

CERMES Technical Report N° 15

Review and Interpretation of Environmental and Sustainable Development Legislation for the Grenadines Islands

I.D. MATTAI AND R. MAHON



Centre for Resource Management and Environmental Studies (CERMES)

University of the West Indies, Faculty of Pure and Applied Sciences,

Cave Hill Campus, Barbados

2006

ABSTRACT

Review and Interpretation of Environmental and Sustainable Development Legislation for the Grenadines Islands

Indira Mattai

This study revealed a myriad of issues that pertain to the development and implementation of legislation in St. Vincent and the Grenadines and Grenada. A number of administrative problems can arise in small archipelagic states that give governments an even more complex task than conventional states when implementing policies and practices. Such regions force dispersal of human resources and as a result legislation becomes difficult to access for the average citizen. Environmental Acts are often fragmented and outdated and often fall under the responsibility of more than one agency because of the issues that the Act encompasses. Furthermore, environmental provisions are hidden within other Acts and further complicate supposed comprehensibility of legislation.

Numerous Acts dealing with natural resources, flora and fauna in St. Vincent and the Grenadines and Grenada were reviewed with special reference to the Grenadine Islands of these two countries. The provisions of these Acts were compiled and simplified to create a guide to environmental and sustainable development in the Grenadines. This will assist in interpreting and connecting the fragmented pieces of legislation and other related instruments. The paper simplifies and divides the provisions of each Act into four general sub-headings, namely “duties / powers of the Minister / Governor-General”, “bodies established under the Act”, “duties of the citizen” and “offences and penalties”. The latter two subheadings are the most relevant to the citizen and deal with his rights, duties and liability, yet it is important to be aware of the bodies established in order to know which agency or ministry is the governing body when contact has to be made. It is even more imperative that the duties and powers of the Minister be known, so that all citizens can be aware of these and able to assess whether the Minister is performing his duties under the Act.

An obvious lack of widespread availability and accessibility of legislation indicates that there is a dire need for better distribution methods and better education of the public with respect to the existence of legislation and their ensuing rights and duties. It is anticipated that this project will provide a much needed guide to citizens at all levels in society in St. Vincent and the Grenadines and Grenada and will form another step in the march towards sustainability and efficient environmental management for present and future generations.

Keywords: Environmental Management, Sustainable Development, Legislation

ACKNOWLEDGEMENTS

Research of such magnitude could not be completed without the assistance of a number of individuals. I'd like to take this opportunity to thank them all very much and to attribute a significant portion of this project to their assistance and support.

I'd like to express sincere thanks to my mother, Bharati, father, Harry and sister, Kiran who accompanied me to the Grenadines at different points. They offered a constant outlet for my feelings and always provided a much-needed rational and sympathetic ear. I'd also like to thank my brother Suraj who was a source of constant encouragement, and Rabin Chandarpal, who tirelessly discussed ideas with me and provided unwavering support throughout the course of the project.

This project would be incomplete without expressing my gratitude to Dr. Robin Mahon, my supervisor and mentor. His continuous guidance, easily approachable manner and flexibility provided me with the confidence to undertake such a daunting project and to remain committed to this research.

Special thanks must also be given to Ms. Kimberly Baldwin for her willingness to assist me in every way possible from the inception of the project, and to Ms. Neetha Selliah for being a guide and counsellor throughout CERMES and especially during the project. I'd also like to thank my friends at CERMES and in Guyana for their support.

Finally, although I cannot list names, I'd like to express my thanks to all government officials and citizens in the St. Vincent and the Grenadines and Grenada who assisted me in various ways such as acquiring information and answering my questions. Their help formed the basis of this project and I hope that this research will provide them with a basis for better implementation of environmental and sustainable development legislation.

DEDICATION

This project is dedicated to the present and future generations of the Grenadines Islands.

