. That's just my proposal thank you.

Chair – Thank you for the proposal I think uh leave to the floor if any other members would like to make any comments regarding the proposal from the Cook Islands ... Tonga?

Tonga – Thank you Mr Chair I support the proposal that has been put forward by Cook Islands.

Chair – Any other comments? Fiji

Fiji – Just to express the same sentiments, thank you.

Chair – Thank you. Chair would like to have a clarification from the Cook Islands; do we need to have that agenda in full? The agenda that you have proposed to come in?

Cook Islands – Thank you Mr Chair, I would concur with that if that is the way that my colleagues want to tackle this [garbled] this morning, thank you.

Chair – Vanuatu and then Niue.

Vanuatu – Thank you Chair – just two quick points I have some difficulties with the proposal; in the sense that I thought uh seven, eight and nine are more information – they are just going to report on the progress of the work, I don't think there's going to be uh ... my fear is that if we bring ten up; it's a it's a very big issue that we need to discuss; if we bring it up forward it might take longer and won't allow us to have those presentations made. I'm suggesting that if we can raise it up just for us to think through it and then we can discuss it in full when it comes to the time we need to I'm just worrying about the time because if the issue comes up I know it is going to take longer when it comes to discussion and for us to agree in full [garbled]. The other issue that I have is, while I have the opportunity Mr Chair is that my understanding is that the Director's position will actually finish off early next year. I haven't seen anything here that would discuss what would SOPAC do as an organisation after the Director position has gone. Is there anything here in the current agenda that would discuss that issue in terms of leadership beyond the current Director's position? If not, then I'm suggesting Mr Chair that we take it up somewhere that this Council meeting takes note of that, discussed and come up with some decision, thank you.

Chair – Before the Chair make a comment on the proposal from Vanuatu and Tuvalu [Cook Islands], Niue?

Niue – Thank you Chair [inaudible] ... proposed by the Secretariat on number eight discussed first because of staff members leaving us and like Vanuatu mentioned RIF will be a big issue for this Council to discuss and like Vanuatu mentioned it will take a while to go through this agenda item and so I think we should ... the only changes we should have is the number eight discussed before number seven and leave RIF a per the agenda. Thank you.

Chair – Can we have PNG?

Papua New Guinea – I think there's [inaudible] ... while we put forward ten point one [inaudible]

Chair – Can we have Samoa.

Samoa – [inaudible]

Chair – Fiji?

Fiji – thank you Chair, I still go along with Cook Islands

[the rest of this segment is inaudible because delegates were not speaking into the mics and hotel construction workers were drilling outside]

Chair – Thank you

Palau – [inaudible].... thank you Chair

Chair – Thank you ...Federated States of Micronesia

Federated States of Micronesia – thank you Chair, before I go on just a clarification – what is this flight we're talking about – in any case it seems kinda funny to me that we would restructure our Council meeting for the convenience of a couple of staff who wanna go home early.

Chair – Any other member would like to comment on the ... New Zealand

New Zealand – Thank you Mr Chairman, I think it would be better to leave the agenda the way it is with the exception of that agenda item eight ; the reason being that the Secretariat have done a very good job of planning the agenda and who needs to be at the meeting at certain times; and to make sure that we have enough time to deal with looking back at 2008 before we start getting distracted uhhh well more than distracted – getting deeply involved in the discussions about the future; so I would support the idea of looking back of 2008 of the three programmes and those other issues before we move on to agenda item ten. Thank you.

Chair – Tuvalu

Tuvalu – Thank you very much Chairman. I think we all agree that the issue is a substantial issue for us to look into and maybe the suggestion that was put forward by Vanuatu where the topic is introduced and then we have time to think about it and then go back to the topic when the agenda item comes in. I think we would be able to discuss on it fuller, no? after it being introduced in the early stages of the programme – and that would let us get rid of all the easier items and then come to this substantial item, when it comes to number ten, thank you.

Chair – Thank you, Cook Islands again

Cook Islands – Thank you Mr Chair, I would tend to agree with the suggestion by the minister [Tuvalu] ; however I ... what I am fearful of is that uh when we do leave this for the appropriate time we may kind of guillotine the whole process and not really be in a position to discuss all the necessary instruments for the agreements that need to be looked at carefully and we might just accept it and go with the flow; that's one of the reasons why I wanted this brought forward but we are to table the issue and then uh work on it hopefully there'll be some form of dialogue to start and maybe a couple of recommendations to follow before we move on, thank you.

Chair – Thank you Cook Islands, can we invite the uh ... sorry Fiji

Fiji – Thank you Chair; I tend to go along with the comments of the honourable representative of Palau, in that in Agenda item 10 we have the most important discussion to discuss. All other items are mostly information papers [] that are also important; but item ten deals with the process that if it is not handled properly and discussed in detail would affect the peoples of the Pacific and that's why we need to give it the time, we need to give it the importance to discuss it well to come out with a good outcome, so that is why I support the proposal from the Cook Islands in as far as the agenda is concerned so we can discuss this issue well.

Chair – Thank you Fiji, can I invite the Secretariat to ...

Director – There still seems to be quite a number of members who would like to take the agenda in full earlier on in the agenda that is before you; as well equally quite a number of members see that there might be some sense in leaving it where it is; however there also seems to be a bit of an agreement emerging on taking the agenda item early err taking the agenda item ten point one early in the agenda and then moving it to have the

discussions in full, you know in the rightful place which is agenda item ten so Chair, that was I'm not being very helpful here because the numbers are not emerging either way at this stage and it seems to be a fairly balanced number uhhm err supportive of either of the options that are being tabled at the moment ... I would like to respond to FSM on the question around why we would like to uhhh err move agenda item eight up in the programme, in fact my colleague is not going back home early but is due to go and actually do some important work in Papua New Guinea and so therefore we do want to take advantage of him getting on an early flight to Papua New Guinea to carry out that mission.

In terms of the Director's position question of Vanuatu; that is in fact addressed as part of the implementation plan under agenda item ten point three – but with that Chair I haven't really helped the meeting that much but really just to perhaps suggest that uhhm there are three options – one of them is to take a round of interventions at this ... well after agenda item five; and then come back to have the full debate in the place where agenda item ten currently sits; the second option being to take the agenda ten in full after agenda item five and the third option being to actually have the full debate without any earlier discussions at agenda item 10, so those were the three options that I understand have been tabled uhhm and really I guess from the Secretariat perspective the option that has been suggested by Vanuatu maybe something that members may wish to consider ... certainly having a quick, not a quick but good discussion around agenda item ten on the matter of the RIF and then having some time to then come back to it in full debate and discussion at agenda item ten, but again I'm sorry to the Council for not you know being able to provide any answers at this stage thank you.

Chair – FSM

Federated States of Micronesia – Thank you Mr Chair, I think in view of the comments on the timing and so forth ... may I suggest that perhaps that after agenda item five you take up ten point one at that time to satisfy what's being said around the table [for people to think about and perhaps discuss fully..., not sure as barely audible]

Chair – Thank you FSM, can I have another one or two comment whether any members agree with the proposal from the FSM? Fiji, Tonga and Papua New Guinea, Samoa? Uh? [off-mic clarification] the way you lift up your hand we thought you agree ... ok we start off with Papua New Guinea.

Papua New Guinea – Thank you Mr Chair from what I understand, while I have the floor ... we move up ten point one and then follow the agenda as is because there's a lot of valuable ... we're talking about time ... [inaudible garble] ... thank you.

Chair – Can we have Tonga?

Tonga – I still reserve my suggestion supporting Vanuatu uh Cook Islands, because I think the whole issue here is determining the future of SOPAC and ten point one is the agenda that we need to nail it down before we look at the work programmes and everything because if we look at the work programme we come to ten point one and there is an agreement with us to change what we intend to do then it will fall back again therefore I think it is most important for us to look at this issue very seriously at the first place, thank you.

Chair – Samoa

Samoa – Thank you Mr Chair, Samoa revises its position to agree with having discussion with agenda item ten point one before but resuming that we follow the same agenda and then come back to that in full as it is scheduled and the reason for that is that we also recognise that it is a very substantial discussions and full

commitment on the part of all member countries for the RIF process; at the same time too we also agree with New Zealand that if we move now to discuss the RIF process it might divert attention away from the work programmes but more to the RIF process. Thank you Mr Chairman

Chair – Thank you. Can we have Niue.

Niue – Thank you Chair. I don't believe there will be any real benefits in discussing ten point one and not following on with the agenda ten point two, ten point three and ten point four. I think if we start the discussion in the RIF, then we must follow that and complete that – otherwise if go back ... we discuss ten point one and go back to the programme and then back to the RIF discussion again ... taking away some members, like for Niue might want to go on to the RIF programme and not back and forth ... disrupt the ... [petered out]

Chair – Member states we worried about timing but we taking a lot of time in trying to arrange this agenda so I will allow a few more member states and the Chair and the Secretariat will come up with a decision regarding this issue so that we can move on. So Vanuatu?

Vanuatu – Thank you Chair, is I can have uh colleagues if you look at the programmes, whatever we decide today does not affect the programmes because the programme will either continue within SPREP err SOPAC or the programmes will continue with the move that is going on, I am just seeking your indulgence so we can move on to that option of introducing ten point one and highlighting the different issues that we need to think about and then allow us time to discuss at the cocktail and at the working groups and when we come back to it, discuss it in full – but I think it would be really nice for all of us to capture what has happened in 2008 in terms of programmes and what are the opportunities to move forward with it because whatever we decide as a Council with SOPAC – it doesn't change the programmes as they are because the programmes will stay with SPREP and if they move – it's how we are going to create the a architecture of it that will determine how the programme fits into it. So I'm just suggesting that if we ... let's pull ten point one up and have the presentation made highlighting the different legal issues that are at stake and allowing us to talk amongst ourselves and come in full discussion at the uh agenda item ten afterwards; that's just a suggestion there to go with the second option that has been proposed, thank you.

Chair – We'll have New Zealand and then I will allow one or two more and then I will hand down the err ... we have to decide; so can we have New Zealand.

New Zealand – Thank you Chair, New Zealand would like to support Vanuatu in that suggestion; my concern before was that we would need a lot of time to discuss agenda item ten and then we would therefore run out of time to reflect on the programmes, so his suggestion that we introduce the issue then go back and reflect on the programmes before we return for full discussion.

Chair – Thank you, can we have the last one ... who is gonna be the last? Oh Fiji I think.

Fiji – Thank you Chair I just wanted to make the Fiji comment that I think the RIF process will have an effect on the work programmes – they will and that's why I thought it important that we have the discussion on the RIF process because it will have an effect on the work programmes, thank you.

Chair – Thank you members you've given the Chair a very difficult time to decide because the same number of states agree to proposal and the same number don't agree and it come to the point the Chair has to come in.

Members I think that Chair has to make a decision so that we can move forward err ... after item five four we will take item ten one – introduction – and part of item ten will remain on the agenda as it is. When we come back to the same agenda at the same time we will discuss all the other part of ten; so that is the ruling – uh not the ruling but we're helping to make ... so that we move forward so I hope uh all members are clear. We will leave it as it is, taken agenda ten number one come up after agenda five ... just ten one, on Introduction basis only and after when we come back to agenda ten the full discussion will include all parts of agenda ten.

Kiribati – Thank you Chair; just a support and to reiterate what Vanuatu has communicated earlier on the issue of the director's post; we haven't seen anything on it ... if that could be slotted in I'd appreciate that, thank you.

Director – err Council members uhhh the matter of the director's position is in fact included in the implementation plan to the core of SOPAC to become a science and technology division of the SPC; uhhh and that number is ten point three point three, thank you.

Chair – Thank you Kiribati, it is on the item ten point three point three. Ok if we don't have any added discussion on the agenda the Chair – I think we all agree so can I ask some member to move the agenda with the changes that has been made ... FSM?

Federated States of Micronesia – So moved Mr Chair

Chair – Moved by FSM, any seconder? Cook Islands. Those in favour of the agenda with the changes that have been made please indicate, oh, thank you.

3.3 Appointment of Sub-Committees

Chair – Item three, we have the appointment of the sub-committees; uh my view it is better that since we are going through the transition part of the SOPAC and the SPC, if it's best at this stage that the whole agenda be discussed with full council rather than we have subcommittees but if there is any opposed on my suggestion then I'll invite the floor if some member state think otherwise because this session; thirty-eighth session is a very important session so if you prefer we decide on subcommittee – some agenda to subcommittee or we prefer we discuss everything. Rather than electing subcommittee members then we have whole agenda discussed within the full council. Tuvalu, eh sorry Cook Islands.

Cook Islands – Thank you Chair, seeing you brought up the issue of subcommittee we gonna wait till number ten point one then we'll seek the subcommittee on the issue of the transitional ... looking at transitional arrangements since it is prudent that we look at this carefully and outline the points that are need to address the transition of the services to SPC, thank you.

Chair – any other ... FSM?

Federated States of Micronesia – Thank you Chair I would support Cook Islands, I think we should give thought to that when we come to that agenda – it might require such a subcommittee.

Chair – Thank you FSM, any other statements? Ok point is clear, I think we leave subcommittees as it is; when we come to ten point one as proposed by FSM and Cook Islands, if it is important that we establish a subcommittee we will establish a committee under ten point one. But at the point present time we leave three point three as it is. FSM?

Federated States of Micronesia – Yeah just a point of clarification, it should be on the whole agenda and not just ten point one.

Chair – Thank you for the clarification, subcommittee on whole ten agenda. May I now re-invite the deputy director make presentation on thirty-eight point four one.

REGIONAL INSTITUTIONAL FRAMEWORK (Item 10)

10.1 Legal Implications

[Day 1 (Monday, 26 October 2009) – Lunchbreak was taken after Agenda Item 5.4; Council began after lunch with introducing Item 10.1. Director General of the Ministry of Lands and Natural Resources, Russell Nari is Chair]

Chair – [...] prompt we have a lot to discuss this afternoon and I know you have enough, just enough to keep you awake and we will now proceed with our agenda and as we agreed this morning we will now move forward ten point one legal implications of uh ... and as expressed this morning it's a very important issue that we need to uh ... and as the chair I'm of the observation that we'll bring err allow the lawyers that have put together the paper to introduce the paper to us, highlight some of the key areas that will assist the Council to think through it and focus on so when we deal with these issues at least we're well aware of the different options that are available in the current arrangement. But before I invite uh err before I invite Matt, I invite the Director to ... before Matt ... [inaudible]

Director – Thank you very much Chair and welcome back from lunch. Agenda Item 10 will also consume much time of the Council as it looks at the legal implications (both of SOPAC's constitution and of contractual agreements such as those with Secretariat personnel and financing partners). The financial and administrative matters that are a substantial element of the implementation plans for the transfer of SOPAC's applied science and technical functions based on the new institutional arrangements jointly agreed by the Councils of SPREP, SPC and yourselves. It also contains a risk management framework which we would commend be used during implementation for full integration of SOPAC functions into SPREP and SPC to ensure that the key risks are not realised which will surely impact the overall objectives of the RIF being improved delivery of regional services and cost effectiveness.

However for the purposes of this session, with Council's indulgence, having not been able to present my annual report to you yet wherein I touch on various elements on RIF, I would like to provide some introductory comment in respect of the RIF, and then briefly introduce AS38/10.1.

As members are aware the new institutional arrangements were decided by joint Councils see the bulk of SOPACs functions being transferred to the SPC; and the implementation plans that have been requested by Councils of SOPAC and SPC outline these functions being transferred into two SPC Divisions – SOPAC ICT and Energy functions will become part of the new, Division of Economic Development and the core Services of SOPAC will become a new SOPAC (science and technology) Division. There are also some functions that have been identified to transfer into SPREP.

I would like to advise Council that since the joint decision of councils in early July a number of actions have been undertaken by SOPAC and SPC secretariats:

- The Director General of SPC and I have met whenever he has been in Fiji and/or in the margins of other meetings (such as the recent CRGA that I attended); and the purpose of our meeting being to discuss how we move forward toward implementing the joint decision.
- Three teams have been set up to discuss how we progress the financial; administrative and human resource; and ICT elements that will need to be addressed during the transition.
- As the Director General of SPC has mentioned, some of these have been a part of CROP initiatives involving more than just SOPAC and SPC. Implementation plans have been outlined for ICT, Energy, the core of SOPAC, and those functions to SPREP (and these will be considered by yourselves later in this session).
- I was also invited to address the CRGA in respect of implementing the joint decision, when they met in Tonga two weeks ago. And as the Director General has offered we would be more than happy on his behalf to circulate those decisions as well as documents relating to the sustainable financing strategy that he referred to in his statement.

And now to AS38/10.1, which actually looks at the legal implications of the regional institutional framework. Council is well aware that the Secretariat does not have dedicated in-house legal capacity; and therefore we have been fortunate that we've been able to request KL Gates through the STAR/PMEG mechanism to provide a legal memorandum outlining the legal considerations/procedures that must be addressed by SOPAC members in order to implement and fully realise the decision. This memorandum is attached to paper AS38/10.1; and as the Chair has outlined Matt, Mr Matt Segal who has donated substantial time as part of the process to providing a memorandum has agreed to present to Council (if Council so wishes). He's also prepared to answer any questions that members may have and provide any legal guidance in order for Council to make the necessary decisions in respect of the legal status of SOPAC; and that is whether to dissolve or suspend the Commission and the process that needs to be followed for either of these to come into force. As well the memorandum identifies that there are other options available to these that would amendment to the constitution.

As you know the SOPAC agreement is clear in what is required to dissolve and suspend SOPAC – it requires 2/3 of the full members to vote in favour (that is 12 full members whether they are present or not); the next step is that at least 2/3 of the full members will need to ratify the resolution in advance of the implementation date of the resolution coming into force. In the event that other options are considered by Council then the amendment procedure of the constitution will require that it be circulated three months prior to Council meeting.

I would offer that whatever happens I am sure that member countries will need to work especially diligently to realise whatever they so decide. As I thank you Chair.

Chair – Thank you Director. Just a quick indication from the Council if we will now invite Matt to come and make a presentation – I see nodding from everybody. I have the pleasure to invite Matt to give a presentation to Council ... and the idea of the presentation is to highlight any legal issues that Council need to take consideration on in order to assist them in coming to a decision that would benefit everyone, thank you.

[The following text transcribes the oral narrative that accompanied the presentation. The presentation can be found on the Proceedings CD]

Matt Segal – Good afternoon, thank you very much honourable Chair and members of the Council for this privilege and opportunity to present today. My name is Matt Segal and I'm a partner in the Law Firm of K&L Gates and I've been working on the legal issues related to RIF and SOPAC for the past year through the auspices of STAR and PMEG.

Although this presentation will focus on the legal implications of the RIF, law is of course informed by policy and the policies behind the RIF are instrumental to applying the legalities to this process. We're certainly aware of the policies inherent in the Pacific Plan including economic growth, sustainable development, good governance and security for the island countries. We're aware of the objective of the RIF for the integration and efficiency of agencies in assuring that the Pacific Plan's principles are carried out. We're aware of the need to preserve the valuable services that SOPAC has provided and continues to provide as stated for example in the August 2008 communiqué from the leaders discussing that there would no substantive diminution of SOPAC's functions.

Of course any process that is worth venturing on will entail some risk. We understand that risk can be managed and it can be assessed. We do not mean to suggest that by following legal processes, risk can be avoided – the objective is to avoid unnecessary risk, that is, not to take steps that might be outside the scope of the legal process when they are not necessary to implement the policy goals and objectives of the RIF.

With that said I'd like to turn to the legal foundations of the discussion; and the legal foundations really begin with the Vienna Convention of 1969, which is essentially the Law of Treaties, governing their interpretation and their enforcement among member states. Article one of the Vienna Convention discusses the scope and it states every clearly that it includes treaties between states such as the enabling agreement that established SOPAC, the 1990 agreement which is referred to in my submission to Council as the 'SOPAC Constitution'.

Article 26, we interpret treaties in good faith and based upon their terms. It is also echoed by Article 31, when interpreting the treaty we give ordinary meaning to the words of the treaty. Article 42 is particularly important when considering the implications of dissolution or suspension, particularly article 2, excuse me, article 42 in section two states that when there is a dissolution or suspension provision in a treaty; that provision is binding and is to be followed when the treaty is to be terminated. So this provision, article forty two section two would certainly apply to a termination by virtue of suspension or dissolution of the SOPAC agreement.

This is the SOPAC Agreement – the elements of the SOPAC Agreement that are in play with respect to the implementation of the RIF, include provisions that relate primarily to the governance and financing of SOPAC; so for example, article 6 establishes this Council as the governing authority of SOPAC and it vests in this Council the authority to make certain decisions with respect to the oversight and the future of the agency.

Similarly article 7 establishes is the Secretariat as the administrative arm of the Council and tasked with the oversight and implementation of Council's resolutions and wishes. Subsection three of article seven establishes the director's position and the duties and responsibilities of the director again over the assets and liabilities and responsibilities of the agency.

Article nine of the treaty sets out the budget requirements – establishes that there will be an annual budget subject to the approval of this Council.

Now articles fourteen and sixteen are the ones specific to amendment, dissolution or suspension of this treaty and therefore integral to any questions related to changes in the preceding sections – if there's changes with respect to governance, the Secretariat or the budget. The amendment provisions are fairly straightforward – they indicate that any proposed amendments to the treaty be circulated three months in advance of the governing council meeting – meaning for example that the nearest date by which amendment to the treaty could be circulated would be July of 2010, in advance of next year's council meeting.

The treaty also establishes the manner by which amendments to the constitution are to be approved; that is they are to be adopted by consensus and they are to be ratified by the member countries. There are similar provisions that govern suspension or dissolution of the SOPAC Constitution. Article 16 governs each of these; specifically 16 point 2 states the timing for a resolution to suspend or dissolve; and makes clear that two thirds vote of all members is necessary as well as a ratification by two thirds of member countries. The timing of the effectiveness of the resolution is also governed by article sixteen; states that the date will be set at the time of the ratification process complete. This also applies to suspension. And finally after the ratification process is completed and suspension or dissolution has occurred; been resolved through ratification – at that time then the manner in

which the assets and obligations of the commission are to be disposed of, occurs following the ratification processes.

In the case of suspension the resolution would also need to contain a statement of the terms by which the organisation could be revived – as suspension would place it in an inactive status until such time as those terms or conditions were met.

So, what does this mean from a practical perspective, in terms of applying it to the actual issues facing SOPAC?

Well one issue that has been highlighted in the submission to the Council of particular concern is the funding contracts. Each of these contracts is an agreement between a donor and the legal entity that is SOPAC under the SOPAC constitution. As a result, the legal status of these contracts is dependent on the legal status of SOPAC; and any decision relating to dissolution/suspension or amendment will have some impact on these contracts as we will discuss further. The same are applied to personnel – personnel are employed by SOPAC; their employment relationship is with SOPAC and therefore that relationship is also affected if the form of SOPAC legally has changed.

Intellectual property is a key issue and it includes the SOPAC brand name, its trade mark; which has substantial cache.

The budget as noted is covered by the treaty, so any financial transfers or transfers of assets that impacts the budget as approved the Council also raises an issue under the treaty.

The governance of course, this Council's role as established by the treaty is also impacted by any transfer or any implementation of the RIF process therefore also implicates the provisions of the treaty – status of the governing council, status of the Secretariat as well as the status of the director and the deputy director all of which are provided for under specific provisions of the treaty.

Let's talk about some of these specifically –

- With respect to funding contracts, this is a recent and timely example. A contract that was entered into and announced earlier this year is a contract that is entered into with SOPAC as a legal entity – it contains a series of specific legal terms and conditions that govern the way the contract is to be carried out. This is the clause that would be at issue in particular if there were to be a change to the legal form of SOPAC – it specifically states that the agreement and payments attached to it may not be assigned to a third party in any manner without the prior written consent of the contracting authority. This is a fairly standard legal provision; it's also contained for example in the European Union funding agreements which are enclosed in my written submissions to the Council and this highlights the need to have these negotiations and discussions with the donor parties in advance of making any decision because it ultimately affects the corporate form of the entity.
- Same with respect to our most valuable resources, our human resources; each of our personnel would be affected by a decision that changes our legal status. Some of the personnel are certainly key in implementing and providing the services that SOPAC is responsible for and it would be important to assure that their role is perpetuated if there's going to be a new organisation; again this is going to be something that we would want to be covered in advance of any final decision changing the legal form of the entity.
- I mentioned intellectual property – the SOPAC name has real value – everybody knows this logo. It's uh ... when we talk about STAR, the name is ... the value of the name is very clear – this is an excerpt from the description of STAR's mission on the website and long-established working relationship between SOPAC and the international research community is a vital element in this endeavour. It is part of the appeal of STAR is the ability to continue working for the organisation name that people recognise and understand – it has credibility in the international realm that can obtain funding and that can accomplish what it sets out to accomplish.

So what is the challenge to SOPAC of implementing the RIF consistent with these issues? Certainly it is effectively addressing both the legal and practical implications of implementation and at the same time while complying with the treaty requirements – the treaty timelines – the external legal obligations, that is, contracts with third parties or non-members and the need to preserve services.

I don't intend to make this out to be unduly daunting because it is not; certainly it can be done. What is the mechanism by which this can be most effectively accomplished from a legal perspective? As a starting point, it would be the development of specific Integration Agreements between SOPAC and SPREP and the SPC; to address these aspects in the implementation; particularly those protected by the SOPAC constitution through the treaty procedures. There are a number of objectives that could be obtained through the benefit of Integration Agreements : (i) is to be certain that the terms are clear, it does appear for example in listening to the statements this morning, that there is a great deal of consensus and agreement as to what the terms ought to be, and so in that sense reducing them to writing not only for the benefit of SOPAC but also for the benefit of third parties would be very valuable. It provides a roadmap for timelines for implementation and leaves no uncertainty in that regard. It provides those who are watching the agency and those who are interested in the agency financially or otherwise with certainty regarding the timing and the structure of the transactions. And it provides for oversight and recourse as may be necessary.

With respect to the donor contracts in particular one would like to see I would think in advance of a final decision a determination made as to the legal status of each individual agreement, with a report on that presented to the Council. So for example, will there be amendments negotiated to each of these contracts with the donors? Will the donors support that? Will these agreements be assigned? For example, from SOPAC to the SPC – will there be written confirmation of continued funding? Some of these contracts run through 2014 or later. We'll wanna perpetuate that. We will also confirm accountability to perform the funded obligations; that is, it's one thing to secure the money and make sure that we have the funds available going forward; it's also important to make sure that there is an entity that would be obligated to carry out and provide these services to the member countries as there is now under the current contractual relationships.

With respect to the employee contracts, it is fairly straightforward; but before any employees are transferred to SPC or SPREP we'd wanna address the benefits and other contractual obligations. In understand the terms and conditions between SOPAC, SPC and SPREP are quite similar so that would not be a difficult process but again one that you'd wanna see completed and reported back to Council. If an employee's salary comes from a donor contract it would also be tied to earlier discussion of those agreements; that is, for example taking the most recent ICT Outreach contract that's been signed. That contract funds specific positions – will those positions transfer to another entity and if they are will the donor be consulted on that and will they agree to it?

So what are the legal timelines by which these agreements can be presented to Council and approved, consistent with any changes that may be necessary to the SOPAC constitution? The treaty specifies particular timelines that would allow a convergence of these dates to occur as soon as October 2010 in the Council's discretion.

Why should these timelines be followed? Certainly credibility, accountability, good governance and due process are all considerations here; and all policy objectives contained in the Pacific Plan; and the practicalities for example – avoiding early termination of funding agreements by virtue of stepping outside the treaty requirements.

As summarised previously the treaty articles that would be involved and the various timelines; and I'll go through those as applied to approvals specific [to] integration agreements now:

With respect to amendments; these are the areas where you would imagine the treaty would be amended if there are going to be changes to the Secretariat, the directorship, governance and the budget. The Article 14 timing requirements for these changes which state that they would be circulated three months prior to consideration and [be] effective thirty days after acceptance or ratification.

With respect to dissolution or suspension if the Council chooses to follow that option; there would first be a vote by the Council, the approval for that would be governed by the standard procedures contained in Article 6 of the treaty. The resolution would become effective after the next annual session of the governing council following the vote if there's been ratification by two thirds of the membership. And if it is ratified by the next annual session, the Council then decides how to dispose of the assets and obligations. Of course this could all be taken care of by preparing implementation agreements in advance of this meeting subject to final report and approval to council at that time.

So, taking a specific application of these timelines – if you're going to run from October 09 to July 2010 following these procedures, how would you do it?

First from this meeting forward, continue the process of integration planning, negotiation, harmonisation of systems, complete due diligence – whatever further information that Council believes it needs to make a final and informed decision can be gathered during that time. Prepare the integration agreements also during the same time frame; identify the specific terms and conditions that Council feels are essential to provide the benefits to its members. By July 2010 and circulate any necessary constitutional amendments under Article 14; and at the same time circulate, if desired any dissolution or suspension resolutions for approval at that same meeting. So in other words by following these timelines – and this is an example – it is not meant to suggest that you have to do this in 2010 – this would allow the convergence of all of these processes: the practical implementation through the integration agreements; any changes to the treaty and any decision to dissolve or suspend – all on a full record and all at the same meeting.

October 2010 then – approval of the integration agreements, if that is Council's decision; if necessary, approval of amendments, resolutions and then following that, ratification process for dissolution or suspension, effective date for dissolution or suspension as set by the Council and a formal transfer then of assets and liabilities to SPC and SPREP, if dissolution or suspension is ratified.

I wanna emphasise that there are also alternatives to dissolving or suspending and that neither of those is necessarily required to carry out the objectives and the policy goals of RIF. One that we've already discussed is amendment to the SOPAC constitution.

So for example, you could amend the form of SOPAC, to have the treaty arrangement continue in a more limited capacity; but you'd still obtain the benefit of RIF through integration. One example where this has been followed in international law, and there are others, but it is the Western European Union – they have essentially integrated over a period of time with the European Union – and in doing this they have neither suspended nor dissolved – specifically they have transferred through a series of amendments to their governing instrument, the social and cultural committees to the council of Europe. Their remaining core capabilities and functions were transferred to the EU; so in other words this is very similar to a portion of functions being transferred to SPREP another portion of functions being transferred to SPC and yet still remaining in existence to administer just certain specified functions; and if necessary carry out their mandate, which in the case of the Western European Union, is its defence goals identified in their original governing instrument the Brussels Treaty.

So, if you are going to do this you would amend the constitution rather than resolving to dissolve or suspend; and you would transfer the functions identified in the July 2009 summary of decisions but you would retain the role of the current entity in some form. So for example, with respect to the directorship you would retain and amend that role allowing for some continued oversight of SOPAC as a division of SPC.

What are the benefits of alignment over dissolution or suspension? Certainly it is not a final or irrevocable decision as dissolution would be; and in the case of suspension, once you've suspended the organisation, it is essentially turned into a dormant shell, all of its assets are liquidated and it only revives under certain specified conditions contained in the resolution. In fact, as I've noted in my memorandum presentation, these types of procedures as dissolution and suspension are rarely exercised and generally when the functions of the agency has become impossible to perform for some specified reason; so for example if there were a defence treaty between organisations and the countries went to war, so it would be unusual I would think under the circumstances here under the RIF to employ suspension or dissolution.

Other benefits would be the resumption and perpetuation of STAR, TAG, PMEG – I understand that's a concern, and it's something that can be done in conjunction with the SPC or SPREP. Pursuing new operations within SOPAC's mandate should those operations arise at some point in the future. Retention of administration of contractual relationships including those donor contracts that currently run for several years. Administration of any vested rights of employees, treatment of any employees' obligations and liabilities. Service to the region in some continued fashion, for example archives and data resource and of course the continued licensing sale or use of SOPAC's intellectual property, for example the use of its name.

That's the presentation, obviously there's a lot of questions as specifically applied, I thank you very much for the opportunity to make this presentation, and I welcome those questions.

[Acclamation]

Chair – Thank you Matt for a very quick but informed presentation. I would now open up the floor for any preliminary discussion on the matter. USP?

USP – Hullo, thank you for the presentation. You didn't mention what the timeline for the second process there "alignment without dissolution" would be? How long would it take to uh ... for this whole process to mature?

Matt Segal – I think the only treaty requirement for a timeline, if you use the alignment procedure, would be the timeline for amendments; so the extent that you are transferring functions related to governance or finance or Secretariat or any of the other areas that are protected or governed by the treaty, that would subject to an amendment procedure, which would mean proposing those amendments at the soonest, July of 2010 for a vote in October 2010 and to become effective for after ratification following that meeting. Certainly I think from a practical perspective it would make sense to draw up your implementation agreements over that same time frame and have them be presented in that same timeframe. Aside from that, the alignment option would present a great deal of flexibility to the Council in terms of how it wished to proceed.

Chair – FSM?

Federated States of Micronesia – Thank you Chairman and I guess in the procedures for amendment, can we proceed without ratification [inaudible] ... or would it follow the same procedure as suspension and dissolution ; in other words two thirds of member countries to ratify and then before we can actually approve it, clarification please?

Matt S – I believe the question is – Is ratification required to approve amendments to the treaty? And the answer is that Yes it is required under Article 14 that there be a consensus ratification or acceptance of whatever amendments are proposed and voted on.

Chair – Thank you. Cook Islands and then Fiji.

Cook Islands – Thank you Mr Chair; I would like to say Thank you Matt for the presentation ... certainly highlights some of the issues that has been lingering in the members' minds for some time now in trying to come to terms with the transitional arrangements that we've currently accepted with the uh ... as aligned to the leaders' decision. Now I uh I suppose ... before I continue I think I have been repeating myself on many occasions in seeking answers to many questions and you've answered some of them yesterday; and today you've highlighted

that in your presentation that before I submit a proposal or I move a motion that I would like to table later on; I'd just like to seek members around the table today who were not with us yesterday afternoon at the one-on-one; and I think its only fair that they be given the opportunity to highlight their views so that we can then have a look at the issues that are being raised – they're all valid reasons hence one of the proposals I was gonna propose ... I mentioned during one of the discussions earlier, that there are certainly many more areas of err areas needed attention as in your paper page 15, appendix b; and these are aligned to some of the treaty arrangements that have been established ... in establishing SOPAC. So I would just like to give the opportunity to those members who were not with us yesterday in seeking answers from you and how we would move forward ... and there I'm gonna finish, thank you.

Chair – Thank you Cooks, Fiji.

Fiji – Thank you Mr Chair, my colleagues from the Cooks has articulated most of what I had wanted to say, except maybe just to add that I would like to thank Matt for a very extensive presentation and maybe these would ... the options would provide member countries with food for thought in maybe having those concerns that were raised earlier on could be addressed, thank you.

Chair – Thank you. There was a proposal from the Cooks that some member countries that were not ... didn't have the opportunity to meet with Matt yesterday, whether or not they want to make some ... err want to give some reaction now ... Samoa?

Samoa – Thank you very much Mr Chairman. I was one; Samoa was one of those members that wasn't err... there yesterday during Matt's presentation. We really appreciate the very comprehensive presentation which I also echoed the sentiments expressed by our colleagues Cook Islands and also Fiji about the specific areas that have been highlighted ... you know that really need proper attention by member countries. One of those is also implication on the SOPAC Council – so uh maybe ... it would be like ... it involves a lot of key areas that we really need to sit down and carefully consider ... maybe we should revisit that at when you know visit this issue when we discuss it properly again, thank you.

Chair – Thank you. Yes FSM?

Federated States of Micronesia – Thank you Chair, I assure you this is not addressed to Matt; but I'm just wondering since Jimmy is here if SPC would face similar problems [rest is inaudible]?

Chair – Thank you FSM, Director General for SPC?

Jimmie Rodgers – Thank you Chair, I was hoping to listen to uh all the commentaries first before I can take the floor on this one; but look SOPAC, at the moment is a sovereign entity; you know it's governed by its own treaty ... it's governed by a process that we have quite clearly heard with regards to any decision to do with .. you know uhhm dissolution or suspension. So I guess from a perspective of where to from here uhhm ... the only thing for me I guess is is that you'd have to follow what your procedures has laid down in the constitution; and I think that's fairly clear. The only issue there, I guess, coming back to the very first introductory point by the presenter is is the issue between a policy decision that leads to informing the legal aspects of the solution and I guess it's really just a balance between how does the Council achieve the balance between a political decision that has been made vis-à-vis looking at what is the best legal option to actually achieve the implementation of the political decision. That that seems to me where the challenge will be and I think the issue here is probably uh uh finding the best mechanism within the best time frame looking at the provision of the current treaty and then shifting it

forward. I guess the only other thing with regards to the third option, the third alternative with regards to how do you operationalise 'alignment without dissolution' and with regards to ... for instance the example that was used in the second last slide I think it was with the directors – the issue of that one then creates another question within, if you like, in an institutionalised framework within a receiving agency be it SPREP or SPC. If you were to move into an alignment with a institution so therefore SOPAC is institutionalised ... or the majority of its programmes is institutionalised but there is an independent entity within an entity and that would create a bit of a ramifications on managing the relationship as well as managing the organisation. I think that that is quite important from the perspective of the issues raised this morning were about services not diminished but if you put in place a mechanism that actually creates a friction within that, then of course you undermine the whole intention of providing services and I think that's one of the things you'll probably need to just look through in looking at the options ... uh I think it's very very important the point raised by Samoa with regards to implication for Council in here. And maybe I could just share with you the similar process with SPBEA; because we're going through exactly the same issue with SPBEA with regard to SPBEA being a legal entity under the Tahiti Agreement as it was established in 1979 at the 18th Conference of the Pacific Community and now the question becomes the one – balance between the Tahiti Agreement and the SPBEA constitution one of which is ratified internationally (the Tahiti Agreement) and one of which is not (the constitution). And so we're going through a mechanism on how best to look at the role of the board of SPBEA within the context of implementing the decisions – so I guess there are a number of critical issues there and I think when it comes to the implication for what is the role of SOPAC Council; right now it's fairly clear cut uhhmm you are a sovereign body – if we went into the issue of dissolution or suspension – it is still probably fairly clear cut with regards to one of the areas that the Council as such will not exist as a Council under dissolution but the body exist as the heads of the programme that continue to determine the direction of the technical programme; whereas in the alignment without dissolution – I'm not quite sure what the situation would be in that context because here you would have two separate entities within an entity – so I guess those are just my preliminary comments on the subject Chair, thank you.

