

ASIAN DEVELOPMENT BANK

TAR:COO 33375

**TECHNICAL ASSISTANCE
TO THE
COOK ISLANDS
FOR
LEGAL AND INSTITUTIONAL STRENGTHENING
OF ENVIRONMENTAL MANAGEMENT**

December 2003

CURRENCY EQUIVALENTS

(as of 30 November 2003)

Currency Unit	–	New Zealand dollar (NZ\$)
NZ\$1.00	=	\$0.64
\$1.00	=	NZ\$1.56

ABBREVIATIONS

ADB	–	Asian Development Bank
EA	–	executing agency
EIA	–	environmental impact assessment
HRD	–	human resource development
NES	–	National Environment Service
NGO	–	nongovernment organization
TA	–	technical assistance

WEIGHTS AND MEASURES

km ²	–	square kilometer
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NOTES

In this report, “\$” refers to US dollars.

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I. INTRODUCTION

1. The Asian Development Bank (ADB) recently provided assistance to the Government of the Cook Islands to help improve the environment of the country. Advisory technical assistance (TA) for the legal and institutional dimensions of environmental management is included in ADB's 2003 nonlending program for the Cook Islands as a response to the Government request for the TA.¹ The TA will promote coordinated implementation of the new Environment Act approved in November 2003. A Fact-Finding mission visited the Cook Islands 8–17 July 2002 and held consultations with Government officials and other stakeholders. The Government and the Mission reached full understanding on the objectives, scope, and the implementation arrangements of the TA. The TA framework is in Appendix 1.

II. ISSUES

2. The Cook Islands comprises 15 small volcanic islands and coral atolls with a total land area of 240 square kilometers (km²) dispersed over an ocean area of 1.8 million km². The population is estimated at about 17,000, with the southern group islands having twice as many people as the northern group. The principal island, Rarotonga, is only 6 km in diameter and has a resident population of about 10,000. The second most populous island group is the atoll of Aitutaki with a resident population of about 2,000 people. To the resident population must be added the increasing number of tourists, which in 2000 reached a peak of nearly 73,000.

3. The country's economy is dominated by tourism and pearl production. In view of the country's vulnerability and dependence on an attractive environment, special attention is needed to protect the environment and ensure that economic development is environmentally sustainable. Increasing environmental pollution caused by lack of appropriate solid waste management and adequate sanitation arrangements is beginning to adversely affect tourism development. Coastal area degradation and erosion are another area of concern as they have caused serious problems to the local environment. An ADB-funded Waste Management Project (approved in June 2001) will provide sustainable waste management services in Rarotonga and Aitutaki and effectively address solid waste management in these two major islands. However, most of the remaining environmental issues require urgent attention and the establishment of an effective institutional and legal framework for environmental management.

4. In this context, Environment Act 2003, passed on 17 November 2003, provides comprehensive national legislation for the protection, conservation, and management of the environment in a sustainable manner. Among other things, the Act extends environmental management to the outer islands and provides for the establishment of an appropriate institutional structure and an effective regulatory and enforcement/compliance framework for environmental management. The Act repeals the Rarotonga Environment Act 1994–1995 and is a comprehensive piece of legislation covering the: (i) composition, functions, and powers of the new central environmental body;² (ii) establishment, functions, and working provisions for the island environment committees; (iii) functions and powers of the National Environment Service (NES) or Tu'anga Taporoporo as well as powers, additional powers, and responsibilities of the environment officers; (iv) principles, roles, and procedures for introducing an environmental impact assessment (EIA) system; (v) principles and powers for establishing protected areas, adopting related resource management agreements, and preparing and approving of management plans; (vi) principles, processes, and penalties for solid waste management

¹ The TA first appeared in *ADB Business Opportunities* (Internet edition) on 23 August 1999.

² Composed of the environment minister, environment councils in each island, and the Environment Service.

including responsibilities for designating waste disposal areas (e.g., control of litter); (vii) provisions covering specific areas of concern (protection of coastal areas, water pollution, protection of endangered species, hazardous wastes, wetlands etc.); and (viii) other provisions (penalties, pollution levies, Environment Protection Fund, registration of nongovernment [NGOs] organizations (NGOs), Environmental Forum, etc.).