TABLE OF CONTENTS

1	Introduction.....	1
2	Methods.....	2
2.1	Development of the legal systems	3
2.1.1	St. Vincent and the Grenadines.....	3
2.1.2	Grenada.....	4
2.1.3	Development of both states.....	5
3	Results and Discussion.....	6
3.1	Biodiversity.....	6
3.1.1	Botanical Gardens.....	6
3.1.2	Forestry	9
3.1.3	National Parks.....	15
3.1.4	Plant Protection.....	19
3.1.5	Wildlife Protection.....	26
3.2	The Marine Environment.....	31
3.2.1	Maritime Areas	31
3.2.2	Beach Protection.....	35
3.2.3	Marine Pollution	38
3.2.4	Fisheries	44
3.2.5	Whaling.....	48
3.2.6	Marine Parks/ Marine Protected Areas.....	54
3.2.7	High Seas Fishing.....	58
3.3	Land Use and Development.....	61
3.3.1	Planning	61
3.3.2	Radioactive materials.....	70
3.3.3	Environmental Levies	71
3.4	Waste and Land Pollution.....	72
3.4.1	Waste Management.....	72
3.4.2	Litter Act.....	80
3.5	Environmental Health.....	83
3.6	Air Pollution.....	85
3.7	Councils/Bodies	86

3.7.1	National Trusts.....	86
3.7.2	Science and Technology	88
3.7.3	Economic and Social.....	88
3.8	Other islands	89
3.8.1	Mustique	89
4	Discussion and Conclusions	90
5	References.....	91
6	Appendices.....	93
6.1	Appendix 1: Popular International Conventions to which the Grenadines are a party	93

Citation:

Mattai, I.D. and R. Mahon. 2006. Review and Interpretation of Environmental and Sustainable Development Legislation for the Grenadines Islands. CERMES Technical Report No. 15. 94pp.

LIST OF ACRONYMS

CARICOM	Caribbean Community
CBD	Convention on Biological Diversity
CITES	Convention on International Trade in Endangered Species of Flora and Fauna
COP	Conference of the Parties
ECSC	Eastern Caribbean Supreme Court
EAT	Environmental Appeals Tribunal
EEZ	Exclusive Economic Zone
IMO	International Maritime Organization
IUCN	World Conservation Union
IWC	International Whaling Commission
MPA	Marine Protected Area
NBSAP	National Biodiversity Strategy and Action Plan
NPPO	National Plant Protection Organisation
OECS	Organisation of Eastern Caribbean States
SIDS	Small Island Developing States
SPAW	Specially Protected Areas of Wildlife
SRO	Statutory Rules and Orders
UNCLOS	United Nations Convention on Law of the Sea
UNFCCC	United Nations Framework Convention on Climate Change

1 INTRODUCTION

The Grenadines Islands of St. Vincent and the Grenadines and Grenada are located in the southern Caribbean on the Grenada Bank and are part of the Windward Islands group. Although there are over 30 islands and cays on this bank, only nine islands have permanent settlements: Bequia, Mustique, Canouan, Mayreau, Palm Island, Union Island, Petit St. Vincent, Petit Martinique and Carriacou. The populations and even the primary activities of these islands vary, since islands such as Palm and Petit St. Vincent are resort islands whereas the remainder have communities and towns. The most populated Grenadine Island is Carriacou, with 8,000 inhabitants. The least populated islands are the resort islands with approximately 50 inhabitants, followed by Mayreau, with a population of 254¹. The two main islands St. Vincent and Grenada have the largest populations at 117,848 and 89,703² inhabitants. The governance of the Grenadines Islands is split between St. Vincent and Grenada. Grenada has jurisdiction over Carriacou and Petit Martinique, whereas the remainder are part of St. Vincent and the Grenadines. Unless otherwise stated, “Grenada” is meant to refer to the collective states of Grenada, Carriacou and Petit Martinique in this document.

These islands often share similar features and even common issues. Many small island developing states (SIDS) face similar problems when attempting to manage their natural resources. However, due to factors such as small population and low capacity, these islands have had to develop innovative methods to remedy or at the very least, mitigate such problems. Previous global opinion regarded natural resources as inexhaustible and as a result, wantonly exploited these resources for many years. Recent attitudes have changed however and now there is an international movement to protect, preserve, restore and sustainably manage remaining resources. Development has also played a significant part and countries have often regarded and placed this at a higher level on their national and international agendas than any environmental concerns. However, as countries become more conscious of the devastating future that looms if resources are not properly protected, there have been greater attempts to reconcile and even combine protecting the environment with development. Such management must have its foundation in a strong institutional and legislative framework.