Chair – Thank you. Cook Islands.

Cook Islands – Thank you Mr Chair. In view of uh the comments from my colleagues Samoa and what Dr Rodgers have explained – obviously the issue of the implementation agreements or the transitional agreements needs to be established before any view is taken on suspension or dissolution by Council, and the timeline that Matt has given in his presentation is clear as to how much work is needed and uhhmm ... however there are some merits in the presentation also in looking at the alignments and the amendments of the constitution to allow certain activities for certain functions or the actual Council itself to continue working while still in the process of establishing implementation or transitional agreements. So I ... in that view I would like to table my proposal at this point in time that a small Council committee is formalised to look diligently into all of these aspects as compared to my colleagues from Samoa or the whole Council as a whole is required to actually sit and dissect all of or articulate the issues raised from Matt's presentation and that the particular uuhh ... mention or articulation of Council's decision at this point. So that's my point of intervention at this time, thank you.

Chair – thank you Cooks. This morning we had agreed to allow the subcommittees to stay open and the proposal is now on the table that we establish a smaller team to work together and put some ideas together and then present it back to the Council, is that ... I think that's what the proposal is now. And as I said earlier this introductory meeting is to bring those issues and see how we move forward with it and then we bring it up again when that agenda ten comes on again and we can then consolidate some clear position then – but it's good for all of us to look at all of the different options that are available and decide one would best meet our interest but at the same time allow what our leaders have agreed to go ahead. May be if I can New Zealand please.

New Zealand (Emma) – Thank you Chair for the floor very quickly. I'd just like to reiterate very quickly on behalf of New Zealand as in our opening statement this morning, uh to reiterate that our support, our financial support to the programmin' of SOPAC uh remains in spite of dissolution or suspension – it does not impact on this fundin'

... as we do with our contracts, we can easily vary them by a Letter of Variation and we have done this with SOPAC over the years, many times, it's a little issue so in terms of SOPAC bein' absorbed into SPC and SPREP whatever the contract that we have with SOPAC – it can easily be varied by what we call an L-O-V, thank you. So I just wanted to reassure members that there would be no loss in terms of our financial support, anyway ... thank you.

Chair – Thank you, Fiji?

Fiji – Thank you Chair, uhh well many thanks to New Zealand for the on the merge, but the fact remains that there are other major donors that need to be consulted, need to be taken into consideration and the various other issues as was presented in plenary so as far as we need to look into those issues Cook Islands has raised and there ... to go into the nitty gritty of these things, thank you.

Chair – Thank you Fiji, there is a proposal on the table that a small working group be established and then work together and come back and present their finding after consulting with each other to the Council and so that we can take a decision at that time ... EU?

European Union – Thank Mr Chair ... as well as New Zealand we would like to reassure everybody around the table here. Although we can understand the prudent approach by the legal people that have considered the different options; there are political rationale at stake here and as much as I want to reassure you – we can tell you from the European Union side whatever decision you are taking that the contracts that we have entered in with SOPAC are not at stake. We will surely not reduce our funding that has already been agreed so far and we will certainly find solutions through the different modalities that are available in our EU procedures – we will have to consider [the ...] its true ... but the money is certainly not at stake so this should not be a fear that you should carry with you when you discuss amongst yourselves the different options, thank you.

Chair – Thank you EU, I see Australia ...

Australia (Jonathan) – Members following from New Zealand and EU I'd just like to reiterate the same from AusAID's perspective; to reassure you that funding would not be affected [...inaudible at end].

Chair – Thank you, Papua New Guinea?

Papua New Guinea – Thank you Chairman. It's very reassuring and we thank uh ... Papua New Guinea would like to thank New Zealand and Australia and EU for the kind and reassuring words, number one. Number two, I would like to support the proposal by Cook Islands but there's a question for the Cooks and the rest of the members – is a small group gonna do a better job than a ... as opposed to a bigger group. Thanks.

Chair – Thank you, okay it seems like from the donors' perspective whatever we decide they've reassured us that it's going to affect whatever we do, but again there's a proposal and I think it has been seconded ... and the colleagues around the table are reminded that this is meant to be an introductory session and we're not going to conclude this matter now ... and if we all agree we're going to decide on how many people sit down and look into these issues again and the different options that are being presented from a legal perspective; from a practical perspective but also from uh the policy perspective and see what would be the best options to move forward with this ... any reaction from other members? Do we have some volunteers ... Fiji, Cook Islands, New Zealand, Australia, FSM ... it's getting bigger [many hands being raised at this point] ...we might end up with the whole

Council again. We now have Fiji, Cook Islands, Australia, New Zealand, FSM, Kiribati, PNG, Tonga, Vanuatu ... it's getting bigger ... can I ... I think it's just getting too big now; uhhm I mean there's really two options we have – we can have one from each regions and that's another option, or we can have the full Council ? New Zealand?

New Zealand (Sara) – New Zealand offers to withdraw ... step down from the sub-committee in the interests of keeping the numbers smaller.

Chair – FSM?

Federated States of Micronesia – Chair I like your second proposal so I'm just going back to the whole Council ...

Chair – Thank you, yeah from the way it is now I think we just have to go for a full Council. Does anyone has any other issues on this matter or else I'll invite Matt to just give a quick reaction on some of the issues that have been raised both from the members, from the Director General of SPC, from the other members that have raised it ... do we have any others around the table that would wanna just say something else? Cook Islands

Cook Islands – Thank you Mr Chair, so I take that uh New Zealand and Australia will have no problems in amending their contract decisions to that effect in their funding programmes. I now have ... I just want that to be documented at this time, the same thing with the EU – she has established that there would be certain modalities; these would all need to be looked at which is what we're trying to do here ... thank you.

Chair – Thank you Cooks, can I now invite Matt to just make some comments on some of the points that have been raised, thank you.

Matt Segal – Thank you very much. Briefly with respect to the comments from Dr Rodgers, much appreciated and I think that the alignment option, while its true that the framework of that is not established right now, it does provide the most flexibility to the Council to establish a legal mechanism that is most tailored toward what is happening here. So it provides a great deal of flexibility as opposed to trying to fit the policy objectives into an existing procedure that may or may not best suited to it. So with respect to the directorship for example, that was used as an example, obviously it's within the Council's discretion how to address that issue if they amend the treaty since that's a treaty provision as well as establishing the Council's role going forward in any representative capacity, if they were to be aligned as a division of SPC.

With respect to the donor funding – I think that the statements are exceptional and give a lot of hope for moving forward in a way that can implement this process; certainly the hard work would still have to be done and particularly the hard work would have to be done with the non-members. And, obviously the EU statements are very encouraging; it may well be that the process of amending these agreements and establishing how they would be applied to whatever the Council's decision would be; maybe that that process proves to be uncomplicated and one would hope that would be the case, nonetheless it would still be something that you would want to do in respect of ensuring services continue to be provided in an uninterrupted and hopefully enhanced manner.

I'm happy to provide any assistance the Council wishes with respect to drafting or preparation of any resolutions. Thank you very much.

Chair – Thank you Matt, we've now agreed that we'll bring the issue up at full Council and discuss it again with the assistance of other people including Matt to find a way forward for the Council to take a decision. So I take it that we shall now close this session in this issue now. We will now move back to our agenda

Wednesday, 28 October 2009

[At the scheduled time in the agenda for dealing with Item 10 on Day 3, the Chair is the Director of the Department of Geology, Mines & Water Resources, Christopher Ioan]

10.1 Legal Implications [continued]

[This matter had been introduced on Day 1 of the meeting]

Chair – Call the meeting to order so we can begin on Agenda Item 10. Before we start on the agenda item; the agenda item has been brought in for discussion after agenda item five and was put forward for the Council so the Council can think over it and make whatever comments or whatever issues which need to be discussed on will be discuss on at this time; which is the appropriate time for the matters to be discussed further. So before we discuss further on the matter I would request that Matt please ... could you come forward to take your chair. On this note I now invite comments from the member countries to Council members. Fiji, thank you.

Fiji – Thank you Mr Chairman and thank you Honourable delegates. We are here to implement the Leaders decision and in making their decisions the Leaders and in making their decision the Leaders have shown their intent that SOPAC be rationalised and we implement that. However the Leaders also directed that service delivery to member countries must not be affected and the whole exercise must be cost effective. This is the challenge we face as we proceed with the implementation of the Leaders decisions. Mr Chairman over the last few days there have been numerous views and concerns expressed on these issues both formally and informally. RIF always crops up in many discussions in the last few days. This shows the depth of concern Pacific Island Countries felt on this issue and only too right because it affects the lives of their people. We have also had the opportunity to be presented with a legal opinion that provides for a constitutional and legal way forward toward the final suspension or dissolution of SOPAC. It clearly outlines for us what the SOPAC constitution requires us to do to achieve this dissolution. This is indeed great as the rule of law, good governance and transparency is something that is required of us under the Pacific Plan and we have always been reminded about this. I'm glad that we have the chance right here to put all these fine ideals of Pacific plan into practice. Mr Chairman, because of the great number of views and concerns expressed some of us thought that it might be helpful if we put together a draft resolution that has mechanisms that can address the concerns of member countries, comply with legal requirement and ensure smooth rationalisation process and put this to member countries here today in session for their views, comments, amendments, inputs and hopefully for them to accept it as the best way forward in implementing the Leaders' decisions. Mr Chairman, at this juncture I seek your permission to put this draft up on the screen for Council to run through and I would ask my colleague to distribute hard copies for the members' benefit. Some members have a copy of the draft that we handed out just recently and (please put your hand up if you haven't got a copy)

Chairman – Fiji can I ask you do you have a he-copy so (Fiji reply ... yeah it's on the ... Ray totolo [to his colleague]) [Fiji distributing pieces of paper]), thank you. [lengthy silence]

Fiji (resumes) – Thank you for your indulgence honourable delegates ... We have on the screen what we have on the hard copy you have in front of you now and basically to go through it quickly – we have dealt with the

issue of the uh legal opinion; it has pointed out to us a lot of aspects that need to be considered, need to be addressed and I think a lot of those were expressed by the last two or three presentations this morning. So those concerns were raised again.

And the first paragraph (referring in document on screen and handed out) deals with our appreciation and the memorandum is to be attached. Second one is in regards to the transcript of the discussion for the period of the Council meeting; and the third paragraph where the Council recognises the challenge that is there before us to address the legal and practical implications of the implementation of the RIF decision. And we also note with pleasure assurances that were provided on Monday by New Zealand, Australia and the European Union in regards to funding commitment. And further noted the assurances provided by the CEOs of SPC and SPREP in their support for STAR. And the Council concluded that the SOPAC agreement is an international treaty between states under the Vienna Convention on Law of Treaties 1969. Second dot point, that in complying with the RIF decision we must go in accordance with the principles of the Pacific Islands Forum in regards to good governance, transparency and accountability and that the Council is vested with this responsibility under the SOPAC constitution. And we conclude that the full and effective implementation of the RIF will require time; and this time must be provided for in the transition period during which issues such as funding contracts that is current and future; employee contracts, relationships, intellectual property, budget and governance must be addressed and resolved through the development of an integration agreement between SOPAC and the receiving organisations of SPC and SPREP – and this is in line with the [concerns raised by PMEG this morning]. Council must continue its role as provided for in the SOPAC constitution or Agreement supported by a director during this transition period. This effectively means that Council continues for another year.

Last on that page, the Director of SOPAC together with the DG of SPC and Director of SPREP in the period from now to July 2010 to develop a draft detailed integration agreement to be circulated to members three months ahead of 2010 Council meeting and Council will consider and approve these arrangements at its 2010 meeting. This integration agreements with the two organisations must ensure all parties are in agreement so this covers the consultation process in detail and in writing.

And the rest there are fairly self explanatory ... and maybe I can just put the gist of this resolution is that SOPAC remains intact to deliver its services unaffected for the next twelve months until the Council sits during the same period work is done to get this integration agreement together that addresses all of the concerns that were raised today and previous days. This is to safeguard the interests of Pacific Island Countries from anything or from being affected by diminution in services or service delivery. This would be the mechanism that would see that everything that has to be considered is considered and that a clear and specific way forward is put before the next Council to minimise the risk of anything going wrong when the major phases of implementation and integration takes place – because if it does its the Pacific Island Countries that will suffer.

Lastly is the issue of the Director's term, and this I believe would be for member countries to discuss, because with the Council running you need also a director in place reporting to the Council. So I will leave to ... for our discussion later, but Mr Chairman and honourable delegates please allow me to conclude with these few remarks.

Whatever decision we take today must be constitutional, legal, transparent and most importantly, be in the interest of our people. RIF, if implemented properly, after thorough consultation and consideration of the complexities involved can be beneficial; however, if we rush through the implementation of RIF with our eyes closed, we run the great risk honourable delegates and we deny ourselves any avenue for recourse at a later date. Whilst we sincerely appreciate the assurances given to us on Monday by our traditional donors and development partners, we must also be prepared to seek out other non-traditional donors. There are many out there I believe who would be willing to step in to assist the Pacific region especially for scientific programmes that directly benefit the people. We have to do what we must – we therefore cannot afford to risk the diminution of services provided to each Pacific Island Country for we do not have the financial resources to individually obtain these services. The risk is ours, so please make the right decision. Mr Chairman, honourable delegates, I thank you.

Chair – Thank you Fiji for that intervention. Council members I now invite you to talk on the paper brought forward by Fiji. Thank you, Tonga.

Tonga – Thank you Chair. I think I don't have any more explanation, it's self explanatory the thing that the delegate from Fiji has explained. But would like to show our agreement for the proposal put forward by Fiji. Thank you Chair.

Chair – Thank you Tonga. Vanuatu, thank you.

Vanuatu – Thank you Chair. Vanuatu understands that the Director and Deputy director's positions ends in 2010. As per normal procedures these items should have been raised at the [] SOPAC annual session in Tuvalu; however this was not the case. Given the legal opinion provided in section ten-one the Secretariat still stands as a single entity therefore the governing [Council] still has the mandate to appoint Director and Deputy Director. Nowhere in the papers indicates the responsibility to be given to SG of SPC. If any ... if there are any special governing council sessions in July 2009, then Vanuatu demands that the summary record of this meeting be provided at the meeting now, thank you Mr Chair.

Chair – Thank you Vanuatu. Yes Vanuatu?

Vanuatu – Just uh another additional comment – we propose as the SOPAC constitution ... that the advertisement of both positions be advertised immediately. We as part of the Council therefore recommend that one the Secretariat advertise the positions immediately after the meeting to avoid any further delays ... thank you Mr Chair. That's our recommendations.

Chair – Thank you Vanuatu; as per Vanuatu's question; there is a special session for July this year. Perhaps the Secretariat can clarify on that; and that's the summary meeting that Vanuatu would like to have. With respect to the propositions made, I think it goes in line with what Fiji has propose and as per my understanding of the legal opinion sought or given earlier, SOPAC still stands as an entity on its own. Therefore this council has the legal obligation under its constitution to carry out its functions and to direct the Secretariat in its decision ... I'll give the floor to the Director, thank you.

Director – Thank you very much Vanuatu. Those members that attended the Joint meeting of governing bodies of SOPAC, SPREP and SPC held in Suva in July will recall that there was a very short special session of the SOPAC governing council on the 9th of July and in fact there were two decisions taken, an endorsement and ratification of the outcome of the joint meeting on the rationalisation of SOPAC's functions into SPC and SPREP; and noted that detailed implementation plans will be presented for consideration at the 38th SOPAC Session of the SOPAC Governing Council to be held – and we're having it right now here in Vanuatu in October 2009. The second part of that decision endorses the decisions of the joint meeting of the governing bodies on the rationalisation and an agreement to transfer responsibilities for the recruitment for the position of the director for the geoscience division of SPC to the Director General of SPC. So I just raise this at this stage of the meeting because in fact there has been a decision taken at a joint meeting in July, on two matters one on rationalisation and then on the position of the divisional director, thank you.

Chair – Thank you Director, I assume that the Council members that were in the July meeting note that summary outcome of that meeting? Fiji?

Fiji – Thank you Chair, uh I could be wrong, maybe Matt would have more to say on this but I can't remember seeing in the SOPAC constitution that the power to appoint the Director can be delegated to another agency and as far as we're concerned at this present point in time as we speak, this Council exists and has that authority and not the Director General of SPC or its governing council, thank you

Chair – Thank you Fiji, could I have any other comments from the Council members. Thank you FSM.

Federated States of Micronesia – Yes, thank you Chairman. I just wanna point out to everybody, I guess uh the decisions – I know that we've been talking about RIF for a long time and I know since the Tonga meeting and I understand in Funafuti also there were lengthy discussions on it. I believe there is no question that we are following the Leaders' decision as we'd agreed. But recalling that the decision was to rationalise; not irrationalise with the understanding there would be no diminution of services and the second rationale for the rationalisation was to save money; to actually cut down the cost ... I think that was one of the premises that led to this RIF. One which we put up as Council member is that we do not diminish the services to member countries delivered by SOPAC, one as agreed by some people is that the cost would be essentially the same or lower and I believe we did add on a third one in that meeting (in Tonga I believe) that STAR is not or doesn't go away, you know keep STAR as a very good service for us; and I think what we're trying to do in whatever decision we make must put these in [perspective]. I'm sure the Leaders told us to rationalise based on those facts that I've just pointed out and I wouldn't want to rationalise without considering those issues and if we are gonna go into country and report to our leaders, saying that we have done it without doing due diligence I'd be probably be thrown out of President's office if I do that, thank you.

Chair – Thank you FSM. I'm glad that we have the PMEG Report¹ that were presented during the three programmes that guided us as Council members in our decision, whatever decisions we make on this agenda item. I now invite Tuvalu, thank you.

Tuvalu – Thank you very much Mr Chairman, I think if I'm correct, the decision that was done in July was mainly done on the premise that the implementation process will be smoothly done; and this was done without the benefit of having the legal advice on the implications of what we stand to face if SOPAC is to be dissolved or suspended as part of the Constitution. So the decision was done on that without the benefit of having the legal advice on what this RIF entails if we go through it. And now with the benefit of the legal advice, things are looking different from what we have decided in July. Thank you very much Mr Chairman.

Chair – Thank you Tuvalu for the clarification. I agree with Tuvalu that perhaps the decision taken on July was taken with the absence of what we have that Matt has provided. So perhaps I'll give it to the Council members to give comments on the views aired by Fiji and Vanuatu with respect to the positions of Director and Deputy Director before we come back to the paper presented before us. Thank you. Tonga?

Tonga – Sorry to take again the floor, but uh I do agree with the proposal that put by Vanuatu for the Director and the Deputy Director to be advertised. As we know that according to the resolution that we put in today, that SOPAC will be last for another year. Thank you.

Chair – Thank you Tonga, Marshall Island?

¹ PMEG reports are attached to the Proceedings volume in Appendix 7

Marshall Islands – Thank you very much Mr Chairman ... Mr Chairman can we take up the Director and Deputy Director position on ten point two but let's just continue on with ten point one now; coz if we're gonna talk about the Director and the Deputy Director we might have to go into uh closed session. Thank you.

Chair – Thank you, suggestion there by Marshall Islands for a closed session. Cooks ...

Cook Islands – Thank you Mr Chair, I would certainly concur with the suggestion by Marshall Islands and we deal with the agenda that was before us – the documents had been presented earlier, and we deal with this later, thank you.

Chair – Ok thank you Cook Islands we will go through the paper as presented by Fiji but dealing with the positions of the director and deputy director at closed session. If that is agreeable by all we shall proceed and look at what Fiji has given us for Council members to comment on. Thank you, Cook Islands, thank you.

Cook Islands – Thank you Mr Chair, this is the paper as presented by my colleague does stipulate the way as mentioned by my colleague from FSM in view of due diligence in proceeding with the implementation plan to eventually get into full integration into SPC.

A lot of the issues have been raised many time over and we have now documented these as a safety or a net for all Pacific Islands in view of projects that was earlier alluded to by my colleagues in view of the service delivery to Pacific Island Countries ... and that being also reflected in the decision Leaders' decision that the services are not to be diminished in any way. Now we doing our ... this Commission or this Council is looking at the way forward as to how to due diligently establish the implementation programme for full implementation as according to a timeline of 2009. Now some of the legal aspects has been presented by Matt Segal in the presentation earlier on in the week to highlight some of the important sections that need Council's consideration and deliberation on the way forward. And some of these ... obviously we have not met some of the requirements as to establish an amendment to the constitution to allow discussion at this Council meeting. Therefore for the interest of due diligence and ensuring that we do have the modalities in place to allow the programmes to proceed without any hindrance, I feel that what we have captured in the paper spells that out as a way forward. Obviously Council will have to meet once more to establish control measures to see the implementation plan for full implementation by 2011. A timeline could be ... could hinge on the discussions and the legal implications that are in place for Council to progress through next year.

Now we all look at the pointers that have been established here – it does spell out the fears that we ... or not the fears but maybe issues that have been around discussions since 2007. We have the assurance of Australia and New Zealand and the EU to continue their commitment to the projects, to the programmes, however the smaller modalities of ensuring that some staff that are engaged or encompassed in the programmes do carry on with the projects to ensure that its delivered to its full benefits to member island countries. There are issues to be looked at ... the contracts that surround all the programmes and the assets that uh the Commission has and the ... if we do decide at this stage that we need to suspend or dissolve SOPAC, then we will lose the right to decide as to how these assets of SOPAC ... or yes assets for SOPAC is to be processed. Therefore I see this way as the best way to go forward in this as we would like to see this in place before we actually does suspend or dissolve SOPAC. And like my colleagues earlier in their interventions; this is going along with the wishes of our Leaders in establishing proper elements or instruments in every sector that would affect the delivery of services to the Pacific island countries in view of the three programme areas. Obviously we have a lot of equipment and our ... one of the things that has been brought to our notice is the uh ICT sector of SOPAC Commission being very autonomous in its own ISP with regards to ICT and this is fully registered for SOPAC; and for some of these things ... that's just an example of some of one of issues of transition if we don't put it right. Therefore I would seek Council's views around the table to ensure ... to make comments as to how you see the way that the paper has been tabled and I can see the merits that has been established today, thank you.

Chair – Thank you Cook Islands, French Polynesia? Papua New Guinea ... the Samoa.

Papua New Guinea – Thank you Chair, the volley ball win was sweet but I hope what I say now may ... I hope I don't spoil relationships and ... Anyway there's nothing much to say but I thought I should mention that while we don't necessarily want to delay the processes that are to be involved we think proper deliberations as to the implications that will certainly result in the processes or in the shift should be allowed time to take place. Now, there are lot of things but maybe I should start by asking our good donors to again assure us of ... if there are going to be implications, long ... you know when we taking longer than normally required by Leaders. As my colleagues round the table are saying, things including a change of name, uh we don't want that. That can result in things like losing the ICT rights as my colleague from the Cooks was saying. And that alone can be very costly. Now, just amongst other things – contracts has been highlighted; assets and also I know what a legal person on board, a lot of things has got to be included and its got to be a binding document, to ensure that there are no changes of mind in the future. As I said the volleyball game win was sweet but I hope I am not offending no one around the table, thank you Chair.

Chair – Thank you Papua New Guinea, could we have Samoa.

Samoa – Thank you very much Mr Chair. My comment or just a brief question, just to follow on from the Cook Islands presentation with regards to the presentation of implementation plans and this is supposed to be like for the year ahead; but what I noted from the paper that was circulated to us during the special session of SOPAC governing council; it actually said here – it endorsed this detailed implementation plans will be presented during this Council, thank you.

Chair – Thank you Samoa, I think Tuvalu has made the clarification that that special session was held at the time when the legal opinion was not there for them to have a look at. So the discussions before us in a legal sense will assist us in what would be our next steps if we agree to it. I'll give the floor to the Director before I give the mic to the Cook Islands.

Director – Certainly the Joint decision of the three governing bodies provided some instructions to the CEOs in going into their various governing body meetings. Part of those Instructions, particularly to SPC and SOPAC were that we were to provide Council with detailed implementation plans, and in fact there is a plan as you can see from the agenda for us to actually present those to you under agenda item ten point three; and there are four parts to that agenda item. What is perhaps the difference between what is being tabled and what we're presenting is we're presenting an implementation plan and the suggestion here is that there needs to be integration agreements between the two, well between the three organisations but between SOPAC and SPC; SOPAC and SPREP for the transactions of functions. But certainly the implementation plans have been developed as best as we've been able to do over the last months and it is our intention to present those to Council for consideration once we're able to get through ten point one and ten point two.

Chair – Thank you Director for the clarification. For Council's to note that the implementation plan will be made or will be discussed when it comes to the appropriate agenda. The discussions of the agenda item in front of us could have some impact on the implementation plan as well, so we will need to amend them accordingly based on the outcome of this agenda, thank you. Could we have Niue? I think Niue, then Tuvalu.

Niue – Thank you Chair. First of all I'd like to thank Matt for the legal paper/opinions and also Fiji for the paper that's been distributed for Council's deliberation and consideration. I certainly agree with what's in the paper that

was presented by Fiji; however, I have some concerns on the (Chair interrupts – Niue can you speak closer to the mike, thank you) ...sorry ... I have some concerns on some of the ... especially the time frame that has been presented in the paper before us. I note in some of the discussions earlier on that 2010 October, that's the time frame that was given to us but over here in this paper it's 2011, before the earliest practical time at which full and effective implementation of the RIF decision can take place. Now I have a concern about that because although the donor partners just agreed to continue with their contributions and assistance to the work programmes but that's only up to 2010. I'd like to have assurance from the donor and development partners that they can have that assistance provided to SOPAC up until the 2011 as proposed in the paper. And another concern I have is over here it says consideration of this issue until an appropriate later date. I don't think that 'later date' open end – we need to have a timeline because we need to have the confidence of our donor partners as well as our respective governments. I have to report back to my Government, whatever decision this Council make at this meeting. That's all I have to say at this point in time Chair, thank you.

Chair – Thank you Niue. Tuvalu?

Tuvalu – Thank you very much Mr Chairman. Chairman, I think we all agree that we have come a long way with the RIF process – how it was brought up; how the decision was made by the Leaders; how the rationalisation of the activities were done and now we are, I suppose, heading towards the end of the process, whereby we are going to look into the implementation process of it; and I think Mr Chairman this is the uh ... what we should look into because to move into this I think caution must be exercised here Mr Chairman; so that what we do does not compromise services that we have heard from representatives in the morning about the activities and what SOPAC has been doing to the island countries. And I think we could see by the participation and how we have dragged on for so long that services that's being rendered by SOPAC has been very important to the island members. So as we move forward Mr Chairman, we must ensure these services are not compromised and that whatever we do when we move forward that we go hand in hand with this international treaty which has established SOPAC. Mr Chairman, whilst we must not and cannot be seen as delaying this rationalisation process, I think it is only prudent that we give it time; sufficient time to implement this decision. We must ensure the transition of SOPAC to SPC and SPREP is done with all regard to relevant stakeholders; I think everything that is required to be looked into is to be looked into. The draft resolution proposed by Fiji appears to my delegation Mr Chairman as a very constructive way to move forward with this decision. I think we all agreed to this and I think the question that remains now to be looked into is the timing for implementation. And to my delegation Mr Chairman, if it is to be done then we should do it well and we should do it thoroughly. Thank you very much Mr Chairman.

Chair – Thank you Tuvalu for that, that was really helpful and will guide us in our discussions – hopefully it will give us something to think about, maybe make a decision. And I give the floor to Kiribati.

Kiribati – Thank you Chair. Mr Chair I couldn't disagree more with my colleagues around the table who have laid out their concerns in particular as we move forward with this implementations. This morning we heard a lot of projects and activities being implemented in our respective countries and we do not want to lose this opportunity and the benefits we are getting and in particular the core functions that SOPAC is established for. So as we move forward we have to be careful and this doesn't have to be rushed because if we have to rush this we do not want at the end of the day to bear the brunt of those implications. And this is why our Leaders came up with what has been presented in the Niue communiqué – that we have to do so as long as the services are not compromised to members. So as we move forward on our deliberations let us do so; let the Niue communiqué serve as a reference to us as we keep the discussions going; thank you Chair.

Chair – Thank you Kiribati. I'll have Marshalls, then Fiji, then Samoa. Marshalls thank you.

Republic of the Marshall Islands – Thank you Mr Chairman. Mr Chairman I think all of us around the table like to progress the decision of Leaders and we've talk around the table and outside the meetings; surely we want to progress the decision but unfortunately at the moment we are faced with some legal concerns that we need to address before we move on and perhaps maybe we should take time and look at those and make sure that we address them properly so that they don't become obstacles in the way of implementing the Leaders' decision. So, with what has been provided in front of us by Fiji (and thank you Fiji for that); we certainly have no problems to adopt this and then continue with what needs to be done. Perhaps whatever part of functions of SOPAC needs to transfer to SPC, they can go ahead and transfer while we take care of the legal concern and legal matters we need ... because these are real issues that we need to take care of as responsible member countries we need to find solution to this. Thank you very much Mr Chairman.

Chair – Thank you Marshall Islands, Fiji?

Fiji – Thank you Chair. Just to try and address the concern raised by the Honourable delegate from Niue. Firstly on implementation as in the paper on the second page I think, the second dot point, we actually start implementing immediately after the 2010 meeting and this is to do with the energy programmes that will be transferred to SPREP which is quite a straight forward thing – so we do not start implementing in 2011 but any time that is suitable and appropriate after 2010; so that's where we start. And also on the open-ended wording I would just like to explain that (that's on the third last dot point, still on the second page) in this we are dealing with the suspension or dissolution of the Council. As we know that is something that will be final and normally we leave it ... when we say appropriate time; that would be such time when the Council has satisfied itself that it has done its duty and that the RIF has been fully implemented, full integration without affecting services. Council is very satisfied that it has done a good job and everything is running well in SPC and SPREP; and then we can dissolve ourselves; that's all that we mean by that. I hope that answers your question, thank you Chair.

Chair – Thank you Fiji for your clarification, Niue are you satisfied? Thank you Niue. Samoa?

Samoa – Thank you Mr Chair. Samoa supports the decision of the Leaders for the RIF process and I do take on board and agree with the comments by Tuvalu that the integration should not compromise the delivery of services to the member countries. Now I think Fiji has provided some clarification because the second part of my comments were the comments by Niue on the timeframe – this actually the timeframe for the implementation because I noted here that there will be a Council in 2011 – so we also share the same concerns like; as long as we get assurances from donors that they are willing still to fund the process because we do not wanna lose the confidence from our donors but at the same time too, confidence by our own Leaders. Thank you.

Chair – Thank you Samoa, Australia?

Australia – Thank you [keeps falling out due to faulty microphone] ... Obviously this is not an easy agenda item and I do thank Fiji for putting this resolution up; it obviously raises important issues that we do need to consider and we understand, I think; and obviously I sit here as a member and as a donor and I do in this situation have to wear both those hats. I think throughout the whole process, I think the understanding has been that there should be no diminution of services – that the continuation of the key services to members was absolutely fundamental. Now I think as we go forward in considering the resolution that's been put forward (I think) I do want to re-draw members' attention to the decisions that were made at the joint meeting of SOPAC, SPC and SPREP, in Fiji on the 7th and 8th of July; and those actual decisions do make specific endorsement of integrating work programmes commencing from January 2010 and I do also want to refer members back to the PIF Leaders' decision which is contained in paragraphs 39 onwards of the communiqué from last Forum meeting. And paragraph 40 does say "Leaders noted and welcomed the decisions of the respective governing councils of the SPC, SOPAC and SPREP, including the SPBA in respect of the new institutional arrangements and implementation plans for the

respective organisations to become effective from 1 January 2010. Leaders commended the work and contribution of the respective CEOs for the regional organisations in this regard under the chairmanship of the Pacific Islands Forum Secretary General.”

So I think that was a fairly clear instruction and I do support what was said by Samoa in that the purpose (I understood or we understood) at this meeting was to consider the detailed implementation plans. We understand that some members do have some concerns about legal issues – I’m not a legal person – all I know is (I fortunately never had to be in a family court or a court of law) but I understand that opposing parties hire different lawyers and you can argue about a whole range of things and you know I don’t really want to be in that ... I don’t think that’s a situation that’s desirable ... aahh but I do think that it is important that we do focus on the implementation plans and how we actually move about actually making things happen so that we can actually focus so the people in the relevant programmes can focus on the delivery of those programmes and not (as was mentioned today) focus on arguing or disagreeing about RIF administration. I know a number of people around this table are practitioners; you’re interested in your technical programmes and you want to see those continue and I think that’s what we do need to focus on, so I would urge us not to lose sight of that. I was asked a question about (I think Papua New Guinea again asked a question about) donor funding and I fully endorse what my colleague from Fiji said in terms of being able to source lots of additional funding from other sources. I think that is something that SPC is currently identifying in terms of their long-term financing strategy and I think already has support to identify non-traditional sources of funds to actually expand programmes and I think that that is something that could be explored further ... and I’ve forgotten what my last point was but I think that’ll do for now, thank you.

Chair – Thank you Australia, Fiji.

Fiji – Thank you Chair. I think the whole rationale for the decision taken by the Leader in regards to RIF is service delivery – service to the Pacific island countries. Now in that that is a specific instruction and I believe that this Council has the duty to ensure that that is carried out. We have before us new updates that show that that cannot be done immediately or in the timeframe given by the joint meeting of the governing councils. We have the duty to make the decision to see that we implement what will achieve the outcome that the Leaders want, which is service delivery; and we can make that decision here without any fear because we are well justified in seeing that we produce here that we maintain the level of service to the islands which I believe is the bottom line in what the Leaders want. As for donors, I do thank the comment from Australia, because that is one of the realities that we face – that is something that we need to look into as a matter of urgency, thank you.

Chair – Thank you Fiji. FSM?

Federated States of Micronesia – Thank you Mr Chairman. I recall at the meeting in July, I believe when we were discussing the language of the recommendations as passed out, it says ‘endorsed’ and I recall that I was one that changed it because somebody said they wanted to use ‘ratification’ and I pointed out that in the process of the FSM, I cannot ratify, only the congress or the people – they are the ones who can ratify – this is why I changed the language to ‘endorse’. It gonna ... it behoves me because you know if the Leaders have made a decision (for example my President has made a decision) to move forward on something and now I find out that’s its something that would require congress action, then that’s what I must do. Now I am not saying that it cannot be done, it’s been done before, (for example in some international agreements we have subscribed to. Our Presidents actually go sign it, as a signatory but we would not become full member until our congress ratifies it). And I believe in this instance, if that’s the way it’s gonna go then that’s the way we have to follow if we are gonna follow the rule of law and international treaties. If I’m not mistaken on the timeline – the timeline for 2010 is covered under the memorandum as pointed out by the memorandum of understanding or the legal memorandum from KL Gates, and uh I believe during our briefing meeting with the legal counsel, specific question was raised as to whether we can actually move this timeline forward and I think for some reason that was not possible. If we are gonna require ratification from country and if we going to require this process to go through, whatever

decision we make here is not gonna make it automatic, because if I recall what the memorandum says, it cannot be effective until two thirds of the members council ratify the amendment or the dissolution or suspension of the treaty itself. Thank you Mr Chairman.

Chair – Thank you FSM. New Zealand?

New Zealand – Thank you Chair. I find myself a bit confused about exactly what legal implications we are supposed to be considering here because a lot of the questions and issues that Fiji has helpfully put down in this very good paper are details of implementation; and which ones are actually legal issues so I wonder if we could have some guidance from the Chair or from the Secretariat or from the legal adviser there. What is it that we need to be considering right now and what can become later part of the implementation plan or part of the proposed transfer agreement between SPC and SOPAC; and SOPAC and SPREP. Thank you.

Chair – Thank you New Zealand, I'll give Matt the mike to answer that, thank you Matt.

Matt S – Thank you ... uhmm I'm slowly getting my voice back ... I think that the implementation process itself is a legal matter; I'll repeat that – the implementation process itself is a legal matter. The transfer of functions, government, finances, other aspects of an organisation to another organisation contains inherent legal implications. There may be some components of the implementation plans, for example in agenda item 10.3 that do not necessarily touch on the treaty but I would say that the majority of issues do; and the idea I think behind coming to a legal decision is to address all of the practicalities of implementation agreements in a document that converges with the treaty timelines so that they can be loaded upon at the same time and in the same manner.

Chair – Thank you Matt, Cook Islands ...

