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# The 1976 Apia Convention on the Conservation of Nature in the South Pacific as the Basis for Regional Environmental Cooperation in Oceania: Evolution, Challenges, and Prospects

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***Abstract:*** The Oceania region, which unites 19 states and territories, has its own environmental problems that require the adoption of appropriate documents to solve them. Using a legal — historical approach, this article revisits the 1976 Apia Convention — the first multilateral environmental treaty concluded by the island states and territories of Oceania — and evaluates its enduring normative and institutional imprint on regional governance. It traces how the Convention's pioneering obligations to establish protected areas, safeguard endemic and migratory species, and control alien introductions catalysed the creation of the South Pacific Regional Environment Programme (SPREP) that was transformed into an international intergovernmental organization in 1993. It was SPREP that became the basis for instruments such as the 1986 Noumea and 1995 Waigani Conventions. The analysis reveals that, despite entering into force only in 1990 and being formally "suspended" in 2006, the Apia Convention continues to serve as a doctrinal touchstone: national courts and inter-state negotiations still cite its due diligence standard when expanding marine reserves or debating high-seas biodiversity. At the same time, the study identifies structural weaknesses of the convention — a low number of ratifications, voluntary compliance and the absence of enforcement machinery — that limit

the Convention's practical reach, particularly regarding the 21st-century threats such as plastic pollution, deep-sea mining and climate-induced migration. Building on recent political momentum, the authors propose a three-pillar reform package: optional protocols on plastics and seabed extraction; dynamic incorporation of the Paris Agreement and the Biodiversity Beyond National Jurisdiction (BBNJ) Convention obligations; and a strengthened reporting and a majority vote amendment procedure.

***Keywords:*** Apia Convention; environmental protection; regional cooperation; sustainable development; Oceania; South Pacific Regional Environment Programme (SPREP); United Nations Human Rights Council (UNHRC)

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## I. Introduction

The States of the South Pacific, once considered a "quiet" geopolitical sector, have gradually emerged as prominent participants in the global sustainable development dialogue, particularly through the Alli-

ance of Small Island States (AOSIS).[1] The environmental problems facing this region have far-reaching consequences not only for the island nations themselves but for all humanity. From widespread coral bleaching to the risk of complete submersion of atolls like Kiribati or Tuvalu — each of these phenomena demands a collective global response, not just an action from the affected States. Moreover, today's ecosystem threats are increasingly compounded by social ones: rising sea levels are accelerating migration flows, while higher temperatures are undermining food security. According to the estimates by Russian researchers, around 41 million people lived in the region at the turn of the century; by 2100, this number could rise to 71 million (Ochirova et al., 2019, p. 313). Climate-related factors are already directly or indirectly affecting labor migration, though their share in international migration flows currently does not exceed 10–12 %. However, if the frequency of storms and droughts continues to increase, Pacific nations will inevitably face an "exodus" of environmental migrants — primarily to Australia, New Zealand, and the United States.

The environmental agenda in Oceania is closely intertwined with its historical legacy. Former colonial powers left behind a heavy burden, including the consequences of nuclear testing and unequal resource exchange. The Russian Ministry of Foreign Affairs has explicitly described the French colonial model as "brutal," asserting that it inflicted immense harm on local populations — raising the issue of France's international legal responsibility from Algeria to French Polynesia.[2] Today, island nations themselves are increasingly asserting their agency. For example, within the United Nations Human Rights Council (UNHRC), they advocate for historical and ongoing extraterritorial harm — such as radiation pollution and reef destruction — to be addressed within the same legal framework as global greenhouse gas emissions. For the first time, the UNHRC recognized that a State responsible for damage must remedy the consequences of transboundary harm by adopting the Resolution 51/35 "Technical assistance and capacity-building to address the human rights implications of the nuclear legacy in the Marshall Islands"

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[1] Available at: https://www.aosis.org [Accessed 12.07.2025].

[2] Available at: https://mid.ru/ru/foreign_policy/borba_s_kolonializmom_i_neokolonializmom/1957975/ [Accessed 19.06.2025].

(2022).[3] At the 58th session (March 2025), the Special Rapporteur presented a report entitled "The Ocean and Human Rights," developed with the active input from Kiribati, Tuvalu, and the Solomon Islands. The report emphasizes that reef destruction and deep-sea mining should be evaluated according to the same legal standards as transboundary $CO_2$ emissions.[4]

## II. Political-Territorial Features and Institutional Foundations of Environmental Cooperation in Oceania

### II.1. Description of the Specifics of the State and Territorial Structure in the Oceania Region

"In the central and western parts of the Pacific Ocean lies the largest concentration of islands on the planet, covering a total area of approximately 1 million square kilometres. Most of these islands are grouped into archipelagos. Collectively, they are known as Oceania. Oceania is traditionally divided into three historical and ethnographic regions: Melanesia (which includes New Guinea), Micronesia, and Polynesia (which includes New Zealand). In some classifications, New Zealand is treated as a separate entity" (Solodovnikov, 2025, p. 358).

This region comprises 14 independent states: Australia, Vanuatu, Papua New Guinea, Solomon Islands, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Palau, Samoa, Tonga, Tuvalu, and the Federated States of Micronesia. In addition, three other countries possess territories in Oceania and are interested in environmental cooperation: France (New Caledonia, French Polynesia, Wallis and Futuna); the United Kingdom (Pitcairn); and the United States that administer several types of territories in the region — unincorporated organized territories (Guam, Northern Mariana Islands); unincorporated unorganized territories (Wake Island, American Samoa, Baker Island, Jarvis Island,

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[3] UN Human Rights Council, Technical assistance and capacity-building to address the human rights implications of the nuclear legacy in the Marshall Islands: Resolution 51/35, 07.11.2022.

[4] UN Human Rights Council, The Ocean and Human Rights: Report of the Special Rapporteur on the human right to a clean, healthy and sustainable environment (A/HRC/58/59), Geneva, 2025.

Johnston Atoll, Kingman Reef, Midway Atoll, Howland Island); an incorporated unorganized territory (Palmyra Atoll), and the U.S. state of Hawaii.