International, regional and national legislation is vital in environmental protection. Each provides defence at all levels. However, in order for its purpose to be fully served, it is necessary to have supporting mechanisms in place that will help to consistently implement and enforce the provisions set out in these instruments. In the Grenadines Islands, there are a wide range of issues that persist. Fundamental problems such as a lack of baseline data or skilled professionals to acquire such baseline data often arise. Furthermore, certain environmental issues, such as invasive species, are relatively new and quite often evolve indirectly based on advances in technology such as genetic modification of organisms and other forms of biotechnology. Other issues may simply be the result of a supposedly harmless income earning activity, such as tourism. As a result, countries are unsure of how to deal with such issues and often leave them unresolved until the problem becomes too intense to ignore. Many SIDS countries are reactive rather than proactive because of their inability to focus on issues that may or may not be

¹ Sustainable Grenadines Project 2006

² July 2006 est. CIA: The World Factbook. <http://www.Cia.gov/cia/publications/factbook/print/vc/html> (Accessed April 27, 2006)

imminent due to lack of both human and financial resources. Resources that are stretched thin are often allocated to issues that require more immediate attention and as a result, dealing with many environmental issues are often postponed or ignored altogether. Furthermore, widespread distribution and availability of legislation is not a significant consideration when compared to the threat of natural disasters and the wide array of social problems and issues that plague SIDS, and thus it is difficult for the public at every level to be fully informed about the legal provisions in the Acts that determine what they may or may not do on a daily basis.

Legislation itself in the islands is fragmented and is often outdated. It is notable that there are currently no comprehensive policies or mechanisms that address sustainable development in St. Vincent (Culzac-Wilson 2003). In Grenada, the situation is similar. Environmental provisions are found within Acts that address many other issues and do not have environmental management or sustainability as their main focus. In addition, legislation is not widely and readily available in some areas and accessing a relevant law may be a tedious task which an average citizen may not have the time or patience to undertake. Many Acts merely deal with the establishment of a body and its composition or other administrative and technical matters that are not obviously relevant to the day to day life of citizens. However, problems exist in other areas as well. Accessibility is perhaps the major problem prior to facing interpretation of the Acts. Specific Acts can be purchased, but in some cases, Acts are only available by volume which makes it expensive for an average person to acquire. It is imperative that citizens be made aware of their rights, duties and obligations under the law as well as penalties for non-compliance and contravention, and inaccessibility of information should not hinder this.

The purpose of this report is to review and bring together under one cover all of the legislation from the two countries that pertains to sustainable development. It is hoped that this will make it easier for the people of the Grenadines to access and understand this legislation and thus to play a role in ensuring that the laws and regulations are observed.

2 METHODS

The method of data collection was similar in both countries. In St. Vincent and the Grenadines, most legislation is housed at the law library located in the Ministry of Legal Affairs. The Government of St. Vincent and the Grenadines website³ also possesses digital copies of certain Acts, which assisted in data acquisition. Visits were made to several ministries located in the island and informal interviews were conducted with officers in person and via telephone. In Grenada visits were made to the public library that housed legislation dating up to 1998 in its archive and special reserve section. Visits were made to the Ministerial Complex where informal interviews were conducted with various officers and supervisors, and the relevant legislation was copied. Grenada does not yet have digital copies of Acts and in some cases, digital pictures had to be taken of Acts that could not be released for photocopying. Interviewees stated that after the 2004 hurricane Ivan in Grenada legislation may be more difficult to obtain. Any outstanding legislation was acquired at the University of the West Indies Law Library in Cave Hill, Barbados.

³ <http://www.gov.vc>

Unfortunately, some Acts were omitted from this review. Although not discussed in this report, the Act number and its subsequent Amendments are listed below (Box 2.1).

Box 2.1: Acts excluded from the report
St. Vincent & the Grenadines
Central Water & Sewerage Authority Act, No. 17 of 1991 Central Water & Sewerage Authority (Amendment) Regulations, No. 6 of 2001 Central Water & Sewerage Authority (Water Supply) Regulations, No. 29 of 1991 Central Water & Sewerage Authority (Sewerage) Regulations, No. 30 of 1991
National Irrigation Authority Act, No. 12 of 2004
Grenada
National Water and Sewerage Authority Act, No. 25 of 1990 & No. 52 of 1991, Cap 208: 1990 Revised Laws of Grenada
Pesticides Control Act, No. 28 of 1973 & No. 88 of 1979, Cap 238: 1990 Revised Laws of Grenada
Public Health Act, Cap 263: 1990 Revised Laws of Grenada
Water Quality Act, No. 1 of 2005

2.1 Development of the legal systems

St. Vincent and the Grenadines and Grenada appear to have different government structures, but their legal systems are similar. Both states are signatory to several international and regional conventions, which signifies their commitment to develop national legislation in accordance with their international and regional obligations. Nationally, their executive branches of government are virtually the same and their legal systems are based on English Common Law.