5. To become fully operational, the Act requires the promulgation or adoption of a substantial body of new regulations and bylaws, including outer island bylaws. Priority areas may include (i) operational guidelines for authorities and responsibilities of the line agencies; (ii) enforcement procedures and compliance regimes including penalties; (iii) guidelines and procedures for the EIA system including screening, scoping, preparing and reviewing project EIAs; (iv) procedures for issuing permits; (v) incorporation in the new legislative framework of traditional/customary environmental practices; (vi) processes and responsibilities for public review and participation, including by NGOs; (vii) adoption of economic incentives and environmental taxes (such as the pollution levy in the Act); (viii) procedures for designating protected areas; (ix) operation of the Environment Protection Fund; and (x) the purpose, membership, processes and mandate of a Cook Islands Environmental Forum which is required to be convened within 1 year after the Act comes into force.

6. In the Cook Islands, responsibility for managing the environment is now divided among several government (including outer island government) ministries, agencies, and councils.³ Contingent on approval of the Act, the Government requested ADB to assist with a review of enacted and proposed sector legislation⁴ to improve intersectoral coordination among all ministries and line agencies with environmental responsibilities. The coordination role in formulating new and revising existing legislation lies with the Crown Law Office.

7. Stemming from this legislative review, appropriate amendments will be drafted (Appendix 2). The final objective is to properly distribute responsibilities among the sectoral agencies, especially with regard to compliance with and enforcement of the Act and its associated regulations and bylaws. The intended outcomes are (i) institutional reform for improved and integrated environmental management, and (ii) establishment of appropriate institutional mechanisms for facilitating compliance with regulations and achieving more effective enforcement of environmental legislation.

III. THE TECHNICAL ASSISTANCE

A. Purpose and Output

8. The main purpose of the TA is to assist the Government in developing an integrated system of regulations, bylaws and laws that together will provide the institutional mechanisms for the effective and coordinated implementation of Environment Act 2003. The focus is on formulating appropriate regulations and bylaws to facilitate compliance and enforcement, and the review of legislation that may now require amendment as a result of the enactment of the Act. Key outputs will include

³ For instance, the ministries/departments of health, marine resources, tourism, agriculture, works, transport, justice, outer islands administration, police, national disaster management, cultural development, education.

⁴ Various pieces of legislation are in the process of being finalized for various sectors, including the following among others: health, marine resources, agriculture (biosafety and quarantine services).

- (i) promulgation and adoption of a suite of core environmental regulations, bylaws, and monitoring and compliance guidelines and procedures⁵ required for effective environmental management and institutional coordination under Environment Act 2003;
- (ii) formulation of a training and community awareness-raising program for environmental management consisting of a series of professional environmental training modules for both central Government and the islands environment committees' staff,⁶ and the wider community;
- (iii) review of sectoral legislation⁷ that may need to be revised to ensure overall coherence, and incorporation in a report of recommendations for their improvement and amendment to meet the objectives of updating the environmental management system in the country;
- (iv) new and revised operational guidelines, and detailed institutional mechanisms applicable to NES, the island environment committees, and other agencies/ administrations involved in implementing the new environmental legislation;
- (v) an action plan to effectively follow up legislative reform in accordance with the stakeholders consensus (achieved through participatory workshops);
- (vi) improved interagency and institutional coordination for effective environmental management (including recommended institutional responsibilities and coordination among the agencies including NES and the Crown Law Office); and
- (vii) improved capacity of all stakeholders including officials of government agencies or permitting authorities, communities, and NGOs to contribute to the overall legislative process, and other TA-related activities.

B. Methodology and Key Activities

9. Preparing and finalizing the outputs will involve the following activities:

- (i) After identifying and selecting priority areas,⁸ prepare a core system of environmental regulations, bylaws, monitoring and compliance procedures, and guidelines.
- (ii) Prepare a set of new and revised operational guidelines, procedures and institutional mechanisms for effective implementation of environmental legislation and efficient operation of environmental institutions at both central and islands levels.

⁵ To be formally approved as regulations and bylaws by the Executive Council.