Unincorporated organized territories of the United States are territories that fall under the U.S. sovereignty, but are not part of any individual state or the District of Columbia. These territories are governed by the U.S. Congress under Art. IV, Section 3, Clause 2 of the U.S. Constitution that grants to the Congress the authority to manage and regulate U.S. territories and other national property. Despite being under the U.S. jurisdiction, such territories do not enjoy full representation at the federal level. Territories of the United States are classified based on two key criteria: the degree of incorporation into the country and the existence of local self-government. An incorporated territory is considered an integral part of the United States, with the full applicability of the Constitution and residents enjoying full citizenship rights. In contrast, an unincorporated territory is one that belongs to the United States, but is not constitutionally a part of it as a state or a permanent possession; the Constitution applies only partially, and such a territory may, in principle, be excluded from the U.S. jurisdiction. Further distinction is made between organized and unorganized territories. An organized territory has a civilian government established by an act of the Congress, while an unorganized territory is administered directly by federal authorities without a formal local governance structure. Thus, an unincorporated organized territory is a territory under the U.S. sovereignty that is not constitutionally a part of the United States, but has limited self-governance granted by the Congress (Irkhin, 2018, p. 485).

The status of territories in the contemporary world is subject to change and often reflects a combination of internal political dynamics and external diplomatic arrangements. A prominent example is New Caledonia, whose status has long been contested between supporters of full independence and advocates of continued association with France. A significant development has occurred recently: France has announced a "historic" agreement under which New Caledonia has been granted the status of a State, while remaining a part of the French Republic.[5]

[5] Available at: https://www.france24.com/en/live-news/20250712-ncaledonia-politicians-agree-on-statehood-while-remaining-french [Accessed 12.07.2025].

This development highlights how rapidly the legal and political status of territories can shift — even within long-established nation-states.

Two countries that possess territories in Oceania do not participate in regional environmental cooperation: Chile (Easter Island) and Indonesia (the province of "West Papua" (Sal'nikov and Delinse, 2022, p. 227)). Chile maintains that Easter Island, despite its geographic location, belongs to the Latin American region rather than Oceania. Indonesia, although geographically a part of Oceania, does not engage in cooperation with the Pacific island states, aligning itself politically and institutionally with Asia. It is a member of the ASEAN[6] and participates in the ASEAN international environmental agreements (Nguyen, 2013, p. 17). Another complication in the region arises from the unique legal status of two territories associated with New Zealand — the Cook Islands[7] and Niue.[8] These territories hold a mixed status: remaining in the free association with New Zealand, they independently participate in international treaties.

In light of the above, the term "states and territories" is used in reference to the Oceania region, as some territories have not achieved full independence. It is precisely these states and territories — which is an unusual phenomenon in international law — that constitute the participants of the regional institutional framework known as the South Pacific Regional Environment Programme (SPREP).[9] It is worth noting that despite the change in the official name, the acronym SPREP remained unchanged. The organization, originally known as the South Pacific Regional Environment Programme, became the Secretariat of the Pacific Regional Environment Programme in 2004. The word "South"

[6] Available at: https://asean.org/member-states/indonesia/ [Accessed 17.06.2025].

[7] Cook Islands Constitution Act 1964, No. 69, adopted in 1964, the principal legal document formalizing the status of the Cook Islands. Available at: https://www.legislation.govt.nz/act/public/1964/0069/latest/DLM354069.html?search=ts_act%40bill%40regulation%40deemedreg_Cook+Islands+Constitution+Act+1964_resel_25_a&p=1 [Accessed 19.06.2025].

[8] Niue Constitution Act 1974, No. 42, adopted in 1974, defines internal governance of Niue and its relationship with New Zealand. Available at: https://www.legislation.govt.nz/act/public/1974/0042/latest/DLM412778.html?search=ts_act%40bill%40regulation%40deemedreg_Niue_resel_25_a&p=1 [Accessed 19.06.2025].

[9] Available at: https://www.sprep.org [Accessed 19.06.2025].

was replaced with "Secretariat" to acknowledge the inclusion of Member States and territories located north of the equator. SPREP originated in 1975[10] as an international programme and evolved into a full-fledged intergovernmental organization with the adoption of its founding treaty in 1993, becoming the Secretariat of the Pacific Regional Environment Programme. For nearly half a century, SPREP has been at the forefront of the environmental protection in Oceania.

### II.2. Establishment and Activities of the Secretariat of the Pacific Regional Environment Programme (SPREP)

The Secretariat of the Pacific Regional Environment Programme (SPREP) originated as a joint initiative of the South Pacific Commission (SPC), the South Pacific Bureau for Economic Cooperation (SPEC), the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP), and the United Nations Environment Programme (UNEP). It emerged as the regional hub for the UNEP Regional Seas Programme,[11] aligning Oceania with a broader global effort to protect marine and coastal environments.

The decisive "political accelerator" for the development of SPREP was the Conference on the Human Environment in the South Pacific, held in Rarotonga, Cook Islands, from 8 to 11 March 1982.[12] This conference played a critical role in advancing the institutional consolidation of SPREP and firmly placing environmental concerns on the regional political agenda. The delegates of this conference adopted two key resolutions:

— the "South Pacific Declaration on Natural Resources and the Environment" that called on governments to prioritize the environmental protection at the national level;

[10] Available at: https://www.sprep.org/our-history [Accessed 19.06.2025].

[11] Available at: https://www.unep.org/topics/ocean-seas-and-coasts/regional-seas-programme/about-unep-regional-seas-programme [Accessed 07.07.2025].

[12] South Pacific Regional Environment Programme; South Pacific Commission, Report of the Conference on the Human Environment in the South Pacific, Rarotonga, Cook Islands, 8–11 March 1982: including South Pacific Declaration on Natural Resources and the Environment and Action Plan for Managing the Natural Resources of the South Pacific Region, Rarotonga, 1982, 27 pp.

— the "Action Plan for Managing the Natural Resources of the South Pacific Region" that outlined specific areas of work — such as ecosystem assessment, pollution control, and environmental education — and mandated the establishment of a permanent regional secretariat. In the same decision, the conference resolved to transition the SPREP from a temporary project into a separate entity within the framework of the South Pacific Commission (SPC). This move granted the programme its own mandate, ensured regular funding, and established direct accountability to the environment ministers of the region's countries.

The subsequent development of SPREP unfolded as follows: in 1986, the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region (the Noumea Convention) was signed. After years of consultations, SPREP formally separated from the South Pacific Commission (SPC) in Noumea in 1992 and relocated its headquarters to Samoa. It gained full autonomy as an intergovernmental organization with the signing of the Agreement Establishing the SPREP in Apia on 16 June 1993 that entered into force on 31 August 1995.[13]

The 1993 Agreement consists of 11 articles and contains the following provisions.