2.1.1 St. Vincent and the Grenadines

St. Vincent and the Grenadines is a parliamentary democracy and is an independent sovereign state within the Commonwealth. The legal system is based on English Common Law and there are three branches of Government: the Executive, Legislative and Judicial. In the Executive branch, Queen Elizabeth II is the hereditary Chief of State and is represented by the Governor General. The Prime Minister is the Head of Government as well as the leader of the majority party and is appointed by the Governor General after legislative elections. Based on the advice of the Prime Minister, a Deputy Prime Minister as well as the Cabinet is appointed by the Governor General.

In the Legislative branch of government, St. Vincent and the Grenadines has a unicameral House of Assembly consisting of 21 seats, 15 of which are elected representatives and 6 appointed senators. The representatives are elected by popular vote from single member constituencies to serve five year terms⁴.

⁴ CIA World Factbook. St. Vincent and the Grenadines.
<http://www.Cia.gov/cia/publications/factbook/print/vc/html> (Accessed April 27, 2006)

In the Judicial branch of government, the Grenadine islands are divided into three judicial districts, each with its own magistrate's court. The St. Vincent Constitution was established in 1979 and makes provision for the sharing of courts. The Eastern Caribbean Supreme Court was created in 1967 and is the superior court of record and has unlimited jurisdiction in Grenada, St Vincent and the Grenadines, as well as in other OECS Countries. The Court consists of a Court of Appeal and a High Court of Justice - Trial Division. Each country has its own High Court, and the Court of Appeal deals with appeals of decisions made by the High Court and Magistrate's Courts in each member state with regards to both civil and criminal matters⁵. However, the jurisdiction and powers of the Eastern Caribbean Supreme Court are determined by the Constitution and any other relevant laws of the State⁶. The court of last resort is the judicial committee of Her Majesty's Privy Council in England⁷.

2.1.2 Grenada

Grenada is has constitutional monarch where the formal Head of State is a monarch but is limited by the nation's supreme law, the Constitution, which entered into force in 1974, and has a Westminster type Parliament. Grenada has the three branches of Government: the Executive, Legislative and Judicial. The Executive branch of government is similar to that of St. Vincent and the Grenadines. The Chief of State is Queen Elizabeth II but is represented by the Governor General. The cabinet is also appointed by the Governor General but with the advice of the Prime Minister.

In the legislative branch of the government, Grenada has a bicameral parliament which is comprised of the Senate and the House of Representatives. The Senate is a thirteen (13) member body, 10 of which are appointed by government and the remaining 3 by the leader of the opposition. The House of Representatives consists of 15 seats and the members are elected by popular vote to serve five year terms⁸.

Grenada's legal history took a unique direction in 1979 during the People's Revolution. During the coup, the People's Revolutionary Government suspended the existing Constitution and removed itself from both the OECS and Privy Council. They further created a Supreme Court⁹ which comprised a High Court and Court of Appeal and had final appellate jurisdiction. After the US invasion in 1983, the legality of the Revolutionary Supreme Court was questioned by the ex-leaders of the Revolution who claimed that the Court was unconstitutional.¹⁰

⁵ http://www.oecs.org/inst_ecsc.htm

⁶ Rose-Marie Belle Antoine. *Commonwealth Caribbean Law and Legal Systems*. Great Britain: Cavendish Publishers Ltd, 1999

⁷ Government of St. Vincent and the Grenadines. The Legal System. http://gov.vc/govt/about_us/legalsystem.asp (Accessed August 25, 2006)

⁸ CIA World Factbook. Grenada. [Http://www.cia.gov/cia/publications/factbook/print/gj.html](http://www.cia.gov/cia/publications/factbook/print/gj.html) (Accessed April 27, 2006)

⁹ This was done by virtue of the Establishment of Supreme Court of Grenada Law 1979, People's Law of 1979.

¹⁰ Antoine, Rose-Marie Belle. *Commonwealth Caribbean Law and Legal Systems*.