⁶ The program will be prepared for future implementation. The training program will include more general environmental education material and awareness raising on new environmental legislation and institutional set up. A Human Resource Development training manual for the Tu'anga Taporoporo produced from previous South Pacific Regional Environment Programme in-country activity will be used under the TA project.

⁷ Sectors that have potentially conflicting environmental provisions include health, marine resources, tourism, agriculture, works, transport, outer islands administration, police, disaster management, and others.

⁸ Areas requiring regulations will be prioritized during the TA inception stage, using the results of an inception workshop (see Appendix 2 for a list of regulations referred to in the Act).

- (iii) After reviewing existing and draft sectoral legislation that have environmental implications, identify and recommend appropriate legislative amendments to improve consistency, avoid a fragmented legal framework, and prevent institutional conflicts and jurisdictional overlaps.
- (iv) Prepare an action plan to guide the implementation of TA findings and recommendations as confirmed by the final national workshop. The purpose of the action plan is to continue carrying out required legislation revisions, and institutional reforms to achieve the intended medium- and long-term objectives.
- (v) Review interagency and institutional coordination in environmental management to identify and formulate better institutional arrangements and coordination among concerned agencies.
- (vi) Undertake training workshops for stakeholders to strengthen their active participation in the legislative process and other TA-related activities.
- (vii) Prepare training modules and environmental education materials for professional training, capacity building, and environmental awareness-raising activities.
- (viii) Organize two national workshops: (a) an inception workshop at the start of TA implementation to discuss scope (including priority areas that urgently need to be covered by regulations), objectives, and expected outcomes of the TA; and (b) a final national workshop to present the outputs and recommendations of the TA and agree on the plan for implementing the TA outputs.

C. Cost and Financing

10. The TA is estimated to cost \$440,000 equivalent, with \$217,000 in foreign exchange and \$223,000 equivalent in local currency (Appendix 3). The Government has requested ADB to finance \$350,000 equivalent, covering the entire foreign exchange cost (\$217,000) and \$133,000 equivalent of the local currency cost to cover the costs of the consultants, training, reports, international and local travel, and associated miscellaneous costs and contingencies. The TA will be financed on a grant basis by ADB's TA funding program. The Government will contribute \$90,000 equivalent by providing counterpart staff, office space, administration and communications, office supplies and materials, media information material, and data.

D. Implementation Arrangements

11. NES and the Crown Law Office will be joint Executing Agencies (EAs), with the director of NES and the solicitor general as comanagers of the Project. Each EA will designate a counterpart staff who will work with the consultants to facilitate transfer of skills and knowledge and to closely coordinate TA implementation between the two EAs. A steering committee will be established to provide appropriate strategic guidance and review TA progress. The steering committee will be chaired by the Solicitor General and include as members the secretaries and directors of NES, finance, justice, health, marine resources, tourism, agriculture, works, transports, outer islands administrations, police, national disaster management, cultural development, and Education. In addition, the chamber of commerce, the House of Ariki and the

Koutu Nui⁹ will be represented with one member each. The steering committee will meet at least three times to discuss the (i) implementation plan (inception report), (ii) midterm report, and (iii) draft final report. Additional meetings will be organized as necessary. NES will provide the secretariat for the EAs and regularly report progress to the minister of environment and the solicitor general of the Crown Law Office. NES and the Crown Law Office will provide office space for the consultants doing work with them.

12. Various NGOs and other interested parties have participated in the debate leading to the Act. These organizations as well as central Government and outer islands institutional and other stakeholders will be consulted throughout TA implementation. This process will include a national inception workshop and a national final workshop.

13. The TA will be implemented over 15 months, beginning in April 2004 with completion in June 2005. The TA will finance the services of an international consulting firm consisting of a team of 5 experts (2 international and 3 domestic) for a total of 23 person-months. The international consultants (person-months in parentheses) will comprise (i) a law draftsman/legal-cum-institution specialist/team leader (7), with expertise in legal drafting, the interpretation and application of legislation, and policy development generally. Experience in working on environmental matters particularly in a developing country context, will be an advantage. The team leader will work intermittently, i.e., during early, middle, and last phases of TA implementation), and (ii) an environmental training specialist (1) to be recruited during the middle part of TA implementation. The domestic consultants (person-months in parentheses) will be an expert in green sector issues, particularly natural resource management (5), an expert in brown sector issues, particularly urban, infrastructure, and waste management (5), and a social development specialist with experience in community participation (5), all on an intermittent basis. Outline terms of reference for the consultants are attached as Appendix 4. ADB will recruit the consultants in accordance with ADB's *Guidelines on the Use of Consultants* and other arrangements satisfactory to ADB for engaging domestic consultants. The consulting firm will be selected through the simple technical proposal and the quality- and cost-based selection method. Equipment will be procured in accordance with ADB's *Guidelines for Procurement*.