Article 1 establishes SPREP as an intergovernmental organization. It is composed of two principal bodies: the SPREP Meeting and the Secretariat that is permanently based in Apia, Samoa, unless the Meeting decides otherwise. In this way, the regional environmental mechanism — previously operating in a less formalized form — acquired its own legal personality and institutional structure.

Article 2 of the Agreement defines the purpose of SPREP as promoting cooperation among the countries of the South Pacific in the protection and improvement of the environment, and in ensuring sustainable development for present and future generations. The main instrument for achieving this purpose is the SPREP Action Plan that is regularly adopted by the SPREP Meeting. The article outlines key areas of activity: coordination of regional initiatives, environmental moni-

[13] Agreement Establishing the South Pacific Regional Environment Programme (SPREP), Apia, 16 June 1993. Available at: https://faolex.fao.org/docs/pdf/mul-67012.pdf [Accessed 03.07.2025].

toring, conservation and research programmes, pollution prevention, strengthening of national institutions, public education, and the development of legal and governance frameworks. This list sets out a broad yet clearly defined agenda, making the Action Plan the central operational instrument of SPREP.

The SPREP Meeting (Art. 3) serves as the organization's highest governing body and is open to both State parties and a number of dependent territories in the region. The article outlines its key powers: discussing regional environmental issues, adopting and revising the Action Plan, approving the budget and work programmes, appointing the Director, establishing subcommittees, and coordinating activities with the 1976 Apia Convention and the 1986 Noumea Convention. Thus, the Meeting fulfills both strategic and administrative-oversight functions. Its status enshrines the principle of "one country — one consensus," a hallmark of the Pacific regional practice.

Article 4 outlines the procedures governing the work of the SPREP Meeting. It establishes a system of rotating chairmanship, the adoption of the Meeting's own Rules of Procedure, and the resolution of issues by consensus — first among all members, and then separately among the parties to the Agreement. The article also provides for the participation of observers, designates the Director as the convening authority, and specifies English and French as the working languages. This article institutionalizes the Pacific tradition of "consensual regionalism" and ensures inclusivity, even for territories lacking full international legal personality.

Article 5 addresses SPREP's budgetary matters. The Director is responsible for preparing budget estimates, but the approval of the budget and all related decisions must be made by a unanimous agreement. The financial regulations may allow the acceptance of contributions from both public and private sources, thereby opening the door to donor funding for SPREP projects. This article ensures strict member control over financial decisions while maintaining flexibility in resource mobilization.

According to Art. 6, the Director heads the Secretariat, recruits staff in accordance with the rules established by the SPREP Meeting, and reports annually to the South Pacific Conference and the Pacific

Islands Forum. The Director is responsible for the management and implementation of programmes, serving as the key link between political decisions and their practical execution.

The functions of the Secretariat are defined in Art. 7. The Secretariat implements the Action Plan through annual work programmes by coordinating projects, conducting research, providing technical assistance to member states, collecting and disseminating information, organizing training activities, and securing funding. In addition, it administers the 1976 Apia Convention, the 1986 Noumea Convention, and other regional environmental agreements, thereby establishing SPREP as the central hub of environmental governance in Oceania.

Article 8 defines the legal status, privileges, and immunities of SPREP. The organization possesses international legal personality, enabling it to enter into agreements, own property, and initiate or respond to legal proceedings. SPREP, along with its officials and representatives, is granted privileges and immunities as agreed upon with the host State (Samoa) and, where necessary, with other parties. These provisions ensure the organization's functional independence and the protection of its personnel.

Article 9 explicitly states that the Agreement does not affect the sovereignty of the parties over their territory, territorial seas, exclusive economic zones, or continental shelves. This provision serves to prevent potential conflicts between environmental cooperation and sovereign rights over natural resources.

Article 10 outlines the procedures for signature, ratification, accession, and entry into force. The Agreement was open for signature from 16 June 1993 to 16 June 1994 by the 18 listed States and territories. It enters into force 30 days after the deposit of the tenth instrument of ratification. Thereafter, other States may accede to the Agreement, provided no objections are raised by the existing parties within six months. The Government of Samoa is designated as the Depositary. This article establishes a flexible yet controlled mechanism for the expansion of membership.

Article 10 of the Agreement lists 18 members (Australia, the Cook Islands, the Federated States of Micronesia, the Republic of Fiji, the French Republic, the Republic of Kiribati, the Republic of the Marshall

Islands, the Republic of Nauru, New Zealand, Niue, Papua New Guinea, the Solomon Islands, the Kingdom of Tonga, Tuvalu, the United Kingdom on behalf of the Pitcairn Islands, the United States of America, the Republic of Vanuatu, and Western Samoa.) (In 1994, Palau gained independence and subsequently became a member of both the United Nations and SPREP).

Amendments to the Agreement (Art. 11) may be proposed by any party and must be adopted by consensus of all parties at the SPREP Meeting. They enter into force once ratified by each party. Withdrawal from the Agreement is permitted through a written notification, which takes effect one year after the Depositary receives the notice. This provision ensures a balance between the stability of the Agreement and the sovereign right of States to withdraw.

Thus, the 1993 Agreement transformed SPREP into a full-fledged international organization with a clear mandate — to coordinate the efforts of Pacific States in the environmental protection and sustainable development. It combines a consensus-based decision-making model, traditional for the region, with the universal legal norms of international organizations, thereby establishing a solid international legal foundation for long-term environmental cooperation in Oceania.

Today, 19 States and territories are members of SPREP: Australia; the Cook Islands (in free association with New Zealand); the Federated States of Micronesia; Fiji; France (representing its three overseas territories: New Caledonia, Wallis and Futuna, and French Polynesia); Kiribati; the Marshall Islands; Nauru; New Zealand; Niue (in the free association with New Zealand); Palau (since 1994); Papua New Guinea; Samoa; the Solomon Islands; Tonga; Tuvalu; the United Kingdom (representing its overseas territory of Pitcairn); the United States (representing 12 territories: 2 unincorporated organized territories, 8 unincorporated unorganized territories, 1 incorporated unorganized territory, and the U.S. state of Hawaii); and Vanuatu. Out of these 19 SPREP members, 2 — the Cook Islands and Niue — are not members of the United Nations.