2.1.3 Development of both states

St. Vincent and the Grenadines and Grenada are members of the Organization of Eastern Caribbean States (OECS), which began in 1981 with the signing of the Treaty of Basseterre and indicated the countries' intent to cooperate with each other and promote unity and solidarity among its members. Its mission is to be a "major regional institution contributing to the sustainable development of the OECS Member States by assisting them to maximise the benefits from their collective space, by facilitating their intelligent integration with the global economy; by contributing to policy and program formulation and execution in respect of regional and international issues, and by facilitation of bilateral and multilateral co-operation."¹¹ One of the institutions under the OECS is the Eastern Caribbean Supreme Court. In the Judicial Branch of government, both St. Vincent and the Grenadines and Grenada are governed by the Eastern Caribbean Supreme Court (ECSC), which has unlimited jurisdiction in member states, and each state has its own High Court Judge¹².

The recent advent of the Caribbean Court of Justice (CCJ) states that it will be the final court of appeal from civil and criminal decisions of the Courts of Appeal of those Member States of the Caribbean Community (CARICOM) which presently send appeals to the Judicial Committee of the Privy Council.

Grenada has its own National Biodiversity Strategy and Action Plan (NBSAP), which is primarily meant to fulfil obligations¹³ under the 1992 International Convention on Biological Diversity and its subsequent Conferences of the Parties (COPs). In both the NBSAP and a 2001 Report on Grenada's Implementation of Art 6 of the CBD, it was acknowledged that there are 40 pieces of legislation that address protection and management of biodiversity. However, a comprehensive list was not given since the Grenada NBSAP only lists 12 of the asserted 40 Acts while the report has no list at all¹⁴. The NBSAP identifies the flaws in the Acts, which range from poor awareness of legislation to overlapping issues and unclear jurisdiction of the relevant agencies.

In April 2004, St. Vincent produced an Environmental Management Strategy and Action Plan, aimed towards fulfilling its duties under the 2001 St. George's Declaration of Principles for Environmental Sustainability in the OECS. The Strategy is meant to implement aspects of the St. George's Declaration in various sectors through various activities and to guide programmes in environmental management over a long term¹⁵. It is not to be viewed as a single, isolated document, but rather as a strategy that incorporates plans and priorities of governmental agencies and citizens.

An Environmental Management Act was drafted in Grenada in 2005. It establishes an Environmental Management Agency and a Sustainable Development Council to advise the

¹¹ OECS. Mission and Objectives. http://www.oecs.org/about_mission.htm (Accessed November 02, 2006)

¹² OECS Eastern Caribbean Supreme Court: http://www.oecs.org/inst_ecsc.htm (Accessed May 05, 2006)

¹³ More specifically, Articles 6 and 7, which deal with general measures for conservation and sustainable use and identification and monitoring.

¹⁴ P. 11 and 1 respectively.

¹⁵Floyd Homer and David Shim. *St. Vincent and the Grenadines Environmental Management Strategy and Action Plan, 2004-2006*. St. Vincent: Canadian International Development Agency (CIDA)

Agency on various matters. The draft will require the Agency to take into account principles of environmental management, such as the polluter pays, precautionary, strict liability, avoidance and state of technology principles. There is an entire Part devoted to environmental management activities that deal with management of air and noise pollution and establish requirements for air related, water and waste related permits and licences. Provisions are also made for integrated environmental management, along with the creation of an environmental management plan. The Act will also establish a Multilateral Environmental Agreements Committee to advise the Agency on all matters that relate to ratification of, monitoring and compliance with multilateral environmental agreements to which Grenada is a party. Environmental offences are also dealt with by type of offence, and provision is made for environmental auditing, monitoring and sampling. This draft seems to be comprehensive and also makes provision for ethical considerations, a very unique matter found in the Act. The Act seems to be comprehensive, but only time will reveal whether the draft Act will be passed, and the extent of its effectiveness in Grenada.