Cook Islands – Thank you Mr Chair; just referring back to the views raised by my colleague from Australia – two things emerge, one is that certainly we are abiding by the Leaders' decision as to how we implement the transitional process; and I think it is highlighted in the implementation plan. However, I was really thinking earlier on, maybe we should have looked at the implementation plan paper before we decided we looked at this because it does, rather it aligned itself with what we've got in front of us now. For the issue of going forward, the dateline as established by the Leaders did give us that opportunity to do so. We can start the implementation from January 2010 onwards and that is what I see the Leaders' decision telling me as a Council member to implement – to ensure that I have every area of my country's interests looked at carefully. Secondly, I may not be a donor member, I wish I was, and I could wear the same hat and sit around the same table and bring in the other donors and we talk about the programmes for donor funding – unfortunately I am not; hence the reason why we're passionate about this organisation in ensuring that every detail before the implementation or any transitional agreements are properly appropriately placed, we all know ... we all understand that the projects would not be compromised, as you can see we have a very interesting programme in the OIP, same as Water and uh sorry the Lifeline and the Community Risk programmes. They all touch the hearts of the people of the Cook Islands, small island states like ourselves ... maybe the larger countries can afford the uh any mishap or any divergence from their own programmes and could readily acquire assistance whenever it has to engage; unlike small island states, like some of us around the islands; we must look at it carefully because if I fail to ensure that I have it in place then like my colleague from FSM, will get the boot from my office; and in many cases I seek concurrence and I seek the assistance of my colleagues, the donor partners on this table at this point but I would just like to say that we are all council members at this meeting ... I'm trying to be diplomatic here ... that uh you wear your council member hat and not your donor hat. So I'm just getting to the point that I want to ensure that what I put in the paper reflects the ongoing support and that my projects in the Cook Islands and like other Pacific island countries are not compromised because of my actions and I have failed them in ensuring that it is carried out carefully. Now, like I said, the Leaders' decision is straight forward – I seek

Council's concurrence that uh implementation or the transitional agreements or the plan is to start from January 2010 onwards. Thank you.

Chair – Thank you Cooks, Tuvalu?

Tuvalu – Thank you very much Mr Chairman, thank you for giving me the floor again. Mr Chairman I think I must thank the honourable delegate from Australia for her views that she has presented – the views of her delegation. I think there is no dispute here Mr Chairman about the Leaders' decision – there is no doubt that we are bound by our Leaders' decision. But Mr Chairman I think the comments that were echoed by the distinguished delegate from FSM are quite pertinent to the point you know; of our role as advisors you know. I think if we know that something was done earlier on and it was done mistakenly; then I suppose it is our duty to advise our Leaders you know; and not just to let it go because if we do let it go we'd be negligent in not advising our Leaders. The advice that was provided or the legal advice that was provided by K&L Gates have changed the complexion ... has changed the whole scenario about rationalisation you know – it was thought that rationalisation will be a simple process of just moving certain core functions into SPC and some to SPREP. The legal advice that we are getting now is uh has changed that complexion ... is no longer a simple issue of just dividing up the uh sections and there they go and then we will take care of the uh legal ramifications later on. I think if we do it this way we will be putting the cart before horse you know. I think what we should do is look into the legal advice as presented and then see what we should do first and then if we get everything in the right order; I think the process of rationalisation will be smooth process Mr Chairman. And I think there ... as mentioned in the roundtable we ... there is no doubt about that, that we are bound by the Leaders' decision; but however, I think caution should be done because of the information that we are receiving now, which we should look into carefully. Thank you very much Mr Chairman.

Chair – Thank you Tuvalu. I see the comments round the table that we have SOPAC at heart okay. The only institution ... the only geoscience institution in the Pacific that serves islands member countries on the needs they have. I give you an example. Vanuatu does not have a geological institution and we rely on SOPAC for the technical assistance and the services that we need from SOPAC. Therefore it's important that whatever decisions that we make and has been noted around the table, the services are not in some way or another diminished. Therefore I take Council members to the papers that is presented by Fiji for consideration. New Zealand, thank you.

New Zealand – Thank you Chair. The issue of service delivery is quite clearly in the forefront of our minds and the two issues we were told to focus on were that service delivery should not be diminished and that there should not be any increase in costs as the result of the change. I have not heard any threats or risks to service delivery with the exception of a suggestion that donor funding may be impacted and donors have already given their assurance that this is not the case. So therefore, what are the concerns; why do people think service delivery will be affected by this? And I think one other issue arose in the PMEG reports was around staff moving on ...er loss of staff. I think a longer transition period or the longer the transition period takes and the more uncertainty there is around that, that increases that risk. Thank you.

Chair – Thank you New Zealand ... Fiji?

Fiji – Thank you Chair; the whole purpose of this mechanism that most of the Pacific island countries want is because it is a kind of a safety net for them. We are going into something that we don't know whether it's gonna work or not. As we speak there is nothing there to guide us forward. Today we heard the presenters, representatives from the other organisations discussing issues that was supposed to have been nailed down already if we are going to implement ... it's all still up in the air and the island countries are worried. It's well for some members to say what's the problem with service delivery; what's the risk – well they have the capability, we

don't. There's always Murphy's Law, that something's gonna go wrong somewhere – every plan goes wrong at some point and that's when the island countries will suffer; and who's gonna be there for them at that point in time? Who's gonna fix it up? No one. So that's why we need this mechanism as a safety net to ensure and to assure the island countries of how it's gonna move forward and they're happy with it, then we move forward ... because that's probably basically what the Leaders want; and that's all probably what we're trying to do here and we think it is our duty as the Council to see that we give the island countries at least that bit of safety measure or safety net in case something goes wrong. Thank you.

Chair – Thank you Fiji, Australia?

Australia – Thank you Chair, I go back to the point on service delivery that has been made and I think everybody around the table whether we're purely members or donor members or whatever, everybody's concerned for the continuation of services. And I think it is important to look at how the implementation plans that were called for by the SOPAC Governing Council at their special session ... how much ... what are the problems, you know ... If the implementation plans were called for ... [] understood that detailed work has been done on those implementation plans; uhhh so if there's a legal impediment to that implementation plan going ahead then we probably do need to hear it. But I think it is important that there was a timetable and with all respect to members I certainly believe there is ... diminution of services is not part of that plan ... it's got to be improving services ... but by dragging out a process or by lengthening a process because we're not addressing the implementation issues I think is a potential problem. And I do note that there are funds from a number of sources and I do reiterate that Australia has given ongoing commitment to programmes; but I also wanna state that we as well supporting programmes do provide support to core budget and for a number of years we've been trying to move to a triennium budget; so rather than every year have to go to our delegates and find out what the allocation is ... we are trying to move to the three-year time frame. Now we had to delay that again because there was no decision on the RIF. We are ... we were hoping that we could move to that, you know ...it ... but uncertainty about where things are happening or when they're happening is going to make that challenging. We are fully committed to continuing to support SOPAC programmes uhhh but creating uncertainty just as PMEG said morale in SOPAC appear to have been increased because there was finally a decision and there was obviously an end point and they were actually moving from debating something to actually implementing something; so I think, well from our position I think it would be good to hear what the implementation plans were that the CEOs of SOPAC and SPC came up with as directed by the governing councils and then ask members to have a look at you know ... what the issues are there and noting that that is also part of what Fiji has noted in their proposed resolution, thank you.

Chair – Thank you Australia, Fiji?

Fiji – Thank you Chair. If I may just refer us back to the paper that was submitted by uhh ... yah ... PMEG – right at the end, the last page on RIF [Paper AS38/9.3]. I'll read from a few sentences from there, in the uh 3rd last paragraph – 'however as noted last year there is still no clear purpose articulated nor a vision on how the rationalisation components could come together to improve service delivery and effectiveness'. And further down we see – 'we fail to see a precise project by project plan that would provide a clear path forward'. What does ... what assurance does that give uh Pacific Islands when you tell them 'nothing will go wrong', what's the risk, what's going to happen? The professional staff themselves working for SOPAC have written this. And that's from their perspective and they are sitting here today right across our faces discussing on how projects can merge and how ... the plan is being formulated right here there's nothing for us to discuss. So why are you trying to tell us not to worry? We should worry. Thank you Chair.

Chair – Thank you Fiji. [rather lengthy silence with conference at head table between Director and Chair] ... well Council members, we'll take one more. Cook Islands, then we'll have a quick break then come back here.

Cook Islands – Thank you Chair. I think there has been considerable time on ... has been comments made on the agenda item. In our Leaders' decision and also they made sure that they established that we must go through this due diligence and the process we're going through is what we're trying to do here. Obviously as a Council member I am responsible for the assets, for the staff, contract arrangements with the donor countries ... I am responsible for all the issues pertaining to the delivery of the programmes. And I as a Commission member, like as a Council member must ensure that my organisation is institutionalised in the most appropriate way and that is to go through a lot of instruments which we have heard and we know and some has been accorded in the paper in front of us now. It's not like a manager of a position or group of people just getting rid of the assets or the arrangements that they have in place; but this is a sovereign council tasked or chartered by our Leaders since 1972. And there have been a lot of instruments that have established the process in getting us here; and the programmes that have grown from what its original position was or sorry ... the programme was to dealing with deep sea minerals have grown over the years ... that means ... telling me that we've grown from uh one coral to another and it's still growing today. Therefore as a Council member I must ensure that all these instruments are in place before I ... (someone said to me 'flick the switch') ... or pull the plug. But it's something that I as a Council member; and I think that's how we all should feel around this table today as Council members; not as donors, and to ensure that we kind of put in place the integration agreements that would need ratification by our members; and I know for a fact that I had tabled this once in cabinet and it took some time and they told me to get out. But it is one of those things that what uh what are trying to see here like my colleague from FSM ... some of these things need ratification ... meaning we can vote on it but we can't make the decision until our governments have ratified our ... the uh ... my vote or your vote ... and that takes another ... some time down the road; and so it's not just a matter of asking why or where's the problem ... Excuse me, my colleague from New Zealand; but it's about us as Council members – owners of this organisation – who is gonna do this the most appropriate way in ensuring that all the angles of the (of the) Commission is dealt with properly and that's what our Leader's asked us to do. The issue of ensuring ... sorry, looking at it from a problem point of view; of course there's going to be ... just looking at the implementation plan, it's been articulated in there. So, my view here is that uh regardless of what uh the situation is, we have a responsibility as Council members to ensure that this is done probably how we established it; and it does have implications on the international agreements that govern institutes such as ours, internationally – therefore it's managing it the best way and how we do it is here – we're talking about it now, this is how we see it in proposing this way through to ensure that from 2010 uh January 2010, we start implementation of what we have agreed ... what we will be agreeing to in doing so. So, those are my views Mr Chair, thank you.

Chair – Thank you Cook Islands. We'll have a small tea break and we'll come back and conclude this agenda item. So we'll break for ten, fifteen minutes, then we'll come back here say quarter to five, thank you.

AFTERNOON TEA BREAK

Chair – We will now proceed ... continue with the agenda item that's in front of us. I still leave the floor open for comments from Council members. Nauru, thank you.

Nauru – Thank you Chairman. I just want to say that I agree with the sentiments of the other members that have spoken earlier. Just for my benefit I would just like to probably ask a legal question to Matt, coz I feel his presentation didn't address the Leaders' requirement, because the Leaders were targeting January 2010 to start. I just want to make it clear for myself whether ...uhmm ... whether you considered like whether legal aspects whether that date could be met, which was required by the Leaders? Coz it's still not clear because from my understanding I think with your presentation for ratification, it would be some time [in] October 2010. I just wanna make sure if there's any legal ... uhhm if there's any way we can meet that January 2010 date legally? So that's one question; and my other question was probably on the services – my understanding was that the Leaders' mandated the three CEOs of the three directors of SPC, SPREP, SOPAC to come up with an implementation

plan to meet the implementation January 2010 and without diminution of services and to be cost effective. Probably my ... I'm just uh ... my concern would be ... I think my concern is I feel I don't want to undermine the good work of the three CEOs because from a lot of the meetings I've attended this year; we've sort of congratulated the three CEOs for working very hard to come up with this implementation plan and I believe that the CEOs have spent a tremendous amount of time to come up with the implementation plan which meets the requirement of our Leaders. I think uh even Dr Jimmie Rogers said uh they nearly had to get psychiatric treatment from all the work they had to do on this implementation plan. So my concern is I don't want to undermine the good work of the CEOs, so I would be interested to hear from the CEOs their views on this because I haven't received any indication from the CEOs that they have failed to come up with an implementation plan that would meet the requirements of the Leaders. Thank you Chairman.

Chair – Thank you Nauru. Could we have Matt to clarify on the datelines ... the implications?

Matt S – Thank you very much Nauru. I certainly read the CEOs reports and absolutely commend them on the extraordinary amount of work that they completed during the time period that they completed it. Uh I think that the CEOs' implementation plans ... well much of the CEOs' work initially was designed on answering the question that was addressed in July, which was which functions will go where? And so that was sort of the planning phase in the process. Following the July meeting, I think is when you've really begun the implementation phase; and when I say that you've begun the implementation phase I believe that the suggested requirement in the Leaders' decision in that implementation commence from January 2010 has been more than met – it's been met in earnest! I also believe that the CEOs reports will be very very useful in helping to frame final implementation agreements that could be approved by the Council at the next meeting as suggested ... and the milestones, the identification of various programmes, the breakouts that are in those reports will all be very useful in completing that process. So I don't think that any of that is going to waste; I think it's all being used to come to a final plan ... now when I look at the specific implementation plans also proposed in agenda item ten point three; what I see is that they provide concepts and general ideas about how things will be implemented but they do leave certain legal specifics I think still outstanding ... uh questions about a transfer of an agreement for example is raised in brackets in one of the agenda items in ten point three – so what I think you have ... you have a launching point here for the implementation process that will form a final integrated agreement and at the same time can also address any concerns under the treaty that are necessary to be addressed based on the final terms of that agreement.

Chair – Thank you Matt, Papua New Guinea?

Papua New Guinea – Thank you Chairman. I'd like to say we support the document we looking at by Fiji and we thank him for that, saving us a lot of time to ... on compiling it. Just in addition to bullet point 7, second page ... I thought we should add the words 'and ICT' after energy ... second line. Thank you.

Chair – Thank you Papua New Guinea, Palau?

Palau – Thank you Mr Chairman. Mr Chairman I just want to associate myself with most of the people on the table – Fiji, Cook Islands, FSM; and thank Matt for the legal analysis. I think you have provide a way in which we should address this issue. We ... I think we should be very cautious and try to be as transparent as possible ... rule of law I think has provide a mechanism where we can use it to implement the Leaders' decision. So let's try to do it based on the position that has been set you know. We want to be transparent, follow the rule of law ... if we have to do it that way I think we won't be blamed by our people, because we are trying to implement the Leaders' decision by ensuring that the services are not diminished and that like other people that have spoken we need to also make sure that the ... it is ratified in according to our legal procedures; and therefore you know I would like to register our support to the paper that is presented by Fiji, thank you.

Chair – Thank you Palau, French Polynesia?

French Polynesia – Thank you Mr Chairman for giving me the opportunity to speak as a associate member. The representative from New Zealand was quite confused and I have to say that French Polynesia is completely lost – I do not really understand what we are supposed to do right now. If we just have to consider legal implications or if we have to take decision? My understanding that was that we were supposed ... or you full members of SOPAC ... were supposed to take decisions in order to move on. And it appears that it is not the case; we're still discussing or considering legal implications. As far as I recall because I was given the chance to attend all the RIF meetings, the legal considerations were already given and we were told by some other legal advisors – we were told that no amendment to the treaties were necessary and that the transfer of functions from SOPAC to SPC or to SPREP do not require suspension or dissolution and it is written in the new legal report that if we have; if we are to decide about the transfer of functions, we don't have to decide yet about the dissolution or the suspension of SOPAC. So that is why I thought that we would move on and examine ten point three right now because as it was decided last July, we were supposed to examine the detailed implementation plans, and that's it. So I have many many doubts uhhm I don't know if my intervention will help you but maybe we could ask the three CEOs concerned – the SOPAC director, the SPREP director and the SPC director to give their opinion so we can move on. My understanding is that we don't have to dissolve or suspend yet. We have questions about the legal nature of for instance the transfer agreement – apparently the legal advisor is saying that this uh legal ... uh the transfer agreements should be in a way ratified by the member countries and so on ... I don't know if I understood well ... I thought that a simple letter from the SOPAC Director, for instance, to the SPC director was sufficient; there was no other legal proceedings or ... just a letter and it was ... that was the case in the past, for instance, when the Forum Secretariat decided to transfer to SPC the maritime affairs programme; it was just a letter. And the SPC membership was not requested to ratify this decision; so in my view it was the same scheme right now. And for our full uhhh ... information, maybe it would be interesting to have the text ... I mean we have the text of the SOPAC constitution, but we don't even know if this constitution was ratified by all the SOPAC members ... if the ratification process was put to an end by everybody around this table. I mean if we have ... if we are talking about legal matters, which are very important, I think this should be ... uh we should be clear on all the legal aspects. I'm not even sure if SOPAC is a treaty-based organisation at the same level as SPC or SPREP, for instance. So I would like to have clarification on that point too – maybe SOPAC was established by an exchange of letters and that's all but not as an international treaty-based organisation; so I thank you for your patience and understanding and I look forward to hearing from you, thank you.

Chair – Thank you French Polynesia, perhaps I'll give that to Matt to answer some of the queries raised before I give that to Director to take the floor.

Matt S – Thank you French Polynesia and all very good points and important considerations. I agree with you that the legal matters are important (excuse me) and it's important to be fully informed on those matters before making a final decision; and I think that was the ... really the crux of the presentation; was that before any final decision on dissolution or suspension's made that the Council ought to be fully informed and that seems to be consistent with comments. I'm not suggesting that the transfer agreements or the implementation agreements themselves would need to be ratified; what I am suggesting is that the transfer agreements appear to almost certainly call for transfers of functions that fall within the scope of the SOPAC constitution and the authority granted in the constitution, that is they call for transfers of governance, they call for transfers of financial oversight, they call for transfers of the directorship and the like ... at least that's what's anticipated and if that's the case the suggestion about the timing was that you consider whatever amendments to the SOPAC agreement might be necessary at the same time that you consider and vote on final implementation agreements. The changes to the treaty would have to be ratified if you comply with its terms; the agreements themselves would not be sent out for ratification, so obviously every provision of the agreement would not have to be ratified, but any changes to the treaty as well as any resolution to dissolve or suspend, as a result of those agreements, that would be subject to ratification. As far as your question about the status of the treaty; I've tried to find out more

about that, I don't know what instruments have been deposited specifically. I do think that the agreement's been in force for twenty years and it's been treated as legally binding and certainly as a matter of at least customary international law it would be recognised as such; and at any rate going on the timetable that you're suggesting which is not suspending or dissolving now, but also placing an implementation agreement forward for consideration at the subsequent meeting would still follow the same timetable; so anyway I hope that's answered the question.

Chair – Thank you Matt, Marshall Island?

Republic of the Marshall Islands – Thank you very much Mr Chairman. Mr Chairman I feel that there is consensus emerging that we let the implementation plan continue and while we sort out the legal concerns and endorse the proposed resolution from ... which was introduced by Fiji as the outcome of this discussion. Thank you Mr Chairman.

Chair – Thank you Marshall Island. Australia?

Australia – Thank you Chair. I'd like to go back to the issue raised by Nauru in terms of the direction that was given by the SOPAC Governing Council session in July that the implementation plans be presented for the consideration of the Governing Council and that we see what the plans are to meet the Leaders' requirement that implementation start from January 2010; and as we go through those plans, actually understand what potential legal impediments there are, thank you.

Chair – Thank you Australia, Marshall?

Republic of the Marshall Islands – Thank you Mr Chairman, I appreciate the decision that was made by July meeting, the Joint Council, but this is a sovereign Council and I don't think that that decision is binding on us, thank you.

Chair – Thank you Marshall, Director?

Director – Thank you, there've been quite a number of interventions so far and I thank members for those. I would suggest that the decision of the Joint Councils of SOPAC, SPREP and SPC are in fact binding on us – some of your representatives were there and many of you were in fact present at that July meeting. I have suggested already that with the Director-General and the Acting Director of SPREP; we did spend some considerable time in putting together what we call draft implementation plans; even in advance of the July meeting. Those have been reworked; now that we actually have an idea of what the new constitutional arrangements are going to be; and certainly it is our intention to present those to Council under agenda item ten point three. There've been several member countries that have actually suggested that it would be sensible for members to have the CEOs present on those implementation plans. I have two presentations ready and one half ready, but I could easily revert to the paper and start to talk to that but I was hoping to be able to demonstrate that by way of a powerpoint but, I can still, well I'm sure that you can follow my narrative and my intervention without powerpoint, so err I look to you Chair and members to see whether in fact you want implementation plans presented now before we can continue with the discussion, thank you.

Chair – Thank you Director, any other comments from Council members, Fiji?

Fiji – Thank you Chair. Seems we are starting to go round and round and we can go on and on and get nowhere. I think what we have now is a clear direction that is now assisted with a legal opinion and most of the member countries agree that we should move forward in this manner as has been proposed; for reasons that has been stated again and again. So we can round in circles and get nowhere, so maybe it's time we make a substantive decision, thank you.

Chair – Thank you Fiji. Tonga.

Tonga – Thank you Chair. I do agree with the suggestion by Fiji. There's a general consensus around the table here; most of us agree to the way forward to go. I don't see any matter that it's more outstanding in that regard because I'm thinking that the ...err most of us already indicate what should be done and what to be done. I don't see any problems of adopting what we ... Fiji have been putting on in this one here and then we move on to the next agenda. If we keep on delaying this one here, we will all mess up the whole system, therefore I am do strongly urge this Council to accept this uhmm resolution brought up by Fiji and then move forward. This is what I was thinking at the moment here because the general consensus around the table here that we do appreciate what is on the screen. Thank you.

Chair – Thank you Tonga for that intervention. We'll ask the CEOs of the three organisations to give their comments, then we will move to look at the text that's in front of us; and if it's agreeable by members we I'll allow the Director.

SOPAC Director – I do hope that we will be able to get a chance to present these implementation plans that we've been working on for quite some months to you in full under agenda item ten point three but I would like to just refer members to AS38/10.3.3 – rather than giving you a very long presentation refer you to Annex 2. That's AS38/10.3.3 – I'm going to use this as an example, simply because it concerns the core services of SOPAC transiting or being transferred to SPC as a SOPAC science and technology division. And it really resonates I guess with that part of the Joint decision which is Part c (I have to look at it but I think its part c) iii, from memory, I should know the decision off by heart, shouldn't I? Bear with me ... I'm actually right for once, part c, roman numeral three ... so have you found the diagram? Essentially what this (if you like) err tries to capture the implementation plan by summary as a graphic and I would if I had it on the big computer I would put it up on the screen, would people like me to do that? Yes (can I have a memory stick, can you just put it onto the computer... is it long enough? [to whoever, meeting waits]) ...

[Director continues] In the July meeting there were several options that were presented by CEOs; and uhmm in fact this was the recommended option that Council ... Joint Councils decided on. So you'll have to excuse me for ... I've actually removed part of it and it was referred to as recommendation 3 bis; however it is now the decision. Uhmm what that diagram does suggest is that uhmm implementation plan errr commences from January 2010; and what we mean by that is the Secretariat will, on your behalf, start to look at the migration, harmonising and synchronising the various corporate support – and by that I mean finance, administration, human resource and ICT systems and procedures. We suggest that that process needs ... you know there's considerable work that needs to be done between the two agencies and that can occur uhmm over the next months and certainly from errr January 2010 with culmination of being able to demonstrate the work that has been completed by October 2010. At the same time, the suggestion as well is that we will need to have a new strategic plan; and that new strategic plan in fact uhmm would be the new divisional strategic plan of the SOPAC science and technology division; and certainly that would be the intention. In terms of the strategic planning process, it would still uhmm ... it would continue to follow the approaches we take or have taken in SOPAC in the past. Discussions with SPC ... various divisions within the SPC follow the same approach and that is uhmm errr ... the consultations for the new strategy, uhmm ... was held between members, the Secretariat as well as the other key stakeholders. And it would be our intention to commence that process as soon as possible; and so I guess those two lines which look fairly simple do probably take ... you know there are some quite considerable effort within those few words

that are on the screen. There is ... the next line down which says, 'SOPAC council and CRGA meet in October 2009'; well CRGA have met and the SOPAC Council are meeting now to discuss this. In October 2010, you'll notice that there's another arrow that cuts through a vertical line and that particular line is highlighting the fact that both the SOPAC Council and the CRGA are scheduled to meet in October of 2010 and there are some suggestions within the implementation plan as to the most sensible approach to take – and that suggestion being that those two meetings will be held back to back; and with Australia as Vice-Chair, maybe there would need to be a discussion whether they would host that meeting in Noumea and the CRGA being hosted in Noumea next year. At that Council meeting the new strategic plan would need to be considered; and one hopes that it would be robust enough and provide assurances to the Council that we have ... to the full Council that we have in fact uhmm ... that we do have the right strategy in place and that that strategy will deliver to members the science and technical services over the duration of the life cycle of the strategic plan. There are some differences within this in the SPC divisions around the duration of their strategic plans and it seems to me without having had a discussion with Jimmie about this – that uhmm errr it may be something that is left to the divisions to determine exactly what those ... what the durations are. We've just come out of a five-year strategic planning cycle and although it is a living document it does seem that that period of time allows one to start to actually really track the progresses being made and indeed your Secretariat is performing and delivering. In addition to the strategic plan; uhmm the governance arrangement would need to be discussed and considered. And in the implementation plan, what is being suggested is that the SOPAC Council may actually ... could revert to being a heads of the ministries of natural resources ... sorry lands, survey and natural resources, which covers quite a large remit of SOPAC's current core functional responsibility and they would meet as heads of ... they would meet in divisional meetings as heads of geoscience, for want of a better word. At that meeting too we will need to discuss the legal aspects and that is to take decisions as French Polynesia and other members have suggested. So what is not being suggested was that you necessarily have to take a decision now but that's certainly in October 2010, with all of the evidence in front of you that one hopes that uh there's sufficient evidence that the necessary work has been done for the Council to feel comfortable that indeed they can take a final decision at that stage. I had forgotten because this is not particularly in order so I apologise but the other matter that would need to be put before Council to consider is the work plan and budget for 2011 and again through discussions with the Director-General, there are certain delegations (if you like) and certain responsibilities that are accorded to the director of the division; in this instance the director of the divisions of SPC have responsibility for strategic planning, they also have responsibilities for resource mobilisation; and they also have responsibilities for outlining the work programme and budget, which are then signed off or approved by the heads of geoscience. Beyond those approvals, our understanding is that the divisional ...uh those divisional reports and those approval are then floated up through the governing arrangement of the SPC; and it would be the CRGA that takes those decisions on the total SPC work plan and budget, including obviously other divisions that make up the SPC. And so this slide, I guess suggests and does resonate with aspects of the Fiji suggestion that's being tabled and that is that implementation can start from 2010; and I've just highlighted two things that would happen and should happen, I mean some of them are as I mentioned earlier in my introductory remarks are happening under other mechanisms ... for example we're at the moment looking at harmonising ICT practices across the agency and that is outside of RIF. And the agencies that are participating being the Forum Secretariat, SOPAC, SPC, SPREP and SPBEA; and the objective for that or the rationale for those five agencies coming together on that is around again this services ... cost efficiency but beyond that our alliance isn't quite the word; but the principle of harmonisation and it is under that umbrella that we're working on harmonising best practice across those particular agencies. With the strategic plan we would need to work on a new strategic plan because our current strategic plan comes to closure at the end of this year. So certainly it is something that we could live with for one year but it would be advisable to start a new planning process for SOPAC core work programme as soon as practicable. I'll leave it there, I'm sure that I've missed things out, I haven't tried to capture the whole implementation plan ... I mean I'm more than happy to do that and walk you through the entire paper at this stage but I just felt that this particular diagram does capture a number of things. It suggests that you are res ... you know with implementation from 2010 actually working on these key elements and looking at harmonisation and synchronisation of procedures and systems and looking at the need to develop a new strategic plan – already we are responding positively to the decisions taken by ourselves in July; or I should say yourselves, and the Secretariat is responding to those; as well as those decisions taken by Forum Leaders so uhmm apologies if I haven't been ... if I haven't shared everything with you and I'm willing to answer any questions but with your indulgence Chair, perhaps ... certainly the Director-General of SPC may well want to add some comments. I

think it would be really unfair for the Director of SPREP, but I'm sure ... although in saying that because he's only just joined us, he may well have a number of comments to make, thank you.

Chair – Thank you Cristelle, Fiji, before I hand over to SPC to make a comment.

Fiji – Thank you Chair. I think the uh ... the member countries have already shown their intent – the way they want to go. They've had the files for about a week or so now. They've read it. We've met and we've come up with the ... with a proposal or the draft proposal we have in front of us. And they have articulated their views for almost how many hours now I don't know ... I find it a bit disconcerting that we seem to be moving toward a direction where the Secretariat could be seen to be going against what the wishes of the member countries who have come up with this and they've already expressed ... coz everyone sitting here is representing his or her country; and his or her Leader; and they are mandated by the SOPAC Constitution to make decisions and give directions to SOPAC, and they have made that indication today, so I wonder why we are on this merry go round. They have indicated that they have taken on board the legal advice and also the way forward, thank you.

Chair – Thank you Fiji. Director of SPC?

Director-General of SPC – Chair I need to seek your guidance. This is your Governing body meeting and errrr I'm hearing from members a certain preference because it is their meeting so I guess I'm happy to speak errr but if I put it back to you, to see whether you would like me to speak? Thank you.

Chair – Thank you, Tonga?

Tonga – Thank you Chair. I don't think in my capacity as the representative of Tonga here would like to allow this to happen. I think we have made our comment, we have made uh ... raised that issue with you in last few hours therefore I don't think it is necessary now to invite the Director-General and I'm sorry to say that in front of him but I think I'm not feel easy in this time, thank you.

Chair – Thank you Tonga. FSM?

Federated States of Micronesia – Thank you Chair. Just actually going back to the diagram by uh ... I'm just a little confused and maybe seek clarification for Director ... are you suggesting we proceed with moving SOPAC into SPC as a division? and then deal with the legal implications in our October meeting? Or are you saying that you are doing the paperwork in preparation for the October meeting; please clarify.

Chair – Thank you FSM, Director?

Director – I apologise if I uhhh have err if there are some members who suggest that I'm going against Council and that certainly isn't my intention. My intention has always been to respond as best I can to the instructions that you give me; and so therefore the implementation plans that we were developing were based on the instructions of the Joint meeting. In terms of the ... what I was focussing on in this particular diagram FSM, was really around the fact that there is quite considerable work that needs to be done in advance of full integration, and so my suggestion and what this diagram is suggesting is that implementation can and must indeed commence from January 2010. I don't think that that is ... I do think that the Fiji paper does suggest that implementation should commence from January 2010. Further to that, in October 2010 if we are able to all work

intensely, if we are cooperative, if we do collaborate and we do ... we are able to demonstrate to you as members that all of the necessary work has been done then you are in a position to be able to decide on whether integration can occur – that you will have confidence that integration can occur. So my suggestion or our suggestion I should say, our suggestion in the implementation plan that we were instructed to develop does in fact suggest that we are already responding positively to the Joint July decision, because we have already started having discussions to see how we can look at harmonising and synchronising various procedures and systems that would ... that in essence do result in cost efficiencies for agencies irrespective of RIF or not. The new strategic plan as well I'm suggesting is something that we would have to do as well but what we would be doing is making sure that it is indeed extremely complementary to the SPC as it would need to be to SPREP and other key partners and that it would in fact deliver the types of scientific and technical services that our member countries would expect from us. And so this particular timeline; although there are not very many times on it apart from October 2009 and 2010 were just to highlight a number of things that actually were in the spirit of the instruction from the Leaders in 2008, which we had worked on over 2009 and then the subsequent decisions of the joint governing bodies. I hope that clarifies things, thank you.

Chair – Thank you Cristelle, FSM?

Federated States of Micronesia – Thank you Director, I guess in short the gist of what you're saying is that we can proceed with preparations but nothing will actually be transferred – no assets, no contracts, [...] until the December meeting. I guess I'm just mindful of the fact that even if we proceed with it and if it is true that we are gonna require ratification in country I'm not sure that ... I just don't wanna put myself in a position on what I decide for my congress as I'm not a congressman or the process in the FSM I need to go through as appropriate.

Chair – Thank you FSM. Any comments from Council members? FSM?

Federated States of Micronesia – Well I guess since nobody wants to say anything; given the understanding that we have now that our CEOs will have to proceed on the planning and you know what the implementation will be I would suggest that uh maybe to the rest of the Council members that we allow SPC to make comments and SPREP, so we have an idea of what is expected within the next few months, with understanding of course that we're not saying that we're we're you know we're adopting and/or dissolving or changing anything as far as SOPAC is concerned.

Chair – Thank you FSM. I will invite the CEO of SPC and SPREP to make a comment before I give the floor back to New Zealand then Tonga. Thank you Dr Jimmie ...

Director-General SPC – Thank you Chair. Thank you members of Council. I speak acknowledging your full role that you're the sovereign authority of SOPAC council. I am not speaking to try and go against what you ... decisions or what's leading up to the decision. Just to echo a few of the things I think that Director for SOPAC has indicated. I could clarify at least on the ... some of the processes within SPC, you know for information of Council. We are a decentralised organisation and with decentralisation comes delegation of responsibilities; and therefore each of our directors for divisions have a lot of delegated responsibilities both with regards to programming, strategic planning development, decisional making, accountability and budgets and finances. So for instance, I don't actually deal with the normal operations of any of the divisions; that is done by each of the directors of the divisions – and some of our divisions are about the same size as SOPAC in terms of staffing and budget; so in a sense, from that perspective, the delegation of financial responsibilities at the moment for directors is up to three hundred thousand Fiji dollars per approval ... so that's per approval, not in total so there are three approvals ... that's almost a million uh and that's necessary for the organisation like SPC at the moment to operate. So with regards to decision making that's decentralised. I think the other issue that I would probably just need to clarify also, and the Director for SOPAC has indeed clarified that ... is that depending on

the timing of when you make the final decision on integration, and of course the proposal here is 2011 – up until the time of ratification of that decision based on your legal agreement, that SOPAC exists, the Commission exists, the Council exists and therefore the accountability of the Director of SOPAC, in a sense, is to the Council. Now, post ratification of the either dissolution or suspension of the SOPAC Agreement, from that point on the body exists except the name changes; and I suppose in sense that the oversight of the science and technology division, if you like, at that point of SPC still remains in the hands of yourselves but the role is slightly different from that perspective going from being a Council under a treaty into the heads of geosciences or as we have in the case of agriculture, forestry and others, ministers; and it's very important to clarify that the work programmes of our divisions are in fact looked at and approved by the sectors and those work programmes and the budget required actually tabled by the sectors. The role of the governing body of SPC then is we present the holistic picture of the whole organisation and the governing body looks at that from three perspectives: one is to look at and endorse the decision of each of the sectors; so for instance, they have endorsed and approved the strategic plan for the public health programme, but that strategic plan for the public health programme had been approved in Madang in June by the ministers of health – so they in fact took the decision from a sectoral perspective, approved that and our Committee then looked it and endorsed that decision. The second role of our governing body is to have a look at resourcing the plan. There are areas of decisions that will have resource implications that at the sector level those resources are not able to be matched to the priorities and therefore at the governing body level we look at and see which ones of those are very high priority and how do we actually try to resource it – so we then help to resource those plans. And I guess the third part of it is the Oversight mechanism, that in terms of monitoring the progress of the implementation of those plans it goes back to the ministers or the heads; and in this case for SOPAC division, it comes back to you in that context. So I guess I'm explaining that from that perspective that this body does not actually disappear, because our current structure is exactly that same way except the role by virtue of the treaty going under one of the provisions, the name changes. Now in terms of the implementation plan that we have proposed for you and as the Director of SOPAC has indicated; to some extent the time almost matches, the decision making processed almost in similar lines and therefore it's one I think that translates to a large extent to what the proposal is into pictorial format and there maybe some areas where, for your consideration, as you come to the decision whether for instance you might be able to think through what is currently core SOPAC work programme under the treaty which is the one that actually says it takes longer; but there are two programme transfers whether to comply with the January 2010; whether there is a possibility for instance for ICT and the energy programme to actually shift forward whilst the process outlined here for the treatment of what is a legal treaty follows along that line; so that that is an option I think that you may wish to consider. But I guess the final point that I'd like to make; and I'm now speaking not as Director-General for SPC, so if I just take that hat off, maybe I need a new mic ... but I'm now speaking I hope as one of you. I'm from the Solomons and my interest is to make sure that the decisions of a body like this does benefit the people in the Solomons and before joining SPC, I managed the third largest health service in the region in the Solomons. When I was in the Solomons I did not hear very much about SPC; I knew about WHO and I said to myself that this is the kind of things that I would like SPC and WHO and other people to do for my country; but I was not able to influence that. Now the table's turned when I came to SPC; and then I ask myself the same question and reminded myself the kind of things that I wanted SPC to do for Solomons, for Fiji, for the countries ... and therefore it then translated the option and that when I'm in the position that I am I look at it from a very different perspective and how could I use that position to try and facilitate assistance so that the members could benefit from regional organisation in a way that is better because I have been at that side and I'm now at this side. So I guess all I really wanna say to you is that in going through this exercise we've actually used that as the basis; that it's not about trying to present something that looks good; it's about presenting something within the constraints of timing that we are instructed to do, in the best possible way that will deliver the best services because I would not live with myself if a decision is made and I go back to my country; or I see any of you suffer from the decision that we make ... that we are party to, and if it's actually going to be detrimental to you and your people then I wouldn't wanna be party to that decision. So really all I'm saying to you is what we have presented to you we believe can work. In terms of the issues you've raised, yes, it may not be the best timing wise and we would be advised by you – you are the leaders of this organisation and we'll be guided by your decisions. Thank you.

Chair – Thank you SPC, SPREP.