14. The following reports will be produced: (i) an inception report at the end of week 4, (ii) a midterm report including draft regulations at the end of the month 8, (iii) a draft final report 4 weeks before TA completion, and (iv) a final report upon completion of the TA. The consultants will submit adequate copies of all reports to ADB, NES, and the Crown Law Office.

IV. THE PRESIDENT'S DECISION

15. The President, acting under the authority delegated by the Board, has approved the provision of technical assistance not exceeding the equivalent of \$350,000 on a grant basis to the Government of the Cook Islands for Legal and Institutional Strengthening of Environmental Management, and hereby reports this action to the Board.

⁹ The House of Ariki is composed by the traditional high chiefs from across the Cook Islands. Koutu Nui is also composed by traditional chiefs but lower ranking.

TECHNICAL ASSISTANCE FRAMEWORK

Design Summary	Performance Indicators/Targets	Monitoring Mechanisms	Assumptions and Risks
Goal Improved environmental quality in the Cook Islands	Cook Islands environment attracting tourists seeking an island paradise Improved water, solid waste management and coastal zone development	National and island statistics Government, non-government organization (NGO), and other stakeholders' reports	Favorable political and macroeconomic environment
Purpose Develop effective regulations and institutional reforms to implement Environment Act 2003	Implementing regulations and bylaws drafted and submitted to the Executive Council by March 2005 An institutional strengthening plan for the expanded Environment Service and the island environment councils being implemented by June 2005	Government gazette Technical assistance (TA) review missions and tripartite meetings Progress reports and other consultants' reports TA completion report	Strong ownership of the Environment Act and a willingness to apply its provisions in the outer islands Active, knowledgeable members appointed to the island environment councils.
Outputs 1. A report presenting a comprehensive review of sectoral legislation that needs to be revised to ensure overall coherence, including recommendations for their improvement and amendment 2. A core system of environmental regulations, bylaws, monitoring and compliance procedures for effective environmental management, and institutional coordination in implementing Environmental Act 2003 3. New and revised operational guidelines,	Review of related legislation by August 2004 Crown Law Office working on urgently needed changes related to laws by December 2004 Key changes enacted by May 2005 Priority regulations or bylaws identified by June 2004 Draft regulations submitted to Crown Law Office by November 2004 Regulations and bylaws approved by Executive Council by May 2005 Operational guidelines for the Environment Service, island	TA review missions and tripartite review meetings Progress reports and other consultants' reports Government gazette	Effective cooperation and access to necessary information and parliamentary drafting expertise by the Government and other agencies Effective ownership and commitment by the Government to the proposed regulations and institutional reform Effective consultation with stakeholders

Design Summary	Performance Indicators/Targets	Monitoring Mechanisms	Assumptions and Risks
<p>working procedures, and detailed institutional mechanisms applicable to the National Environment Service (NES) or Tu'anga Taporoporo, the Island Environment Authority and other agencies involved in implementing the environmental legislation</p> <p>4. An implementation action plan for effective follow up of the legislative and institutional reforms in accordance with stakeholders consensus</p> <p>5. Improved interagency and institutional coordination for effective environmental management (including recommended institutional coordination among the agencies)</p> <p>6. Improved capacity of stakeholders including officials of government agencies or permitting authorities, communities, and non-government organizations (NGOs) to contribute in the overall legislative process</p> <p>7. A training program for environmental management consisting of training modules for a multiphase capacity building program for both central government and outer islands environment staff</p>	<p>environment councils, environmental forum, and environment protection fund drafted by May 2005</p> <p>Implementation action plan discussed, finalized, and endorsed at a national workshop in April 2005</p> <p>Interagency and institutional coordination for effective environmental management improved by April 2005</p> <p>Capacity of stakeholders improved by June 2004</p> <p>Draft training program prepared by February 2005 (for discussion at the national workshop) and finalized by May 2005</p>		