3 RESULTS AND DISCUSSION

3.1 Biodiversity

3.1.1 Botanical Gardens

St. Vincent and the Grenadines

Current Act	Botanical Garden Act, No. 20 of 1987, Cap 56: Revised Edition 1990, Laws of St. Vincent & the Grenadines
Current SROs	S.R.O. 1919, Amended by: S.R.O. 74 of 1952, Cap 56 Revised Edition 1990 S.R.O. 9 of 1991 S.R.O. 29 of 1992 S.R.O. 24 of 2005
Previous / Repealed Acts	Cap. 32 of 1926 Act No. 3 of 1978 (amended 1926 Act)

In St. Vincent and the Grenadines, the current Act is the Botanical Garden Act, No. 20 of 1987 and can be found in the 1990 Revised Edition of the Laws of St. Vincent and the Grenadines. The purpose of the Act is “to authorise the framing of rules for the proper regulation of the Botanical Garden.” The Act itself is short, with only 4 sections, but authority is granted to the Governor General to make rules for the protection and government of the Botanical Garden and the control of all persons visiting it. Therefore, the Act is accompanied by the Botanical Garden Rules, which is somewhat longer, containing 14 sections. SRO 29 of 1992 adds the first schedule onto these Rules, which deals with the sale of plants while SRO 24 of 2005 alters provisions within the Act itself.

Duties / responsibilities of the citizen

Rule 4 prohibits an individual from carrying any load throughout the garden or from selling or exposing for sale any merchandise or refreshment. The Rules further prohibit an individual from depositing bottles, paper or rubbish of any kind in the garden. However, SRO 24 of 2005 amends this provision by allowing such actions once “permission is granted for that purpose by the person in charge of the Botanical Garden, as curator or otherwise.” The Rules also prohibit climbing of trees, fences or gates and the use of firearms or hunting of animals, birds or bird eggs. Rule 6 also forbids defacing or injuring benches, buildings, garden seats, fences and boundary marks.

Offences / penalties

If a person breaches or refuses to comply with the Act or Rules, then under s. 3 of the Act, they are liable to pay a fine of two hundred and fifty dollars (EC\$250), and Rules further provide that the offender may be summarily removed from the Garden by the Director or Parks, curator or supervisor, or any person acting under orders of any or all of them¹⁶.

Grenada

Current Act	Botanical Gardens Act, No. 25 of 1968, Cap 35: 1990 Revised Edition, Laws of Grenada [originally named National Botanical and Zoological Gardens Act]
Current SROs	National Botanical and Zoological Gardens Rules, SRO 55 of 1968

The Botanical Gardens Act is the existing legislation for Grenada. The exact parameters of the Gardens are detailed in a Plan located in the Public Works Department.

Duties / powers of the Minister

Section 3 of the Act places responsibility on the Minister to “ensure proper management, control and care of the Gardens and their maintenance at all times in good condition.” He has the discretion to enclose, ornament and improve the Gardens with railings and gates as well as to erect and maintain buildings. The Minister may also appoint one or more Committees to act in an advisory capacity, as well as to create a consolidated fund into which admission fees to the Gardens will be paid. Section 4 further extends the power of the Minister to make various rules that relate to the Gardens, including but not limited to the management, control and upkeep of any zoological collection, aviary, library or museum or any other building within the Gardens, and prohibiting interference with or damage or the destruction of trees, plants, shrubs, fruit, animals, gates, fences and other things within or about the Gardens.

Duties / responsibilities of the citizen

The 1968 National Botanical Gardens and Zoological Rules were made under the authority of s.4 of the Act. It makes provision for matters such as opening hours of the park and the control of

¹⁶ Rule 13 of SRO 24 of 2005 amended the “Chief Agricultural Officer of foreman, or persons acting under orders of either or both of them”, to “Director of Parks, curator or supervisor, or persons acting under orders of any or all of them.”

traffic in the Garden. It sets a speed limit of 20 mp/h for any vehicle in the gardens and prevents the riding of a bicycle in the park except on public roadways. The Rules also make provision for the protection of flora and fauna, preventing any person from climbing any trees, walking on any grass or flower bed in the Gardens and restricts a person from touching, cutting or picking any flower, leaf, seed, fruit twig or branch or injuring any plant in the Gardens in any way. Also, a person may not use the ornamental waters in the Gardens for any purpose, or sell or expose for sale any flowers, fruits, plants, confectionary, food, beverage or any article unless the person is duly authorised by the Director of the Gardens. These provisions are contained in Rules 5 and 6. In terms of fauna, Rule 7 prevents a person from removing from the Gardens, wilfully disturbing, ill-treating, injuring or killing any animal, bird, reptile or fish or even disturbing, destroying or damaging any eggs. Rule 12 bans a person from bringing any animals into the Gardens unless it is intended to form part of the zoo. Rule 18 allows restricted areas to be set aside for a nursery for plants, a hospital or kitchen for the zoo or for the use of the employees of the Gardens and states that a person must not enter such an area unless authorised by the Director. The guard or police officer on duty has the right to inspect any parcel that he believes may contain any item that is in contravention with Rule 5. The Act also grants a guard in uniform the power of arrest without a warrant if a person is found committing an offence. The guards also have certain powers and immunities as conferred by s. 10 of the Act.