Over the past fifty years, the following international environmental agreements have been adopted under the framework of SPREP (Table 1):

— Convention on the Conservation of Nature in the South Pacific (Apia Convention), 1976;

— Convention for the Protection of the Natural Resources and Environment of the South Pacific Region (Noumea Convention), 1986;

— Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region (Waigani Convention), 1995.

The SPREP Secretariat administers all three of the aforementioned conventions, acting as both their depositary and executive body. It should be specifically emphasized that several treaties of critical importance to the region have been adopted outside the SPREP framework. These include the South Pacific Nuclear Free Zone Treaty (Treaty of Rarotonga), signed on 6 August 1985;[14] the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean, adopted in 2009;[15] (Bekiashev and Bekiashev, 2016, p. 45) and the Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction, concluded in 2023 (commonly referred to as the "Agreement on Marine Biodiversity Beyond National Jurisdiction").[16]

Among the aforementioned treaties, it is the Apia Convention that served as the legal foundation upon which subsequent environmental initiatives in the region were built. The purpose of this article is to provide a comprehensive legal analysis of the Apia Convention. It examines the Convention's key provisions, institutional legacy, significance for

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[14] South Pacific Nuclear Free Zone Treaty (with annexes). Concluded at Rarotonga on 6 August 1985. Available at: https://treaties.un.org/doc/publication/unts/volume%201445/volume-1445-i-24592-english.pdf [Accessed 10.07.2025].

[15] Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean, 2009. Available at: https://www.sprfmo.int/assets/Basic-Documents/Convention-and-Final-Act/SPRFMO-Convention-2023-update-12 May2023.pdf [Accessed 03.07.2025].

[16] Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction, 2023. Available at: https://treaties.un.org/doc/Treaties/2023/06/20230620%2004-28%20PM/Ch_XXI_10.pdf [Accessed 03.07.2025].

international environmental law, as well as current challenges and potential avenues for modernization. Given the rapidly evolving context of climate and biodiversity threats (Solntsev et al., 2024), particular attention is devoted to assessing the continued relevance of the Convention and exploring how its provisions can be adapted to the new realities of the 21st century. In this connection, the article also assesses the legal feasibility of establishing a regional compliance mechanism within the SPREP framework.

## III. The 1976 Apia Convention: Content and Prospects for Modernization

### III.1. The 1976 Apia Convention

The first codified attempt to develop a regional response to environmental challenges in Oceania was the Apia Convention on the Conservation of Nature in the South Pacific, signed in 1976 in Samoa. This document laid the legal foundation for a system of protected areas, a ban on the commercial exploitation of rare species, and a mechanism for regional monitoring. Its true innovation was in enabling small island States to act as a coordinated group rather than as isolated "voices in the General Assembly." For this reason, the Convention was soon recognized as a "cornerstone" of the Pacific environmental regionalism. In parallel with the adoption of the Apia Convention, the foundations of SPREP were also being established, as discussed earlier.

The treaty emerged in the context of a global surge in environmental diplomacy following the 1972 United Nations Conference on the Human Environment in Stockholm (which is referenced in the preamble to the Convention). It became the first instrument to grant the island States of the region a distinct legal voice in the emerging field of international environmental law. Over the decades, the Convention has influenced numerous national laws across the region, helped to establish the institutional foundations for cooperation, and set the course for subsequent regional agreements, including the 1986 Noumea Convention and the 1995 Waigani Convention.

Historically, the States of the South Pacific entered the era of self-determination and international cooperation at a time when the envi-

ronmental protection became inseparable from discussions about sovereignty. Prior to the establishment of the United Nations, there were no independent States in the region. It was at the Fourth South Pacific Forum in 1973[17] that the intention to negotiate a regional conservation agreement was formally expressed for the first time. By the mid-1970s, a range of environmental issues had sharply escalated: soil erosion on small volcanic islands, coastal pollution from oil spills, the lingering effects of nuclear testing, the introduction of invasive species, and — most critically — the irreversible decline of marine life within the waters of newly independent States. In this context, the Apia Convention emerged as a response not only to global trends but also to an urgent regional need for the collective protection of environmental interests.

The treaty was signed by five countries: Australia, France, Fiji, Samoa, and the Cook Islands. However, the Convention did not enter into force until 26 June 1990 — fourteen years later — after the required number of ratifications had been obtained.[18] Despite its formal entry into force, the parties later agreed to suspend the Convention's operation (this will be discussed in more detail below), in part due to its obsolescence and the fact that many of its provisions were incorporated into more modern agreements, such as the 1992 Convention on Biological Diversity,[19] among others. As a result, only 5 out of the 19 SPREP members have acceded to the Apia Convention. By contrast, the Noumea Convention (1986)[20] and the Waigani Convention (1995)[21]

[17] South Pacific Forum, Apia, Western Samoa, 17–18 April 1973. Available at: https://forumsec.org/publications/south-pacific-forum-apia-western-samoa-17-18-april-1973 [Accessed 03.07.2025].

[18] Convention on the Conservation of Nature in the South Pacific (Apia Convention). Available at: https://www.sprep.org/convention-secretariat/apia-convention [Accessed 03.07.2025].

[19] Convention on Biological Diversity, Rio de Janeiro, 5 June 1992. Available at: https://www.cbd.int/doc/legal/cbd-en.pdf [Accessed 03.07.2025].

[20] Convention for the Protection of Natural Resources and Environment of the South Pacific Region (Noumea Convention), 24 November 1986. Available at: https://www.sprep.org/convention-secretariat/noumea-convention [Accessed 07.07.2025].

[21] Waigani Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region, 16 September 1995. Available at: https://www.sprep.org/convention-secretariat/waigani-convention [Accessed 07.07.2025].

have each been ratified by 12 parties. The Waigani Convention has not been ratified by France, the Marshall Islands, the United Kingdom, the United States, and Vanuatu. In addition, two countries — Palau and Nauru — signed the Convention, but have not completed the ratification process. The Noumea Convention has not been ratified by the following States and territories: Kiribati, Niue, Palau, Tonga, Tuvalu, the United Kingdom, and Vanuatu. Thus, the United Kingdom and Vanuatu are the only two States that have ratified neither of the two conventions.