Director SPREP – Thank you Chair, as for the previous speaker I recognise the authority of the SOPAC Council in relation to this matter so my comments relate to the implementation as they affect SPREP. SPREP is committed to increasing level of service delivery to member countries. We see a clear direction from the July joint council meeting and we have been proceeding in accordance with that. I would note that the R-I-F has been a lengthy process but we feel it does provide a very useful way to enhance service delivery. SPREP sees it as an opportunity. There's been clearly a lot of focus on the functions that are transferred but there have been a number of less obvious benefits. The fact of our technical staff from SPREP getting together much more closely with SOPAC technical staff SPC staff has been a real plus in terms of looking for additional synergies, and we think these are additional types of benefits that we haven't really considered. In relation to the implementation as it relates to SOPAC and SPREP, I think it's a clearer and more simpler process than that relating to SPC. I'd refer you to the paper in the documents at ten point three point four [10.3.4]; it outlines the elements that we were requested by the Leaders to have transferred, in particular the PI-GOOS, so there has been discussions, we are looking at the recruitment process, action is taking place in a positive and effective way. As I said before we would like to maintain the benefits that are associated with that, particularly the partnership arrangements – we think that's very important. Aspects such as the Islands Climate Update, the Climate and Meteorological database are rather functions we feel can be transferred relatively simply and can greatly add to the delivery of services to island countries in relation to climate change and addressing the direction from the Leaders that is a priority. So those functions' uh planning is underway – SPREP feels we can go much further and just in talking at the SOPAC meeting, the obvious links between SPREP's PACC project (the Pacific Adaptation [to] Climate Change) and the monitoring projects and initiatives that we've heard about this morning, we think there are some clear synergies there. The work in relation to energy is another opportunity so we are committed to certainly going and implementing as requested but also going much further in terms of looking for synergies. I would note that the elements in 10.3.4 we feel constitute the elements of the implementation strategy. We will be putting this also to the SPREP meeting in November. The SPREP meeting ... it's also a good time for us we're looking at the implementation of the independent corporate review, the action plan for SPREP from 2005 to 2009 that is expiring; so its also a good opportunity for SPREP to look strategically at the future and to look cooperatively with SOPAC, SPC, other organisations, member countries in terms of meeting the needs of member countries more effectively. I'd also note that STAR is not relating directly to SPREP but SPREP would very much like to learn from this model in terms of making use of scientific and technical to improve the delivery of services, so this is another benefit we've taken from the meeting so ... finally I would echo Jimmie's comments that we're very much looking at how we can do things better, deliver better services; we see the RIF process as an opportunity to do this and we are trying to move forward as quickly and effectively as we can, thank you.

Chair – Thank you SPREP, New Zealand you were wanting to say something? So I give the final one to Tonga. Thank you. Tonga? Floor ... [Tonga apparently didn't want the floor, and Fiji spoke instead]

Fiji – Thank you Chair and thank you to the CEOs for the detailed explanations. I'd just like to get back to where we started, we seem to have gone everywhere so ... I think it is evident, clearly evident that most of the island countries as part of the implementation of RIF agree that from now ... they agree with legal opinion that has been presented and they feel, for them, that the safest option is that from now to July that an implementation agreement to be done – SOPAC to run as it is running now, the status quo remains so that service delivery is not affected. Implementation agreement be done; further consultation is to be done, that is quite evident that there needs to be further consultation on the part of all the stakeholders and a specific agreement to be put on paper and a draft be circulated to members by July 2010, so that it would meet the requirements of the constitution for a decision to be taken at the October 2010; and then we can go on from there depending on the decision of the Council in October 2010. A lot of reference have been made to the joint or the July joint council meeting, I Mr Chairman rather think that this Council has the legal mandate over SOPAC, and can make changes given the new information, the new legal advice that has been made available to it now, which was not available back then. Thank you.

Chair – Thank you Fiji, any other comments from Council members. Marshall Islands, before I give the last one to FSM, thank you.

Republic of Marshall Islands – Thank you Mr Chairman, I... I... I believe that the reason Council members are silent is because we have expressed our view but there seem to be ... we seem to be going around; so so we hope that you would take account of our view and move forward with the decision coming out of this issue ... agenda item, thank you.

Chair – Thank you Marshall Islands Soohh, I'll give uh FSM and then we'll go if Council members agree we will go through the text as it is, thank you FSM?

Federated States of Micronesia – Thank you Chairman and I apologise to Council members for taking floor again but uh I think one of the purpose for my earlier intervention was to clarify and I believe that as been point out by some people around the table and the DG of SPC that uh ... you know the transferring ICT to SPREP [SPC] can be done in a way without any legal implications. Energy we jus was agreed by our ministers of energy in their meeting earlier be transferred to SPC – those can be done without uh ... you know ... causing any legal problems the way I see it; so I would suggest that we proceed with those and I'm not sure whether ...(was that all your? Cristelle was that all your implementation plan that was presented or are you gonna go back to it ...) ... because you know ... well because I ... to me she said ... it sounds like if we go with this process right now it does resonate with the proposal from Fiji, because you know even if we gonna do this; this is with the understanding that we would have to go to capital and you know go through the process of ratification and so forth so its kinda like in addition take on board the comments by Matt earlier, you know it sounds to me like uh the paper as proposed by Fiji is kinda like an implementation plan itself ... tells us the process of what we have to go through for dissolution or integration or whatever you call it or in other words ... you know ... making SOPAC disappear and become a division within SPC.

Chair – Thank you FSM, Australia?

Australia – Thank you Chair, it's getting late in the day and I know everybody is tired and it is quite a very difficult area but uhhm I would just like to remind members that it was a decision of the SOPAC Governing Council in July 2009 that we would consider detailed implementation plans at this session; and I do note in regard to the very helpful document that Fiji has tabled in terms of moving us forward; there is a mix of implementation issues and legal issues and I think because ... I mean I agree with my colleagues from French Polynesia that the legal stuff has confused us. I don't think it's actually ... from my delegation, I don't thinks its actually helped and I do go back to the legal advice that was provided to the joint session and I would urge members to go back and look at those as well uhhh but uh essentially I think this resolution that is before us does talk very much about implementation issues and uh just as FSM said, the Implementation issues are important and I think it's difficult to consider this resolution in terms of timeframes until we actually understand what the implementation plan timeframe was that was prepared by the CEOs as we as Council members required them to prepare for this meeting. Thank you Chair.

Chair – Thank you Australia, New Zealand?

New Zealand – Thank you Chair, while I agree that around the table most delegations did express a lot of agreement with what's in the draft resolution that Fiji has put together; several did express concerns about the timeline and I agree that those are implementation issues. And I would just like to pick up one thing on something that the delegate from the FSM said about the requirement for ... needing ... not proceeding with implementation in terms of contracts, finance and so on until ratification uh dissolution ... a decision on dissolution has been

taken. I think that goes against the legal advice that we have before us which actually specifically says that we can proceed with ... there is no legal reason why we can't proceed with implementation now and I would just think it might be helpful if the legal expert could clarify that, thank you.

Chair – Thank you New Zealand, Matt?

Matt S – I...I guess the question is what is meant by implementation? That's a broad word that can encompass a lot of things, again I think in you're ... let's take the uh SPREP example, I think that's a simple one. That does encompass some personnel, it does encompass some contracts, so those are legal issues that would be addressed before you make that transfer. I think it's also appropriate and it's been suggested in the implementation plans that that be governed by an implementation agreement that would probably not be a very complicated implementation agreement because we're not talking about transfer of governance functions, we're not talking about transfers in the way that the core is being transferred to SPC. So then comes a question of does the Council wish to have that agreement back before it and approve that and the necessary steps been taken in advance of final approval of that agreement such as assuring that the funding for those functions is going to SPREP; that the personnel are going to SPREP and the like. If you're talking then in contrast implementation with respect to the core then I think you're talking about transfer of other functions that start to get into the core functions of the treaty, such as the governance because you are contemplating that once the core functions are transferred that SOPAC will eventually cease to exist in its current format – that it will become a division of the SPC in some form ... in some way and so that is a legal transfer, and how you do that ... it maybe by amendments, it maybe by suspension or dissolution – now you change the legal form but the legal form is going to change in some way as the process goes forward. That's also gonna be a more complicated implementation agreement that may encompass things such as STAR, for example and the Council may particularly want to see that agreement before final approval of that occurs and then whatever legal mechanism follows from final approval of that agreement.

Chair – Thank you Matt. Council members I think we've dwelled on the issue for a number of hours now; now I think we should come to a decision on the matter; but I guess the point here is we are ... there's no dispute about the Leaders' decision, but its how we do it and we have to do it properly and if the Council agrees we shall look at the text that is provided in front of us², and go through it if agreeable by all. OR if there is any real problem with the text then we should look at it; but if the Council members decides that we endorse the text as it is ... we shall go point by point, agreeable? Yes Fiji?

Fiji – Just to point [out] Chair, we've had the paper now for a couple of hours, we've discussed it for a couple hours maybe we just find out if anybody has any major reservations as opposed to going point by point eh? Thank you.

Chair – Thank you Fiji, Council members? Australia

Australia – [start is inaudible because of mic problems] ... I'm pretty sure I saw Samoa also raise their hand on the issue of going through this in more detail, I do think that if we are going to consider this ... I am totally accepting that members feel that this should be considered ahead of the detailed uhhh presentation of the implementation plans, but I do think that there is uh uh significant issues in this resolution, and I think that uh If it is going to be a consensus on the resolution then we will need to go through it point by point, thank you.

² The 'Draft Resolution', as tabled by Fiji, is attached to this Verbatim record. The final version that was adopted is contained in the Summary Record of the SOPAC 38th Session.

Chair – Thank you Australia. We will go through it point by points, okay, the first bullet point there “SOPAC Agreement ...” [some conferring at the top table] Okay, we’ll start from para. one. New Zealand?

New Zealand – Mr Chair I’d like to make a suggestion that we resume with this tomorrow morning so that delegations can go back to their capitals for advice in the draft that is before us. I know for example that New Zealand will need to seek advice on the very first bullet point about the treaty given the legal expert’s advice earlier this afternoon that in fact, he didn’t know what the status of the Agreement is.

Chair – Matt?

Matt S – I’m not suggesting that you shouldn’t go back to the capitals but having looked at the treaty provisions after that question was raised as well as the original signature pages that we included in my presentation the first day, I would say that it appears that the treaty has been signed by the requisite number of parties and I see no evidence that there are any reservations and that the treaty calls for either a signature or ratification if there is a reservation for ratification and seeing no reservations it appears the requisite number of countries have signed the agreement and that would make it binding. I also believe that under Article 10 of the Vienna Convention once the parties have signed the agreement, even if there is a requirement of ratification that they are then duty bound to follow its terms at least not to interfere with the terms of the treaty ... so that’s the most I can say because I said I have not inspected whether there’s been instruments deposited or not but based on those terms and that provision, that would seem to be the status.

Chair – Thank you Matt, Fiji, thank you.

Fiji – Thank you Chair, uhm I think with that clarification from Matt, I would suggest that we move on and actually complete at least this part of the agenda, and we can leave the rest for later. We need to get something done, we’ve been here too long just to walk away without any resolution, thank you.

Chair – Thank you Fiji, any seconder to the suggestion made by Fiji PNG or Tonga?

Tonga – Tonga second that ...

Chair – Thank you Tonga. Okay, we shall go through the paper as it is. Paragraph one ... any comments paragraph one? [long silence with no one commenting] Two? Yes Matt?

Matt S – In the first sentence I think the word ‘opinion’ should be changed to ‘memorandum’.

Chair – Thank you Matt, para. three? Australia?

Australia –I’m sorry I wasn’t quite sure what got changed before? And I do uh have a comment on para. three ... but I’d like clarification on what just got changed, thank you.

Chair – Paragraph one, ‘opinion’ changed with ‘memorandum’ ... thank you, paragraph three?

Australia – ... I'm not quite sure what exactly ... okay, in terms of paragraph three then uh I I think ... [at being motioned that most couldn't hear her] okay sorry I'm not usually soft spoken but uh ... okay on paragraph three ... I think it would be good to reflect what the Leaders actually asked for and that what the timeline was that the Leaders asked for; and I think that that should be added to paragraph ... to the start of paragraph three, thank you.

Chair – Thank you Australia, para four? Para five? Samoa?

Samoa – Thank you Mr Chair, I think we should add PMEG, because we also have assurance from SPC, like they will ensure that STAR and PMEG continue.

Chair – Thank you Samoa, French Polynesia?

French Polynesia – Thank you Mr Chair. In reference to this paragraph I am not sure that the CEOs of SPC and SPREP can give assurances concerning the continuation STAR ... I mean to secure the continuation of STAR ... it's not in their power; it's the power of the governing council of SOPAC uh of SPC and SPREP to do that, so I mean with reference to the words 'secure the continuation of STAR'; according to my delegation ... to me ...uh the CEOs cannot secure this continuation; they will have to ask the authorisation of the governing council of SPC and SPREP in order to establish this kind of mechanism ... so maybe it's just a legal uh uhmm ... intervention and we are still in the view that even if the paper tabled by Fiji is very useful; and very interesting we are not really in a position uh to uhmm give an advice right now without referring to item ten point three – because I think that many of the questions we have are given answers in those papers ... so I'm still in the view that we will be able to have a clear opinion if we examine uh ... in relation to this resolution; the resolutions tabled in uhmm item two uh ten point three point one, two , three, five ... and then so on ... thank you.

Chair – Thank you French Polynesia. Australia ...

Australia – Thank you Chair. I would like ... I do support what French Polynesia just said much more articulately than I have been trying to say and uhmm yah so I do support the comment of French Polynesia.

Chair – FSM thank you.

Federated States of Micronesia – Uh yes I guess I do support what New Caledonia [French Polynesia] just said ... except that remember that STAR is a voluntary organisation. I don't think it's within the power of SPREP to secure ... I'd say it's the other way around; we should ask STAR to secure, not maybe ... both ways ... you know, I'm just saying, reminding everybody that STAR is a volunteer organisation and its up to them what they're ... and I'm not sure whether SPC or SPREP can say, 'Okay it's now secured'; without considering what STAR has to say, but uh you know and just to steer down to what Samoa said on the PMEG, I imagine that TAG would be part of STAR, if we are gonna go that detail then I would suggest that we include TAG also.

Chair – Thank you FSM, New Zealand?

New Zealand – I agree with FSM, I think we could achieve that by just deleting the words ‘and secure’. And I would also like to support what French Polynesia said about needing to look at these recommendations alongside the implementation plan. And could I also just go back to paragraph four, about the funding ... uh the assurances about funding. I think Australia noted that there was some risk to long term funding being ... not so much a risk but the difficulty in committing to long term funding while this period of uncertainty is going on, and New Zealand is in the same position. So while we have given assurances that our funding would not go down as a result of the transfer; at the same time we cannot given an assurances that we can commit to long term funding until this process is on a firm pathway, thank you.

Chair – Thank you New Zealand. We’ll go to para six, but before we go to para six, Fiji.

Fiji – Thank you Chair, in response to that we would kindly ask New Zealand and Australia if they can give us a definite on whether they will fund or not so that we can start looking for alternative sources, thank you.

Chair – New Zealand?

New Zealand – I think our position is we can’t go seeking authority for long term funding; but nor would we go seeking approval to say, ‘No’ to further funding, so I’m afraid we can’t give that assurance uhmm ... it’s just that we’re not able to enter into our long term funding arrangement with SOPAC as we do currently with SPC and as we have in the past with SOPAC, until the last couple of years.

Chair – Thank you New Zealand, on that issue thank you.

Fiji – Thank you Chair, in that case I reiterate what I said earlier today, that it is very important that we seek whether we get the funding from Australia and New Zealand or not; we still go ahead and seek support from non-traditional donors, thank you.

Chair – Australia you want to say something?

Australia – Well sorry [inaudible due to bad mic] ... we are committed to ongoing support for the SOPAC work programmes but the uncertainty that is hanging over the actual finalisation of this process is preventing us from entering into long term commitment. [inaudible]an annual contribution to have a multi-year agreement which would offer [drops out again] ... it’s not me that’s going in and out ... uhmm

Chair – Thank you Australia, the Cooks ...

Cook Islands – Thank you Mr Chair, I think in yesterday’s interventions ... will be in the record of proceedings ... Australia and New Zealand and the EU did refer to assurances of funding for the projects; now uhmm some formal language needs to be articulated here, maybe up to ... because they’ve already committed up to 2010. I don’t know if there’s any merit in that regard, but now it brings me to an issue whether they will continue to support the SOPAC programme when it eventually comes under the SPC umbrella. I feel that the way its been worded or the minutes recorded gave us the impression that this would be a continued process even leading into the amalgamation with SPC. What I ... what I also have in front of me ... and I do hope some of the members have read the document ... is the SPC financial strategy (draft) paper in ensuring that the document was requested so that ideas could be looked at ... for some form of comparison is some sort of analyse is sought

from the document to reflect the kind of funding that will come in from donor partners. And just touching base with the DG of SPC, I just wanted to see if uh to see how this would marry should the when the actual transition does become fruitful; whether the level of funding would still be the same and when it moves into SPC. If there was an increase I would understand that the programmes would be covered – if there was no increase in the draft then it means that uh there is no funding for projects. That's my view, I'm just looking at the uh graphs that are in the paper at the moment. That's how I read what's in the paper right now ... meaning that what we have currently is in place until 2010 ... uh October 2010. What's beyond that is unknown as they have established today. My point in the earlier part of my intervention ... it means that they will not support the programme beyond that; even if it went into SPC; that's just my view I have ... I just wanna share, thank you.

Chair – FSM, thank you.

Federated States of Micronesia – Yes sir, thank you Mr Chairman uh I guess before I go on I must ... I think it is understood by all of us that we do support the Leaders' decision; we're trying to implement it in the best way possible and with due diligence and I don't really mean ... I understand what New Zealand and Australia are saying by 'if it drags on forever' ... I mean if it drags longer than necessary; I don't know whether they're asking us to proceed without going through the legal procedure as we know – we have to do it properly ... OR you know you know ... I wanna bring this up because their comments seem to indicate that we are dragging our feet; and I can assure you that we are not. We're just trying to do it the best way possible and uh you know it's uh indeed a sad day for us; but I don't think that we should as a Council disregard our responsibility just because Australia or New Zealand wanna withdraw their funding, if we don't do it the proper way thank you.

Chair – Thank you New Zealand?

New Zealand – Thank you Chair for letting me speak again on this subject and I'm sorry if I wasn't clear before – if the transfer goes ahead as was agreed at the July meeting then we can give you assurances of ongoing funding. If there is a different timetable to that agreed in July we don't have a mandate at this stage to commit to ongoing funding and the best that we could do is commit to annual funding only, so only one year at a time and it means each year we have to go through another negotiation-submission and approval process to secure funding for another year. I would ... both Australia and New Zealand I think we're just trying to express the hope that we could move towards long term commitments so that we don't have to have uncertain funding.

Chair – Thank you New Zealand, Australia?

Australia – Thank you Chair, I just support what New Zealand said, and just assure my colleague from FSM, it's not a question of withdrawing funding but it's just simply trying to secure continuity of funding for the organisation as well as I still have to front up to our delegate each year to explain what's been achieved, thank you.

Chair – Fiji, then Cook Islands.

Fiji – Thank you Chair. I think what ... where we started from was when our colleague from New Zealand took us back to ... or had some issues with uh para four; why don't we just amend it to how New Zealand and Australia want it reflected and then move on. Of course we know that we need to look elsewhere.

Chair – Thank you Fiji, Cooks?

Cook Islands – Thank you Chair. I think the comments made by New Zealand and Australia are valid, and they're going exactly what we're trying to do, meaning they're being very due diligent in the way they are expressing their wish to support the programmes – and that's how we doing this now to ensure that there is a proper uh process in place to ensure continuity of programme delivery and uh I'm mindful of the fact that they may have to do uh ... to go back and seek clarification in this view. However, my point is the implementation plan; and apart from the ... sorry the implementation plan that we have in the uh ... I think at ten point three does reflect most of what we have here on the paper with the exception of a few areas, but uhhh that process is also articulating probable causes to establish agreements and that is exactly what we're trying to do here. So uh like my colleague from Fiji, if the paper is to be amended to reflect the Fiji ... uh sorry New Zealand and Australia's position then we do that and we go forward now. Thank you.

Chair – Thank you Cook Islands. Australia and New Zealand could you provide the text to suit what you raised ... thank you. So you wanna move?

Republic of Marshall Islands – Thank you Mr Chairman. Uhhh just wanted to see if uh we can ask the Secretariat to start looking for funding in case Australia and New Zealand withdraw their funding ... thank you.

Chair – Thank you Marshall I think we shall move to paragraph four ... oh paragraph six sorry ... 'The concludes as follows' ... we go to bullet one ... French Polynesia?

French Polynesia – Thank you Mr Chair for giving me again the floor, my delegation has reservation concerning the wording of the first bullet point. I do not want to offend anybody with my poor English; so I apologise in advance, but uh ... given that for instance Guam is a full member of SOPAC and Guam is an incorporated territory of the United States, I'm really not sure that uh a territory could be a member of a treaty under the Vienna Convention ... I mean, I'm not a specialist but uhhh I wonder if the reference to the Vienna Convention on the law of treaties is really relevant in relation to SOPAC; and I think that uh we would need a clear legal advice because we don't even know who is the depository of this Convention uhhh and it's not clear in the text ... so uhhh I would seek clarification on this particular point. Thank you.

Chair – Thank you French Polynesia, we give that to Matt please ... [no response] ... Matt you've any comment on that?

Matt S – I would say that uh if people have concerns about this that you could that sentence to say 'the SOPAC Agreement is an international agreement between States' and leave it at that. [from somewhere in the room someone says 'and territories'] ... 'and territories', thank you yes, and then you don't have to include legal words of art in the uh in that particular sentence.

Chair – Thank you Matt, Cooks?

Cook Islands – Thank you Mr Chair. If I could recall the two previous legal reports by Heather Latu and Masio ... and Masio err referred to the Vienna convention, so I'm not really sure as to why we uh because this is very very unique organisation that was established with member countries as Charter members and in encompassing the SOPAC Secretariat ... CCOP and SOPAC today. So uh ... but in order to get this going I just wanted to raise that the other two legal reports that we've referred to the Vienna Convention, thank you.

Chair – Matt?

Matt S – Just in the interest of trying to help put people at ease, I agree, and I was absolutely looking at length at Ms Heather Latu's June 2009 report and she does refer extensively there to the Vienna Convention and application of that to SOPAC as a treaty but I think that the uh issue that's being raised by French Polynesia and New Zealand is that uh ... if they're going to sign on to the resolution they don't want for there to be a legal conclusion that they uh are then held to and I would agree in defence of that position that that is a legal conclusion you could say ... you could make a factual recitation without necessarily including the legal conclusion and still have the same [or simple] fact and still I believe and agree that the Vienna Convention is appropriate to apply here but I don't think it's necessary for purposes of this resolution to include that.

Chair – Thank you Matt, Tuvalu ...

Tuvalu – Thank you Mr Chairman, I think by doing that way we definitely facilitating concerns that were raised by French Polynesia; and maybe by doing that we can move forward then. Thank you Mr Chairman.

Chair – Thank you Tuvalu, we move to the second bullet point. Australia?

Australia – Thank you Chair, I think we should actually put the dates in for which Forum decision we're talking about because as I understand Forum Leaders have taken decisions a couple of years, so uhmm I think that should be reflected, thank you.

Chair – Thank you Australia, bullet point three? Australia ...

Australia – Thank you Chair. I am conscious of my colleague from FSM uhmm saying there is some concern amongst people that uh Council may be seen to be dragging its feet in terms of implementing the RIF decision and I note the views of some members that that is not the case; I do think, however when we say full and effective implementation of the RIF decision will require time ... uhmm I think its uh ... at this stage given that Leaders have given us some fairly definite dates that uh that timeframe should be reflected and then the resolution can follow that members concluded that this will still require time – but I think we do have to acknowledge that there was some timeframes put on this; now this Council is saying that 'well we don't think that's correct' ... but I think we do have to reflect that Leaders did have a specific time frame and that implementation et cetera was required in a specific timeframe so again I'm going back to what French Polynesia and New Zealand have said, which is that there is a difficulty in doing this ahead of hearing what the implementation plan was so I am uncomfortable where there is no specification of a timeframe when we actually haven't considered what the actual timeframe is, thank you.

Chair – FSM.

Federated States of Micronesia – Yeah I would agree with Australia but uh I was gonna suggest perhaps instead of talkin' about time, then maybe 'implementation of the RIF decision would require ratification by two thirds of the members' ... uh we can put in a time there but uh ... that's of course beyond us as Council members because that's gonna be up to Cabinet or whatever the process is for each of the countries.

Chair – Thank you FSM, Australia?

Australia – Sorry Chair I'm really now very confused because I understood that what had been said was that implementation and transfer of programmes can actually take place before dissolution or suspension and the ratification; so that's my understanding, thank you.

[rather lengthy silence in the meeting proceedings at this juncture, pockets of whisperings around the room, lolly wrappings being opened, paper rustling ...]

Chair – ... we'll just wait till they get the word right and everyone has agreed to it before we move on to the next bullet point. Thank you, bullet point five ... thank you, bullet point six? New Zealand?

New Zealand – Thank you Chair. On bullet point five there are a couple of issues that uhmm one of ... one refers to the period July 2010, I'm not sure how this timeline relates to the implementation plan that was set out in July and in the papers that are prepared for this meeting; uhmm and then the last line where we talk about approve ... that Council will approve these agreements uhmm ... I'm not sure whether Council needs to approve that as French Polynesia said earlier, maybe it could be achieved simply by an exchange of letters between the directors ... err Director and Director-General.

Chair – Thank you New Zealand, how do the Council members feel about it? Cooks?

Cook Islands – Thank you Chair, I'd just like to refer to the July 2010 timeline that's been established in this particular paragraph ... is uh having had a privy to information in terms of what could transpire in amending the uh ... or any amendments – it must be, as referred to by my colleague from Fiji – it must be circulated with member countries three months before the annual session; that's why the July 2010 is there, so ... I mean if you uh ... this is according to our constitution and uh ... that's why the 2010 is in the particular paragraph, thank you.

Chair – Thank you New Zealand uh Cook Islands, sorry. Australia?

Australia – Thank you Chair, and I realise everybody's quite tired and uh it's been a long day – and uh I'm finding it hard to actually articulate this clearly; but uh I think that ... I don't understand if integration agreements are needed; why they actually haven't been prepared and presented to this session; because integration ... if integration agreements are part of the needed implementation plan that was requested by Governing Council members in July; and if that is what was determined needed to be presented then that integration document should be here and should be before us, so I'd like to ask whether that is actually going to be presented under ten point three point whatever, thank you.

Chair – Thank you Australia, Matt could you ...? answer the concern raised by Australia ... [Director starts talking ...] ...oh Director ...

Director – Uhmm thank you Australia ... in fact the err ... we're all very familiar with the July decision and in fact in that decision it instructs the three CEOs to provide draft implementation plans for finalisation ... errmm an implementation plan, an imp ...an imp ... the nuance between a plan and an agreement are quite different I would suggest; so therefore what is being suggested here is that the uhmm ... the agreement is a binding document between the parties – between SOPAC and between SPC in the interest of both parties – now I can

suggest that we ... No we don't have detailed integration agreements between SOPAC and SPREP nor SOPAC and SPC uhmm to present to yourselves at this stage.

Chair – Thank you Director. Australia ...

Australia – I guess I do have a problem with all of this because it's quite legalistic and I'm just uncomfortable about this whole idea of integration agreements. My understanding was that transfers between organisation can take place and have been effected I think between other organisations – the transfer of activities, so I don't quite know how to change this but I I I do have an issue with the wording, thank you.

Chair – SPC? Thank you.

Director-General SPC – Sorry Chair I wasn't gonna ask but just to let you know of quite a number of programme transfers that have happened within SPC over the years. I think uhmm ... the latest one being the uh triple R Tee (RRRT). But we took maritime programme from the Forum and that was a decision as French Polynesia said, the decision was made and there was a letter that was done to effect the transfer of that programme, you know from the Secretary General of the Forum to the Director-General of SPC. The same process happened with the European Union funded regional agriculture programme that was fairly earlier on; we had transfer also of the regional forestry programme ... so I guess in a sense, these are programmes that were situated in other agencies and a decision is made for them to be transferred to the technical agency and so those are straightforward transfers ... and in a context of this and going back to FSM ... ICT and Energy probably fall within that category ... so I guess in a sense when you look at those ... those are previous experiences that we have had. The core of SOPAC is actually covered under treaty and that's different ... because there is a process identified in sorting that out; so I guess from a perspective of the question 'do we need integration agreements?' and probably ... excuse me for the mis ... I just want to actually understand fully what exactly is an integration agreement ermhm uhmm ... because in a sense, if it was a memorandum between two agencies – if that's what it is ... or letter of agreement that covers what's coming, what we're receiving ... so it's probably just a terminology issue there rather than ... rather than what it entails so just a suggestion I guess that two of them appear to be (as FSM delegate have stated) ... are reasonably straightforward may not actually need that detailed level of work, thank you.

Chair – Thank you FSM [actually SPC]; Cook Islands?

Cook Islands – Thank you Mr Chair. The uhmm ... this Council tasked the three CEOs to put together implementation plan and it is again the duty and responsibility of this council to task the Secretariat to ensure that the integration agreements are established and are tabled before the next Council, thank you.

Chair – Thank you Cook Islands [off mic to Matt (you want to make any clarification?)] ... Matt you have the floor.

Matt S – I wanted to see if I could try to clarify what appears to be an issue that is confusing ... if I am part of that I apologise for that I think that the implementation plan sets out the conceptual process by which implementation will take place. The implementation agreement is a legal instrument that finalises it; whether it would be a memorandum of understanding executed between the secretariats or the directors or whether it be a broader document that also required accompanying treaty amendments because of the fact that it's the transfer of for example, governance functions, finances and other aspects that are covered by the SOPAC agreement. I think that there are two tracks there :- There's an implementation agreement that covers all the practicalities of the transaction and New Zealand had raised for example the June 2009 Heather Latu opinion and I go back to

that – it states the “outstanding legal issues which must be accommodated in the implementation of the option involving SPC would benefit from a transition plan which lists all of SOPAC’s legal commitments, assets, obligations and undertakings in order for specific decisions to be made ...” and it goes on in further detail in pages twenty and twenty one and talks about what those are. So, I think what you’re talking about is going through that process and coming up then with specific agreements between the SPC and SOPAC on the one hand and SPREP and SOPAC on the other hand. Now, some of those agreements are going to be very straightforward but just as Dr Rogers says, some of them, like the transfer for the core are going to be more detailed and may encompass things like the future of STAR and transfers of a substantial number of contracts for personnel and I would imagine that the Council would want to see those; because once you get into that level of complexity you are talking about amending the treaty. So the suggestion of the timeline; was not to delay the implementation, but to begin it now exactly as the Director has suggested but to have this timeline by which you then complete your final agreements and any accompanying amendments you might need and you put those on the table in July oh-nine [2010 meant] and they can all be approved in October twenty-ten ... the Fiji plan I think suggests that some of the more straightforward agreements are subject to earlier approval and that’s in the Council’s discretion I believe ... as long as you address the other issues that are raised I think in my presentation as well as the Heather Latu report, which is making sure that you’ve covered the bases on your contracts, on your property and any other subsidiary issues that are invested in that particular transaction; so in the case of SPREP, if PI-GOOS is being transferred you need to make sure that you’ve dotted the i’s and crossed the t’s on all aspects of that, so that’s that’s the difference and I hopefully that helps.

Chair – Thank you. Bullet point seven? New Zealand?

New Zealand – Thank you Chair, just uh ... this doesn’t seem to be in line with the July 2009 decision that implementation would commence from January 2010.

Chair – Fiji, thank you.

Fiji – Yeah thank you Chair, I think this Council has the mandate to propose that change to the previous Council’s decision in order to align it with the process that needs to be followed under the constitution, thank you.

Chair – Thank you Fiji, FSM?

Federated States of Micronesia – Thank you Chair, I think somebody suggested earlier that ... the colleague from PNG ... that includes ICT, not just energy.

Chair – Thank you FSM. Tuvalu?

Tuvalu – Thank you Chairman, I think that the point that was raised by New Zealand has already been addressed in bullet point 3 as put up by Australia, thank you.

Chair – Thank you Tuvalu. Bullet point eight? Australia you were going to say something?

Australia – Yah, I wanted to respond to Tuvalu and no with due respect I do support my New Zealand colleague and I think that uh [her mic starts buzzing, which everyone finds amusing including the speaker] ... I’m sure someone’s doing this ... these guys are blaming you [to sound technician] ... and I still haven’t forgotten what I

was going to say [hearty laughter] ... but I do wanna support my New Zealand colleague and I do believe that it needs to be reflected that there was decision in July uh taken by the SOPAC council; and I completely agree with my colleague from Fiji that it is within the members here to make a different decision but I think we do need to reflect noted that the SOPAC Governing Council, in July 2009 requested this to happen in a timeframe and it can then flow on, but I think that does need to be made. I think for ease of ... so I won't put my hand up every time ... I mean I think Australia would be wanting to see that reflected throughout this uhmm and in the minutes as well, thank you.

Chair – Thank you Australia and you can provide the text for that. [she responded affirmative off mic] Thank you. We move to the next bullet point. [lengthy silence] Thank you, bullet point eight? Thank you SPC.

Director-General SPC – Chair it's just the wording, one wording on bullet point eight and repeats I guess itself on bullet point ten; it's the reference on the last line ... I'm now just sort of forecasting the various options and thinking with my SPC governing council hat on on potential implications – the line reads at the moment ... “a new Applied Science and Technology Division is likely to be complex and require amendment to the SOPAC Agreement” ... there was an option presented by the legal advice of ‘alignment without dissolution’ and that option may in a sense create some ... some issues and I just wonder for completeness whether we could add the words “complex and may require suspension, dissolution or amendment to the SOPAC agreement” ... so you just cover the whole spectrum of the three options that were covered under the legal presentation, and whether that wording could be used in the other sub-bullet points where that same part comes in.

Chair – Thank you SPC. Australia?

Australia – Thank you Chair, and in addition to the amendment proposed by the comment by the Director-General of SPC, uhmm ... I think rather than say is ‘likely to be complex’ you say simply ‘integrated into SPC as a science and technology division as agreed by joint council in July 09’, thank you.

Chair – Thank you Australia, Fiji? [no comment forthcoming] Thank you. We move to the next bullet point ... bullet point nine. Next bullet point, bullet point nine, no comments? We move to bullet point ten. Bulletin point eleven? New Zealand thank you.

New Zealand – Thank you, sorry to go back to bullet point ten; and just the final phrase “before the decisions may be implemented”; again I'm not sure given the legal advice that was circulated amongst the meeting papers says the opposite [simultaneous ‘Sorry’ from Matt S – and New Zealand] ... sorry I withdraw that I didn't read it carefully enough.

Chair – You awright New Zealand? Okay ... yeah I mean yeah I understand. It is okay as it is. Thank you, next bullet point, Australia?

Australia – Uhmm I am a little uncomfortable in saying that ‘2011 meeting is the earliest practical time in which full and effective implementation of the RIF decision can take place’ uhmm as I said, we still haven't seen what the CEOs proposed in terms of the full implementation and it would be far better in my view if we could meet the Leaders' directive in terms of the timeframes ... so I think that this wording could be be changed to be a little bit more proactive in terms of action oriented, rather than say uhmm ... a ‘2011 meeting is the earliest practical time’. I do feel that uh that would make us look like we were ... we're actually dragging our heels rather than expediting the decision that was taken, thank you.

Chair – Thank you Australia. [very lengthy silence] Tuvalu?

Tuvalu – Thank you Mr Chairman, I was actually wondering whether that bullet point is not covered by the earlier bullet point? ... and we could take off that bullet point, thank you.

Chair – Thank you Tuvalu. Tuvalu was suggesting we delete this ... as it was mentioned in the earlier ... if is this agreeable by all we shall delete this and move on to the next bullet point; bullet point twelve. Bullet point thirteen? Thank you Australia.

Australia – Thank you Chair, I think after Tuvalu's suggestion and having deleted it I'm just wondering whether we could actually delete bullet point twelve, I mean we've noted the legal advice right at the beginning and I'm not quite sure what the Western European Union and the Council of Europe example [relates] to this ... the current situation with RIF? Thank you.

Chair – Council members? Suggestion made by Australia? Cooks ...

Cook Islands – Thank you Chair, I think uhhh the intervention is valid by Australia; however, I think why it's in there is actually reference guideline for Article sixteen to happen and I don't know how we gonna do ... may I uh ... smaller text could be written on the side to ... to refer to ... for reference in that regard.

Chair – Thank you Cooks, Fiji?

Fiji – Sir, I have the same sentiments as the Cook Islands, we can put the reference as a footnote ... the reference to uh to Western European ... can include it as footnote.

Chair – Thank you Fiji. Cook Islands could you clarify the point you raised ...

Cook Islands – Well what we were talking about was the uh ... just taking that WEU of the existing ... and putting it down at the bottom as a footnote ... as a reference paper because of the requirement under Article 16 for that particular endorsement.

Chair – Thank you. Samoa?

Samoa – Thank you Mr Chairman, it's been a long night ... I'm not really sure whether I'm thinking right; anyway uh I just reference the very last line and it says 'until an appropriate later date'; so I was wondering whether we should put a specific date over there rather than leaving it like more open-ended. Thank you.

Chair – Thank you Samoa, I think that was one of the concern raised by Niue and I think Fiji has answered to that so we shall proceed ... as it is we shall move to ... second-last bullet point. Thank you. Last bullet point? French Polynesia?

French Polynesia – Thank you Mr Chairman, maybe we could add uh SPC and SPREP along with the Secretary General of the Pacific Islands Forum Secretariat, thank you.

Chair – Thank you French Polynesia. With that I think that concludes the work of the day ... and uh the last paragraph as per our initial discussion on the matter that will be for a closed session for Council members only. And if agreeable by Council members, we will have that tomorrow. Thank you Council members, delegates for taking time and in consideration of the issue ... I mean it has been very difficult to satisfy all but I believe that the decisions that we've made is in the best interest of Council members and I thank you all for the effort, the time and the commitment. Thank you.