Design Summary	Performance Indicators/Targets	Monitoring Mechanisms	Assumptions and Risks
Activities 1. Review existing and draft sectoral legislation that have environmental implications to identify and recommend appropriate amendments and revisions 2. After identifying and selecting priority areas requiring regulations, prepare a core system of regulations, bylaws, monitoring and compliance procedures 3. Prepare a set of new and revise existing operational guidelines, working procedures and institutional mechanisms for effective implementation of environmental legislation 4. Prepare an action plan for the follow-up on TA findings and outputs 5. Conduct two national workshops: (i) an inception workshop at the start of TA implementation, and (ii) a final national workshop to present findings and agree on the implementation action plan 6. Prepare training modules and education materials	Start: month 2 Complete: month 6 Responsible: TA consultants team (main: team leader) Start: month 4 Complete: month 8 Responsible: TA consultants team (main: team leader/legal draftsman) Start: month 5 Complete: month 12 Responsible: TA consultants team (main: team leader and legal draftsman) Start: month 12 Complete: month 14 Responsible: TA consultants team (main: team leader) Holding of workshops: month 3 and month 13 Responsible: TA consultants team (main: team leader, training and community participation specialist) Start: month 12 Complete: month 13 Responsible: training specialist	TA review missions and tripartite review meetings Progress reports and other consultants' reports Minutes of national workshops and steering committee meetings Government gazette and Cabinet minutes	

Design Summary	Performance Indicators/Targets	Monitoring Mechanisms	Assumptions and Risks
<p>Inputs</p> <p>Asian Development Bank (target: \$350,000)</p> <p>International consulting services (target: 2 international experts for 8 person-months, and 3 domestic consultants for 15 person-months):</p> <ul style="list-style-type: none"> • 7 person-months, law drafting expert/legal-cum-institution specialist (international) • 1 person-month, environmental training specialist (international) • 15 person months, domestic consultants including an expert in green sector issues, an expert in brown sector issues, and a social development specialist <p>Government of the Cook Islands (target: \$90,000 equivalent):</p> <ul style="list-style-type: none"> • Counterpart staff • Office space, supplies, information materials 		<p>TA review missions and tripartite review meetings</p> <p>Progress reports and other consultants' reports</p> <p>Minutes of national workshops and steering committee meetings.</p> <p>Government gazette and Cabinet minutes</p>	<p>Timely contracting of competent consultants</p>

REGULATIONS NEEDED TO IMPLEMENT ENVIRONMENT ACT 2003

1. The Act (Section 70(2)) stipulates that regulations may be made under the Act for the following purposes:

- (i) designating animals and plants as protected species for the purposes of the Act;
- (ii) providing for the protection, conservation, and management of wildlife, protected species, or both;
- (iii) controlling or prohibiting trade and commerce in wildlife, protected species or both;
- (iv) controlling or prohibiting pollution of air, water, or land, and depositing, or dumping litter, rubbish, or any substance of a dangerous, noxious, or offensive nature;
- (v) controlling or prohibiting the exportation, importation, or transportation of hazardous wastes into or out of the Cook Islands, for the purpose of implementing any regional or international conventions, treaties, protocols, or agendas;
- (vi) controlling soil erosion and siltation, and limiting or prohibiting the taking of gravel, sand, soil, rock, coral, or like material;
- (vii) providing for the preservation, protection, and conservation of trees and the prevention and control of the clearing, cutting, lopping, trimming, felling, burning, or removal of trees and other plants;
- (viii) establishing protected areas and regulating or prohibiting activities within these protected areas;
- (ix) prescribing procedures in preparing and carrying out any management plan;
- (x) prescribing forms required to be used for the purposes of the Act;
- (xi) describing offences against the regulations, and prescribing fines for such offences not exceeding NZ\$50,000 and, in the case of continuing offences, a fine not exceeding NZ\$1,000 for every day on which the offence continues;
- (xii) providing for the taking of samples and their testing by laboratories;
- (xiii) prescribing procedures for entry, inspection, or search of premises, arrest of a person, and seizure or forfeiture of property, in the exercise of powers conferred by the Act;
- (xiv) controlling the operation of the Environment Protection Fund;
- (xv) prescribing procedures for registering organizations under Part 12 of the Act;
- (xvi) prescribing procedures for applying for a permit or consent under the Act;
- (xvii) prescribing guidelines restricting or otherwise regulating the issuance of permits and consents by permitting authorities;
- (xviii) prescribing fees for applications made under the Act, and issue of permits and consents, and for the provision of advisory and other services;
- (xix) prohibiting or controlling the importation or disposal of recyclable or non-recyclable products;
- (xx) imposing further reporting obligations on the Environment Service; and