The scope of the Apia Convention covers the protection of both marine and terrestrial ecosystems. It consists of 16 articles. From the outset, the preamble emphasizes the particular vulnerability of island States that rely on a limited natural resource base, and affirms the goal of preserving natural heritage for the well-being of present and future generations. The Convention sets out specific obligations, including the establishment of national reserves and protected areas, the protection of endemic and migratory species, control over the introduction of alien organisms, and the promotion of scientific research and information exchange (Dahl, 2017).

Article 1 of the Convention defines the key terms and areas of protection. The Convention introduces a clear categorization: a "protected area" is divided into two types — a "national park" and a "national reserve." A national park is intended for public access and the conservation of entire ecosystems, while a national reserve allows for varying degrees of protection. This classification of protected areas establishes a balance between strict conservation and regulated access, setting a precedent that would later be adopted in other Pacific legal instruments.

Under Art. 2 of the Convention, the obligation to establish protected areas is clearly articulated. The contracting parties commit to creating a representative network of protected areas, with a particular focus on endangered species and outstanding landscapes.

The provision requiring parties to notify the "bureau authority" (later assumed by SPREP) institutionalizes a vertical system of registration and monitoring, anticipating modern standards of reporting and oversight found in contemporary international environmental law (Otrashevskaia et al., 2023, p. 47).

A special regime for national parks is established in Art. 3. Any reduction in the area, commercial exploitation of resources, or removal of plant or animal specimens is permitted only after "the most careful scrutiny." This phrasing effectively introduces a presumption of prohibition, shifting the burden of proof onto the party proposing the change — making it a powerful preventive legal mechanism. The provision on the visitor access highlights the educational, cultural, and recreational functions of national parks, reinforcing their role not only in conservation, but also in public awareness and community engagement.

Article 4 regulates national reserves. Reserves are to be kept "as undisturbed as possible," though scientific research and other uses compatible with the purposes of their establishment are permitted. The phrase "as undisturbed as possible" provides necessary flexibility, allowing for the consideration of the socio-economic realities of small island States, without undermining the protective intent of the reserve designation.

Article 5 extends protection beyond designated protected areas. The Convention moves beyond a strictly territorial approach by obligating States to safeguard all native biota, with a particular emphasis on migratory species. Each party is required to compile a national "red list" and enforce a strict prohibition on the removal of listed species, except for scientific or ecologically justified purposes. The provision calling for the "careful consideration" of the introduction of non-native species reflects an early recognition of the risks posed by biological invasions.

Traditional use is addressed in Art. 6. It includes a clause on the "customary use," allowing indigenous communities to maintain their cultural practices. This provision represents an early legal bridge between the environmental protection and the rights of indigenous peoples — an approach that would later be reinforced in instruments such as the 1992 Convention on Biological Diversity, the 2007 United Nations Declaration on the Rights of Indigenous Peoples, and similar frameworks.

Article 7 outlines the framework for regional cooperation. Its five paragraphs define a full cycle of collaborative action among Pacific States: conducting research, sharing data, building human capacity, harmonizing conservation objectives, and promoting public education.

These mechanisms were later incorporated into the structure of SPREP, which — 17 years after the Convention's signing — was transformed into an intergovernmental organization. In this way, SPREP became the direct administrative pillar supporting the implementation of the Convention.

Article 8 describes the procedures for ongoing consultations and the role of the bureau. SPREP is designated as the administrative bureau of the Convention, responsible for circulating reports and convening meetings, thereby ensuring the institutional "memory" and continuity of action. This provision formally integrates the Convention into the broader regional organizational framework.

Article 9 allows for the making of reservations, provided they are consistent with the objectives of the Convention and with international law. This provision eases potential tensions between the universality of the Convention's norms and the sovereign specificities of individual States, without opening the door to undermining the core obligations established by the Agreement.

Article 10 governs the procedure for amending the Convention. The process is strict yet workable: a proposed amendment must be submitted at least 90 days in advance, adopted by a qualified majority of three-fourths of the parties present, and enters into force once ratified by the same three-fourths. This framework ensures a balance between the stability of legal norms and the capacity for evolution in response to advancing scientific knowledge and shifting political realities.

Articles 11 to 13 set out the procedures for signature, ratification, and accession. The Convention was open for signature until 31 December 1977, while ratification and accession remain open without time limits. The Government of Samoa serves as the Depositary. The universal nature of potential membership underscores the inclusive character of Pacific regional environmental diplomacy.

Entry into force is established in Art. 14. The threshold for activation is four ratifications, after which the Convention enters into force for each new party 90 days following the deposit of its instrument of ratification. This low threshold was intended to expedite the Convention's entry into force — though in practice, it took 14 years for the Convention to become operative, finally entering into force in 1990.

Denunciation of the Convention is addressed in Art. 15. A party may withdraw five years after the Convention enters into force for it, with a 12-month advance written notice. This standard clause minimizes political risks by providing legal clarity and predictability, which is essential for fostering long-term environmental commitments and investments.

Authenticity of the texts and the UN registration are established in Art. 16. The article affirms the equal legal validity of the English and French versions of the Convention, outlines the duties of the Depositary, and provides for registration in accordance with Art. 102 of the United Nations Charter — a necessary requirement under international law.

Thus, the Apia Convention anticipated many key elements of the emerging global biodiversity conservation framework: territorial networks of protected areas, national red lists, control over species introductions, an amendment mechanism, and the integration of Indigenous practices. Building on the principles of the 1972 Stockholm Declaration on the Human Environment, the Convention translated those broad aspirations into binding legal norms. With the subsequent establishment of SPREP, it gained a durable institutional foundation, positioning Oceania as one of the global pioneers in the regional environmental integration. At the time, only one other region — Africa — had adopted a comparable regional instrument: the African Convention on the Conservation of Nature and Natural Resources (Algiers, 1968).[22] As a part of the broader discussion, it is worth noting that the 1968 African Convention on the Conservation of Nature and Natural Resources was replaced by a revised version adopted in Maputo, Mozambique, on 11 July 2003.[23] This updated treaty — known as the Maputo Convention — introduced modernized principles of sustainable development, environmental governance, and integration with international environmental law. However, the Maputo Convention only entered into force in 2016, highlighting the often lengthy process of ratification and implementation of regional environmental agreements.

[22] Available at: https://au.int/sites/default/files/treaties/41550-treaty-Charter_ConservationNature_NaturalResources.pdf [Accessed 07.07.2025].

[23] Available at: https://au.int/sites/default/files/treaties/41550-treaty-Charter_ConservationNature_NaturalResources.pdf [Accessed 07.07.2025].

