

## **The Policy Context of the Torres Strait Environmental Baseline Study**

**Allan K. Haines**, Marine and Coastal Section  
Department of Arts, Sport, the Environment, Tourism and Territories

### **Introduction**

The marine environment is a continuous medium, interconnecting all maritime countries. Ocean currents carry sediments, pollutants, and living organisms and many marine species move great distances. For these reasons it is not possible for any country acting in isolation to protect its marine resources or to conserve its marine biological diversity. It is increasingly being recognized that management of the marine environment must be carried out by countries working together in global, regional and bilateral contexts. The co-operation between Australia and Papua New Guinea to manage the Torres Strait marine environment is a bilateral arrangement which also has regional significance, and is indeed fulfilling a regional role in the South Pacific.

In the context of regional co-operation, my Department also welcomes the presence here of Professor Koewadji from Indonesia. We have close connections with Papua New Guinea and our South Pacific neighbours and we consider it important to build up similar connections with Indonesia.

### **SPREP Convention**

Torres Strait falls within the area of the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region (commonly known as the SPREP – South Pacific Regional Environment Programme – Convention). Australia and Papua New Guinea are partners, along with our South Pacific neighbours, in the development and implementation of this Convention.

In particular, the following Articles of the SPREP Convention are relevant to the environmental issues which our countries are dealing with in Torres Strait. In fact, our joint activities can be regarded as partial fulfilment of our obligations under that Convention.

ARTICLE 7  
"POLLUTION FROM LAND-BASED SOURCES"

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area caused by coastal disposal or by discharges emanating from rivers, estuaries, coastal establishments, outfall structures, or any other sources in their territory."

ARTICLE 13  
"MINING AND COASTAL EROSION"

The Parties shall take all appropriate measures to prevent, reduce and control environmental damage in the Convention Area, in particular coastal erosion caused by coastal engineering, mining activities, sand removal, land reclamation and dredging."

ARTICLE 14  
"SPECIALLY PROTECTED AREAS AND PROTECTION OF WILD  
FLORA AND FAUNA"

The Parties shall, individually or jointly, take all appropriate measures to protect and preserve rare or fragile ecosystems and depleted, threatened or endangered flora and fauna as well as their habitat in the Convention Area. To this end, the Parties shall, as appropriate, establish protected areas, such as parks and reserves, and prohibit or regulate any activity likely to have adverse effects on the species, ecosystems or biological processes that such areas are designed to protect. The establishment of such areas shall not affect the rights of other Parties or third States under international law. In addition, the Parties shall exchange information concerning the administration and management of such areas."

ARTICLE 16  
"ENVIRONMENTAL IMPACT ASSESSMENT"

1. The Parties agree to develop and maintain, with the assistance of competent global, regional and sub-regional organisations as requested, technical guidelines and legislation giving adequate emphasis to environmental and social factors to facilitate balanced development of their natural resources and planning of their major projects which might affect the marine environment in such a way as to prevent or minimise harmful impacts on the Convention Area.
2. Each Party shall, within its capabilities, assess the potential effects of such projects on the marine environment, so that appropriate measures can be taken to prevent any substantial pollution of, or significant and harmful changes within, the Convention Area.

3. With respect to the assessment referred to in paragraph 2, each Party shall, where appropriate, invite:

- (a) public comment according to its national procedures;
- (b) other Parties that may be affected to consult with it and submit comments.

The results of these assessment shall be communicated to the Organisation, which shall make them available to interested Parties."

#### ARTICLE 17

#### "SCIENTIFIC AND TECHNICAL COOPERATION

1. The Parties shall co-operate, either directly or with the assistance of competent global, regional and sub-regional organisations, in scientific research, environment monitoring, and the exchange of data and other scientific and technical information related to the purposes of the Convention.

2. In addition, the Parties shall, for the purposes of this Convention, develop and co-ordinate research and monitoring programmes relating to the Convention Area and co-operate, as far as practicable, in the establishment and implementation of regional, sub-regional and international research programmes."