A person may not throw any stone or missile or light any fireworks, according to Rule 15. Furthermore, a person cannot dispose of, throw or leave any refuse of any kind in the Gardens, except in a garbage bin. Injuring or defacing any sort of structure or monument in the Gardens is prohibited and a person may not place posters or advertisements on walls or other structures either. Disorderly conduct is prohibited by Rule 17. Excessive noise in the Gardens is also banned since a person cannot hold any sort of public meeting or exhibition unless authorization is given by the Minister, and any sort of recreational game or sport or use of sporting equipment is also forbidden unless authorized by the Minister, and such activity is only done in the area of the Gardens designated for that purpose. Furthermore, the use of any musical instrument, radio or television is prohibited unless the equipment is a radio installed in a vehicle or has earphones attached.

Offences / penalties

Section 7 of the principal Act states that if a person is found in breach of any rule made under s. 4 will be found guilty of an offence and will be liable, on summary conviction, to a fine of five hundred dollars (EC\$500) or imprisonment for no longer than 14 days on failure of payment. Section 12 further states that the Acts that are named in the Schedule¹⁷ will not apply to a person who takes or captures any animal or bird to which the Acts relate provided that they are acting under the authority of the Minister to do so.

¹⁷ The Birds and Other Wildlife (Protection) Act, Cap 34 and the Wild Animals and Birds Sanctuary Act, Cap 339.

3.1.2 Forestry

St. Vincent and the Grenadines

Current Act	Forest Resource Conservation Act, 1992, No. 47 of 1992
Previous Acts	Cap 239, King's Hill Enclosure Act, 1791 Forests Act, No. 25 of 1945 Crown Land Forest Produce Rules, No. 28 of 1946 Crown Land Forest Reserves (Declaration) Order

St. Vincent has approximately 25-30% forest cover and the island contains several forest types.¹⁸ The earliest Forestry legislation in St. Vincent and the Grenadines was the King's Hill Enclosure Act of 1791. The Act deals with King's Hill, located in St. George, and provides for its enclosure and protection in order to protect timber and other trees for attracting rain. Although the primary purpose of the Act is not to protect the environment, it deals with preservation and thus indirectly, exploitation. This Act served as an influence for later legal instruments, such as the 1945 Forests Act¹⁹, the 1946 Crown Land Forest Produce Rules²⁰ and the 1948 Crown Land Forest Reserves (Declaration) Order. The current legislation in St. Vincent and the Grenadines is the 1992 Forest Resource Conservation Act²¹, which repeals the 1945 Forests Act.

Threats identified by the Forestry Department include deforestation for illegal crop production, encroachment, poaching, over exploitation and unnecessary cutting of trees, especially in urban areas.²² The Forest Resource Conservation Act aims to deal with these problems. The Act makes provision for "the conservation, management and proper use of the forests and watersheds, the declaration of forest reserves, cooperative forests and conservation areas, the prevention and control of forest fires...." It is notable that forestry does not deal solely with trees since there are many aspects in the environment that are linked. Soil stability, erosion and water quality are all valid matters to consider when dealing with forests and this Act even sets aside provisions that specifically address prevention and control of forest fires and even permits for such fires.

Powers of the Minister & Director / Bodies established under the Act

The Act is divided into ten Parts. Part II deals with Administration and s. 4(1) allows the Public Service Commission to appoint the forestry department, a Director of Forestry and other officers as may be necessary. The Director of Forestry will be responsible for the administration of the department as well as the enforcement of the provisions of the Act. He will also have additional functions that may be assigned to him by the Act. A long list of functions of the Director are outlined in Section 5 which includes conserving, managing and developing of forests, preparing and implementing of the national forest resource conservation plan, individual forest

¹⁸ Government of St. Vincent and the Grenadines. Forestry Information and Factsheet. No. 1, 2003. <http://gov.vc/contentmanager/articlefiles/3609-Forestry%20fact%20sheet1.pdf> (Accessed August 25, 2006)

¹⁹ No. 25 of 1945

²⁰ No. 28 of 1946

²¹ No. 47 of 1992.