(xxi) providing for any matter incidental to or connected with any of the foregoing.

2. Any regulation made under the Act may (i) apply generally throughout the Cook Islands or within a specified part of the country; (ii) apply generally or with respect to different classes of activities, places, or things; and (iii) apply generally or at any specified time of the year. Regulations may confer power on an environment officer or a permitting authority to give, issue, serve, or issue a direction, notice, order, or requirement, for the purposes of the Act.

COST ESTIMATES AND FINANCING PLAN
(\\$)

Item	Foreign Exchange	Local Currency	Total Cost
A. Asian Development Bank Financing^a			
1. Consultants			
a. Remuneration and Per Diem			
(i) International Consultants (8 person-months)	168,000	0	168,000
(ii) Domestic Consultants (15 person-months)	0	75,000	75,000
b. International and Local Travel ^b	24,000	10,000	34,000
2. Reports, Communications, Publications, and Research Costs	2,000	4,000	6,000
3. National Workshops and Dissemination (including participants' travels)	0	10,000	10,000
4. Equipment (a computer and its peripherals) ^c	0	3,000	3,000
5. Car Rental	0	4,000	4,000
6. Miscellaneous	1,000	3,000	4,000
7. Contingencies	22,000	24,000	46,000
Subtotal (A)	217,000	133,000	350,000
B. Government			
1. Remuneration and Per Diem of Counterpart Staff	0	60,000	60,000
2. Office Space, Supplies, Information Materials, Others	0	30,000	30,000
Subtotal (B)	0	90,000	90,000
Total	217,000	223,000	440,000

^a Financed by the Asian Development Bank technical assistance funding program.

^b Local travel including travel for island consultations.

^c After completion of the TA, the equipment will be transferred to the executing agencies.

Source: Asian Development Bank estimates.

OUTLINE TERMS OF REFERENCE

1. The consultants will ensure that all works and outputs of the technical assistance (TA) comply fully with all relevant Asian Development Bank (ADB) policies and guidelines. The terms of reference of the consultants are as follows:

A. Law Drafting Expert/Team Leader (international, 7 person-months)

2. The law draftsman/legal-cum-institution specialist will be responsible for the following activities:

- (i) In coordination with the Executing Agencies (EAs) of the TA, i.e., the National Environment Service (NES) or Tu'anga Taporoporo, the Crown Law Office, and other team members, (a) prepare regulations, bylaws, and operational guidelines envisaged under Environment Act 2003 (the Act), and any other related regulations, bylaws, and guidelines that support implementation of the Act,¹ and (b) review any other existing or proposed sectoral legislation that may have environmental implications and recommend appropriate amendments to the legislation. The aim is to ensure consistency and avoid a fragmented legal framework, and to prevent institutional conflicts and jurisdictional overlaps, especially with regard to compliance with and enforcement of the Act.
- (ii) Review purposes for which regulations are needed as outlined in section 70 of the Act (see also Appendix 2). On the basis of a review and consultations including a workshop with all interested parties, prioritize regulations and prepare all regulations, bylaws, and monitoring and compliance guidelines required to support effective implementation of the Act.
- (iii) Together with the team members, prepare a set of new or revised operational guidelines, procedures, and institutional mechanisms for effective implementation of environmental legislation and efficient operation of environmental institutions at both central and outer island levels, and formulate the pertinent policy instruction/guidelines (including applicability of the guidelines to each island to which the Act is applied). The guidelines will also cover the internal frameworks (staffing, skills, resources, training, inspection protocols, and other procedures not covered by the regulations) needed to carry out effectively the mandated functions, ready for immediate adoption by the relevant offices.
- (iv) Prepare an action plan for the follow-up on TA findings and outputs, as confirmed by the final national workshop and to be carried out after TA completion. The purpose of the action plan is to achieve the intended medium- and long-term objectives of the Act.