#### ARTICLE 18

#### "TECHNICAL AND OTHER ASSISTANCE

The Parties undertaken to co-operate, directly and when appropriate through the competent global, regional and sub-regional organisations, in the provision to other Parties of technical and other assistance in fields relating to pollution and sound environmental management of the Convention Area, taking into account the special needs of the island developing countries and territories."

### **Torres Strait Treaty**

While the SPREP Convention applies to the Torres Strait area, the primary basis for ordering affairs between Australia and Papua New Guinea in Torres Strait is the Torres Strait Treaty.

Under Article 10 of the Treaty establishes the Protected Zone, the principal purpose of which is to acknowledge and protect the traditional way of life and livelihood of the traditional inhabitants. A further purpose is to protect and preserve the marine environment and indigenous fauna and flora.

Article 13 deals with the protection of the marine environment, establishing the intent, the obligations on parties to protect the marine environment and procedures for consultation on the harmonization and implementation of measures.

Article 14 deals with the protection of flora and fauna and Article 15 prohibits the mining of the seabed or the drilling for exploration or exploitation of petroleum for ten years after the entry into force of the Treaty, with an option for parties to extend that period.

Article 19 establishes the Torres Strait Joint Advisory Council (JAC), which is comprised of representatives of the Australian, PNG, Queensland and Western Provincial Governments and of the Australian and PNG traditional inhabitants. The JAC's role is to seek solutions to problems and to review and make recommendations to the Australian and PNG governments on matters relating to the Treaty, including its environmental provisions. It has no responsibility for management or administration, which remains with relevant authorities.

## **Environmental Management Committees**

There are two key requirements which form the basis of good management of a natural resource – communication and information. Management arrangements need to pay adequate attention to establishing appropriate mechanisms to ensure these two aspects. With respect to the environmental management of Torres Strait, the mechanism for communication is the Environmental Management Committee (EMC), and for information, the Baseline Study in Australia and relevant studies in PNG, particularly the Ok Tedi Mining Ltd (OTML) programme.

At its second meeting, in August 1988, the JAC noted that there was no mechanism for Australia and PNG to discuss policy and technical matters relating to the protection of the Torres Strait environment. It recommended that Australia and PNG establish such a mechanism.

In response to this recommendation the Australian and PNG Departments responsible for the environment jointly convened the EMC. The first meeting was held in February 1989 and the second in December 1989. It was agreed that membership of the EMC be open to all relevant agencies of the four governments plus the representatives of the traditional inhabitants. In addition, other interested parties can attend all or part of meetings with the agreement of both convening parties.

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An open membership of agencies is considered to be important for a committee of this nature as environmental issues can change and develop quite rapidly. For example, the environmental implications of petroleum developments adjacent to the Torres Strait area is an issue which has arisen quite rapidly since the EMC was established.

The deliberations of the EMC are reported by the convening agencies to their respective Ministers. In addition, the EMC reports on its proceedings to the JAC, which in turn reports to the respective Ministers responsible for foreign affairs in each country. On the Australian side, the activities of the EMC have also been reported to the Torres Strait Fisheries Consultative Committee.

The traditional inhabitants participate in the EMC and the JAC and, on the Australian side, also in the fisheries consultative arrangements.

In developing this mechanism, the precedent of the fisheries arrangements under the Treaty which had been developed earlier by the respective fisheries authorities was followed as far as possible.

## **Development of the Baseline Study**

The environmental implications of the Ok Tedi development have been given detailed attention in PNG since the initial conception of the project. A number of studies have resulted, the principal one being the monitoring programme being carried out by OTML.

The question of possible effects of Ok Tedi on Torres Strait was raised as long ago as 1980 during discussions at the seminar on "Traditional Conservation in Papua New Guinea". Participants at the "Torres Strait Fisheries Seminar" in 1985 expressed concern over the possible implications of Ok Tedi for Torres Strait traditional and commercial fisheries. Since then, the Torres Strait Island Co-ordinating Council, commercial fishermen, the scientific community and more recently some conservation groups have all expressed the view that an Australian environmental study was needed.