Australia – Sorry I just needed to clarify Drafting Committee tomorrow ... depending on what the Secretariat does tonight ... uh I'm looking at Lala; but I suspect that we would need a very early start tomorrow for the drafting committee (she's nodding) so Drafting Committee, what time does the Secretariat suggest the Drafting Committee [many helpful suggestions from the floor, not!]

Chair – That Drafting Committee, as I understand from the Secretariat is seven, eh? [Earlier than that, from rapporteur, 6:30, Chair announcing ...] the Drafting Committee members 6:30 [mock protests] ...6:30 we will provide the buses for those members who are in the Drafting Committee

Australia – ... Well I [falling for the protests] I'm happy to go if people want seven o'clock but I'm just ... I just note that the Secretariat has a lot to get through and considering Drafting Committee has to look at [record] as well as recommendations ... ha ha [at some comment] so what time have we suggested? [6:30] Six thirty for drafting committee, early tomorrow; thank eeeuw!! [hahaha from some members]

Chair – Tuvalu?

Tuvalu – Thank you Mr Chairman just for ease of reference, could we have those bullet points numbered please ... so that it would easier to refer to them rather than 'bullet point eight ... and nine' ... and we have to start counting from the beginning ... so please, thank you.

Chair – Thank you Tuvalu. Council members I think with that that concludes our meeting for today. The announcement for this evening's reception, we've gone past the time, it's almost seven-thirty now and uh the reception is just next door and I would urge that all members to just walk across rather than going to your room, thank you. And we meet here ... we meet here at eight-thirty tomorrow morning. Thank you ... the Drafting Committee is open-ended and members who want to be part of the Drafting Committee tomorrow morning, six-thirty thank you.

[New Zealand at this time provided text to para. four of the resolution which had been requested; and Mario handed over the track-amended resolution, which full Council had been amending by Committee]

[Item 10 on Day 4 resumed with Christopher Ioan again as Chair. Audios of Agenda items 10.2 to 10.4 while considered to be adequately covered in the Summary Record, which followed the proceedings closely were transcribed to complete the RIF record for the SOPAC 38th Session. The rest of this verbatim record also covers items where the RIF had major impact on discussions; and that an expansion of the record substantially augmented what had been summarised]

[After prayer by the Representative of the Marshall Islands]

10.2 Financial and Administrative Matters [of the RIF]

Chair – Thank you Marshall Island, I now invite Council members on agenda item AS38 slash ten point two – financial and administrative matters. I now ask the Director to take us through the paper, thank you.

Director – Uhhh good morning everyone I hope you had a good evening last err last and uh also slept well. Uhhh Agenda item AS38 ten point two ermm looks at the regional institutional framework in the financial and administrative matters ... I'd just want to perhaps reflect again briefly and many of the members have touched on these but the ermm to make perhaps just a couple of general comments around Agenda item ten – uhhh the joint meeting uhhh the fact that it was an historic occasion chaired by the Secretary General – just to remind members of the decisions that have been taken by SOPAC and other err relevant governing bodies. The purpose of the whole initiative being to look at enhanced synergies and efficiencies whilst at the same time looking at avoiding fragmentation and diminution of SOPAC services.

In terms of the financial and administrative matters the paper is separated into two parts – part one looks at uhm err those that relate to the SPC and that part of the joint decisions part a, b and c. They referencing the ICT Outreach, the Energy Programme of SOPAC and part c ermm uhhmm specifically part c roman numeral three that of the SOPAC core. Errrr in ... with the implementation plans that will be presented under agenda item ten point three point three ... errr parts a and b uhhh are to transfer to the economic development division ... the newly established division of the SPC and soon becoming the SOPAC science and technology division. Part two of the paper looks at those financial and administrative matters that are relevant to the SPREP – those functions to transfer to SPREP and the relevant parts of the joint decision being part b on Energy and part c roman numeral one and two which look at and highlight in the case of roman numeral two the specific SOPAC functions to be transferred to SPREP uhhh those being the Pacific Islands Global Observing System, the Islands Climate Update, Climate and Meteorological Database and Monitoring and Evaluation of greenhouse gases and clean development mechanism.

In terms of the part one of the paper uhhmm clearly the decision is for implementation to commence from 2010 uhhh in terms of 2010 you will under Agenda item 38 thirteen point two uhhh be requested to consider and approve the SOPAC work plan and budget for 2010. The financial and administrative uhhh aspects for SOPAC uhhh bu ... err the autonomy for the financial and administrative procedures and processes will be managed and maintained for 2010 and until such time as directed by Council uhhh and so therefore uhhh clearly will require the approval uhhh of the err the SOPAC science and technology division work plan and budget 2010/2011 uhhh as well as errrr at the earliest as well for the CRGA to consider it.

What we have done though is in working since July towards actually putting the SOPAC summary budget in the same format as that of the SPC, uhhh and that uhhh was presented as part of the SPC budget summary for 2010 err to just reflect really uhhh uhhn harmonising of of the way in which we present uhhh the summary of our budgets. So whilst our financial and administrative uhhh processes remain autonomous there will be a number of things that will need to be worked on with some level of intensity uhhh errr over the next twelve months. Our financial management systems will need to be migrated herrrr ... currently we uhhmm manage

our finances through the Sun system – Sun five and the SPC's management system is Navision. With any migration of financial management systems there is error there will be additional resources required for this. With respect to the administration and this includes the human resources element of administration errors those presenters and systems and policies will need to be harmonised and synchronised over 2010; and as I have reported already uhmm discussions are already underway between the agencies to expedite some of these matters. The central principle uhmm that we are adhering to is best practice – we are not just simply looking at migrating all of SOPAC's procedures and systems and policies into SPC; but actually looking to see which of the two agencies is practising best. Error with respect to the staff contracts, again these will be maintained but there are ... if I could just comment the because of CROP remuneration and harmonisation errmmm essentially the internationally recruited staff ... the terms and conditions are similar; however the locally recruited staff there is a difference between the treatment of locally recruited staff between SOPAC and the SPC.

The paper also suggests the involvement of the Director-General of the Secretariat of the Pacific Community uhmm in terms of getting to know what error what that particular position would become responsible for over the period of 2010. And uh from an operational perspective the anticipated director of the SOPAC science and technology division would in fact be responsible for development of a strategic plan also responsible, as we mentioned yesterday for development of the work plan and budget and the delivery of the work programme and budget for 2009-2010. Hummm clearly some of these elements will need to be amended within the implementation plan based on the discussions of yesterday.

For the energy and ICT areas I'd just like to highlight to members that SPC has uhmm made the commitment to fund the deputy director for energy position from their core budget and uhmm I believe that this is certainly uhmm a positive gesture error particularly because of the objectives towards strengthening the regional energy programme. At an operational level for the economic development division ... because it is newly established it too will need to go through the processes of developing a strategic plan, uhmm developing a work plan and budget for 2010/2011; as well as delivery of the work plan and budget over the 2009/2010 period. Uhmm again we would suggest that uhmm during ... during the transition there will ... there may, it may be a necessity to actually have shared roles and responsibilities until such time as error those functions error are fully transferred and absorbed into the uhmm into the SPC.

Errmmm now to part two of the paper which looks at the those functions to transfer to SPREP – the paper does suggest that this particular element of the rationalisation is uhmm straightforward uh because there's only a ... well there is a much smaller package of functions to transfer ... error in terms of the four functions I've already outlined what those are error just to again to suggest that from a financial perspective the only implication at this stage would be on the Pacific Islands Global Ocean Observing system. In addition to that clearly there would need to be a certain data and information that would need to transfer as well. For the island climate update we did hear from the Director of SPREP error that we're entering into a new phase of development and design for the ICU, uhmm and this is especially timely to see how the ICU can in fact strengthen its delivery of services into member countries. The climate and meteorological database has been completed but no database is ever complete and so the suggestions would be that the error the database would be transferred to SPREP and as coordinators for climate change they would indeed ... and for meteorology they would indeed to ensure that that database continues to be maintained. There is data and information that would need to transfer with the monitoring and evaluation responsibilities that SPREP has for error mitigation – the mitigation aspects of climate change.

Chair with those brief introductory comments in introducing the paper I now put before Council the two recommendations that are made ... well there are four recommendations but this part is for that concerning SPC, thank you.

Chair – Thank you Director, I now invite Council members to comment on the paper and look at the recommendation that is provided, thank you. Cooks thank you.

Cook Islands – Thank you Chair, I ... the uh intervention by the director is uh at this point in time straightforward in my view. So the Cook Islands would like to recommend that we approve the two points of the recommendation thank you. Thank you.

Chair – Thank you Cook Island. Marshall Island then Fiji ...

Marshall Islands – Thank you very much Mr Chairman. I just have one question on the last page of the recommendation. The one regarding the uhhh the passing of a resolution providing a draft of a legal agreement ... uhhh is there a timetable for that thank you?

Chair – Thank you. Secretariat?

Director – From the discussion under Agenda item ten point one uhhh ... and I may have misread some of the debate but the suggestion was that in fact there are certain agreements that are simp ... simpler uh to actually develop and design and agree to and one of those would be those functions related to uhhh errr you know for transfer into SPREP and that that could be expedited in a fairly timely fashion and I've just recalled FSM's intervention on this errmm but a number of members did make that comment. Uhhhmm the same as well for in fact the ICT and Energy functions – so the suggestion was that there were ... there are several elements of the decision wherein the transfer is ... could be quite straightforward and simple uh then obviously with the core work programmes of SOPAC being an agreement that uhhmmn maybe a little bit more complex than errr than the two that I've just referred to, thank you.

Chair – Thank you Director for the explanation, Fiji?

Fiji – Thank you Chair. I'd like to commend the Director for all the work that has gone into RIF and uh we'd like to comment that yesterday we had approved the way forward by way of an integration agreement. I just suggest that all the work that has been done already be incorporated as part of that integration agreement, thank you.

Chair – Thank you Fiji. New Zealand?

New Zealand – Thank you Chair and good morning everyone. I'm just uh ... if I could ask uhhh the Secretariat in a second recommendation there ... the drafting of a legal agreement ... is the word 'either/or' ... I just wonder why it's one or the other and not both – we have either the administrative alignment or the anticipated formal transfer.

Director – [inaudible beginning] ... instance it goes back to the three options that were actually part of the presentation under the errr ... under agenda item ten point one and that is errr to dissolve, to suspend or the other option ... another option which is an amendment to the constitution errr in this instance uh think what is being suggested is that errmm [much throat clearing] ... currently I'm accountable to Council errmm in terms of the implementation schedules, there is going to be a time ... and when these papers were being prepared and when our implementation plans were being prepared a time at which that accountability would shift uhhh and it would then become the responsibility of the new council eerrr the responsibility of the Director-General of the SPC who would then become accountable ... uhhhmm around that clearly uhhh he is not recruited by the agency and so there would need to be some formal arrangements to transfer those responsibilities.

Chair – Thank you Director, Australia?

Australia – Thank you Chair and good morning. For those of us that are in the drafting committee it's mid morning now, uhmm ... I just ... yesterday when we had a discussion we did point out that uh ... well Australia certainly raised issues with the legal advice and some concerns we had. I want to note that the reference to the alignment of SPC and SOPAC was not something that the leaders actually instructed to be looked and I actually can't remember what the discussion on it was yesterday but I do know it was raised by at least one other member about this issue about having administrative alignment mentioned. I think that issue of 'either/or' in this recommendation needs to be looked at again, thank you.

Chair – Thank you Australia, Fiji, thank you.

Fiji – I think it might be best if we leave it to the Secretariat to incorporate all this into the interi ... uh integration agreement and then circulate it to the member countries in July next year, we are trying to deal with this now and these issues will be dealt with in the next Council meeting. Thank you.

Chair – Thank you Fiji, FSM?

Federated States of Micronesia – Thank you Mr Chairman, good morning everyone. May I suggest that we adopt the recommendation taking into consideration the discussions that we had yesterday. In other words we have adopted but would be revised to reflect what we discussed yesterday, thank you.

Chair – Thank you FSM. Proposal made by FSM to endorse the recommendation but take into consideration what has been passed on yesterday? Council members? Vanuatu.

Vanuatu – Yeah thank you Chair. I would uh I second the recommendation made by the FSM, thank you.

Chair – Thank you Vanuatu. The recommendation will be amended to reflect what has been discussed yesterday, thank you, so ... and today's discussion so we will now ... as I see no indication from around the table I take that we approve the recommendations with amendments made to it. Thank you. We shall now move on to Agenda item AS38 slash ten point three. And we'll again give to the Director to take this agenda item, thank you.

10.3 Implementation Plans

Director – Thank you Chair. Agenda item ten point three is separated into uh four parts errr those relating to errr the joint decision errr in the way in which it is structured. Errrm ten point three point one is errr Outreach uh ... the ICT Outreach function of SOPAC. Ten point three point two refers to ener ... the implementation plan for Energy, errr ten point three point threeeee for the core SOPAC work programme and then ten point three point four the specific functions to SPREP. Errrm ten point three point one in terms of the ICT Outreach uhmmm what to put up on the screen that actual recommendation that you jointly agreed with the governing bodies of SPREP and SPC in July. The actual decision itself also le ... errrm uhmmm leans quite heavily on the Pacific Energy ministerial meeting decisions that were held in uhmm April, I believe, of errr 2009. As you can see there the decision endorses the integration of the ICT Outreach ... aw sorry I'm getting mixed up with the implementaton plans I'm referring to the Pacific Energy Ministerial and ICT certainly wasn't discussed there ... apologies members. Errrm but endorsed the integration of ICT Outreach programme into the SPC and as I've already mentioned the fact

that it will be a component of the proposed new division of economic development. We're here today so part two is requesting the CEOs to actually put before their Councils uhmm final implementation plans for your approval and then further notes that our GIS and Remote Sensing functions are actually an integral part of the core work programme of SOPAC. Uhmm we've already heard from the Director-General just explaining exactly how the economic development division will be structured. It comprises transportation, energy infrastructure, communication and ICT – and the purpose behind it being that these are ec ... uhmm principal economic drivers. The division itself is to be based in Suva and it will be operational by January 2010. The Director of the EDD will come out of core resources; as well the energy ... the deputy director for the energy subdivision. In terms of the communications and ICT components though, both SOPAC and SPC currently have ICT functions and so these will actually be brought together to actually deliver uhmm errr under the digital strategy and implementing the regional digital strategy. SPC currently is the lead and coordinates the implementation of that strategy so that this is a consolidation of ICT Outreach functions into the membership. In addition to that strategy we're also guided by various instructions – our Forum Communication ministerial meeting and there have been two of them since the Pacific Plan – one in 2006 and one in 2009. If we drill down just a wee bit more uhmm into just what those functions are – currently SPC uhmm errr have underway several rather large initiatives really revolving around connectivity. The Director General did reference a errr a RICS initiative; there is also the one laptop per child as well as a larger SPIN initiative that they ... that SPC is working with countries on. Currently there is one full time equivalent within uh the SPC ICT Outreach component of their ICT programme; errr like SOPAC draw among the ICT corporate support functions within uhmm within their core. For SOPAC, the work that we do, we have uh within our Community Lifelines Programme as supporting countries in the development of ICT policy, looking at e-government and then also providing capacity building for ICT. We too errr currently errr have one full-time equivalent and ICT Outreach advisor, uhmm and we too draw on the ICT corporate support skills that sit within uhmm our core. We have very recently signed a contribution agreement with the European Union, it's an EU-ACP@ICT Facility initiative, which looks at providing access errr to ICT for the poor. Errr recruitment is underway for three full-time equivalents under this initiative and so that will actually provide some considerable capacity to this sub ... this subdivision of uhmm of EDD. In 2010 uhmm you know clearly the errr the objectives will be to look at developing the strategic and responsive structure that provide services into the membership uhmm and in three key areas ... errr providing actual technical solutions, so hard solutions on the ground in countries as well as uhmm advice and support to member countries' policies and regulations in respect to ICT and communications; uh then the traditional outreach services uh that both the SPC and SOPAC offer.

In in our discussions we have agreed that errr there will by ... there will be additional resources required errr if this particular subdivision is to indeed provide a robust suite of services across communications and ICT; and there is one position that we have errr identified and that is errrmm the recruitment of an ICT training coordinator or trainer. Currently errr with respect to e-government and ICT policy errr we are in discussions with the government of Korea in terms of supporting e-government uh as well as the ITU in with respect to the ICT policy and legislation elements of the ICT programme. Errr I now Chair would like to just bring to Council the recommendation for the implementation of the ICT Outreach programme of SOPAC into SPC, thank you.

10.3.1 ICT Outreach

Chair – Thank you Director. I now leave it to Council members, discussions? comments? Thank you. Council members we have two recommendations in front of us, we just speak to Agenda item ten point three point one. [Lengthy silence] SPC would you like to give additional comments?

Director-General SPC – Chair thank you, I think the Director of SOPAC covered the subject very well, just to uh explain acronyms – SPIN is not as a result of the red wine last night ; it's South Pacific Information Network and that is a new submarine cable network that the French Government has uhmm has uhmm has supported its development with the primary intention of linking the three French territories: French Polynesia, Wallis and Futuna, New Caledonia but on enroute provides opportunities for all the countries; and there is a west part of that

SPIN that will ultimately end up in Papua New Guinea. But it's the only east-west cable, it's a private sector development – SPC's role there is really to bring together member countries and territories that are interested with the private sector – they make contact they do their own deals so so it's really facilitation work. OLPC is the one laptop per child uh initiative that is being rolled out as a pilot in most of the countries ... some of you would probably have heard about that in your countries, uhmm and we in fact in our conference invited resource people to present on one laptop per child and teh satellite communication an the impact that those two programmes are making at national level are quite phenomenal in where they are. Of course RICS you've heard about that's the Rural Internet Connectivity System, the PAC in front is Pacific; and its a pan-Pacific satellite system uh it is low cost uh it's the only satellite that has a full beam of all Pacific island countries and territories; it has an east and west beam coming down. The equipment is reasonably cheap uherrr it's about three thousand US dollars each plus satellite plus the connection probably for about five to six thousand US dollars and you're operational; and I did mention that it's very good for disaster response communication but it provides real time and an example of this errr er facility is uh in the Solomons right now uhmm, the ministry of health has just confirmed an order to link all its hospitals and all its major health centres on to that realtime communication as it allows them also video conferencing capability for for that uhmmm particular service. The FSM I've just noted have put in a fairly big order to link their schools uhmm uhmm and also one laptop per child ... so these are issues that came up through seeking technological solutions; and really we are coordinating, facilitating – we are not a provider – errr the provider is the private sector uh and so just to to highlight the fact the uh that outreach service will link up with the outreach service that SOPAC currently provides to provide a more comprehensive ... one other part that we did mention and in the paper is that the uherrr communication functions from within the Forum is also going to be centralised within that and therefore the policy regulatory aspects of of uh communication under regional strategy will will also come into the one area so we have one entity dealing with the support to members and policy and regulation, technological solutions' training and backup and uh it just brings together, if you like, under one programme all the respective existing services that uh that are within different organisations, thank you.

Chair – Thank you SPC, French Polynesia?

French Polynesia – Thank you Mr Chairman and good morning to you all uhmm I was just wondering if the second resolution uh recommendation was really needed and uh I would like to to know thee ... the number of staff or the budget that will be effectively transferred from SOPAC to to SPC, because uh it's it's it's not quite clear. Uh while reading the paper I I understand that there's only one uh one staff and a funding from the ... from the EU, but I would like to have a clarification on this just have a view of what we are talking about. Thank you.

Chair – Thank you French Polynesia, perhaps we'll give that to the Director first to deal with that before we give the floor to Fiji then Samoa.

Director – Uhmm thank you fer for that question French Polynesia, errmm as I mentioned in my presentation there is one full-time equivalent in SOPAC and one full-time equivalent in SPC, currently; but we are recruiting three positions, errr with the new initiative the budget with be eight hundred and ten and half errr thousand Fijian dollars. Is that sufficient information? yes? thank you.

Chair – Thank you Director, Fiji?

Fiji – Thank you Chair I actually wanted to ask the same question that the French Polynesia has asked but since I've got the floor uh I'd just like to comment that uh of that second dot point errr maybe we had uh ... maybe this is just part of the resolution we've ... we were ... we discussed last night ... so maybe just under that one we could implement the second dot point so is it necessary to have it there? ... thank you.

Chair – Thank you Fiji, Samoa?

Samoa – Uh Thank you Mr Chairman, uhmm the first part ... we welcome the first part where there'll be a transfer of the ICT Outwo, err outreach functions to SOPAC [SPC]. For the second part we have the same reservation as expressed by French Polynesia ... uhmm but at the same time too going back on the discussions yesterday about whether this is really required ... drafting a legal agreement or whether it's just a simple exchange of notes? ... thank you.

Chair – Thank you Samoa, I think, I think the second recommendation was taken care of in the discussions that we had yesterday; so we will only consider recommendation one, and if Council members agree we will go forward with recommendation one. Council members? Thank you. We shall now move forward to Agenda item ten point three point two, thank you [long pause]. We'll now ask the Director to introduce the paper, thank you.

10.3.2 Energy

Director – Thank you Chair and I hope I don't replace Energy with ICT in this agenda item as I was in the previous one and I apologise for that. Err again err I just would like to first remind ourselves about the the Joint July decision err and how that was outlined. Uhmm and as I mentioned previously although obviously in the wrong place err the errr joint decision is underpinned by a decision taken earlier in April 2009 by energy ministers. Their agreement was that errr regional coord ... regional donor coordination and the delivery of energy services be strengthened to Pacific island countries; and key to this delivered through one energy agency and through one programme. They contextualise this by suggesting that uh errrr the energy policy and climate change policy should remain separate uhmm with the environmental aspects being managed by SPREP and the energy sector activities by the SPC. The joint meeting whilst errr endorsing err the decision of the energy ministers also recognised that their ... the close interrelationship and uhmm the inextricable links between energy and climate and so therefore the need to address energy policy in relation to climate change as an integral part of it; and particularly to reflect this in the final implementation plan for the rationalisation of the energy programme. And again that therr err the implementation plans would be presented to the various governing bodies. Uhmm since July errr SOPAC and SPC have been working closely errmm on err bringing together the implementation plan and that's before you; and we have uhmm also been consulting with uh SPREP and the Pacific Power Association as well. Errherr this information below on the economic division has already been presented to you but it just suggests that both the energy and the ICT functions will in fact sit within the new errrr economic development division of the SPC. Errrr as I had mentioned earlier, the deputy director position of energy will come out of core SPC resources and we should uhmm recognise that as a ... as a very positive uhmm development. The core regional energy programme uh currently comprises the SOPAC energy programme and as well as the Pacific Islands Forum Secretariat's petroleum advisory service function. Currently SOPAC has the errr the lead coordination role for for the regional energy programme uhmm and the work is err errrr err ... the actual uhmm regional energy programme is underpinned by a energy policy and action plan as well as those decisions taken by energy ministerial meetings – two being held, one in 2007 and the other in 2009. During those uh communiqués ... and particularly uhmm errr the most recent one in April errr there was suggestion of the need to strengthen coordination uh both of donor and technical agencies to improve regional service delivery uhrr and so as part of that the establishment of an energy alliance and I'll talk about that in a bit more detail shortly. As part of the decision as well uhmm there err uhmm ... the energy ministers were quite uhmm emphatic about the fact that there should be one regional energy programme and one energy agency; uhmm however I've stolen uhmm a quote that uhmm Director-General of SPC uses quite often and that is 'many organisations one team'.

In terms of the energy alliance it will be uhmm ... the intention will be that it's open-ended and comprises both technical organisations as well a donor agencies uhmm and it would be facilitated uh by the SPC uhmm and in fact by the deputy director for energy within the EDD. A errr further goal for the energy alliance will be to move

towards a joint programme and budget of all of the technical uh agencies that work in this very very important sector. And then beyond the err ... and this goes in fact beyond the RIF itself but a very uhhh positive uhhh outcome of discussions and that is the suggested co-location of other agencies that have not been directly involved uhhh under the RIF initiative. Err with respect uh to the one regional energy programme – these are the five areas uhhh err er considered to be able to provide a comprehensive suite of services in the energy sector to uhhh to member countries and I won't go through those because I'm sure we remember a very comprehensive report by Community Lifelines programme manager errr Paul Fairbairn uhhh just several days ago. For the lead agency for energy uhhh both the REM and PEMM of oh-nine endorsed the fact that SPC uh should become uhhh the lead coordination agency for energy uhhh after considering the uhhh status of reporting on the RIF initiative. And what does this mean to be the lead agency uhhh clearly they uhhh suggest that uhhh there must be strong leadership uhhh of the energy sector and to also increase and heighten the profile err for energy and again for quite obvious reasons that uh Paul Fairbairn raised earlier in this meeting.

Uh with respect to the role and responsibilities they were also able to actually articulate what they ... what the role and responsibilities of the lead agency would be and I'd just really like to maybe run through those very quickly because I think for the first time err we do actually have a clear articulation of the lead uhhh errr er ... of the role and responsibilities of the lead agency err for the energy sector. The first thing to establish a dedicated long-term senior position in the organisation with funding that is not dependent on project funding. Uh and errr err with this you know to ensure that uhhh the regional energy sector is effectively facilitated and coordination is strengthened. As I've already mentioned uhhh the SPC has undertaken to provide core resources for the deputy director position so this addresses this immediately. The other is for the overall responsibility of the analysis of trends in the energy sector; issues and challenges; and identify er identify opportunities for strategic engagement by the region at national, regional and international levels. This particular responsibility is really around the research and analysis component of the energy sector and covers all of the key areas of the five areas that I had uhhmm already mentioned uhhh earlier in this err presentation.

Mmmn primer primarily, so that one is able to provide informed policy responses and provide strategic solutions to the membership and to key stakeholders. Errrmm so in terms of the structure uhhmm of the core of the regional energy programme ... in the discussions with uhhmm with the errr SPC, clearly there would need to be much work done over the next several years in terms of really uhhh err bedding down uhhh this particular subdivision uhhh; however, this is the proposed structure uhhh to ensure that uhhmm ... that the core energy sector structure does in fact uhhh provide all of the services that I outlined under the five themes. Errr so there are seven professional internationally recruited positions as supported by six support officer positions.

In terms of coordinating ... uhhh errr another role will be to actually coordinate and the deve ... coordinate the development of the joint err work plan and budget that I referred to. And again attached to this to have an appropriate monitoring and evaluation framework. Further to develop a comprehensive, coordinated and shared approach to data collection, analysis, dissemination in the energy sector; so again, you know the essence of this being around uhhh partnership and coordination. And to also provide the functions as the focal point for development partner interaction and to coordinate errr resource mobilisation efforts as well as allocation for the delivery of services uh across the joint work programme and budget. In brackets I have highlighted that we see all of these responsibilities really being attached to the energy alliance uhhh which is soon to be established.

Uhhh Establish and facilitate mechanisms that will involve key energy stakeholders; uhhh and again there is uhhh quite a uhhh cross over here with uhhh errr with the energy alliance as well as with the member states. So this is a schematic really showing the energy alliance uhhmm and the fact that there will be quite a number of different organisations errr as members of the energy alliance for it to actually function uhhh in an effective way; with uh clearly the core energy programme err of the SPC being the facilitator uhhh in supporting uhhh this particular effort. Sorry that this is a bit skewed but errr this in fact uhhmm does just provide the various links of a number of CROP err organisations errr that actually do have related functions as well as direct functions into delivering energy programmes and services. These include the Pacific Power Association, uhhh SPREP, uhhh SPC, SOPAC as well as uhhh Pacific Islands Forum Secretariat errr with their for the bre ... bulk procurement initiative. Within the errr err the ellipsoid is the five key areas uhhh that errr will comprise the regional any energy sector per se. This particular diagram is actually in the implementation plan and I invite you to look at that more closely bert what it does highlight is which agencies have the lead role for certain areas errr ... which uhhh errr ...

it also indicates where there are shared roles uhmm and so errrr therefore uhmm it does start to show how the relationships link if you like and and the importance of uhmm errr ... many organisations one team in delivering against a single energy programme. Uhmm and so how does this look in terms of the core energy programme and its relationship to other energy programmes uhmm of uh partners and stakeholders. Well at the moment we've tried to capture just all of the various other organisations that actually do contribute to this rather uhmm broad uhmm sector and so to the left the errr regional energy European Development Fund 10 initiative uhmm which uhmm is underway ... or well it's being processed so it will be one of the priorities that Pacific ACP states have put forward to the European Union under the EDF 10 envelope ... uhmmn as well it uhmm highlights again SPREP, the PPA, IUCN, Pacific Islands Forum Secretariat and the multi-country programmes of the EU as well as the renewable energy efficiency project uh World Bank, ADB and so on ... so it does show that there are quite a number of members sorry err partners that actually do have an interest uhmm in this very important sector.

So, implementation ... errrrr the Director-General errr of SPC will be responsible for recruiting the deputy director for energy and uh currently we're discussing the terms of reference for that particular position errr with a view to advertising and filling that position uhmm to introdu ... so that when in in terms of the transition and the transfer we don't lose momentum in terms of service delivery. Uhmm as well as part of the implementation is the transfer of uhmm SOPAC energy programme to the economic development division and this includes uhmm five uhmm technical officer and three professional staff and I'd refer you to annex four uhmm of the implementation plan which just uh outlines a little bit about those designated functions ... errr as well as uhmm the contract dates and so on ...errrr hm certainly both SOPAC and SPC realise that to ensure continuity of service and uh to maintain a level of institutional memory in terms of the energy sector errr that it was extremely uhmm advisable to uhmm shift all of the staff that are ... that have current contracts. In terms of the financial resources uhmm SPC core resources as I mentioned the deputy director position and then the SOPAC budget which is identified in the work programme and budget for oh-nine and ten err sorry 2010.

In our recent discussions err we have agreed in fact that there will be some additional resources required uhmm if you are to be able to have a solid core energy programme offering services to the membership and this will require three full-time equivalent positions advisory position in energy policy and planning, err in petroleum as well as the need for an energy economist; and again I think that there are quite a number of uhmm interventions under Agenda item seven, eight and nine which demonstrates the importance of having economists in our technical organisations. Err there will also be a need to have additional resources uhmm for err regulatory institutional adviser; however, in this instance we offer that there can be other modalities for uhmm delivering these services such as short-time er short-term consultancies and it will by nature be demand driven by by the members so our discussions have reached the conclusion that in terms of prioritisation we would suggest that the additional resources being for those three full-time equivalents bef ... before we actually start to get a sense of whether we need a dedicated position for the regulatory institutional err services to be offered.

Uhmm and so I bring you to the recommendation although I do uhmm err ... b ..based on the previous one I certainly will make sure that the second part of this recommendation is struck ... uhmm thank you Chair.

Chair – Thank you Director for the presentation of the implementation plan for the ration ... rationalisation of the energy programme into SPC. Before I invite Council members for comments made, perhaps I shall give the mic to SPC again to uh for any additional comments and SPREP. Thank you SPC.

Director-General – Er thank you very much Chair and errr delegates to SOPAC Council ... again the Director has covered the presentation very well ermm so I don't need to repeat what she has gone through uh ... just to just to mention to Council that SPC did have uhm ... or err was involved in delivering renewable energy programme before uhmm but as a result of the 1995 Madang Forum Leaders' meeting where regional organisations then were asked to rationalise energy where they identified SOPAC as the lead uh agency for energy. We closed our energy programme down uh so that it er SOPAC becomes the programme so in a sense uhmm the fact that uh ermm erm energy is coming is not something that is new; in fact I managed the energy programme at SPC before we closed it and then it went across to SOPAC so I guess just an additional point there, but probably just to highlight one other point uhmm ... there were a number of priorities in the region that

continued to appear in Forum communiqués and at least six times energy came up; six times maritime came up, transportation came up, communication came up; and those communiqués did not in a sense each time accompanied with resources; in a sense the delivery and the securing of resources were left to organisations. It made it very very difficult and uh what we started doing then was to start investing uhmm resources in a number of ways; and what we managed to do at SPC ... I guess because we're slightly larger; we have a slightly larger core programme budget we are able to take on and put core positions into transport, we've created three positions to deal with transport and supplement that with other donor funding. We've been able to deal with ICTs and in a sense we're making a commitment to try and secure core resources to lead the energy sector so I guess that's a commitment we just want to share with you uhmm but the other important thing is that there are many players in the energy sector and they must be fully recognised uhmm it's one thing to coordinate a programme but the delivery is by many players and I think this brings the point of the one ... many agencies and one team ... it's a cliché now at SPC, but we have many of those uhmmn our largest many agencies one team approach is in HIV/AIDS where we have fifty three partners and one team now ... I just err [] ... at HIV/AIDS we don't actually recommend multiple partners in the real sense of the word but in addressing HIV/AIDS we recommend multiple partners ... so so this is uh sort of an example err that we use; and the fifty three agencies we have one strategy, we have one work plan, we have one monitoring framework and each agency knows exactly what they are leading, what they are delivering and our role then is to try and pull that together that when we present a report it identifies a more comprehensive picture and that is the intention for the energy sector uh that we uhh try to capture all those there and that's that computed circle that you see on page six [...] of the paper – it just highlights the importance for instance that PPA does in utilities in uh if you look at the PPA they are the delivery agency for utilities they contribute to energy efficiency also uhmm when you look at renewable energy, SPREP plays a very important role there ... so it starts to bring them together ... and therefore the next step for us going forward is that there is an existing energy policy; uh is to refine that policy and then from that policy to develop a broad-based regional strategy that provides one over-arching strategy for the energy sector that then gets translated into one work plan and we're all of us in the energy sector knows exactly what we're doing what resources are there and that also is the basis for joint monitoring framework and as Cristelle has also mentioned – between the agencies themselves we are talking about uh ... and it's heating up ... err the concept of co-location; uh and in terms of co-location and we're looking at Fiji here because they have provided for us now in Fiji a fairly reasonable office space to be able to accommodate a co-located energy programme. Thank you and I think my colleague from uh on my right will speak next, thank you.

Director SPREP – Thank you Chair and my comments will be complementary to the two previous presentations uh as noted the Energy Officials meeting this year called for closer linkage between energy and climate – the response of SPREP had largely to date been through the development of the PIGGAREP project – Pacific Islands Greenhouse Gas Abatement Renewable Energy Project – headed by Solomon Fifita who is behind me and can provide more information. As noted by the SOPAC Director, we're also cooperating with SOPAC in the development of a proposal for the EDF10 relating to strengthening renewable energy and also within the context of climate change. SPREP recognises and congratulates SPC as the lead agency in relation to energy; we fully support the many agencies one team approach. For that to work I think the key elements are as outlined by Dr Rogers are one strategy, one work plan, clarity in terms of roles and responsibility and also effective uh communication. SPREP is quite open to discuss the co-location option and we would be guided by overall roles relating to energy and obviously what delivers the best service to Pacific island countries, thank you Chair.

Chair – Thank you SPREP, thank you SPC. I now take Council members to the recommendation provided. Recommendation ... oh USP, thank you.

USP – Uh Thank you Chair, uhmm it's uh ... I notice the uh the energy alliance ... the formation of the energy alliance and I know that it's an excellent idea as we have there uh just noted; but I also note that in the figures that are presented here uhmm the visible absence of USP in all but one figure; and I would like to emphasise that USP is very much interested in energy; in the study of energy and renewable energy; as well as the economics of energy and therefore er er if it could be ... we would like to be very much included in these figures here and I will uh I will take ... I will mention two schools there – it's the school of economics and the school of

engineering and physics, which would be particularly like to be included in these figures here; so uh with your permission I will take it to them ... I am the head of the School of Engineering Physics so I'm speaking on my behalf here but I can also uh mention this to the Dean of the Faculty of Business Studies ... uhmm so thank you.

Chair – Thank you USP, well we certainly take note of that and the Secretariat will work on it. Yeah we definitely note the contribution that USP has been making in terms of providing the graduates in the energy sector and I assume one of them is here right in front of us, Mario, Rupeni. Thank you USP. I now invite the Council members to look at the recommendations and if you don't have any difficulty with it, we will adopt it as it is, leaving uh omitting the second bullet point. Thank you. We shall now move on to Agenda item ten point three point three. I now invite the Director to present the paper on this particular agenda item, thank you.

10.3.3 Core SOPAC Work Programme – A Division of SPC

Director – Thank, thank you Chair. This is uhmm the largest of the implementation plans that were errr put together er jointly between uhmm SOPAC and the SPC so this paper may take just a little bit longer to get through; but I will try to be as brief and as concise as possible ... but again just to take us back to the joint decision and in that part that errr applies to the core functions of SOPAC – it's c numera ... roman numeral three as already mentioned and it says "agree that the remaining functions of SOPAC be transferred to SPC as a new geoscience division from January 2010" errr and then for the final implementation plans to be presented to the governing bodies of SOPAC and the SPC. So the remaining functions actually refer to all of the functions excluding those that have been specified errr to be transferred to SPREP. In my introductory report errr comments to Council for the Director's report I did uhmm outline some progress errr ... the fact that some progress has already been made by the CEOs uhmm as well as uhmm our colleagues at the secretariat. We've had quite a number of meetings, in fact errrm the Director-General and myself have met on quite a number of occasions taking advantage of errr everytime errr we meet in the margins of meetings as well as errr when he travels through Fiji.

The actual implementation plan as well which outlines the core has also been refined since the July meeting uhmm quite a substantial amount of the plan had already been drafted for the July meeting errr but members that were at that meeting will recall that we did not have the chance to be able to present it to yourselves. Errr in addition to that errr finance administration human resources and ICT task teams have been established uhmm and they comprise errr members both from SOPAC and the SPC. I was invited to make a presentation to the CRGA held just two weeks ago and as well as that a legal memorandum was provided and that was part of the ten point one paper.