Nevertheless, the legal analysis reveals that the absence of an enforcement mechanism from the outset imposed inherent limitations on the Convention. The wording — "to make every effort to protect such fauna and flora (with special attention to migratory species) so as to safeguard them from unreasonable exploitation and other threats which might lead to their extinction" — granted States broad discretion in translating international obligations into domestic law. This flexibility, while accommodating national contexts, ultimately weakened the Convention's capacity to ensure uniform and binding implementation across the region (Lawrence, 1994, p. 203). The absence of a dedicated compliance committee, mandatory reporting obligations, and enforcement measures effectively placed the burden of implementation on national governments, many of which were still in the process of building administrative institutions in the wake of decolonization. According to SPREP, which was originally established to support the implementation of the Apia Convention, by the mid-1990s only half of the Convention's signatories had developed and submitted national park development plans for approval (Herr, 2013, p. 42).

The institutional legacy of the Apia Convention is most clearly reflected in the establishment and evolution of SPREP that gradually developed into an independent intergovernmental organization. Since 1986, SPREP has served as the managing body for the Noumea Convention on the Protection of the Marine Environment of the South Pacific Region, and since 1995, for the Waigani Convention on the Transboundary Movement of Hazardous Wastes. Thus, the "treaty plus secretariat" model first implemented under the Apia Convention became a template for regional marine agreements within the framework of the UNEP Regional Seas Programme. This same institutional structure was later replicated in other regions, including the Caribbean, East Africa, and the Mediterranean (see Table 1 below for details).

Importantly, the Convention also had a political impact by strengthening the collective diplomatic weight of small island States. Certain provisions — particularly Art. 4 and 5 — call for the joint development of scientific justifications for protected areas. This enables countries such as Niue and Tuvalu, which have limited human and technical capacity to conduct comprehensive cadastral or ecological surveys, to rely on

regional expertise and cooperation (Tagelagi, 1997, p. 183). The shared stance of the "Apia group" has also been invoked beyond the Convention's immediate jurisdiction — for example, during voting at the 2023 conference on the adoption of the Agreement on Marine Biodiversity Beyond National Jurisdiction (BBNJ). There, Pacific island States referenced their prior experience with harmonizing zonal approaches, as codified in the 1976 Convention, to support their positions.

Over time, however, the Convention began to fall behind the increasingly complex environmental agenda. The Noumea Convention that entered into force in 1990 addressed marine pollution and partially overlapped with the provisions of the 1976 Convention, yet it failed to resolve the core issue of weak state accountability in fulfilling the obligations. The Waigani Convention expanded the scope of regulation to the transboundary movement of hazardous waste, while the 1992 Convention on Biological Diversity introduced global standards for access to genetic resources and benefit-sharing (Inshakova et al., 2023, p. 145) — elements entirely absent from the 1976 text. In recent years, new challenges such as plastic waste, microplastics (Solntsev, 2023), the prospect of the deep-sea mineral extraction, climate threats and sea-level rise, as well as ocean acidification, have raised issues that the half-century-old Convention simply could not have anticipated. At the same time, the number of the SPREP members that have ratified the Apia Convention remains low, which diminishes its legitimacy as a comprehensive normative framework for the region.

**Table 1. Contribution of the Apia Convention to Institutional Development**

| Element | To what do we owe the Apia Convention | Further Development |
|---|---|---|
| SPREP (Secretariat) | Initially administered only the Apia Convention | Since 1995 — an independent intergovernmental organization serving as the secretariat for the Noumea and Waigani Conventions |

| Element | To what do we owe the Apia Convention | Further Development |
|---|---|---|
| Regional network of protected natural areas | First to establish the obligation to create marine and terrestrial reserves (Arts. 5, 8) | Duplicated by the Noumea Convention (Arts. 7–10) and further developed under the 1992 Convention on Biological Diversity |
| Coordination with the UNEP Regional Seas Programme | Introduced the “treaty + action plan” model | The 1986 Noumea Convention became an official component of the UNEP Regional Seas Programme |
| Political subjectivity of small island States | Gave microstates a platform for coordinated regional negotiations | Used in advancing the 2023 Agreement on Marine Biodiversity Beyond National Jurisdiction |

In this context, the legal analysis suggests that the Convention functions more as a “normative core” than as a fully effective regulatory instrument for the 21st century. The principles of ecosystem conservation and collective responsibility for the region’s natural heritage continue to serve as important reference points for environmental legislation in Oceania. However, the actual challenges of the 21st century demand more flexible and robust international legal mechanisms (Dahl, 2017).

### III.2. Prospects for Amending the 1976 Apia Convention

The following three directions for modernizing the Convention are fundamental. First, it is necessary to develop optional protocols, similar to the mechanism applied in the Noumea Convention regarding discharges and emergency pollution. A protocol on combating plastic pollution could eliminate the gap in the regulation of solid household waste, while a protocol on deep-sea mining could introduce mandatory strategic environmental assessments and precautionary standards prior to the issuance of licenses. Second, it would be appropriate to integrate the provisions of the Paris Agreement and the 2023 Agreement on Marine Biodiversity Beyond National Jurisdiction, clarifying the interaction between zonal and transzonal protection regimes. The

inclusion of a *mutatis mutandis* clause in a separate article would allow for the flexible application of new global standards without a complete revision of the Apia Convention text. Third, the procedure for amendments and monitoring should be reformed, shifting from consensus to a three-fourths majority vote, introducing mandatory national reports every four years, and granting the Secretariat the authority to issue recommendations for addressing identified violations.

The provisions of the 1976 Convention are already being used in legal argumentation. For example, in 2019, the High Court of Kiribati referred to Art. 5 of the 1976 Convention in an advisory opinion on the legality of expanding the Phoenix Islands marine reserve (Herr, 2021). The analysis shows that even in the absence of a strict enforcement mechanism, the treaty continues to serve as a normative reference point, reinforcing the obligations of regional States to exercise due diligence. At the same time, it is precisely the weakness of the accountability system that explains why many of the Convention's provisions have, over the years, failed to develop "teeth." This justifies characterizing compliance as its "Achilles' heel" (Lawrence, 1994, p. 203) and highlights that strengthening enforcement procedures would be the most pragmatic step in any reform effort.