The then Department of Arts, Heritage and Environment commissioned a consultancy to design a study in 1987. The results of this consultancy have been incorporated into the design of the present study. Following representations by Islanders and commercial fishermen, the Prime Minister's Environment Statement of July 1989 announced the establishment of a four year environmental study of Torres Strait. The study, to be conducted in close consultation with the PNG Government, will collect data which will determine the background levels of metals and sediments in the Strait and assist in determining whether there is evidence of contamination from mining operations. It is intended to provide options for managing and protecting the Torres Strait environment.

## **Policy Objectives of Study**

The study is not intended to be a monitoring programme, although the question of the need for and nature of a monitoring programme will be addressed by the study. The technical objective is to provide scientifically valid baseline information on the Torres Strait environment, against which any future changes can be measured. Since the study has taken some time to commence, clearly the baseline to be measured against will be the baseline as it presently exists, not the baseline as it may have been before mining began.

It is intended that the results of the study be used as a basis for decision making to manage the Torres Strait marine environment. DASETT wished to make the most efficient use of all available resources in the study, and therefore decided to endeavour to bring to bear all relevant agencies and sources of expertise onto the study.

The Great Barrier Reef Marine Park Authority is carrying out the study on DASETT's behalf because of its technical and management expertise in co-ordinating research projects of this nature.

It should be pointed out that at the time of the study was being developed only the Ok Tedi project was a reality and Porgera was being planned. Since then there have been:

- the decision to dump Porgera tailings into the Strickland watershed;
- the Horn Island mine has begun and finished;
- there is the likelihood of an oil terminal near Kikori with a consequent increase in tanker traffic;
- the possibility of off-shore petroleum developments near the Protected Zone has arisen;
- a chlorine bleach pulp mill in Irian Jaya, near Torres Strait, is reported to be under consideration;
- some preliminary studies have indicated that there may be natural high levels of heavy metals in the Torres Strait environment, and;
- a CSIRO study has shown that Torres Strait Islanders are among the highest consumers of seafood in the world.

In addition, PNG is developing a proposal for environmental management of the coastal Western Province and there is increasing interest in the long-term effects of climate change and possible sea level rise.

The study as designed has quite limited and narrow objectives developed with one particular project in mind. The question of whether the study should be broadened to take account of the increasing pace of developments has not yet been addressed by governments.

## **Reporting and Consultation**

The progress of the study is being reported to DASETT and to the EMC. As well, relevant aspects are being reported by GBRMPA to the Great Barrier Reef Ministerial Council, which consists of the Commonwealth and Queensland Ministers responsible for environment and primary industries. This Council co-ordinates policy with respect to the management of the Great Barrier Reef.

Steps are being taken to ensure close consultation between the study and the traditional inhabitants, and with the relevant industries. These steps will be described by Dr Lawrence.

## **What happens if the study finds an environmental problem?**

The simple and correct answer is that the problem would be addressed by the relevant governments of the day in the manner they judged appropriate, and in the context of overall Australia-PNG relations.

In a procedural sense, if researchers uncovered a particular environmental problem, then in the first instance the problem would be reported to DASETT. DASETT would brief its Minister and raise the problem at the EMC or through the EMC Convenor Department in PNG if out-of-session consideration was necessary. If the problem was relevant to the Great Barrier Reef then the GBR Ministerial Council would also be briefed. In due course, the EMC would also report to the JAC on the issue and the JAC may decide to make recommendations through the Australian and PNG Ministers responsible for foreign affairs. The traditional inhabitants would have input to deliberations in both the EMC and JAC. They would of course also be able to take up

the issue through established political structures outside of the Treaty context, if they considered it in their interests to do so. Queensland and Western Provincial officials are also involved in the EMC and JAC, and would ensure appropriate involvement of their governments.

Affected industry groups would almost certainly have the opportunity to take part in EMC deliberations, although they are not represented on the JAC. They would also of course have access to existing political structures outside the Treaty context.

How the problem can be dealt with would depend very much on the nature of the problem, how important Governments judged the problem to be environmentally, socially and economically, the likely time-scale of the problem, possible mitigation or control measures, and the attitudes of the various interest groups. Australia and PNG have agreed that they share the same environmental concerns and that any problem that arose would be of common concern to both countries. While the problem may be dealt with to some extent through official and diplomatic channels, the decisions on action would rest with the relevant Governments of the day.