And so what is the SOPAC core work programme uhmm it is errr all of the functions that are currently the uh within the Ocean and Islands Programme excluding the Pacific Island Global Ocean Observing System function. It is our rather large water programme excluding the island climate update and the climate and met database; and then it also is the Community Risk Programme. The intention is for uhmm the core errr or the SOPAC science and technology division to be Suva-based uhmm and to be retained at the current location of SOPAC on Mead Road in Nabua, Fiji. The intention as well is that implementation will commence from January 2010. The implementation plan actually uhmm identifies uhmm a number of issues uhmm and these issues uhmm are distilled at the beginning of the implementation plan so that we in fact uhmm don't lose sight of uhmm these very important issues as we move towards full integration ... that is on page three of the plan. We've also included in the implementation plan and we will continue uhmm to be guided by various principles that have been errr central uh to decisions of all of the governing bodies and particularly in this case, the governing bodies of SOPAC and the SPC uhmm and so many of these guiding principles are familiar now to members and so I won't go over them but certainly all of our work in terms of implementation will be founded on these.

There are also ... we've also contained within that in this really again was drawing from a independent consultancy that the three CEOs commissioned err to propose err new institutional arrangements uhhh that implementation to commence and then also uhhh borrowing heavily from the joint meetings as well that implementation commence immediately after the governing council meetings and no later than the first of January 2010. Err that the strategic decision making role of the council uhhh on strategic planning, programme prioritisation ... prioritisation work programmes et cetera uhhh will actually be retained by the successor arrangement for SOPAC Council and I'll refer to that in a little bit more detail later. And that the operational support uh that's provided to SOPAC by SPC after the merger should in fact be simpler and efficient. Uhhh another being the priority uhhh for managing staff contracts uhhh after the transition of becoming the responsibility of the SPC; and that the establishment of the science and technology division of SPC again must not in any way undermine or diminish SOPAC's functions and capacity to deliver services to members. Uhhh on the contrary this should in fact uh and as one of the key objectives uhhh result in added value and better delivery of future services to members.

Uh with respect to STAR the implementation plan does address that and there has been some discussion already uhhh both in the STAR meeting and prior to this governing council session as well as in this meeting here over the last several days. But all of the decisions including those of the joint meeting uhhh do reference uhhh the strong desire of the region to retain STAR; and so therefore err central to this implementation plan will be to ensure that it does deliver against that wish of members. You have already heard in this meeting that both uh SPC and SPREP uhhh do actually realise and acknowledge the importance of STAR and both uhhh agencies have uhhh errr outlined that they certainly wish to be able to ensure that the service is maintained and in fact they go further to suggest uhhh that uhhh it should be expanded uhhh err when the new governance arrangements uh come into full effect.

An element that's included in the implementation plan and and in fact uh the Director-General uhhh referred to this in his opening statement ... was the potential of uhhh to hold back-to-back meetings of the various divisions of the SPC uhhh and this in turn will actually look to expanding the constituency of STAR – and I've just provided an example of that and that is the SOPAC division meeting back to back with the heads of fisheries and just the overwhelming synergies that one could expect from that and Arthur Webb uhhh did outline quite a number of those potential initiatives as well as initiatives that are underway already uhhh that could be realised.

I put this up because it is part of the implementation itself and uhhh I may come back to it later; but I had described it to yourselves and really this paper now is perhaps drilling down into a little bit more detail. Uhhh on page two and three of the paper; but on pages seven and eight of the actual implementation plan is a schedule of milestones and it's tabulated but for the moment I'll just outline those initiatives that in fact have been completed uhhh at the time of the errr ... they have been completed but at the time of starting to draft this implementation plan which constantly evolves these were imp ... important milestone events – err the joint meeting in July; the endorsement by Forum Leaders in August in Cairns; uhhh the CRGA uh conference and their decision uh with respect to RIF; and then the future of STAR as reported by Professor John Collen who's the current STAR Chair. And errmm STAR will also have an opportunity to at least provide some comments on RIF under Agenda item ... under this Agenda item ten point five ... and so I just wanted to share with you if we can also or if they haven't been circulated already uhhh and with the permission of the Secre ... er the Director-General uh the decision of the uhhh of the conference of SPC. And under the policy agenda ten point one errr on the matter of the regional institutional framework – so the conference endorsed the final decisions on the framework errmm they also uhhh er recognised that implementation plans uhhh errr for the various aspects of RIF and this is just one part of RIF errm uh unfortunately the Director-General is involved in quite a number of other elements of RIF, so his uh ... the pressures on him are that much greater, uhhh bert ... and so the decision also looks at all those other elements that fall under the responsibilities of ... or will fall under the responsibilities of the SPC but in this case I just highlight the implementation plans to be developed by SPC in partnership with SOPAC and uhhh I can uhhh definitely er say that we have uhhh surely achieved that. Uhhh and as a result of decisions that from January 2010 the majority of SOPAC's core work programme will become the SOPAC science and technology division of SPC. Their decision also recognises that the uhhh the lead coordination agency for the regional energy sector as uh as uh is SPC sorry; and also identifies what parts of uhhh SOPAC will uhhh transit into the economic development division. And so page seven of the implementation plan – I just want to perhaps just touch on these uhhh and the various milestones ... so were

right now at milestone four which is the final approval of SOPAC uhmm and the SOPAC Council, including implementation and timeframe – the earliest commencement date uhmm and this is the commencement date for implementation and that is from the first of January 2010. Suggest here that uhmm SOPAC will maintain its work programme and budget formats and practices for 2010. It will maintain its financial and corporate systems and its ICT backbone uh for 2010 as well as uh maintain SOPAC uh as er part of the Nabua campus of the SPC in the future – but I've already spent some time describing some of the implementation actions that we uhmm can work on.

The implementation plan also uhmm outline er a process for the appointment of the err the new director; and uhmm there is the date of the first of May 2010 inserted there uhmm ... essentially err you will ... and I've already touched on this in previous interventions around err the special session of SOPAC Council and the approval err for the mechanism around the Director-General recruiting the err SOPAC science and technology division director. There is ... in the implementation plan it does describe the mechanism for recruitment and that is the Director-General will uhmm co-opt uhmm Suva-based members to support him in the recruitment process and the selection of the new director for the division; so our discussions uh on that uhmm have been ongoing and are underway. For SOPAC operations, until October 2010 at the very least we suggest that uhmm SOPAC's procedures, policies and processes will be maintained. In terms of harmonising across corporate services, financial services, ICT and others, again I've already commented on a number of occasions about a joint effort between primarily the Forum Secretariat, SOPAC and SPC on harmonisation errr uhmm and this is independent of the RIF but clearly will uhmm go quite some distance as to addressing some of the effort that will be required for rationalisation.

In terms of the uhmm new strategic plan err again this will need to be developed uhmm over the course of the next twelve months and uhmm well in advance of err the meeting err in October 2010 so members can actually look at that and then approve it at the October 2010 meeting; as well as consideration by the CRGA. In terms of the implementation plan as well er the suggestion is that uhmm with all of the work that is required uhmm clearly some of the areas that we want to start to converge on and that is looking at implementation as well as the various legal dimensions is a convergence as early as possible towards full integration. The suggestion is that we can, if everybody cooperates and collaborates uhmm work towards a work plan and budget uhmm for the division for err 2011 uh and for the endorsement of the SOPAC meeting uh in October 2010. As I mentioned already uhmm we did undertake to provide a summary format uh in the SPC format of SOPAC's budget for 2010 uhmm and that is included in the SPC uhmm ... they call it the green book I understand so I've just errr we've just inserted it there hummn because I'm sure that we'll have to become more and more uhmm er conscious erm of the green book as we move forward into the future.

Err in terms of the legal status of SOPAC, the implementation schedule uhmm and the diagram that I talked to yesterday uhmm does actually have a decision point and the decision point being October 2010 with implementation to commence from October 2010. In terms of SOPAC division using all SPC systems uhmm this could in fact occur as early as October 2010, but certainly the objective would be to have full harmonisation of systems ready by December 2010, and with the initial work that is underway, we are quite confident that we can actually meet the timelines that are outlined within this milestone schedule. The implementation plan uhmm also includes a number of key risks err and we have included this as part of the implementation adn because we suggest that uhmm one needs to practise prudent corporate risk management ... uhmm I will present the seven risks that uhmm we've agreed would need to be managed and we've presented to you a risk management uhmm framework err in which one can start to attribute accountabilities uhmm for these various risks.

In terms of err governance, the implementation plan does outline that between October oh-nine to 2010 October (2010) that we would maintain, as I've already said, various procedures and policies and our financial and administration systems with the intent of full integration uhmm by October 2010; or at the latest January 2011. Err we both agree ... both agencies agree that uhmm best practice will prevail, uhmm there are some things that SOPAC might do better than SPC and there are probably many things that SPC does better than SOPAC uh but we will look at SOPAC or SPC or others; so uhmm this is an opportunity as well for both agencies to strive towards best practice ... bert as I have there and I have it in bold – there are many similarities already because of CROP harmonisation. The implementation plan also suggests that ... and there've been some comments err with respect to this about the SOPAC brand being maintained because of the positive profile and reputation that

SOPAC has at the international, regional and national levels; however, what the plan does suggest is that during the strategic planning cycle err in that there would need to be some discussion uhmm and and uh ssssome consideration of whether that is indeed the case and to be maintained or whether in fact uhmm there might be other better options out there.

Errmm again in terms of governance, the Governing Council in 2010 will be presented a new divisional strategic plan for consideration. There will also be new governance arrangements that would need to be discussed and in the plan uhmm as the Director-General has outlined fur various other divisions of the SPC – the suggestion would be to hold heads of lands, surveys and natural resources meetings or ... but particularly those ministries and departments that we work very closely with in technical ministries that we work closely with uhmm in our member countries. Uhmm Council would also have to consider the annual work plan and budget for 2011. As well uhmm at that meeting there will be certain legal decision ter be taken uh with respect to the SOPAC constitution and err we have already had quite a bit of discussion around that uhmm but the decision around whether to suspend or dissolve.

So, in the event that the governance arrangements are for heads of geoscience bert in this instance we've put uhmm lands, survey and natural resources which covers quite a number of earth science areas errm their principal uh function will be to oversee, guide, approve and monitor the policy directions err for the division; uhmm to approve its work programme as well as its budget; and as I mentioned yesterday, uhmm err these elements are then floated up in terms of SPC's governing structure to the CRGA. Currently SPC divisions meet annually, bi-ennially and tri-ennially ... I understand ... uhmm and so again our suggestion with respect to STAR uh but also at the same time these potential opportunities to have back-to-back meetings with other divisions and there is uhmm ... there are many uhmm potential synergies as well as current synergies with all the divisions within the SPC.

(Sorry pressing the wrong button [some page flipping]) In terms of the coordination and direction of the implementation, page eleven of the implementation plan just outlines and the Director-General did touch on some of this ... uhmm SPC's experience rating in absorbing uhmm various uhmm functions er whether they have been organisations or uhmm projects; and so errrrr the implementation plan just highlights that SPC has experience in this as does SOPAC and we've over the years also uhmm absorbed various functions and the Director-General alluded to one of those, that being the uhmm energy programme from the Forum Secretariat and from SPC in 95. Uhmm there is some uhmm descriptions on the change process, pages eleven and twelve and uhmm our discussions uhmm and agreements on this or suggestions on this uhmm are that it should comprise a couple of key elements uhmm that the Director-General and the Director of er uhmm SOPAC actually lead the implementation ... uhmm that there really needs to be a dedicated change manager and in fact uhmm that uh that particular process is well underway er I believe that in fact there might errr ... they may have reached a decision on who that person might be, but yes that will be a dedicated position within the SPC in Noumea uhmm but I also understand there is some suggestions that there might be two positions and one in Noumea and then uh a shorter-term position in in uhmm ... based in Suva. Members will see that within the implementation plan we have uhmm err made suggestion that we ... one would need to draw up a memorandum of understanding uhmm and so with that I've also actually just included 'because it is a living plan' uhmm just around agreements uhmm bert uhmm I guess just to highlight to members that we certainly recognise that we would need to have guiding instrument uh for the implementation between the parties.

Part d on page twelve does look at the change coalition and this borrows from the errrmm from the process of rationalisation of the South Pacific Board for Educational Assessment uhmm into the SPC. Now this change coalition comprises uhmm both staff of the two secretariats uhmm as well as uhmm member countries uhmm the suggestion here really would be that there are quite a number of uhmm member countries that have Suva presence; and so you would uhmm draw from this for efficiency's sake but also to allow for more regular meetings and more regular updates. We also recognise that uhmm you know that plan uhmm really must be, if you like, a living plan ... there is no perfect plan uhmm and so therefore you know it will need to be constantly, as it's being used and implem ... you know and uhmm errr and implemented uhmmm it will also need to be reviewed and refined.

Guess that core to all of this is communication uhmm and being able to actually have a communication strategy both internally within the organisations as well as externally uhmm and so then again a commitment under change management to ensure that uhmm there is good communication to members, staff and development partners as this uhmm as we move towards uhmm full implementation.

The plan also outlines uhmm the executive management structure of uh of the SPC and just how the uh SOPAC science and technology division director will fit into the uh executive management structure. That Director, the divisional director will be accountable to the Director-General of SPC. They will sit as a member of the executive management team uh of SPC. In terms of uhmm delegations, already the uhmm the Director-General has alluded to this uhmm it is ... SPC by its nature of decentralisation and so on is highly delegated and so therefore uh delegated authority for up to 300,000 dollar Fijian uh per event; and so that is reflected uhmm in thee ... in the plan and although in the plan I believe that it says 240,000 – and so as I say these sorts of amendments uh would need to be made. The SOPAC division director would report to the successor body of this Council uhmm and I've put it in an ? ... I thought that was rather lovely acronym – HOG – uhmm so head of geoscience; but anyway that's just there so as not to take up too much space on the slide. Uhmm and already I've sort of outlined some uhmm responsibilities; bert this goes a bit further for managing the human and financial resources to the division, ensuring the effective delivery of the work plan and also uhmm the performance management uh system for the organisation as well as for its staff ... for the division sorry.

In terms of delivery of services, the implementation plan also er outlines uhmm just errrr some of the areas uhmm which offer potential benefits uh the fact that err teh SPC is a highly decentralised agency with uhmm seventeen ... with a presence in seventeen of its member states and I hope I have that number right Jimmie because uhmm it uhmm is expanding all the time. Err however in our discussions we agree that there would be uhmm ... because of what the nature of the what the core does uhmm there would be limited need to relocate; because of the uhmm specialised scientific and technical services that we provide. Although in saying that ... clearly next ... you know in the implementation phase, we would need to have some considered discussions on that because there are certain functions err where a decentralised uhmm errrr mode may well be more sensible. The SPC also has uhmm capacity uh with respect to strategi ... strategic engagement; it has a strategic engagement facility with more than a handful of er planners, though again err uhmm I uhm I would suggest that uhmm actually being able to call upon their services would be a benefit to the division.

The regional media centre – we already have a relationship with them through various uhmm energy and water actions uhmm bert we certainly appreciate the visibility that the regional media centre uhmm will provide; so again another very uhmm positive element.

For the territories of France, New Zealand, UK and US uhmm this is where there are some slight differences between SOPAC and the SPC uhmm ... there are eight territories and they are full members of SPC. Five of those eight territories er currently four associate members of SOPAC and one full member of SOPAC. I put uh I ... just highlight the Pacific OCT disaster risk management initiative as an initiative that allows the SOPAC ... allows SOPAC to actually start a very serious engagement in the territories and it is the first time that we've been able to do this and with these resources it allows those associate members to access SOPAC's services. So again another positive benefit bert you know really there will be a number of ways in which we can secure resources to be able to provide services to territories.

With respect to uh ... with respect to modalities of delivery again our discussions over the last uhmm months uhmm we errr both highly technical organisations and so we have quite similar approaches in terms of how we deliver into countries. A lot of our actions are in-country and in the field uhmm both organisations have proven experience in both land and marine surveys uhhmmn and there are opportunities clearly for uhmmn an exchange of synergies but with respect to accessing various tools and methodologies. As you've heard SOPAC has probably the largest regional capacity in the areas of uhmm errr environmental and uhmm resource economics uhmm as well as in gee GIS and remote sensing. And so uhmm this I think are some of the strengths that uhmm SOPAC will bring uhmm as a division un into the SPC ... so it's not uh it's certainly not a one-way flow. In terms of implementation I've touched on strategic planning and again in our discussions we realise that very similar approaches have been taken in the past err to developing strategic plans uhmm the approach that SOPAC takes is tooo uhmm development the strategic plans with members with key stakeholders uh and with Secretariat staff

uhmm and very similar uhmm approaches uh uh er are taken with the divisions of SPC ... uhmm and so we would not see any major differences in our strategic planning approach uhmm err you know however I think that uhmm we've uh learnt quite a number of lessons from the current cycle of oh-five to oh-nine and we would be looking forward to actually improving on our strategic plan err for 2010 to 2015. I've already highlighted under the strategic planning what the role and responsibilities of the division director would be uh with respect to this function.

For uhmm the work programme I've already covered this although uhmm again uhmm we do in terms of delegation beyond the financial delegation of 300,000 per event uhmm the division director also has delegated authority to approve staff attending meetings and conferences uhmm there is something err that allows for provision of operating a minor grants scheme so that uhmm the division can react to uhmm quick and urgent requests. At the moment I mean SOPAC currently does do that and you heard some examples of that so again probably similar arrangements to transfer. And uhmm as well as that within the implementation plan highlighting SPC's advantage in raising project and programme funds. Uhmm again I think that this will be a shared advantage, I thhhh would certainly hope that members recognise that SOPAC has not been uhmm unsuccessful in raising project and programme funds through different and quite creative uhmm modes. For the continuation of service delivery which is absolutely key uhmm yes most certainly for 2010, and in that period uhmm really looking at these ... looking at different modalities bert in focussing on uh the synergies between division within the SPC and how the SOPAC division will complement the uh err services that are being provided by the current divisions of SPC er however in saying that I do think that the strategic plan does need to look at the synergies and eh err the Director of SPREP did raise this. The synergies with other regional organisations as well. The plan also touches on monitoring and evaluation which is central to any organisation uhmm err today.

Eruhmm there is uhmm the programme monitoring and evaluation group and this Council uhmm is more than familiar with the five years of the PMEG mechanism uhmm in SOPAC. In the SPC, the SPC has independent reviews and assessments and uh these are annual and they're rotated through divisions as well uhmm err the corporate support service area; and so about every once in five years uhmm each of the divisions is in fact uhmm reviewed by uhmm reviewed comprehensively; so in essence our discussions being really around looking at there being space for both mechanisms and in fact we heard from the Director-General about uhmm the interest of the SPC in looking at rolling the PMEG out across other divisions.

The corporate services I've already touched on the fact that there are task teams already established and uh those task teams are already working on various uhmm errrr actions for harmonising and synchronising uhmm various policies, procedures, processes and so on. [rather long pause ... off-mic conference between D and Chair] ... Sorry I think the Chair realises that people are probably parched; I am somewhat bert uhmm I I don't have much more to go so if you will uhmmm bear with me uhmm I'd rather we go through the plan and then we break for tea if that's okay with members ... or would you like to break?

Chair – [cutting in] ... members uh ... I'm asking you, would you allow ... I'm suggesting we take a break now, go for morning tea and then come back and complete it. I guess I don't want this to be like yesterday yeah ... we we took much longer and we ended up having breakfast at lunchtime. So I suggest we take a break then come back and let Cristelle finish the presentation and then we can go into a discussions. If that's ok with members? [five minutes, someone says, sounded like DG] uh SPC?

Director-General – Sorry ehmm Chair that it's just that I didn't want to be unpopular here but I .. I will be leaving at leven thirty to catch a flight uhmm so I guess if we come back by eleven-fifteen that will be plenty time.

Chair – So you suggest we take a break and ... quick break then come back again? is it ok with you?

[delegations break into chatter about short break vs let D finish, Marshall Islands loudest suggesting latter]

Chair – Ok thank you, we'll continue then as suggested by Marshall Island, thank you.

Director – [clears throat] ok I'll try and speed it up, sorree ... I just really do want my comment ... I mean I want to walk us through the implementation plan because this is uhhh ... we've we've been having discussions and uh around this and constantly referring to different elements and so I think its important that I take you through as briefly bert as comprehensively as possible.

In terms of the financial elements, again ehmm we've had discussions and it's reflected here in the plan around uhhh the errr the funding arrangements for the divisional budgets uhhh and thee errr the various budgetting and cost impacts; errmm at the moment uhhmm errrrr ... you know SOPAC has a fairly effective budgetar ... or a very effective budgetting review process with a number of set milestones uh in the lead up to the final approval of the annual work plan and budget uhhh and so errr it it does actually suggest that uhhh leading up to uhhh SOPAC being established as a division of the SPC uhhh that we will continue as I've mentioned to operate our annual work plan and budget er for 2010 using our current processes but I have mentioned the green book. Uhhh for SOPAC funds coming into the SPC, uhhh these funds will be reflected under the division's budget and they'll be reflected as core and non-core ... and errmm the divisional director will be responsible for the utilisation and the management uhhh of er of the division's budget. Again errr you know the harmonising and synchronising ... some of these aspects er err are mutually reinforcing or they cross over and there are cross referencing as we go through the implementation plan.

For members contributions, at ... our discussions and the way in which the divisions are uhhh are errmmm errr constructed as well as our experience rating on delivering on the SOPAC er functions, the core functions ... so so the SOPAC divisions of the SPC uhhh in the immediate term the suggestion is that uhhh the SPC and SOPAC member contributions will continue uhhh, the SOPAC member contribution which is about four percent at the moment of er which is core – the core budget of SOPAC, which is four percent is allocated to the SOPAC science and technology division to intro ... to allow it to be able to be able to provide effective services into the membership. The implementation plan also touches on arrears and there are some members that are in arrears; and uhhh wee have discussed this and agree that we will work to uhhh ensuring that these are addressed uhhh either before or errr they would transit as a liability into the SPC ... uhhh the services to non members ... non full members of SOPAC, and already I've explained who they are or what they are ... uhhmm there's three options uhhmn – one uh that the uhhmmn that that they can contribute to the core err of the SOPAC division ... uhhh access to the services would be from fee for service, uhhh and that uhhh definitely uhhh between uh the SOPAC er between SOPAC and SPC we will need to actually actively mobilise resources if the long-term goal of full inte ... you know err er for the long-term goal of full integration; so eventually these members will actually not realise that they are not members of SOPAC; and at some stage in the not-too-distant future, er all members of SPC will consider that the have full access to the SOPAC division's services so again there will need to be some active attention to mobilising the required resources to be able to deliver the services into thee territories.

In terms of programme and project funding uhhh at the mowment err we have programme funding from Australia and New Zealand err and it is our understanding errh that there will be a pilot programme funding uhhh initiative between the European Union and SPC uhhh and this obviously in terms of the long-term prospects of programming is an interesting initiative. There is a range of donors uhhh and I did highlight this in an earlier paper to yourselves; but wee ... on figure three, page nineteen if we just outline all of the donors and thee uhhh er the duration of uh their project support to SOPAC. I would like to highligh here that uhhh both SOPAC and SPC enjoy a similar status with the European Union; so again throughout the implementation plan wee look for both similarities as well as differences because it will be perhaps the differences that we will need to work on in terms of harmonising and synchronising ... so with the EU we do enjoy a similar status because of the institutional assessments that have been uhhh that have been carried out on both organisations.

Uhhh in terms of assets, we've just highlighted really in the implementation plan just er the fact that er our fixed assets are at uh valued at seven point four million Fiji dollars and at the time of full integration these assets as well as liabilities will need to be transferred to the SPC. In terms of human resources, uhhh already we've

touched on a number of areas uhmm that will need to be addressed but particularly the performance management system will need to be uhmm synchronised if there are any differences uhmm our staff regulations and policies and so on ... recruitment management will also need to be synchronised ... uh for CROP remuneration uhmm I'll ... after agenda item ten we will actually present to Council the new methodology that's under consideration so there will be likely uhmm new uhmm recommendations from the CROP executives to councils to uh to look at further refining er CROP remuneration methodologies beyond 2010.

Uh with respect to staff development and uh staff contracts ... uhmm again there are more similarities than dissimilarities than our approaches uhmm however there is a difference and this is already been highlighted by the Director-General; and that is ... that there is a difference in the treatment of locally recruited staff uhmm in Fiji. Our discussions have also agreed that uhmm SPC will honour the terms and conditions of uh existing staff but as I've suggested similarities in internationally recruited staff and then the differences with the locally-recruited staff; and probably economically more favourable to maintain SOPAC's terms and conditions for those locally-recruited staff at this stage.

Erhmm communications, library, information management, editorial and publications and translation – again these are aspects that do need to be part of the implementation plan and so we've looked at these and uhmm again there will need to be some work uhmm on these ... SOPAC at the moment is looking at putting in a video conferencing facility at at at er ... on Mead Road uhmm because it does offer certain benefits uhmm clearly between the different offices of SOPAC as well as the SPC uh but then beyond that in terms of actually being able to have video conferences with other par ... parties. I've already touched on the regional media centre and the benefits that that would bring. Both of our libraries have huge science and technical collections of publications, maps and charts. There will need to be uh very close look at that to see uhmm how those services and the access to those that important information uh er is delivered or provided in terms of services to to the members as well as other key stakeholders in the future. Information management – although it is just one line is quite ... errr quite a massive undertaking in terms of the fact that we have huge amounts of electronic data and various databases within SOPAC and and likewise within the SPC uhmm as well both agencies have certain software uhmm as well as data that may well be confidential and proprietary; so these are just some of the things that we're working out now, I mean pulling together inventories so that we can actually outline the various things that will need to be done to actually harmonise and have a uhmm a central and common ICT backbone. Both agencies have science and technical capacity for editorial and publications uhmm and again there will need to be some considerable discussion on this uh in terms of rationalisation but uhmm clearly in the sciences there are some specialisations and so we'll need to be quite prudent about how we uhmm ... how that particular service uhmm internally and externally is structured. Err with respect to translation, uhmm SOPAC is at the moment an English-only agency and errr but but within the SPC they are bi-lingual which would be ... which is much much better to Bruno except I think Bruno you ... you are able to communicate in both languages more eloquently than uhmm most of us uhmm bert with translation err our understanding is really there are only a very few errr meetings that do have bi-lingual but certainly the heads of geoscience would need to be uhmm a meeting that would require bi-lingual services. Some of the publications would need to be uhmm would need to be translated into French uhmm again in this respect I understand that for the most part it's just the executive summaries or the abstracts bert obviously our experience in translation and interpretation will become err ... it will become better known to us as we uhmm move into the Pacific OCT initiative, so I think we'll gain quite a bit of experience in understanding just what er what our obligations will be with respect to translation and interpretation ... but we just highlight this here because it is something we will need to consider as a division.

And this is the last slide ... uhmm bert just really around uhmm the implementation plan also acknowledges that there are you know prioritisation and sequencing in implementing uhmm is key and so er we will need to be aware of the fact that there will be parallel processes uh as well as some actions that will need to actually pre-date other actions for it to make sense ... uuhhhmmmm as well uhmm and so whilst the systems are procedures are being harmonised and synchronised some of the legal aspects will also need to be worked on in the strategic planning so all of those three elements that are up there will need to be uhmm triple tracks if you like as we move towards uhmmm full implementation. We just on an ... the anticipated savings and costs because it is one of the objectives of the RIF and that is cost effectiveness errr the three CEOs actually commissioned KPMG to conduct a cost analysis and looking at the financial implications and there errr their report identifies the additional resources that will be required for rationalisation as well as the eventual savings

that will be realised uh in the case of the SPC, uhmm those trends indicate that you will move into uhmm savings much sooner than would be expected of ... youeouw of some mergers and and and rationalisation uhmm initiatives; and how will this be achieved – clearly re-designations of certain positions, resizing of certain positions uhmm the position that I currently hold clearly would be re-designated and then therefore re-sized ... uhmm ... and the centralization eventually of some of the uh corporate support functions err to ensure that uhmm we ... you know one can look at the efficiencies in terms of service delivery but also mindful of cost-efficiencies as well. And so again understanding the comments uh ignore the second bullet point and I thank you and I apologise for taking so long.

Chair – Thank you Director for the presentation made ... for Council members to note that what while discussing on this agenda item it would be useful that we take note of ten point one as we've discussed yesterday so that we align this implementation plan with the uh the the the Agenda item ten point one as discussed yesterday; and I looking through the paper as uh being presented and as discussed yesterday there would need to be comments raised by members on the plan before we look at considering the recommendation as it is so I now invite Council members to talk on the paper, thank you. I I give to the SPC first to talk on the paper then French Polynesia.

Director-General – Thank you Chair, maybe you can have a tea break after I disappear and the come back for the discussions ... but look thanks Chair for your earlier statement because I was going preface my remarks by saying that uh the implementation plan we presented to you is written before the resolution passed yesterday and although the the the issues that we were talking about here – the implementation does match quite a lot of the timelines with regards to what what was passed in the resolution ... so I think it is not a question of removing that more a question of which of the timelines are in fact can be retained ... because they actually are within some of the points of the resolution. The Director has again been very very uhmm efficient ... in fact I was listening and I said she should have presented the CRGA this implementation plan in Tonga. Very very quickly I'll just pick up on a few areas : first on synergies – I chose to speak here on synergies rather than in a divisional uhmya presentation just because it's quicker and and if we look at the three main areas of SOPAC's programmes in the core, err the first one on community risks; I did make reference for instance that SOPAC leads the response to regional uhmm uhmm er lead role in there but at the human health and at the response with the sectors like agriculture, forestry, fisheries uh we lead on the other side; so this is in a sense a a coming to make a more comprehensive across all the sectors and I think that will actually be very good. In the water area we lead in the public health with WHO; and SOPAC and WHO are also leading here so again the water side of things and then with SPREP on the waste management I think that will actually agree quite a quite a nice grouping of uhmya er partners. The science and uh ocean and islands uhmm it's in a sense ... there's a word we use I think in SPC on all our programmes we call 'flagship' programmes – and it seems to me from the questions and interest yesterday ... part of the reason we went for morning tea at lunch time was uh of your flagship programme; and and there's a lot of synergies within the science ahem part of SOPAC and our science part and one of the intentions uh in the later reform of SPC in having a corporate science and technology directorate is that it provides an opportunity for SPC's current programmes to have a look at some of their scientific areas and see whether or not we might not be able to amalgamate pool together all the scientific resources ahemm human resources that services not only SPC but members and other organisations that's outside of SPC and SOPAC. Now uhmm I also want to make a very quick mention of the change coalition; it's a coalition of the willing .. of those er that errrrr err would like to be party to; and I can see that you were very very keen on this to make sure that the change process is actually involving members errr so it's not just the two agencies err but it involves membership; we have a similar process with SPBEA err in in in Suva at this point in time.

Errrrr very important I think to highlight the role of the Director of SOPAC – what are the main changes? or would it be a disempowered role and I think I just want to really say here that probably the major difference uh when the whole rationalisation process happens, is that the Director of SOPAC reports to the Director-General of uh of SPC – that's really the only difference. The accountabilities, the levels of uhmm delegations uhmm uhmm what what a director can do really do not change very much and that is by nature of the fact that we're a reasonably decentralised. I guess when it comes to overall organisation policy that comes out through to the Director-General but of course all the executive are involved in setting that ... I know and also implementing that – so I

guess in a sense that's not an issue and there is onward delegations within our regulations that for instance the the programme managers of SOPAC uhmya of the technical divisions will have fairly substantive delegations themselves ... I mean our programme managers at the SPC at this point in time have delegated accountabilities of up to a 100,000 Fiji dollars and that by the nature of the budgets and the functions they run ... so the onward delegations are there; but one thing I need to highlight of course is the accountability at monitoring of that is actually very very stringent as well because uhhh we need to make sure that where there is delegation there is responsibility uh on that.

Two points I think of interest errr for me to mention er also is the change manager – in any change you need dedicated people that know about change because it impacts on people, organisations and of course their ability to work. We have recruited a uh long-term change manager through funding approved through errr uh Australia and the selection process of that involved members of SOPAC, SPBEA and SPC – that position will be based in Noumea coz it's strategic ... looking at strategic roles but we will be also establishing in Suva uh uh twelve to fiftee uh eighteen months change manager position because it is in Fiji is where all the action will be uh and I think it's important to have someone on the ground to actually work with the agencies as the change process happens so within the next eighteen months we will have someone dedicated to this process also working out of Fiji; and that person will actually really work with SOPAC, SPC, SPBEA uh Forum uhhh uh uh in that context. One other point of note, it's in our plans at this point that we are looking at decentralising or deploying, if you like, uhhh uh two positions from our translation and interpretation group – we hoping to build that up and deploy two of those to be in Fiji. The reason for that is we will have two of our staff being on ground to respond to uh issues within uh the Suva office; so that is something that our interpretation and translation team has in place ahemm and uhhh ahem we hope that by .. before the end of next year we would be able to include in our budget for 2011 a deployment of two of our people to be in in Fiji – now the reason why it's two – it can be a lonely uh a lonely thing to interpret for yourself so uh we have to have two people there so we can service that and they can share the load both in translation as well as interpretation and that will bring a little bit of uh closeness, if you like, to to to our programme in Fiji uh to that. Now just to clarify ahem which meetings and which publications are all going in bilingual – the heads of err divisions or ministries meeting – that is bi-lingual and of course we undertake to to actually provide translation uhum interpretation for those meetings and all the papers for those meetings are in both languages and that is a cost that we take as part of this process – we have an inhouse team so the only cost there would be per diems and airfares going for meetings but in in in a sense they are fully-funded staff so there are not too much additional costs in that context – uhhh whereas for publications normally uh uh for those that involve both our membership they are translated for those that are not but are important we we translate the executive summary; whether it is a French research into English or English research into French ; and where there is a request for the full research then we go on and translate that, so there is system in place that does not immediately imply[apply?] costs across the the the area. Uhhh I think Chair, I'll I'll leave it at that unless there are pressing questions that members would like to ask me before before I disappear uhhh from here? Thank you.

Chair – Thank you SPC, French Polynesia? No? New Zealand?

New Zealand – Thank you uhhmn ... New Zealand just wanted to thank the Secretariat for the paper ten point three point three uh and just really pick up the highlights for us throughout the paper and I'll be very brief because I know of morning tea. Just on uh page eight it's just uh the Secretariat states that the 'risks associated with the establishment of SOPAC as a division of SPC are few and the impact is low'; on page nine, talks about the 'proposed arrangement of SOPAC as a division of SPC as likely to be cost-effective'; on page ten, the report goes on to say the 'establishment of the SOPAC division of SPC should not have any significant legal implications'; page thirteen outlines the 'opportunities for improved regional services'; page fifteen says of the 'new SOPAC division of would immediately benefit from SPC's current corporate mechanism for initiating and raising fundraising which would add to the existing capacity and effective fundraising mechanisms that SOPAC has'; and on page sixteen, the report says that the 'integration of the core work programme of SOPAC into SPC will not adversely impact service delivery' rather it should lead to a strengthenin' of services to the existing members; and so uh these these are the stated views of of the Secretariat, and uh this work constitutes the due

diligence on the decision of the transfer of the core SOPAC work programme into SPC; and we'd like to thank the Secretariat for that work that you've done in paper ten point three point three; fa'afetai.

Chair – Thank you New Zealand. Fiji, thank you.

Fiji – Thank you I'd uh we like New Zealand also commend this paper – lot of work evidently has gone into it and uh we note that the points that's been raised by New Zealand and uh if those are the views of the Secretariat, then the interation ... integration agreement will be where they spell out how it will be done. So I think the two will work together. Uhhh on page twenty three – Anticipated Savings and Costs – second paragraph, it talks about the integration and thee uhhmm right at the last few paragraphs on harmonisation ... centralisation and harmonisation of the uh corporate support services. Now we would be talking about the coming together of two separate corporate services divisions – now for Fiji our concern is that a lot of our local staff work at the lower levels of the organisations – of the secretariats – and uh there's not much mention on what happens if after the merger there is a ... you feel that there is an excess staff and that some are ... some need to be uh you know retrenched or so ... yeah and uhhh we uh ... that is why wee ... we are concerned with the whole process because of the uh ob security for some of our locals uhhh if it comes to that we would like to see that they are either placed in other CROP agencies with similar conditions or there are appropriately compensated if they are ... but our preference is that they are retained. And any any staff ... any loss of employment for any of our nationals due to this process is ... to us is not acceptable, thank you.

Chair – Thank you Fiji for the concern raised. [Director can be heard prompting Chair that Australia wants the floor. Chair says to her to answer Fiji. She says, first Australia then she can answer] Australia?

Australia – Uhhh thank you Mr Chair; and I'm actually just uh before we all take off for morning tea coz I know that's where everybody wants to go. I'm not going to say what you think I'm gonna say ... actually [on top of laughter] – the Secretariat's been looking at me so I've actually got my uh Drafting Chair hat on; uhhh and just wanted to point out that the uhhmm the Drafting Committee did meet this morning; if I'm out of order please tell me I've only chaired a SPC drafting committee so I don't know how this all works; but uhhh essentially the Secretariat has uhhh ... the Drafting Committee did look at what was given last evening uhhh there are issues that have to be brought back to thee the full Council uhhh so I just wanted to make sure that uh you as Chair know that and uhhh how that's going to work I don't know that but uhhh uh there was some discussion at drafting committee about how to move forward so we probably need to look at that soon, thank you.