¹ Priority areas will include (i) operational guidelines on authorities and responsibilities of line agencies; (ii) enforcement procedures and compliance regimes including penalties; (iii) guidelines and procedures for the Environmental Impact Assessment (EIA) system including screening, scoping, preparing and reviewing project EIAs; (iv) procedures for issuing permits; (v) incorporation in the new legislative framework of traditional/customary environmental practices; (vi) processes and responsibilities for public review and participation, including by nongovernment organizations; (vii) adoption of economic incentives and environmental taxes (such as the pollution levy in the Act); (viii) procedures for designating protected areas; (ix) operation of the Environment Protection Fund; and (x) purpose, membership, processes and mandate of the Cook Islands Environment Forum to be established under the Act.

- (v) Together with NES, the Crown Law Office, and other stakeholders, review the present institutional setting for environmental management in the Cook Islands; and assess strengths and weaknesses and lessons from previous experiences, including similar experiences from other countries. From the review, recommend any necessary institutional arrangements and coordination among agencies involved in environmental management.
- (vi) Assist NES to organize and undertake capacity building activities (through training workshops and other suitable methods) for various stakeholders involved in the process—officials of the concerned government agencies (permitting authorities), communities, and nongovernment organizations (NGOs) focusing on participatory monitoring and evaluation—to strengthen their participation in the overall process of law making.
- (vii) In consultation with communities and NGOs, assist NES to prepare educational materials to increase public awareness of matters related to environmental protection and conservation.
- (viii) In coordination with the EAs, (a) organize at the initial phase of the TA an inception workshop for the EAs, members of the steering committee, senior government officials of the concerned line ministries and agencies (including outer island government), community representatives, NGOs, and other stakeholders, to gather their inputs on the TA activities, select priority regulations to be formulated under the TA, and secure support for the TA activities, particularly in line with Environment Act 2003; and (b) organize a terminal participatory workshop involving the same stakeholders to discuss the outputs of the TA activities. Participate as a resource person in the two national workshops, help prepare the minutes of the workshops as an official record, and incorporate the workshops' findings and recommendations in the relevant TA reports.
- (ix) Assist in specifying and procuring any equipment required for the TA project.
- (x) Supervise the work of the other consultants and conduct ongoing liaison with both EAs.
- (xi) Take responsibility (and consolidate findings from other consultants) for preparing the inception report, midterm report, draft final report, and final report in full consultation with other team members, counterpart staff, and ADB.

B. Environmental Training Specialist (international, 1 person-month)

3. The Environmental Training Specialist will be recruited in the middle phase of TA implementation and will be responsible for the following activities:

- (i) Collect, collate, and review various reports produced from previous activities related to human resource development (HRD), and assess the current need for HRD in the central as well as outer island governments. Assess the total number of staff involved in environmental administration in the Cook Islands, including NES, island environment councils, and other related institutions.

- (ii) Together with counterpart staff in each EA, assess the training needs of existing staff and attempt to check the needed skills against the currently available skills.
- (iii) Prepare a detailed training program that begins to address the gap between skills needed and skills available, including budget requirements.
- (iv) Prepare training modules and environmental education materials for professional training, capacity building, and environmental awareness-raising activities.
- (v) Supply the team leader with input on progress achieved during TA implementation to fulfill the TA reporting requirements.
- (vi) Prepare a terminal report including a training and capacity building action plan documenting the findings and recommendations for future institutional strengthening and awareness raising.