Despite the formal status of the 1976 Convention as "in force" (as indicated in the Australian treaty database),[24] its effectiveness has remained low. No additional rounds of accession by new State parties have taken place; the Convention obligations have been largely duplicated by more recent global treaties, most notably the 1992 Convention on Biological Diversity; and since the early 2000s, financing and reporting have been carried out primarily through the SPREP programmes rather than through the own mechanisms of the Convention.

In an attempt to revive the document, a package of amendments was agreed upon at the meeting of the parties in Guam on 10 September 2000. These included the introduction of a formal procedure for amending the text, clarifications regarding denunciation procedures, and other updates. However, the amendments have not entered into

[24] Convention on the Conservation of Nature in the South Pacific (Apia Convention).

force, as they have yet to receive the required two-thirds of ratifications.[25]

The decisive turning point came on 13 September 2006 in Noumea, when the joint 8th Conference of the Parties to the Apia and Noumea Conventions adopted a decision to "suspend the operation of the Apia Convention until further notice." This effectively left the treaty in force *de jure*, while discontinuing its practical application *de facto*.[26]

From that point onward: regular meetings of the parties ceased; no further reporting or budgeting has taken place; and environmental issues in the region have since been addressed primarily through the Noumea Convention and the implementation of national obligations under the Convention on Biological Diversity.

Thus, the current status of the Apia Convention can be described as formally in force but functionally "dormant": the treaty remains legally valid, yet its institutional activity is suspended, and the conservation mechanisms it envisaged have been absorbed into other international instruments.

Given the above, a realistic pathway to strengthen the enforcement of the Apia Convention in Oceania is the incremental creation of a regional jurisdictional mechanism under the SPREP architecture. Legally, the SPREP Meeting is empowered to establish subsidiary bodies, while the Conferences of the Parties to the Noumea and Waigani Conventions can adopt procedures to promote implementation; this makes a two-step model feasible: first, the establishment of a standing, expert-based Compliance and Implementation Committee with quasi-judicial functions (receiving Party submissions, issuing findings and recommendations, and triggering facilitative measures), modelled on the Mediterranean (Barcelona) system;[27] second, incorporation of a consent-based

[25] Amendments to the Convention on Conservation of Nature in the South Pacific (Apia Convention), Guam, 10 September 2000. Available at: https://www.info.dfat.gov.au/info/Treaties/Treaties.nsf/AllDocIDs/e6eca589122fb7cbca256b1a0080aa23?OpenDocument&Click= [Accessed 03.07.2025].

[26] Convention on the Conservation of Nature in the South Pacific (Apia Convention).

[27] UNEP/MAP (Mediterranean Action Plan). Decision IG.17/2 "Procedures and mechanisms on compliance under the Barcelona Convention and its Protocols." In: 15th Meeting of the Contracting Parties to the Barcelona Convention and its Proto-

clause for binding dispute settlement by arbitration using the Permanent Court of Arbitration Optional Rules for Environmental and Natural Resources Disputes,[28] inserted via a protocol or a COP decision. Regionally, the momentum already exists: Parties to the Waigani Convention have tabled the creation of a Compliance Committee,[29] indicating political receptivity to a formal compliance organ. While a full-fledged "Pacific Environmental Court" would require a new constitutive treaty and therefore heavier diplomacy, the compliance-committee-plus-arbitration track can be operationalized within the existing instruments and would align Oceania with best practice across multilateral environmental agreements.

The International Court of Justice Advisory Opinion of 23 July 2025[30] on the Obligations of States in respect of Climate Change materially strengthens the normative baseline for the Pacific regionalism. The Court clarified that States owe binding obligations under treaty and customary international law to protect the climate system, must exercise a stringent standard of due diligence to prevent significant harm, and have duties to cooperate and to align measures with the best available science; it also tied the climate protection to the human right to a clean, healthy and sustainable environment. Although advisory in nature, the Opinion is authoritative and can be operationalised regionally in two ways: first, by mandating the proposed Compliance and Im-

cols (Almería, Spain, 15–18.01.2008), UNEP(DEPI)/MED IG.17/10, Annex V. Nairobi: UNEP, 2008. Available at: https://resolutions.unep.org/uploads/2008-contracting_parties_to_barcelona_convention.pdf [Accessed 16.08.2025].

[28] Permanent Court of Arbitration. Optional Rules for Arbitration of Disputes Relating to Natural Resources and/or the Environment (adopted 19.06.2001). The Hague: PCA, 2001. Available at: https://docs.pca-cpa.org/2016/01/Optional-Rules-for-Arbitration-of-Disputes-Relating-to-the-Environment-and_or-Natural-Resources.pdf [Accessed 16.08.2025].

[29] SPREP; Waigani Convention Secretariat. Report of the Tenth Meeting of the Conference of the Parties to the Waigani Convention (Apia, Samoa, 30.08.2019), esp. Para. 39–40 (agenda item 7.3 "Proposal for a mechanism to promote compliance"). Apia: SPREP, 2019. Available at: https://www.sprep.org/sites/default/files/documents/circulars/Cir19-70_Report_Tenth_Mtg_Waigani_Convention_0.pdf.

[30] International Court of Justice. Obligations of States in respect of Climate Change: Advisory Opinion of 23 July 2025 (Case No. 187). The Hague: ICJ, 2025. Available at: https://www.icj-cij.org/case/187 [Accessed 16.08.2025].

plementation Committee to take the Opinion due-diligence standard and cooperation duties as interpretive guidance when reviewing Party reports; second, by embedding an obligation to consider principles articulated by the ICJ when adopting the SPREP work programmes and Noumea/Waigani decisions. For small island developing States, this elevates arguments for enhanced mitigation support, adaptation finance and loss-and-damage responses within Oceania's legal order and in relations with major emitters beyond the region.

Accordingly, the creation of regional jurisdictional bodies for international environmental law in Oceania is not only legally possible within existing treaty frameworks; it is practically advisable, beginning with a SPREP-anchored compliance committee and an opt-in arbitral track.[31]

The political groundwork for updating the text of the Apia Convention is already taking shape. In 2024, the region's countries adopted the Apia Ocean Declaration,[32] which calls for the modernization of regional agreements to address plastic pollution and unsustainable extractive industries. The ratification of the 2023 Agreement on Marine Biodiversity Beyond National Jurisdiction is also drawing attention to the complementarity between regional and global mechanisms. The 2023 Agreement has been signed but not yet ratified by the following Oceania States and territories: Australia, the Cook Islands, Kiribati, Nauru, New Zealand, Niue, Papua New Guinea, Samoa, Tonga, the United Kingdom, and the United States. At the same time, the Agreement has already been ratified by the Federated States of Micronesia, Fiji, France, the Marshall Islands, Palau, the Solomon Islands, Tuvalu, and Vanuatu. Meanwhile, the leadership of Samoa, Fiji, and Vanuatu in advancing the Blue Pacific concept is reinforcing the political will to renew and strengthen the regional environmental legal framework.