Chair – Thank you Australia. That paper will come only for comments, it's not to be discussed, it's just to agree on the writing. The issue has already been discuss and we will take that ... we will go through the proceedings. I'll leave the floor ... still open for discussion. If if Council members agree the the the work plan as being presented will have to go in line with the discussion that has been made on ten point one. Okay there are certain issues that uh the Council will need to dwell on or will need to be deliberate on like uh like with the discuss on the issue of thee uh appointment of the director and the dep ... deputy director. That will need to be discussed on the closed session; and the plan itself will need to reflect this. And if Council members agree with that we will go with the recommendations that the implementation plan will be as it is taking into consideration thee uh Agenda ten point one. Thank you Council members. Noted we'll break for tea.

10.3.4 CC-related and advocacy functions into SPREP

Chair – Council ... Can I now invite Council members to take their seats please and members of the delegates around. Introduce ...

Fiji – uh Chair, excuse me ... I would just like to make a suggestion, Chair this is gonna take quite a long time ... ahh the RIF issues have already been discussed and it seems that everything we discuss now is gonna end up going back to the uh ... integration agreement; so I would suggest that we just note the recommendations and leave it ... give it back to the Secretariat to incorporate whatever is appropriate into the integration agreement, that will save us a lot of time and endless debate on something that we've already discussed in detail, thank you.

Chair – Thank you Fiji, for the intervention, uh Marshall Islands, then Papua New Guinea.

Marshall Islands – Thank you Mr Chairman. Mr Chairman, if you if you look at the recommendation ... it just says 'we acknowledge the work that the CEOs have been doing' ... so we can just go ahead and acknowledge without any discussion on it thank you.

Papua New Guinea – Thank you Mr Chairman, I, I support my colleague from Fiji and Marshall Islands, we should do that, thanks.

Chair – Thank you Papua New Guinea, Marshall Islands ... Director of SPREP?

Director of SPREP – Thank you, thank you Chair I appreciate the feeling around the room. I would note that yesterday I gave an intervention on this topic outlining the progress that is underway; there is good progress in working closely together, so I would support the suggestion, thank you.

Chair – Thank you SPREP, Tonga?

Tonga – Tonga support the proposal put on the table, thank you.

Chair – Council members I take you to the recommendation provided and we consider and adopt it as it is? Thank you. Now we move on to agenda item ten point three point five.

10.3.5 PMEG and STAR

Chair – I now call upon the Chair of STAR please ... John Collen, Professor John Collen to make a presentation on this agenda item, thank you John.

Chair of STAR (John Collen) – Thank you sir. The agenda item is for us to deal with the future of STAR and PMEG and I will try to address that issue and please bear in mind that the situation is a very fluid one from our point of view. It's evolving even as we speak with the decisions and so on that are occurring around this table plus the large amounts of advice I am getting from my colleagues outside via e-mail. I was thinking that if ever I attend one of these meetings in this situation again I'll bring one of my colleagues who works on programming neural uh neural network algorithms for massively parallel computing – the idea of those is to deal with large amounts of variables each of which is infinitely variable itself and I could feel in need of his advice at the moment.

Please forgive my bluntness if I use the occasional wrong word here ... uhmm I'm just a simple scientist and not a diplomat but I think we're at a point where you need some honesty and transparency from us and I guess I've got the luxury as has my colleague who is chair of PMEG in not being bound by any higher authority so I can give you my own views as I see them. Course anything I say will go back to the STAR network and be subject to two or three hundred sets of independent peer review as is proper; and of course bear in mind that these are just ... just my views.

While I get my thoughts together, and can I remind you that when we talk about the possible future of STAR you've gotta realise that we're dealing with a very diverse group of people bound by quite different rules to those that control those of you around this table. Our membership is extremely diverse and scientists are the obvious ones, but we have economists, programme managers and political scientists, lawyers and many other professional groups and if I can use a phrase that has become popular lately as some of you around this table wear two hats – you're both Council members and valued members of STAR as well.

Because STAR is such an amorphous organisation all I can do is try to represent the view of those people and as I've seen them ... of course the membership is not bound in any way anything I say. As an example, much mention has been made over the past few days and years of the 'will of the leaders'; now to be blunt uhmm STAR membership isn't much concerned with thee ... 'the will of the leaders' and I've found that my just mentioning that – that phrase in any of my e-mails gets a storm of rather strongly worded responses and of course many of our members err have a different set of leaders. We gotta recognise that in our relationships uhm with your organisations, there's always going to be some tension – it's inevitable and mostly it's manageable except that it does come to a head when we have issues like the RIFT process. As I've stated to the Council several times in past years, the governance of the region's technical organisations is quite properly the province of the region's governments – it's not that of STAR; however, our membership is of course extremely interested in the end results of your discussions and how they were arrived at and especially the impact of those discussions on our own operations and activities.

Overall, the senses that I got from the membership over the past few years are predominantly anger, sadness and extreme cynicism. Now you may feel that these are inappropriate feelings and sometimes I do as well; but I've got to admit that many of our members have much better sources of information about what goes on than I do ... I mean let's face it our business is ferreting out information and seeking truth! And those people that are interested have very efficient ways of doing that. Whether they are right or wrong, of course in a voluntary organisation – perception is everything. The views break down to the three obvious options: to continue STAR no matter what, because of its value – and hope a suitable home is eventually built to house it; to put into hibernation until that framework is clarified; or to close it down completely at this point – the view being 'it's done its dash, climate's changed and we're wasting time to continue.' My own preference going into the STAR business meeting as I've already advised you, was the hibernation option. Given all the uncertainties I felt that was the best course ahead for us and I still believe it would have been the safest option. In a year or two when the RIF process had gone to completion and the situation with all the different organisations was clarified, we could then have presented the membership with suggestions that had all the details sorted out. As it is whatever we do now is going to be subject to a lot of arguing and caveats over what will or will not happen; however, I followed thee uh the will of that business meeting that we attempt to restructure STAR within the evolving situation ... uhmm I have in fact been trying to restructure STAR over the last four or five years; and I've made some changes that many of you know about but that process came to a halt uhm of course when the RIF process started.

Now, as I see it there are three uh important issues relating to the continuation of STAR – the first is that there needs to be a desire within the region for its continuance, and a mechanism to allow that. I was heartened ... in fact I have to say I was humbled by the representations from many of the member around this table and one of the major uncertainties was removed with the assurance relayed from the Director-General of SPC of its continued support. That's an assurance that he has since conveyed to this meeting and to me personally in discussions. We've had similar assurance of support from the Director of SPREP and again I thank ... thank him for that – so that's the support within the region; but of course the second issue and the other equally essential part of the equation is that of the commitment of the STAR membership. Now when STAR began in

1980s, the voluntary involvement of many of its scientists to the region was encouraged ... actually encouraged and supported by their organisations, not so today! Service to the community has dropped out of job descriptions; certainly gone from mine. Uhhh and it's now become much harder for scientists to devote even their free time to altruistic projects – although this is in fact intrinsic to STAR's work. In my own country, New Zealand, STAR is not nationally regarded at all as a provider of geoscience to the developing nations. Although curiously some of the initiatives that have come from STAR are so regarded. Uhhh individual organisations are even less disposed towards it ... my own university has advised me to discontinue my involvement here – now those of you that know me will understand that that's entirely the wrong approach which to take with me ... uh but uhhh I've heard similar stories elsewhere – and there are some who do listen to what their employers say.

Now I mention these things not as any sort of apology or excuse but just to remind you all of the changing world that we live in. It's a very different world now from the 1980's as far as independent technical advice goes; and if you look back at it objectively, in fact it's surprising that STAR has lasted so long. That's ...that's why ... you know, when I spoke to you last year I spoke about the importance of of keeping the momentum going even though that's somewhat at odds with some of the other views I've expressed this year. It gives me no ... no pleasure at all to state that STAR seems to be tracking right along the lines I've warned Council about at the previous two meetings – all is not well within the group. I've mentioned the feelings of anger and so on that many people have expressed directly to me – now these feelings are extremely important in any voluntary organisation and in fact we've seen the complete disengagement of some members ... some longstanding members ... their e-mails have been quite explicit and err we had a large meeting last night er last week er that appeared to be successful and superfi ... and and healthy – but in fact appearances are really quite deceptive – through the period 1995 through 1999 between 90 and 100 percent of the papers at STAR meetings were presented from people outside the region, which is almost ... almost totally international science coming into ... when I took over ten years ago uhhh as many of you know I deliberately encouraged SOPAC staff and other local scientists to present; and I gave you the reasons for this when I addressed you on Monday. Now the make up of each individual conference varies considerably of course – it depends on factor such as the timing of the meeting; the amount of advance notice; uhhh what else is going on in the world; ease of travel to the destination ... and so on. But two years ago the local presentation climbed to about 40 percent – that's 60 percent from outside, 40 percent locally, which to my mind is about the right mix ... was about the right mix to get all the local important factor into it and new science coming from outside ... now this year in contrast, despite me personally uhhh writing individual e-mails to a lot of people inviting them to come; despite the ease of travel to Vanuatu; and the attractions of this location only one third of the papers were presented from people outside the region. If you take away from that one third those persons who were already in Vanuatu for other workshops and those people who were brought here because of their involvement in PMEG; or brought here for other reasons, the percentage drops even further down to about 10 or 12 percent. Now it's very hard to accept that this does not signal a general disengagement from the organisation; and exactly parallels the e-mails I'm getting – so that's the middle part of the equation, the outside engagement.

Finally there's the details of course of the future mechanism or mechanisms and these remain to be resolved uh if STAR does continue, then there's tremendous potential for greatly expanded activity; uhhh is we encompass both the work of SPC and SPREP because elements of SOPAC are going to both; and link them to the interests of our members we can ... we can cover the entire board. Now there are questions we have answer with respect to that – do we attempt to cover everything – I'd certainly like it. I work as a marine scientist covering both geology and biology; I see no problems in fact advantages in doing that – it's something we've got to discuss. Uhhh the brand name of the STAR associated with SOPAC is widely known. Can we sell a STAR in association with the science and technology division of SPC as widely to international scientists? Should we meet annually, bi-annually or tri-annually? Will meeting be bi-lingual? These are all issues that we've got to address.

So ... the ball is in my court I guess, for the next year. Despite uhhh my reservation as I've expressed to you, I knew exactly what was implied when I accepted the position last Friday, and you have my assurance that I'll convey the situation accurately and fairly to the membership. I'll report to them next week those comments regarding STAR that are given to me directly and those decisions of Council that are public information. I'm in the process of convening a transitional committee to help me come up with a range of suggestions and options for the future. I mean, clearly if we continue, changes to STAR are required. And of course there's the link to PMEG

and TAG to consider as well ... uh praps Gary could comment on that as well as Chair of ... of those functions and I'll certainly be getting him to help me with ideas for STAR.

Uhhh my initial thoughts are that it's important to involve both of the technical organisations from the start; especially as an important part of STAR uh of uh STAR will be in SPREP's domain and of course I'll keep in close touch with the directors of SPC and SPREP uh as well as the new head of SOPAC. I have a difficulty in based outside the region as I'm sometimes out of the loop in respect to major developments but I will do my best to overcome that. After that, and we'll move on this uh very quickly ... it's in the hands of ... uh or mind's probably be better place to look ... of individual members of the STAR network to commit to one or more of our suggestions or remain disengaged and I'm afraid I can give you no assurances or guarantees whatsoever regarding the outcome of this.

Should the continuation of STAR not be feasible; or course not all is lost, uhmm you'll still have access to er to many of us on a personal level, uhmm some persons have come to STAR only long enough to set up their own research projects; others have come because their organisation has seen a commercial advantage in doing so – and those initiatives I'm sure will continue. The main loss will be the STAR conference uh with its opportunities for personal erm contacts but I'm sure that you can fill that gap in other ways, so I guess all I can do is say that I'll try to keep you all advised. Thank you sir.

[Chair of STAR also submitted written version of his presentation, see AS38/10.3.5]

Chair of SOPAC – Thank you John. And I now give to Dr Gary.

Chair of PMEG (Gary Greene) – Thank you Mr Chairman; uh I'd like to follow on John's word uh and uh discuss it as a personal aspect.

I as the PMEG Chair endorse the words of the char stair uh of the Chair of STAR – as the Chair mentioned, STAR and PMEG are a volunteer ... are volunteer groups with an open membership that freely gives of their time and provides much more than what just money can buy. Having been associated with SOPAC since 1980; and having interfaced with you and your predecessors since that time as you know from me I feel like you were part of my extended family.

In fact, not only have I been working with you for this lengthy amount of time; but also my direct family has become involved in this organisation in many different ways and considers you as family, as do many of the TAG and STAR scientists.

As you know, we PMEG, STAR and TAG unselfishly work for the best interests of the small islands people, in a democratic way. Our recommendations to you are made in good faith not pushin' a personal or national agenda but in an attempt to provide the best scientific, technical and other information and advice that you may need in your deliberations.

Hopefully, we have done a good job, it is inconceivable to us that anyone else around this table would want to do otherwise. I believe that the promises of support given at this meetin' are sincere and will be delivered; still our advice to you is to put down on paper what you want to see happen to this organisation in the future for the service of your people who are not sitting around this table.

It is also inconceivable to me that contrary advice would be given, thank you Mr Chairman and you of the Council for for allowing me to be of service to you. I hope I have served you well.

Chair – Thank you Dr Gary, Dr Professor John for the words that have been given. I assume all member countries will share with you that Yes, we really value your presence, the work that you've done; the

commitment, the time and the effort you've put to try and assist the member countries in addressing their areas of need. I now give the floor to the member countries to comment on John and Gary's report as appropriate, thank you. FSM thank you.

Federated States of Micronesia – Thank you Mr Chairman, uh I think earlier I uh during discussions yesterday I had said that the uh we did submit er country paper or statement to the meeting in Funafuti er which was vetted through high level of (level of) our government in the FSM and uh I know that ... one of the emphasis was the value of STAR and PMEG to to the organisation. And exactly that is why I want to delay submitting a country statement until I go back home and vet it through same level of government er but er you know er I think ... I guess the message coming from us is that we value – highly value – the the participation of STAR and the free, voluntary services provided by our fellow scientists from around the world and the regional and uh recalling that one of the direction from the Leaders is not to diminish services to the islands. I think, to me, if STAR is put in question, that is a big diminution of services to the islands, thank you.

Chair – Thank you FSM. [a short pause] Marshall Island and then Fiji.

Marshall Islands – Thank you, thank you very much Mr Chairman. Uhm Mr Chairman I believe that there is no question that all of us value very much the services that both STAR and uh PMEG have contributed to SOPAC and its member countries, so can I can I propose that we we we we draw up a resolution expressing our appreciation and and so that ... and and and and it would ... it would be part of this meetin' and of course be given to then Mr Chairman. Thank you.

Chair – Thank you uh Marshall Islands, that's a good proposal indeed that we can look into. I give the floor to Fiji.

Fiji – Thank you Chair I just would like to express my country's deep appreciation to STAR and PMEG and all the scientist and personalities involved in the selfless service, that they have provided to a portion of the world's population who would otherwise be unable to access such scientific expertise and knowledge; and the level of commitment that have been shown by the uh by the scientist to assist uhh Pacific Island Countries ... and uh I know I also speak on be ... I know that other island countries carry the same sentiments that uh we are really appreciative of this the ... it's not service that you pay for it's service that they give uh freel of themselves and of their time and we have no way to repay that. And uh I can only say that un ... for those around this table who might be hell bent on destroying that – our only means to good scientific information is ... it would be shame, thank you.

Chair – Thank you Fiji, Cook Islands?

Cook Islands – Thank you Mr Chair; err likewise uhhh my colleagues around that table, I'd like to support the uh recommendations made by my colleagues, especially the proposal by uh Marshall Islands come up with the language to to to offer that uh sentiments to PMEG and STAR and to the various scientific community that has assisted the Pacific Island Countries for many year; and uh also like to echo the uh sentiments shown by ... tabled by Fiji that uh if we didn't have STAR uhhh alongside SOPAC uh ... we wouldn't have known other science ... sciences that are out there and the uh ... I would say the latest versions of uhhh ... of uh ensuring that uhhh thee ... the sciences around the world are improving and it's always becoming uh to the fore the importance of uh having knowledge and then ... in that particular accord, thank you.

Chair – Thank you Cook Islands, Kiribati?

Kiribati – Thank you Chair; and uh Kiribati want to to join colleagues around the table uhmm in expressing our appreciation tooo to STAR and uh PMEG for the excellent service that uh they have being providing to the Pacific and our people for the last uh ... for many years. Uhmm and to support ... and to have this reflected uh in the proposal that uh was put forward by the Marshall Islands. Uhmm I cannot disagree with what FSM do express and uh if with these uncertainties around us now as we go forward uh this would be a huge loss to the Pacific if uh there is no uhmm ... there is uncertainty on the work that the STAR... whether the continuation of the services that uh we continue to receive uh what we used to receive from STAR and PMEG for the last ... for for many years back will continue or not. And uh like what FSM uh alluded to ... this will be a big loss and uh ... already it's a big diminution or service uh that ... which is something that we do not want to happen. So just want to ... to put that uh uh ... our concern on and once again uh thank you. Many thanks to STAR and uh PMEG for the services that they have kindly kindly supplied to to us, thank you.

Chair – Thank you Kiribati, Papua New Guinea ...

Papua New Guinea – Thank you Chair uh we we'd also like to put on record and we do really appreciate duh work done by STAR and PMEG over the years and have enjoyed working together wit ... with them. Uh we look forward to many more collaborations in the future. Thank you.

Chair – Thank you Papua New Guinea. I give the floor to Samoa and Tuvalu before going to SPREP. Samoa please.

Samoa – Uh thank you very much Chair. I also echo the sentiments expressed by my uh ... my colleagues around the table; and in particularly the comments by Kiribati about the loss to the member countries if we do lose the services of STAR and PMEG. Thanks.

Chair – Thank you Samoa, Tuvalu?

Tuvalu – Thank you Mr Chairman, hmmm my delegation would also like to join the other distinguished Council members in uhmm where I vouch for the uh ... the valuable work that has been done by STAR and PMEG. I think with uh SOPAC being primarily a uh ... a technical institution it will be inconceivable not to have STAR, along with the uh SOPAC meetings that we've been having every year. So my delegation would like to uh thank STAR for their contribution and it is our sincere hope that it continues to do what it has done very well for the past years. Thank you very much Mr Chairman.

Chair – Thank you Tuvalu, I give the floor to SPREP.

Director SPREP – Thank you Chair; clearly and it has been said many times – the work of STAR/PMEG is deeply appreciated as mentioned by the delegate from FSM, it is really an essential component of delivery of services to uh islands countries. The wish of the DG of SPC; and he's authorised me to speak on behalf, and myself as Director of SPREP is that STAR and PMEG continue and if possible be strengthened. So I don't think the option of disbanding STAR I don't think should be an option. We would like to discuss how we can do this in a ... in a practical way. At my previous job I worked uh quite a lot with volunteer networks and my opinion is that uh ... for volunteer networks to work effectively we need respect, courtesy, appreciation and open and clear communication. So this would certainly be a commitment for any component of STAR or reconfiguration in relation to the work programme of SPREP in the future, thank you.

Chair – Thank you SPREP, could we have Vanuatu.

Vanuatu – Thank you Chair, Vanuatu would all ... would also like to uhhh show our appreciations to PMEG and STAR for the valuable services provided throughout the region. And also noting the Marshalls proposals, for the Secretariat to take note of that, thank you Chair.

Chair – Thank you Vanuatu uh I have ... Tonga?

Tonga – Thank you Chair, I'll join with my colleague around the table uh congratulation to the work that STAR have been done and Tonga would like uh uh that uh engagement not to be diminish ... uhhh and I would like also to register my support for the propose put by uh Marshall Island. Thank you.

Chair – Thank you Tonga, we'll have the last one from Cooks, thank you.

Cook Islands – Thank you Chair; just to confirm some of thee uh ... I quite like the intervention by the Director of SPREP and some of the language is there I think ... it uh complements what everybody's uh uhhh outlining here around the table so if we could uh request the Director of SPREP just to provide those... I was trying to write it but he was too fast too uh ... but maybe the drafting people at the back have captured it, but he has some very good strong uhhh language there that could assist with the proposal, thanks, thank you.

Chair – Thank you Cook Islands, Director of SPREP you provide ...? (Yep, certainly sir) ... some statement that we can adopt it as a resolution or ... [to capture] discussions made around the table. Thank you, John?

Chair of STAR – Thank you Chair; could I just express my appreciation to all of you for those comments; and uhhh as I said before I'll do my best to convey them as accurately as I can to our membership although uhhh I I don't have your eloquence and I won't be able to convey the warmth. With your indulgence sir, uhhh I would like to circulate progress reports around regular intervals to this Council meeting through yourself as Chair, if that's acceptable.

Chair – You may do so. So you going to circulate that report?

Chair of STAR – Er yes, er as soon as we start to get some shape and ideas and we start to get feedback from the scientific community ... I'd like to keep you all advised of that so that you don't go into next year's meeting with any surprises. Thank you.

Chair – Thank you John. The Director of SPREP will provide the text for that and if uh we would have the text available at the later stage and we'll put it on the screen for endorsement.

Director SPREP – If you like I'll pass it to the drafting committee, is that your wish? Yes?

Chair – is that is axable ... uh axable [acceptable] to members, yes? thank you. Thank you John and Gary for those ... words of concern and the encouragement and I thank Council members for showing their support for

continuation for the services of STAR and PMEG, thank you. We shall now move on to Agenda item AS38 slash ten point four ... I now request the uh Director of SOPAC to take us through this paper, thank you.

10.4 RIF Risk Management Framework

Chair – [short silence] The suggestions I get here is uh this is part of the implement process so we endorse the recommendations as it is ... Council members? The recommendation in front of you. Noted? Thank you. We now move on to agenda item eleven. <snip>

2010 WORK PLAN AND BUDGET (Item 13)

13.2 Approval of the 2010 Work Plan and Budget

Chair – ... and for Council to note that the 2010 work plan or activities were discussed in the various work programme activities and we now looking at the budget. So I give that to the corporate manager to ... thank you

Corporate Manager – thank you Chair, this is agenda item 13 point two, approval of 2010 work plan and budget. The three technical work programme presentations, the agenda items 7.2, 8.2 and 9.2 is gone through in detail in relation to the activities and what they proposed to do in the countries and also in relation to projects that they have taken on board for 2010, so those details have been discussed by the three programmes programme heads. What I'm presenting now is just the summary of the total budget – this budget is also prepared in the anticipation after our high level consultation with Australia and New Zealand that we had in Fiji – this is in anticipation that Australia and New Zealand will provide us with the same level of funding as 2009; so this is based on those assumptions too; because there isn't any MOUs signed so far for 2010, I think that is something that will be discussed later on ... Australia is nodding so [Australia – No I'm not nodding] ... [giggle] oh not nodding, thanks – so that's something that will be discussed but its based on that assumption so the programme funds is based on funding from Australia and New Zealand.

The details of the three technical programmes are shown on the ... uh this is based on the logframe, the OIP is pages 16 to 26, CLP 27 to 46 and CRP is 47 to 55 and the Corporate services is from pages 56 to 62. Basically this gives you the detailed budget. This is also based on the exchange rates I have put in into page three against those currencies we normally receive funds in.

Table 1 basically summarises the total budget and it's also by programme so that it also basically has a pie chart that shows the percentage of allocation of the total budget in accordance to the three technical programmes, corporate services and the directorate.

Table 2 basically summarised the revenue and expenditure as also the 2009 revised revenue and expenditure and then the proposed 2010 revenue and expenditure.

Table 3 is the proposed 2010 regular budget summary, it indicates total forecasted revenue and if you see there there's a bank interest component in the revenue column; we anticipating about \$350,000 for next year. And also the Fiji grant we're anticipating \$571,000; and then there's a transfer of surplus funds from 2009 – what we anticipate as a surplus – it's gonna be about \$894,000.

The membership contribution remains the same; there's been no increase in membership contribution so the total RB funding totals 3,796,000 – three million and seven hundred and ninety six thousand.

Table 4 is the proposed membership contribution as I indicated earlier there is no proposed increases for membership contribution.

Table 5 gives the details of the <snip> [this is all to do with the Secretariat presenting the paper concluding with] ... the recommendations are that Council consider, modify as necessary and approve the 2009 Revised Budget of \$37,082,792 and the 2010 Work Programme and Budget of \$34,019,618. Thank you Chair.

DISCUSSION

[While this item is well covered by the Summary Record, because of the highly charged dynamics of this particular discussion, the transcribed text is provided to verify the summarised account]

Chair – Thank you corporate manager, I now give the floor to Council members, Australia?

Australia – Thank you Mr Chair [bad mic, her voice keeps weaving in and out] ... I thought I'd take the floor early. As I walked around here last night I heard a song playing by Kenny Rogers, the Gambler, which uhmm if you've heard about it there's a line that goes "knowing when to walk away and when to run" and at this point I feel like running, but uh I do have to check with my colleague because during the presentation there was reference to an MOU that's been signed with Australia. There is no MOU ... [some protest coming from presenters] ... oh maybe I misheard you but in any case I do note that I did have to contact my superiors yesterday. Basically we are committed to supporting the programmes of SOPAC and we have a number of ongoing programmes.

For the last couple of years our programme funding has been on an annual basis and the reason for that is we have been waiting for resolution to this issue. We're waiting on resolution and once resolution was achieved we expected that we would be able to move to multi-year funding agreements. Now, we have a notional allocation; still to be approved by delegate but a notional allocation for SOPAC which would see its funding for 2010 remain at roughly the same level as 2009. Now that was a discussion that we held with SOPAC during the HLCs, which came immediately after the July 2009 SOPAC Governing Council Session. Now so when I came to this meeting uhmm I understood we were working on implementation plans and there would be a clear way forward, a timeframe agreed – now I fully understand, and that I have fully informed my superiors that there has been some developments; there has been some very much concern that has been around the Council based on the legal advice that has been tendered uhmm ... that that has raised Council issues.

But having said that we now have to go to a delegate to actually explain there is a change trajectory from what was anticipated in the July 2009 meeting and agreed to at the PIF Leaders' meeting; so basically I think ... although I would certainly hope that the contribution will remain the same; I can't ... I can't give that assurance; it's not within my delegation to do so and I think we will ... we cannot actually agree these budget saying that that's definitely going to happen. Thank you.

Chair – Thank you Australia, New Zealand?

New Zealand – Thank you Mr Chairman. New Zealand is in a very similar position to Australia. We too had an allocation set aside for support for SOPAC from 2009 to 2010 ... the latter part of 2009 and until 2010 which mainly impacts on the 2010 budget for SOPAC. So in making our position regarding the 2010 budget it is necessary to draw a link to discussions on the implementation plan to transfer SOPAC functions into SPC and SPREP. New Zealand believes there are no legal impediments to the transfer of SOPAC functions into SPC and SPREP from January 2010.

The K&L Gate legal opinion in paragraph seven states that "it is not essential that the Council resolve to suspend or dissolve at this time to complete transition agreements and implementation of its July decisions. The option to suspend or dissolve after implementation remains." Therefore the concerns raised about the Leaders' timeline is not borne out by the legal opinion. So the implementation plan put forward by the Secretariat in paper 10.3.3, reflects the opinion put forward by K&L Gates and that it envisages the establishment of the SOPAC division from January 2010 with the legal status of SOPAC to be decided at the October 2010 meeting. So New Zealand support in 2010 for SOPAC's work programmes is based on the understanding that ... in part on the understanding that SOPAC functions will transfer to SPC and SPREP in line with the Leaders' decisions. If the transfer does not proceed in line with our Leaders' decisions, New Zealand will need to report back to our government; and like Australia I cannot be sure what the government's response will be. So now we're in the unfortunate position of not being able to provide an undertaking on New Zealand's 2010 contribution which was to have included approximately two million dollars in core funding. Thank you

Chair – Thank you New Zealand, Fiji?

Fiji – Thank you Chair. We do understand the position that has been articulated by both our members and donors Australia and New Zealand and we believe that that is their right – they have every right to do whatever they want with their money and we do thank them for all that they have done for SOPAC and for the Pacific in the past. The fact remains that the issue of RIF has been discussed and resolved last night. We cannot use this agenda on the budget to re-open that debate; so what I would put to members is that we pass the budget as it is – keep the figures there – between now and December we'll secure the funds from other donors. We'll take that up upon ourselves and use our bilateral relationship with other governments – with other countries and other donors and we'll secure those funds. It comes to about seven million dollars; I'm sure we can secure that easily. Thank you very much.

Chair – Thank you Fiji, Papua New Guinea.

Papua New Guinea – Thank you Chair; and we do appreciate the assistance by Australia and New Zealand all these years but uh I'd like to support my colleague from Fiji on the stand he has taken, thank you.

Chair – Thank you Papua New Guinea, FSM?

Federated States of Micronesia – Just uh ... you know we should uh perhaps just change instead of 'confirmed' to 'questioned' – to allow us to move forward; and as proposed by Fiji to see about securing other funding sources, thank you.

Chair – Thank you FSM, Marshall?

Republic of Marshall Islands – Well Mr Chairman it looks like we should start getting busy looking for money but I don't think that would be a problem – I think if we combine our effort together, we should be able to come up with the required assistance that we would need; uhhh and uh ... you know you can run, you can walk, go ahead ... go ahead we will continue and approve the budget, thank you.

Chair – Thank you Marshall Island, Tuvalu?

Tuvalu – Thank you very much Mr Chairman, I think if I gathered from the uh statements by Australia and New Zealand is that they uh ... they are not sure whether the funds would be forthcoming or not ... I mean they ... it could be coming, I mean we could have it next year; or we may not have it, you know. So, in the event that we might not be able to receive the funding from Australia and New Zealand; maybe we could go down the way as proposed by Fiji and supported by Papua New Guinea and Marshalls, you know. But if we get the funds, I supposed maybe that they ... there wouldn't be any need to look for further funding. I think that the position is just that they cannot confirm that the funding will be forthcoming. But I'm sure we all have our ties with them and we could work with them you know; and ask them to fulfil what they have proposed you know. Thank you.

Chair – Thank you Tuvalu, Samoa?

Samoa – Thank you Mr Chair just a follow through from the discussions ... I only have one question and that is when ... uh the opinion from around the table like 'we' ... 'we will secure' ... can we just clarify who the 'we' is? Thank you.

Chair – Fiji?

Fiji – For Fiji, it's Fiji using its bilateral ties with other countries it has close relations with. We can negotiate a deal on behalf of SOPAC. Thank you.

Chair – Thank you Fiji. Vanuatu?

Vanuatu – Thank you Chair, I think I will concur with the comments made by Fiji. As for Vanuatu, not just for AusAID and NZAID, we've actually seek external funding from other donors, so ... sorry about this Australia and New Zealand but we've actually got a lot of fundings from other agencies, so the Secretariat and corporate manager to take note of that, thanks.

Chair – Thank you Vanuatu, Cook Island?

Cook Islands – Thank you Chair; before I concur with my colleagues around the table we have two issues on the recommendation. I think a modifier would be for the 2010 work programme but for Council to consider and approve the 2009 revised budget of thirty-seven million; and uh I'm just seeking clarification from my colleague from FSM in view of where to slot in 'confirmed' ... uh for the budget?

Chair – Thank you Cooks, FSM?

Federated States of Micronesia – Thank you, actually I uh just looking through the budget forecast we have places where we say 'confirmed' and 'yet to be confirmed' – I'm just suggesting you know that since it's not confirmed yet, that we put in there 'unconfirmed' category and then look to fill the gap ... and I think just to help my friend from Fiji here; uh when we say 'we' – not only each of us but also SOPAC. I think SOPAC has been pretty successful – I think we noted that Australia and New Zealand funding for the last ten years has been pretty flat, but other donors have actually come forward with more money than we've expected, thank you.

Chair – Thank you FSM, can we ... yes Fiji?

Fiji – Chair this is just an observation on the position being taken by Australia and New Zealand uh I just found it interesting even though they have to go back and consult ... wouldn't that be like contrary to the position that their Leaders had taken that they do not want any diminution of service delivery; so that position will really affect service delivery. I think that would be contrary to the Leaders' position. Thank you.

Chair – Thank you Fiji. I uh ... oh Kiribati, thank you.

Kiribati – Thank you Chair and uh ... I begin with uh ... words of appreciation and acknowledgement of assistance that we continue to enjoy from Australia and New Zealand and we sincerely hope that this could continue in the next years in particular to ensure that the service delivery for SOPAC – that SOPAC delivers to the region continues and are not diminished and so on this point I surely fully share what my colleague from Fiji put forward and that is what we fear that that might diminish the services that our Leaders' anticipate to be retained or to be enhanced. Thank you Chair.

Chair – Thank you Kiribati, Council members I now invite you to the recommendation made with the suggestions proposed by Cooks and FSM, for the rewording of what has been said ... if agreeable by Council members. Yes? Thank you.

[after a longer than usual pause in proceedings]

OTHER BUSINESS (Item 14)

Chair – Council members we are into Agenda item 14, Other Business ...

i) Review of Resolution of Item 10.1 (Legal Implications of the RIF)

Chair – ... and uh we shall now look at the agreement that was made, the resolution that was made at ten point one; just to check through the script and make sure it captures everything and then we approve as this with the amendments that was suggested yesterday. Then I now invite Mario please could you come and provide the text, thank you ... We will now proceed to the draft resolution that was agreed to under ten point one; you would have two papers in front of you ... kay, there was one that was with the amendments made yesterday night and uh the other version is the one that has been ... the final copy, taking in consideration the comments that has been taken as gone through ... as as the document that we've gone through yesterday.

So I will now ask the we go through the resolution as it is, thank you. Resolution ... the clean version, the clean version that we want to look through and it's ... uh the sentences are being numbered, the lines ... sorry ... thank you. Resolution number one. Australia?

Australia – Thank you Chair I just wanted to seek clarification because when drafting committee met this morning there was some work done on the draft resolution that was sent to drafting committee last night ... uhmm and that that had uhmm a whole range of bracketed text in it. Uhmm so I just seek clarification on what has ... what the decision has been on what drafting committee was proposing to take back to Council, thank you.

Chair – Thank you Australia. I think the resolution that is in front of us, we'll work on it and then give it to dra ... we'll adopt it! Okay that's the understanding that uh ... New Zealand?

New Zealand – Thank you Chair for the floor; uh just again to reiterate that in drafting committee this mornin' there was agreement uh to keep consistency; because the other items were all verbatim and then when it came to item ten on the RIF it just said a summary comment and then went into the draft resolution; and uh the suggestion was made by Fiji and it was supported by Tonga that we ... for consistency purposes, we keep the long verbatim report of Council consistent and contain all just the comments and that then the draft resolution that was put forward by uh Fiji yesterday with amendments that came in from members during that discussion that that be annexed; and that was the suggestion this mornin' put forward by Fiji, supported by Tonga and then we agreed as the drafting committee ... so again just seeking clarification from ... and also can I ... also say that the Secretariat was also present this mornin' to advise us on protocol; so I'd just like to uh ... and then like ... seek clarification from the Chair, please what happens to those decisions that were made uh this morning. Thank you.

Chair – Thank you New Zealand. From the understanding based on the discussions that we have yesterday, that was what we decided to have ... agreed on and it was agreed; that's the understanding I have based on that agenda unless I have misinterpreted that; so I'll give the floor to Fiji and Tonga.

Fiji – Chair, maybe Tonga first because he was here in this morning, thank you.

Chair – Tonga!

Tonga – Yeah, thank you Chair; I think I uh do agree with what New Zealand have said, but if I can refer to what I said this morning that we should not delete anything or touch anything because we don't have the mandate to put that change in – if there is a substantial change is that we have to brought it to Council for approval; so that's what we uh and the succession [to mean suggestion] was made by Fiji is just only a succession in the drafting committee, this forum will have to decide whether that succession would be a good resolution – a good succession to take or not – thank you Mr Chair.

Chair – Thank you Tonga for that uh Samoa?

Samoa – Just briefly uh Samoa also second comments made by New Zealand and also Tonga, thank you.

Chair – Delegates please ... as per my understanding yesterday, I don't want us to be confused but the understanding that we got yesterday is to agreed on the resolution and we are here to look at the resolution base on the comments and suggestion made around the table and H'ime 'ere to take us through the resolution and it's not to go back on the issue and that has to be made clear. We've dwelled on the issue yesterday for a couple of hours and we are now to go through the text ... this is in front of us. [Correct, someone says] Thank you, Fiji?

Fiji – Thank you Chair, I totally agree with that. There is ... this is not the time to change anything and I don't think the drafting committee has any authority to make any changes or even to agree on anything. There are there just to draft so they've got me totally confused now. Thank you.

Chair – Thank you Fiji. I take Council members to go through the resolution that was agreed to yesterday ... New Zealand?

New Zealand – Thank you for indulging me with the floor again; and uh we do ... the drafting committee this morning did acknowledge that it's not in our role to add to uh text ... except that some of the text that was suggested yesterday did not make it into the draft resolution, hence this mornin' there were some suggestions made to the text that was in line with the discussion yesterday, which we put in brackets with the understanding ... as Tonga's outlined and we totally agree ... that then would come back to the uhmm Council to agree. We were not ... in the drafting committee we were not adding any text that had not been suggested in full session yesterday, thank you.

Chair – Thank you. PNG?

Papua New Guinea – Thank you Chair. I see that's not correct, if we are going to add new text into the document today. We should work on the what was agreed on yesterday and that should be final. I support Fiji, thank you.

Chair – Thank you Papua New Guinea. We shall go through the text, the resolution, as it is. We will go through the clean one, which is in response to the err ok so we'll go through the clean one. Thank you, I take Council members resolution number one, commencing line thirty-five ... Tuvalu ok? Thank you. Resolution number two, line five page two ... agreed? Thank you. Resolution number three commencing line 8 ... Fiji alright? Thank you. Resolution number four? Australia ...