C. Expert in Green Sector Issues: Natural Resource Management (domestic, 5 person-months)

4. Working closely with the legal draftsman/legal-cum-institution specialist (team leader), the expert in green sector issues will carry out the following tasks:

- (i) Collect, collate, and review documents related to the state of the environment of the Cook Islands, existing sectoral environment-related regulations and guidelines on natural resource management in the Cook Islands and countries in the Pacific, and data from other international institutions/ organizations.
- (ii) Undertake initial consultations with the communities and other stakeholders to identify priority areas in natural resource management (e.g., forest and biodiversity conservation; and marine, coastal, and lagoon environments) that need attention due to their significance in conserving the ecosystem, maintaining a pristine environment for tourism development, and continuing the traditional lifestyle of the communities.
- (iii) On the basis of the review, identify strengths and weaknesses of the existing sectoral regulations and guidelines of the line ministries, and give suggestions and recommendations for improving such regulations and guidelines to bring them in line with the Act and to ensure that they will support sustainable natural resource management in the country.
- (iv) On the basis of the initial consultations, assist in identifying and selecting new regulations. For each proposed regulation, determine the technical and biological requirements to protect the ecosystem, particular environment, and habitat so that they could be maintained in a healthy state; and other natural resource management considerations required in formulating of the regulations and guidelines.
- (v) Together with the team leader and the counterpart staff from NES and the Crown Law Office, and in coordination with the concerned ministries, prepare draft regulations, bylaws, guidelines, and monitoring and compliance procedures for green sector issues.

- (vi) Assist the team leader in relevant work under the TA, and prepare a terminal report on the work undertaken and lessons learned from the process.

D. Expert in Brown Sector Issues: Urban, Infrastructure, and Waste Management
(domestic, 5 person-months)

5. The expert in brown sector issues will perform the following tasks:

- (i) Collect, collate, and review documents related to the state of the environment of the Cook Islands, available environment-related regulations and guidelines on urban and infrastructure development, and waste management in Cook Islands and countries in the Pacific; and data from other international institutions/organizations.
- (ii) Undertake initial consultations with the communities and other stakeholders to identify priority areas in urban and infrastructure development, and waste management that may affect ecosystem functions, the pristine state of the environment, and the traditional lifestyle of the communities.
- (iii) On the basis of the review, identify strengths and weaknesses of the existing sectoral regulations and guidelines of the line ministries, and give suggestions and recommendations for improving the existing regulations and guidelines to bring them in line with the Act and to ensure that they will support sustainable natural resource management of the country.
- (iv) On the basis of the initial consultations, assist in identifying and selecting new regulations. For each proposed area, determine the technical requirements and quality standards to maintain a healthy environment.
- (v) Together with the legal-cum-institutional specialist (team leader), and the counterpart staff from NES and the Crown Law Office, and in coordination with the concerned ministries, prepare draft regulations, bylaws, guidelines, and monitoring and compliance procedures for the selected brown sector issues.
- (vi) Assist the team leader in relevant work under the TA, and prepare a terminal report on the work undertaken and lessons from the process.

E. Social Development Specialist (domestic, 5 person-months)

6. The social development specialist, must have experience in community participation/consultation, and will carry out the following activities under the guidance of the team leader:

- (i) Identify key stakeholders (particularly communities and members of civil society) who have contributed inputs in reviews of previous versions of the draft Environment Bill, and attempt to engage them in the process of strengthening the Act (and its associated regulations and bylaws) and its implementation.
- (ii) Draw up a community participation plan for involving all key stakeholders in reviewing draft regulations, bylaws, and guidelines, including through such media as a newsletter, radio programs, and/or a web site.

- (iii) Assist the team leader to organize two national workshops: (a) an inception workshop at the start of TA implementation to present and discuss objectives, scope, and expected outcomes of the TA (including priority areas to be urgently covered by regulations), and (b) a final national workshop to present the overall findings and recommendations of the TA and come to a consensus and agree on the implementation action plan for TA outputs.
- (iv) Provide inputs as needed on aspects related to involuntary resettlement and/or indigenous peoples so that any regulations, bylaws, or guidelines arising from the TA take into account the requirements of ADB policies in these areas.
- (v) Supply the team leader with input on progress achieved during TA implementation for preparing the TA reporting requirements.
- (vi) Keep detailed records of the consultation events and results of the participatory approach, with a view to recommending similar processes to continue with future amendments or new regulations after the TA is completed.
- (vii) Assist the team leader in relevant work under the TA and prepare a terminal report on community participation that documents all activities related to community consultations and meetings, for consolidation in the final report.