[31] Permanent Court of Arbitration. Optional Rules for Arbitration of Disputes Relating to Natural Resources and/or the Environment (adopted 19.06.2001). The Hague: PCA, 2001.

[32] Apia Commonwealth Ocean Declaration "One Resilient Common Future," 2024. Available at: https://production-new-commonwealth-files.s3.eu-west-2.amazonaws.com/s3fs-public/2024-11/apia-commonwealth-ocean-declaration.pdf?VersionId=lLG2G1O4G7Nwp28YME7kl80jjWBwmHCN [Accessed 03.07.2025].

## IV. Conclusion

Prior to the establishment of the United Nations, there were no independent States in Oceania. Historically, the States of the South Pacific entered the era of self-determination and international cooperation at a time when environmental protection became inseparable from broader discussions on sovereignty.

The 1976 Apia Convention on the Conservation of Nature in the South Pacific was the first treaty to give legal form to the long-standing sense of shared ecological destiny among the island States of Oceania, transforming their individual voices into a collective, legally articulated position. Signed in the capital of Samoa, the Convention introduced a long-missing "language" of regional environmental governance by formulating binding obligations to preserve terrestrial and marine ecosystems, ban the commercial exploitation of rare species, and establish a network of protected areas. It was within the framework of this Convention that the principles of collective environmental responsibility, the inclusion of coastal-marine zones, and institutional monitoring were first codified — principles that would later become the foundation of the entire Pacific environmental architecture. Ultimately, the 1976 text was not only a response to the 1972 Stockholm Conference on the Human Environment, but also an early effort by small island States to position themselves as equal participants — alongside former colonial powers — in the emerging global agenda for biodiversity conservation.

By the time the Agreement entered into force in 1990 — following the minimum threshold of four ratifications — three interrelated layers of a future regional order had already begun to crystallize around it: normative, represented by the Apia Convention itself and the treaties that followed; institutional, embodied in SPREP, which became the Convention's secretariat and institutional "memory"; and socio-humanitarian, encompassing the broader issues of climate, economic development, and the postcolonial identity of the Pacific Islands Forum States. This triadic foundation allowed the Convention to function as the "core" around which later legal instruments were built — most notably, the 1986 Noumea Convention on the protection of the South Pacific marine environment and the 1995 Waigani Convention banning the trans-

boundary import of hazardous wastes. The SPREP Secretariat, initially established to serve only the Apia Convention, evolved into an independent intergovernmental organization, now acting as depositary and executive body for all three treaties: the Apia, Noumea, and Waigani Conventions.

Through the lens of the evolution of international environmental law, it is evident that the Apia Convention anticipated many elements that are now widely accepted as a part of the global legal architecture: territorial networks of protected areas, the recognition of traditional knowledge of indigenous peoples, a mandatory amendment mechanism, and even the "treaty + action plan" model later implemented in the UNEP Regional Seas Programme.

At the same time, the text of the 1976 Agreement contained inherent limitations that became sources of future challenges. First, not all countries in the region ratified the treaty: to date, only 5 out of the 19 SPREP members are full parties — less than a quarter. This low ratification rate weakened the representativeness of the Convention and opened the door for competing legal frameworks. Second, the treaty drafters deliberately opted against establishing a binding supranational enforcement mechanism, favoring instead voluntary national measures and periodic reviews. Third, although the Convention includes a detailed amendment procedure — requiring proposals 90 days in advance, adoption by a qualified majority of three-fourths of the parties present, and entry into force upon ratification by the same majority — this mechanism, unfortunately, has never been activated.

As a result, the text of the 1976 Agreement — drafted in an era when the primary concerns centered around the disappearance of rare birds and the introduction of exotic plant species — proved unprepared for the challenges of plastic pollution, sea-level rise, and the emerging prospect of large-scale deep-sea mineral extraction.

The logical outcome was the gradual "reassignment" of the regional environmental agenda to more modern international agreements. The Noumea Convention that entered into force in the same year — 1990 — focused on the marine pollution and effectively duplicated the territorial scope of the Apia Convention, while failing to resolve the problem of weak accountability. The Waigani Convention addressed the trans-

boundary movement of hazardous waste. The global Convention on Biological Diversity (1992) introduced rules on access to genetic resources and benefit-sharing — entirely absent from the 1976 text. And the 2023 Agreement on Marine Biodiversity Beyond National Jurisdiction outlined the framework for future regulation of areas beyond national jurisdiction. Against this backdrop, the Apia Convention remains formally in force, but functionally dormant: regular meetings of the parties have ceased, no reporting or budget processes are active, and most of its original mechanisms have been absorbed into other regional framework instruments.

The upcoming fiftieth anniversary of the Convention in 2026 presents a unique window of opportunity for its "second life." The key question, however, is not whether the Convention can be revived, but whether the States of the region are willing to use its accumulated normative and institutional capital as a springboard for addressing the challenges of the 21st century. If by 2027 even a single legally binding protocol is adopted — for example, one targeting a 40 % reduction in plastic leakage by 2035 and imposing a moratorium on the industrial extraction of manganese nodules pending a comprehensive environmental impact assessment — and if a national reporting mechanism begins operating in a pilot phase, the Apia Convention could once again become a relevant regulatory instrument rather than a merely historical symbol. But if the reform efforts stall in consultative committees, the treaty risks being remembered primarily as a case of the unfulfilled ambition — supplanted by newer, but often less legitimate, initiatives.

Thus, the fate of the spirit of Apia is no longer defined by the 1976 text — nor even by the 2006 decision to suspend its operation, — but by the political will of today's Pacific leaders to transform a half-century-old legal artifact into a living instrument for managing growing risks: from microplastics and ocean acidification to the climate-induced migration. The ICJ Advisory Opinion on climate change rendered in 2025 provides the doctrinal anchor for this turn: it converts previously contested climate due diligence expectations into an authoritative benchmark that Oceania's institutions can reference in compliance review and, where consented, in arbitration.

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