Australia – Thank you Chair I understand that uh drafting committee is not being considered so I just need to make a point that uh [mic troubles again] ... it's probably not appropriate to uh [inaudible] ... [can't hear calls from round the room]

Chair – Could you speak closer to the mic Australia.

Australia – Okay, I think that we have indicated that our funding is not guaranteed and we're certainly are committed to continuing our support but we cannot guarantee uh funding ... so uhmm and I think uhmm as a way forward and try and not delay discussion on this; I can't speak for the EU, they are uhmm they're not here uhmm but it may be appropriate given that uh funding issues have been discussed under agenda item simply to delete this uhmm para, if that offers members a appropriate way forward, thank you.

Chair – Thank you Australia, I uh ... that is the discussion that we had yesterday so I would have difficulty in deleting that; but if the Council members agree ... then ... but that is the record of what was discussed yesterday. Thank you Fiji ...

Fiji – Chair if we ... if the Council agrees to delete that then we are re-opening this issue again – I believe it should remain as it is because we're not going to touch the issue again thank you.

Chair – Thank you Fiji, Papua New Guinea?

Papua New Guinea – Thank you I support Fiji, I thought for the purpose of reference it should remain, thank you.

Chair – Council members, resolution 5? Agreed? Council members resolution 5, agreed? Thank you. Resolution 6, beginning lines 25, page 2, 6a, b (agreed, thank you), c (thank you), d (Council members thank you), e (agreed, thank you), f (thank you), g (thank you), h (council members h? thank you), i (agreed? thank you), j (thank you), k? (thank you), l? (thank you), m? Oh Fiji?

Fiji – Chair, correct me if I'm wrong on now that we have numbered as k ... if we may ... I thought we had decided to reference the legal advice and the example given (it's changed? [off mic, Chair clarifies that reference is in the footnote]) – oh sorry I take that back.

Chair – Thank you Fiji. L? FSM thank you.

Federated States of Micronesia – Thank you Chair, just seeking clarification when we're saying ...what's that saying ... are we saying we gonna be meeting in uh ... GRCA is normally held in Noumea, is that what we mean or are we saying it's gonna be held some ... anywhere before then; or are we saying it has to be in Noumea; just clarification please.

Chair – Fiji?

Fiji – I believe it's anywhere, but just before CRGA.

Chair – Thank you Fiji. M? Members m? Err ... just additional word there – 'Council requested the Director to inform the Secretary General of PIFS, the Director-General SPC, the Director of SPREP ...' thank you. [Para] seven, line fifteen? Then agreed, we will take that session to a closed Council session.

Director [speaking for a while but just came audible] ... if I may refer back to bullet point g. In that discussion, if I understood it correctly uhhh the discussion was around the fact that uhhh the agreements for energy and ICT would be simpler and more straightforward uhhh and therefore there were suggestions from some members that this could be expedited as soon as practicable. It was a point that the Director-General of SPC had discussed with me, and I had suggested that if it were ... if it not appear in the text then at the very least I would just ask of members whether our understanding was that or not? Uhhmm really seeking for some clarity from the members on this point ... not to reopen the debate but just to get some clarification around whether in fact that was the sense of the discussion and the agreement, thank you.

Chair – Thank you Director, I'll leave to FSM to comment first.

Federated States of Micronesia – Thank you Chair, err actually just wanna ... coz I did raise that to the legal counsel and we talk about this and I believe the legal counsel advice was that 'yeah it can be done but so long as the legal procedure's are done properly' – I believe that was the response; in other words we don't have to worry about suspension or anything. I think what was more relevant to this was the contracts with employees, and transfer of properties, funding and donor ... you know whomever donors are ... and I think those are the things that were brought up.

Chair – Thank you FSM, Fiji?

Fiji – Yeah I propose we just leave it as it is; we've already agreed on it; and uh the less we start moving things about the less we are bound to affect something in the services or whatever

Chair – Thank you Fiji, if the Council agrees then we will adopt it as it is. Thank you. Australia?

Australia – Thank you Mr Chair, I just realise that members uhmm have agreed to adopt this and this needs to be a consensus decision. I also accept that uhmm people around the room want to keep it as is so I would respectfully suggest that because Australia is mentioned there, that at least we either cro ... uh have a reference to our statements under the work programme uhmm or we uhmm we include in the verbatim record that uhmm there are ... we do have some concerns about this so thank you ... I in no way wish to interrupt the consensus that is around this but uhmm I think where it actually mentions what we will or won't do ... we do have to be able to demonstrate that what we've said will happen, thank you.

Chair – Thank you Australia for the concern raised. I think your concern has been captured in the Agenda item that we've discussed under the work programmes of SOPAC so that should be in the proceedings; but we will leave the text as it is ... if it's agreeable by members. Thank you ... Samoa you want ...?

Samoa – Thank you Chair. I was just gonna agree too with uh Australia and especially putting the text together for what was actually discussed so it will put ... like reading through here but at the same time too we will put everything else on record from each country? Like about what was said ... thank you.

Chair – Thank you Samoa, Fiji?

Fiji – I think to address Samoa's concern we've got the summary record verbatim attached to this report; so the whole discussion is captured in there so; whatever everybody ... anybody said will be in there.

Chair – Thank you. Council members I think that that concludes our uh ... New Zealand?

New Zealand – Thank you Chair, New Zealand is just concerned about whether we are correctly following the SOPAC Governing Council's Rules of Procedure paragraph twenty one says that the drafting committee "shall in consultation with the Director blah blah ... and supervise the preparation of the draft summary report record of discussions of the Council for consideration and adoption' ... and I'm a bit confused as to what stage we are at in the drafting of the record and will there be another opportunity to have input to the summary record through the drafting committee or in full Council, thank you.

Chair – Yes New Zealand ...

Director – I would ... both is the answer in that the uh drafting committee will need to meet to discuss the uh err ... the discussions that have occurred today uhmm and the suggestion is to allow for the summary record to be completed would be to meet tomorrow morning at nine o'clock to actually clear the record in full Council – that is just a suggestion uhmm for members to consider, thank you.

Chair – Thank you Council members, resolution is pass; and we will now move [to] the next agenda item. Yes New Zealand?

New Zealand – Thank you Chair for your indulgence again, I'm not sure ... have we adopted this resolution? You have referred a few times to us having agreed to something but I'm not sure what it is that we have agreed to?

Chair – Well my understanding here is that we have agreed to it. Based on the discussions that we have yesterday ... based on the comments and the amendments they've made this is the fine copy that we have and is to agree to what we've discussed yesterday; so I take it that this is the document that we have in front of us. The summary of the proceedings will come tomorrow but this one is based on the agenda item ten point one that we've agreed to.

New Zealand – Thank you Chair, in that case New Zealand would like it recorded in the summary record that we do not support the resolution.

Chair – Thank you New Zealand. I will now take Council members to Agenda item fifteen. The Closed Session will be after this Agenda item. So I'm ... we'll leave this to the Director, thank you. Yes Marshall Island?

Marshall Islands – I'm sorry, but have we completed Agenda item 'Other Business'?

Chair – The other business will be held in Closed Session and that is what I would want to discuss with respect to the Director's Appointment and Deputy Director's Appointment as per our discussion yesterday.

Marshall Islands – What about other other Other Business? [laughter]

Chair – Oh OK, I'll leave it open ... if Marshall has other business?

Marshall Islands – Other Other Business yes, I'm just wondering in light of the discussion that have taken place at CRGA about the committee on the long-term sustainable financial ... I understand that there's gonna be a committee that SOPAC would have to be nah ... selected, so that committee from SPC and committee from SOPAC and SPBEA can meet and look at this issue so I don't know whether we gonna have that selected now or ... just wanted to seek clarification on this, thank you.

Chair – We'll give this to the Director to deal with.

Director – Thank you Chair. In actual fact the Director-General of SPC did circulate the CRG paper to members and in fact the delegate from the Cook Islands made mention of this in one of his interventions so you have that paper with you and I understand that with it ... accompanying to that was the terms of reference for the sub-committee that will develop a draft strategy for consideration by the CRGA at its next session in Noumea. In the terms of reference it outlines the composition of the committee (I'm just trying to find it) ... and sorry the composition of the Committee and the intention is for there to be two SOPAC representatives on the fifteen-member committee with one from the SPBEA; the remainder being err ... members of CRGA. The first meeting I understand will be uhhh in March of 2010, but I don't have any more details than that, I'm afraid ... so two, yeah certainly two representatives for SOPAC to sit ... have been invited to sit on the sub-committee and err work with

the CRGA members and the SPC Secretariat towards developing a draft strategy for sustainable financing uhhh I hope that provides some information and some clarity, thank you.

Chair – Thank you Director, Marshall Island?

Marshall Islands – But we haven't come to select member of that committee from SOPAC, so are ... when are we gonna do that?

Chair – Thank you ... so can we have nominations of two representative to be on the committee? The Council will need to nominate two representative to sit in this committee, yes Fiji?

Fiji – Chair just a matter of clarification ... are we ... are we part of CRGA yet?

Director – My understanding is that the invitation for SOPAC representation on the sub-committee is in light of the initiative that is underway and that is implementation against the RIF and the sustainable financing strategy uhhh as SOPAC moves into the SPC will certainly have implications for uhhh ... for the SOPAC division as well as the economic development division with respect to how core resources are allocated to the various divisions for effective service delivery. I think that the CRGA certainly appreciated that in their discussions and decided that they would, by nature of the fact that the bulk of SOPAC err will be transferred to SPC and as well as that the SPBEA being transferred to the SPC, that it would be sensible to have some representation of those two organisations on the sub-committee. They agreed then to allow two SOPAC representatives of Council ... of SOPAC Council to participate in the sub-committee meeting which will meet, I'm not sure how many times but at least several times over the course of 2010 to discuss uhhh the ... to discuss and develop a draft strategy that will be considered by the CRGA in October of 2010. I hope that provides a bit more clarity, thank you.

Chair – Thank you Director, Tuvalu?

Tuvalu – Thank you Mr Chairman, uh if ... just before we uh go on to selecting who our members are, do we know who are the members from SPC, which countries are members of SPC to this committee please?

Marshall Islands – Mr Chairman, can I take the liberty to provide the response to the Minister of Tuvalu? Or or maybe I just leave it up to the Secretariat.

Chair – Sorry Marshalls could you repeat yourselves again please?

Marshall Islands [off mic] – It's alright I'll leave it up to the Secretariat [some members are finding this amusing] ... I'm sorry I brought this up ... it seems like it's not important so maybe we leave it

Chair – French Polynesia ...

French Polynesia – I would like to know is the Secretariat has the copy of the mandate concerning this sub-committee, because my recollection was that there were three members from SOPAC, one from each sub-region – Polynesia, Micronesia and Melanesia – but I'm not so sure ... I don't want to add confusion but I think it's

important that the uhmm SOPAC Governing Council accept or not the proposal made by the CRGA to join this sub-committee, thank you.

Chair – Thank you French Polynesia.

Director – Could you just give me a moment whilst I find it on my computer and then I can confirm – I was given a final proof from err the Deputy Director-General of SPC, Richard Mann, and I just need tuh find it in my folder (if you could just leave me a few moments) ...

Chair – the adoptions of the proceedings I suggest we come here maybe nine o'clock? Fiji is saying four o'clock ... nine o'clock in the morning; to go through the record of proceedings. If agreeable by all then we shall meet here at nine o'clock, FSM ...

Federated States of Micronesia – Just on tomorrow I would uh suggest and request if we can be given the draft in hard copy and give us time to look at it before we shoot on the ... you know on the screen so to go through ...

Chair – Thank you FSM, drafting committee? Drafting committee is that possible? ... yeah FSM they will be able to do that tomorrow ...

Federated States of Micronesia – yah thank you sorry Lala I didn't mean to suggest that you give it to us tonight but I was just uh ... you know in relation to the timing of the meeting tomorrow ... if we're gonna start at nine-thirty ... I mean we start at nine, nine o'clock may be start discussion nine-thirty ... that's what I was suggesting ...

Chair – The suggestion by FSM sounds good on me, maybe perhaps we get the document ... then start nine-thirty ... nine-thirty? Thank you.

Director – Apologies it was at the bottom of my case ... but uhmm membership of the sub-committee – the Chair of CRGA which is Australia currently, one member err one francophone member, two from Melanesia, two from Micronesia, two from Polynesia, the metropolitan members (France, New Zealand and the United States), a donor representative, two representatives from SOPAC, one representative from the South Pacific Board for Educational Assessment; and so the total membership is fifteen comprising ten PICs and five metropolitan members; and a partner excluding the SPC Director-General but either the Director-General or his delegate will be the secretariat to the sub-committee. And I am more than happy to actually print and circulate ... but at this stage I don't have the details on which countries – there may be some members who are also err ... sit on the CRGA who might have a bit more information around which countries are being represented from Melanesia, Micronesia and Polynesia, thank you.

Chair – Thank you Director for the clarifications – so the suggestion as it is on the paper is two members from SOPAC. Any suggestions for nominations ... oh Fiji you wanna have the mic? Marshall Island, since you raised the ... this can we have your final blessing on the nomination of who's going to be ... hehehe ... on this committee? Any recommendation?

Marshall Islands – Mr Chairman, in response to the query from the Minister from Tuvalu, Honorable Minister Taukelina ... from the Micros, it was FSM and Kiribati on the SPC ... I believe Polynesia was Samoa and Cook

Islands (yes), and the Melanesian it was PNG and Fiji ... and of course the Suva-based missions will also be invited to ... if the meeting is gonna take place in Fiji; the Suva-based missions, they will also to be part of that committee ... that's my blessing Mr Chairman, hehe.

Chair – Thank you Marshall Island ... perhaps we'll leave it open for discussion, maybe ... then maybe oh Fiji, you ...?

Fiji – I don't know who was at the meeting, but can it be clarified which two members ... are they to be picked from the Council or can the Secretariat also be part of that membership ... part of the two members from SOPAC?

Chair – Thank you Fiji.

Director – It does suggest that it's SOPAC representative ... two SOPAC representatives – in discussions with the Director-General he did suggest that although he will be ... he is the secretariat to the sub-committee that he will not be attending alone but would be taking you know various colleagues into those meetings and so also suggested that there would be a need for uhmm ... discussions you know between ourselves before those meetings in terms or during those meetings and likely that uhmm there would be an invitation to secretariat staff of SOPAC to also uhmm participate in the secretariat-level discussions before and in preparation for the sub-committee meetings so I would suggest that the SOPAC representatives is members as opposed to uhmm Secretariat staff, thank you.

Chair – Thank you secretariat, FSM?

Federated States of Micronesia – Thank you Mr Chair, I nominate one as the Chairman.

Chair – FSM's nominated Vanuatu ... Vanuatu do you accept? [laughter] Council members what do you feel about it?

Fiji – Fiji seconds the nomination.

Chair – Thank you Fiji, Vanuatu?

Vanuatu – No comments, thank you for nominating Vanuatu as chair for this. [clapping]

Chair – Thank you Vanuatu. There's one more ... two members ... any other nomination? Fiji?

Fiji – Chair I nominate Tuvalu [immediate clapping as he speaks]

Chair – Thank you Fiji for nominating Tuvalu, Vanuatu?

Vanuatu – Second that! [much mirth]

Chair – Just because you two are close together they want to support each other. Okay thank you Tuvalu. Any Other Business business? No? Yes Fiji?

Fiji – Uhhh thank you Chair. I just thought that it might be best that it be reflected in Other Business that the uh ... the consensus expressed by the members earlier on the need for the Forum, oh for the Council – both the Secretariat and the individual members of the Council to actively pursue or explore avenues of other non-traditional donors, thank you.

Chair – Thank you Fiji, any comments Council members on the proposal made by Fiji? Papua New Guinea ...

Papua New Guinea – Thank you Mr Chairman, we would like to support the proposal thanks.

Chair – Thank you Papua New Guinea, Council members? Agreed? that we taking forward what Fiji suggested? Thank you. We now go to ... there's another business that we need to undertake but we'll undertake that in closed session; and that will come after Agenda item fifteen. Okay I take Council members now to Agenda item 15 ... venue and date of the next SOPAC governing council for 2010; Director ... <snip> [the Summary Record sufficiently covers every intervention made under Item 15]

Friday, 30 October 2009

[Christopher Ioan also chairs final session; and the meeting has gone into extra time]

ADOPTION OF AGREED RECORD OF PROCEEDINGS (Item 16)

[Selected points of this marathon session only, went from about 9 am to 3 pm, without teas or lunch as hotel booking was effective only until Thursday, 29 October 2009.]

Under Item 10

[No audio exists of session proceedings up to this point, however Summary Record captures what immediately precedes what is below that reopened discussion on the RIF item]

New Zealand – Thank you Chair, I'm not looking to suggesting any change to the text ... I just wondered if the members would give me ... give us a couple of minutes. Just wanted to uh explain our position now that the heat of the discussion in session has gone out ... and again I'm not seekin' a change to the wording.

Essentially when Fiji, on behalf on some other members put up the resolution we [can't make out word used here] of it, but then there were some changes coming in from members, also very active discussion and perhaps difficult for the Secretariat to keep up with all the changes that were coming in; there was a particular change that was suggested in session uh which was missed off in some of the changes – it didn't detract much from the text uhhh which New Zealand brought up in the drafting committee and the change was simply this that we thought the uh ... just to provide context in the draft resolution to say that 'as Council we have noted the decisions made by our Leaders, the decisions made in the July meetings but that members felt that in the interest of due diligence that' ... you know we wanted to take more time to consider the contracts and everything else ... yeah,

that was a change that was suggested in session, it wasn't picked up and through drafting committee we had suggested it as text with brackets around for it to come back ... uhmm ... it was then noted that when we tried to bring it back that uhmm ... it was not the role of drafting committee ... the resolution had been passed and therefore we felt we were unable to uhmm ... to support the resolution. One of the ... another reason why we wanted that (that) context added was as a security net, if you like, so when we go back to front up to our Leaders we can say well we did ... yes we were interested in progressing but due diligence, in good faith and all of that we wanted some more time but as it stand the resolution [some words inaudible] ... and that is why we had to come to that that decision. Not suggesting a change in text ... I am simply providing now that the heat in the debate has gone out; wanted to provide the background to our position, thank you very much.

Chair – Thank you New Zealand, Fiji ...

Fiji – Thank you Chair, are we still on lines twenty-eight to thirty ?

Chair – Lines twenty-eight to thirty (Fiji – we still there?), Yes.

Fiji – Ok, Fiji is satisfied with what's in the uh ... what's there as it is. We believe this is a accurate record of what was said.

Chair – Thank you Samoa.

Samoa – Thank you Mr Chair. I think for Samoa we also expressed our support at the time which was also not reflected on the screen for the decision of Leaders but at the same time to also be reminded member countries that we are also accountable to our leaders and delaying the process will not only risk ... like uh the Council losing credibility not only to our donor partners but also to our own Leaders. I would like that to be reflected over there because our position is slightly different from the majority. Thank you.

Chair – Thank you. Fiji?

Fiji – Thank you Chair; I uh ... to tell you the truth I don't know where my friend from Samoa is coming from because it was absolutely clear on the day during the discussion that we were not delaying the decision – we were actually implementing it in a way that will be safe for all island countries thank you.

Chair – Thank you Fiji, Samoa?

Samoa – Thank you Chair ... this is during the debate surrounding the RIF and I specifically recall; and it was also supported by my colleagues from Niue at the time, thank you Fiji.

Chair – FSM?

Federated States of Micronesia – Thank you ... also at the end of this section on the RIF that we have uh reflection that we have actually adopted the resolution as a Council and we can't accept one or two objections. Is that correct? Am I correct in assuming that we have adopted the resolution during Council?

Chair – That is the understanding. That was the understanding that we include the paper as it is, is to go through it, making changes ...

Federated States of Micronesia – Yes that's what I recall but there's you know ... drafting committee ... that thing was not at drafting committee it is in Council where that thing was adopted.

Chair – Thank you FSM. I now take you to page ... oh oh the Samoa issue ... do we need to go back to check what is in the record? ... it's there, thank you. I now take Council members to page 49 ... where the resolution is.

Fiji – Excuse me Chair, we have not dealt with lines 31 and 32 yet ...

Chair – Oh thank you Fiji, page 48, lines 31 to 32? Thank you, oh? Fiji?

Fiji – Thank you Chair, before I do this with New Zealand's intervention, with all due respect to New Zealand ... uhmm I have very grave reservations about the lines 31 and 32 being there for several reasons. One, if you read it; it effectively invalidates the resolution that we have adopted. It says, 'the resolution (below) as agreed by the majority of members did not receive their support' – now, if I can draw the attention of the Council to article six, ten of the constitution, it basically says that in decision making we have to first go for consensus; if we don't that we put to a vote. On the night ... on Wednesday night ... late at night we reached consensus on the issue; we did not put it to a vote. There was no dissension at the time; so because there was no dissension we went through item by item, dot point by dot point until everybody was satisfied and we reached consensus on this particular resolution. Now if New Zealand is now saying that it did not support ... it is not consensus, therefore according to the constitution there should have been a vote, which was not done. And in that way, through that technicality there is a possibility that that would invalidate the resolution. Now the fact of the matter Mr Chairman is that the intervention by New Zealand came one day too late. They stated their lack of support of the resolution yesterday, which was a day after we had this consensus and the issue was closed; therefore it was not up for discussion – therefore that comment that is reflected there in lines 31 and 32 should not be there. It's a comment on agenda item ten point one which by yesterday was already resolved; it was not up for discussion, so I do not believe that that should have been recorded. It may be appropriate, if New Zealand insists that it be recorded, but it be recorded in the proceedings of yesterday, not within the agenda item that was already closed. And I would suggest that in place of that statement we put in a statement that reflects the fact that on Wednesday night we had reached consensus on that resolution, thank you.

Chair – Thank you Fiji, New Zealand?

New Zealand – Thank you Fiji and thank you Chair. Just a question for my understanding, can we agree a resolution that is draft because at the time we saw a lot of highlighted text, text in brackets and that was what we thought the purpose of then to go into ... you know if we just followed the rules of procedure in terms of the drafting committee ... that the drafting committee would take all the comments that were there that night and to tweak the text – not change the substance of what was said in session – so at that time it was draft text, it was still a draft resolution with a lot of changes. It was then the next morning uhmm during drafting committee that we tried to capture the changes, agree to the final text uhmm it was after that that this text was then finalised ... so in terms of agreeing the final text; this did not happen until yesterday. So how can Council effectively pass a resolution that's in draft form, when the text was still in draft ... so this text as noted in pages 49 through to uh ... 49 through to 51 – was only finalised yesterday; again if you want to delete 31 uh lines 31 and 32 ... because the whole page essentially on page 48 is kinda out of sync ... we introduced it on Monday, through to ... so it's kinda

out of time in a sense – so if you want to delete that then we need to note that the resolu ... with insert 'the draft text' with all the highlighted bits coz that was what then was agreed at that point in time. This is not the resolution, this was only finalised in session yesterday, so again we seek the counsel of the Secretariat and the Chair as to how to resolve the way ...[?]. before it is presented ... faafetai ...

Chair – Thank you New Zealand. Fiji?

Fiji – Thank you New Zealand. I would like to suggest that uh the draft is what we put up on the screen, that was the draft [see attachment to this Appendix]. After we finished with it that night, it was the resolution. So it took into account everybody's comments, we put it up here ... all the drafting committee had to do was reflect that resolution. We put up a draft and then we ended with the resolution, that's the way we see it and that's the way most of the member countries saw it. Thank you.

Chair – Australia?

Australia – Thank you Chair, just for clarity uhhh that as chair of the drafting committee uhhh certainly anything that we saw to do with resolution ten point one, none of that came back to committee, thank you.

Chair – Council members I'm ... I'm taking into ... yes Fiji?

Fiji – At least the main thing that we must not forget is that by the end of Wednesday night when we finished what was there on the screen reflected the majority consensus of the member countries. So that was the final resolution – we put up a draft and we ended up with the final resolution; now we cannot have all this technicalities being brought in to try and divert attention away from what members of this council or the majority of members of this Council want. Just because a few are against it we have to go with that; we have to go with the majority thank you.

Chair – New Zealand.

New Zealand – And we agree sir, we've got to go with the majority of the Council and indeed the majority of the Council that night uh was happy with the text that was placed up there. The text placed up there on Wednesday night is not this text ... so again we're happy for lines 31 and 32 to come in and be reflected in the budget, but then the text ... this text needs to be changed to be the text that was agreed at that time and again if you don't want to detract from what the majority of the members had agreed, this is what [accounts?] is about you had to ... no not the ... you uh had your say and agreed it and we will come in later to say that we you know ... we register our ... we can't support it. But then if we take out 31 and 32 – then we need to have the text as per close of session on Wednesday evening and [my] apologies ... I'm not trying to play games, it's just the way of consistency, thank you.

Chair – Thank you New Zealand, Fiji?

Fiji – Chair for Fiji, it would be acceptable if lines 31 and 32 be moved into the appropriate place where it was mentioned ... it was probably yesterday during the budget discussions, thank you. And that the text that we put up, the one that we had agreed on at close of session on Wednesday night.

Chair – Was it the text that we approved yesterday? Remember we spent the time to go through one text that was put forward yesterday, reflecting on what we've discussed ... Council members?

New Zealand – This is the text that was uh ... this was the copy provided by the Secretariat at close of play, they gave it to us first thing on Thursday morning uh which is the draft text of ... there's a lot of comments, a lot of changes – that was the copy that was provided by ... circulated by the Secretariat at close of play Wednesday
....

Chair – I mean, thank you New Zealand, I uh ... during the discussion on the issue we go through the draft as per my recollection is that the final print that we have, taking into consideration that note – so which document are you referring to Fiji/New Zealand – the one that we finalised yesterday or the one on Wednesday night, as per my understanding is the one that we've gone through again yesterday, okay, the text we worked on on Wednesday night and we deal with it before Other Business to approve it and I assume that's the document that we approving ... Fiji?

Fiji – Thank you Chair, I think it is the same document because when we headed out at close of session on Wednesday night, we had put in the necessary changes ... the necessary ... we had put in the necessary comments ... the necessary wording changes that needed to be made. Now because the drafting committee did not deal with it in the morning, we dealt with it and all we did was to put it in ... everything in its proper perspective so it is still the same document just that the comments were not put in that night but put on the side was finally put in yesterday, thank you.

Chair – FSM?

Federated States of Micronesia – Thank you Chairman, I tell you where to place the text that is ... I guess their concern is whether Council had already adopted or was it [?] adopted ... I think that's the basic question we'll try to argue here, that's right and that's why I brought up the question on whether resolution was actually adopted ... I think we do agree that it was adopted then we can put anything any where, you know it doesn't matter. But this is not, it's uh ... I might add that consensus does not necessarily mean hundred percent, thank you.

Chair – Thank you, Australia ...

Australia – Thank you Chair, and uh with due respect to my colleague from Fiji and I'm making this comment as Chair of the drafting committee, not as Australia; uhmm the text was referred to drafting committee uhmm drafting committee did make some suggestions and provided that back to Council about what was discussed – and put through was not anything to do with what drafting committee had put up ... I just wanted that to be clarified ... I'll uh ... I do note FSM's comment that uh consensus does not necessarily mean everybody agrees, thank you.

[lengthy silence while head table trying to get their bearings, so they can disentangle knots]

Chair – Thank you Council members, I think theeeeeaaaah resolution as we have in front of us is the one that is being cleaned taking into consideration the comments that were being raised on the Wednesday night and we went through that yesterday again to agree to it; to adopt it. So I would want that to be reflected here, we as a Council have agreed to it ... endorse it. Australia?

Australia – Thank you Chair, I think probably ... I can't speak for my colleague from New Zealand; there doesn't seem to be much point in prolonging this discussion, maybe we [?] ... to simply note at some point in this record, I'm not sure where; that Australia and New Zealand uhmm did not support the resolution, thank you.

Chair – Yeah, Fiji?

Fiji – I sincerely thank Australia for giving us a way out of this; so if we could just remove 31 and 32 and put it to budget and then we add that we agreed ... the Council agreed on the resolution.

Chair – Thank you Fiji, Australia?

Australia – Thank you Fiji, as long as it does reflect, at least for Australia, that we cannot support that resolution. Where? Quite happy for it to be moved wherever; but, uhmm it has to be clear, thank you.

Chair – Thank you Australia we shall now move to ...

New Zealand – Do you want New Zealand's opinion or ... ha! Aaah just to say in light of the interest in moving forward, we're happy for 31 and 32 to be moved out to [?] ... and the clean resolution to be put in uh we'll be adding some text outlining the reasons provided at the time during session on why we didn't ... and that was mainly around the role of drafting committee and not following the rules of procedure ... this could go back to the audio record, that was ... yeah the reason given at that time, thank you.

Chair – Marshall Island?

Marshall Islands – Thank you Mr Chairman, it's just that Mr Chairman if we look at this paragraph; can we go back to the previous paragraph which we seem to have a problem with this one – where the one started with 28, it says 'Australia noted that the legal advice tabled had raised serious concerns among members' – I think this should be 'few' countries that were concerned about the legal advice – the way it reads now it sounds like quite a few countries have serious concern about the legal advice; and and to reflect what has gone, I mean, what transpired in the meeting with only a few countries have serious concern about the legal advice, thank you Mr Chairman.

Chair – Australia?

Australia – Thank you Marshall Islands; I ... as I said when I intervened to say that ... uh I would have re-write this uh uh it clearly has members ... has confused the Marshall Islands and I apologise for that ... uhmm essentially the serious concerns uhmm ... what we acknowledged is that the legal advice was voluntarily provided uhmm raised serious concerns among members and uhmm the majority of the members and that has proved pivotal to the membership making decisions about ... or recommending uh that the decisions made at the SOPAC Governing Council in July 2009 could not be implemented. So my intervention here was to acknowledge that the member countries ... the majority of member countries around the room had uhmm ... had to reassess their ability to implement the Governing Council decisions in July 2009 on the basis of the legal advice that was provided. Australia had expressed reservations about this legal advice uhmm and we did not necessarily accept

or ... that it was uhmm ... it's one view and what we are saying is that uhmm lawyers can often be of different views. We did indicate at the time that there is differences between legal advice provided now and the fact that there was no legal concerns put before the Governing Council in July 2009. Thank you Marshall Islands for bringing that forward I will ensure that uh ... that is rewritten to accurately reflect and to clarify this situation, it was not to say that the majority of members had concerns with the legal advice; it was simply to say that the legal advice was the source of uhmm providing members to [?], thank you.

Fiji – Chair? Thank you ... for the information of the honourable delegate from Australia I would like to advise that the Pacific island countries are able to make their own decisions on their own on the RIF issue irrespective of the legal advice. We do not agree with that. Before the legal advice we had our reservations. The legal advice only confirmed most of those reservations. Everything is spelled out here in the constitution. We all can read and understand this constitution. The legal advice only confirmed what needed to be done ... the legal process that needed to be adhered to in the process of dismantling, dissolving or suspending this organisation is a sovereign entity ... it's an independent organisation, that's it! We did not take the stand we took because of the legal advice, no; we already had our concerns. The legal advice only confirmed the fears that we had ; and for my colleague from Micron ... uh from the Marshall Islands ... I understand because he is always put right at the corner. What is actually up there on the board from 28 to 30 is the concern ... not the concern ... there is no concern regarding the legal advice – the concern is actually on the timeline for transfer – so that is the concern that is being expressed there not against the legal advice but of our ability to meet the timeline for the transfer of SOPAC functions to SPC ... that's the concern that is being talked about there. As for the issues raised by my honourable colleague from Australia ... please we can make up our own minds, thank you.

Chair – Thank you Fiji. [well of silence] ... Thank you Fiji, uhmmm ... so Australia you err, Fiji you ... we'll give Australia to provide text or you want it left that way to reflect what Australia has said?

Fiji – Chair I've just said that what Australia said, to put it bluntly, is insulting to us ... you want that reflected in the meeting's summary? We made up our minds because of issues that concern the islands countries and the services ... the ability of SOPAC to deliver its services to the island countries; it's not because of the legal advice they're trying to ... you don't want it reflected in the text. As it is we are happy with it. Thank you Chair.

Chair – Some more on this? Australia ...

Australia – Mr Chair I would like to apologise to the delegate of Fiji if he found my intervention insulting ... that was certainly not my intention. We will go along with whatever the Council decides to do on this ... lines 28 to 30, thank you.

Chair – Council members? Cooks?

Cook Islands – Thank you Chair, as reflected we should move on as agreed.

Chair – Move on with the resolution that has been discussed yesterday. Thank you. We move on to page 51, ten point two. FSM?

Federated States of Micronesia – Sorry I was just goin' to say on just clarification on page 49 line 9 or 10, the appendix ... I'm just seeking clarification what document we actually talkin' about ... are we talkin' about this document we going through or another document.

Chair – Secretariat?

Director – That verbatim record will be ... (off mic to rapporteur – have you completed it?) and will actually be an appendix to the summary record, over the last several years. So there will be a full record of everything that everyone said during the SOPAC ... during the agenda item ...

Federated States of Micronesia – Thank you and I suppose we're gonna have a chance to look at those? [Nods from the top table] Thank you.

Chair – Thank you FSM, I take you to page 51, ten point two. Paragraph one? Fiji?

Fiji – I'm sorry Chair, just a quick one before we move on – just clarify whether we had agreed to put in ten point one that we had agreed on the resolution ... ?

Chair – Yeah noted, the Secretariat will take note of that and put it in the record. Thank you. Ten point two, paragraph one, line 17 and 18? <snip>

[The rest of the session on the clearance of the record was concluded without further commotion]

ATTACHMENT

DRAFT RESOLUTION³

Agenda Item 10.1

Regional Institutional Framework (RIF): Legal Implications

The Governing Council of SOPAC considered a legal opinion regarding the implications for SOPAC associated with the implementation of the RIF decision in regard to the transfer of the functions of SOPAC into SPC and SPREP. Council expressed its appreciation to the law firm K&L Gates for their services facilitated through the SOPAC/STAR network and the legal advice given in the memorandum. The memorandum is attached as Appendix.....

Council considered the matter at length and the verbatim report of the discussion is appended to this Summary Record of the 38th Annual Session of Council as Appendix

Council recognised that the challenge is to effectively address the legal and practical implications of implementation of the RIF decision while complying with; the legal requirements of the "Agreement Establishing SOPAC", the timelines in the Agreement; external legal obligations, and the need to preserve service delivery to its island members.

Council noted with pleasure the assurances provided by Australia, New Zealand and the European Union in regard to their funding commitments in support of the SOPAC work programme.

Council further noted with pleasure the unequivocal assurances provided by the CEOs of SPC and SPREP that they will support and actively pursue and secure the continuation of STAR.

Council concluded as follows:

- The SOPAC Agreement is an international treaty between states under the Vienna Convention on Law of Treaties 1969.
- Compliance with the Forum RIF decision must accord with the principles of the Pacific Islands Forum in regard to good governance, transparency and accountability, and Council is vested with this responsibility under the SOPAC Agreement.
- The full and effective implementation of the RIF decision will require time, and this time must be provided for in a transition period, during which issues such as funding contracts (current and new), employee contracts and relationships, intellectual property, budget and governance must be addressed and resolved through the development of Integration Agreements between SOPAC and the receiving organisations (SPC and SPREP).
- Council must continue its role as provided for in the SOPAC Agreement, supported by a Director, during this transition period, and recognises that this transition period has already begun.
- The Director of SOPAC together with the Director General of SPC and Director of SPREP in the period to July 2010 develop draft detailed Integration Agreements to be circulated to members three months ahead of the 2010 Council meeting. Council will consider and approve these agreements at its 2010 meeting.
- These Integration Agreements with SPREP and SPC must; ensure all parties are in agreement as to the key terms of the transactions; provide a "Road Map" for orderly implementation; provide employees and third parties with certainty regarding structure of transactions and composition of the resulting entities; and include oversight and recourse procedures.
- It is envisaged that the SOPAC/SPREP agreement and the SOPAC/SPC agreement dealing with energy will be relatively simple and straightforward and ready for full implementation immediately following the 2010 meeting.

³ The final resolution is part of the Summary Record of the SOPAC 38th Session

- The SOPAC/SPC agreement dealing with the core of the SOPAC work programme being integrated into SPC as a new Applied Science and Technology Division is likely to be complex and require amendment to the SOPAC Agreement.
- Notices of proposals for amendment to the SOPAC Agreement in accord with Article 14, to facilitate full and effective implementation must be circulated by July 2010 three months ahead of the next annual session of Council.
- Any decisions at the 2010 meeting in regard to amendment of the Agreement, will require ratification by the members, and will be considered in capitals prior to the 2011 meeting of Council recognising that a ratification by 2/3rds (12 out of 17) of the full members is required before the decisions may be implemented.
- Council recognises that the time of its 2011 meeting is the earliest practical time at which full and effective implementation of the RIF decision can take place.
- In order to have full and effective implementation of the RIF decision and complete the transfer of SOPAC functions, Council noted the legal advice together with the example of the Western European Union and the Council of Europe that neither suspension nor dissolution is necessary as provided for in Article 16. Council agreed to defer consideration of this issue until an appropriate later date.
- Council through the Chair will seek the agreement of SPC to hold its next annual session in close conjunction with the 2010 meeting of the CRGA. It would be convenient for the SOPAC Council to meet immediately before CRGA thus the latter could be informed of the Council's decisions.
- Council requested the Director to inform the Secretary General of PIFS and all SOPAC donors and partners of the outcomes of its deliberation on the progress with implementation of the RIF reform and seek their support during the transition period and beyond.

Council recognised the second three-year contract of the current Director ends on 31st January, and the current Deputy Director ends on 31st March, and under the circumstances decided ... (Member countries to discuss please...)