²² Government of St. Vincent and the Grenadines. Forestry Information and Factsheet. No. 1, 2003. <http://gov.vc/contentmanager/articlefiles/3609-Forestry%20fact%20sheet1.pdf> (Accessed August 25, 2006)

management plans, and conservation plans. Other functions include the promotion of proper soil and forest conservation practices, the protection of the natural landscape to maintain the aesthetic value of the environment on Crown land, and the maintenance of biological diversity.

Section 6(1) stipulates that a ten year Forest Resource Conservation Plan be created. This plan will primarily aim to coordinate activities on all forest reserves, conservation areas and cooperative forests. Sections 6(3) through 9 deal with the procedure and various steps required for establishing the Plan as well as outlining what the plan should contain. The Act implies that sufficient coordinating mechanisms should be in place, because the Director of Forestry is required to make the plan available to several other ministries and departments for comments prior to submission to the Minister. More importantly for the citizen, s. 7(a) states that copies of the plan must be available at all forestry offices for public inspection. Once the plan is approved by the Cabinet, copies must be made available for inspection and sale at all forestry offices. At present, there is no actual Forest Resource Conservation Plan in St. Vincent although in 1993 a ten year plan was created but a subsequent plan was not drafted in 2003.

Part III of the Act deals with Forest Reserves. The Schedule of the Act identifies the areas that are listed to be Forest Reserves, which are King's Hill, Cumberland Forest Reserve and the Tobago Cays National Park, and the parameters of the reserves are also identified. A Forest reserve may be declared for a number of purposes, such as the conservation of soils and the preservation of flora and fauna. Any area within a forest reserve may be declared by the Minister to be a protected area where harvesting of timber or forest produce and development or exploitation except for the maintenance of trails, is strictly prohibited. No land may be granted, devised or sold within a forest reserve and may not be leased unless in certain cases. After declaration, the Director of Forestry must ensure that a map is deposited at the Chief Surveyor's Office where it will be available for public inspection.

Forest Reserves are different from Conservation Areas, found in Part V of the Act. Section 20 outlines the Minister's procedure for declaring a conservation area. The Minister has the authority to declare any area a conservation area after consultation with the Planning Board or by Order in the Gazette. This may be done for a number of reasons, outlined in s. 19(1)(a)-(d) and includes such reasons as requiring the implementation of conservation practice and management controls to prevent or limit sedimentation, pollution and erosion, or in order to maintain the soil and water resources in a productive state. Section 22 allows the Minister to appoint a local conservation council and he may also create a conservation area fund in s. 27 to be used for purposes that include but are not limited to conservation education areas, expenses related to conservation measures and incentives and any other purposes related to the purpose and objective of the conservation area. Some functions of the council include monitoring and discussing the condition of natural resources, collaborating with the Director of Forestry in the preparation and implementation of conservation plans, and making rules, with the approval of the Minister, for the regulation of the conservation area. A notable feature of the conservation council is that it must comprise of at least two members that are residents of the conservation area and two members from the public and private sector, while the Director is the chairman, able to delegate responsibility when he so wishes. The composition of this council indicates that public local involvement and cooperation is imperative and is a significant component in the effective implementation of the Act. Later provisions outline further functions of the council as the Minister feels appropriate, and s. 25 details the matters that are to be included in a conservation management plan. The Minister may also direct the Director to prepare

conservation plans for individuals, giving precedence to the most fragile or critical lands in a conservation area in order to guide the owner or occupier in the implementation of improved conservation practices.

Section 31 empowers the Minister to make regulations to better carry into effect the provisions of this Act. He may make such regulations on a range of matters, such as prohibiting the cutting of trees and other vegetation, manage and protect water resources, watersheds, and stream banks, streams and rivers for clean and reliable water or hydroelectric production and may establish standards for that purpose, and he may also establish procedures for operation of local conservation councils. This list is not meant to be exhaustive. It is notable that s. 57 also gives the Minister authority to make regulations for, *inter alia*, the preservation, management and development of forests as well as wildlife, and for the management and administration of forest reserves, protected forests and conservation areas, and the preservation of wildlife species, wildlife habitat and of lands that may be of particular ecological or scientific significance.

A Forestry Development Fund is also created in Part VI of the Act, which differs from the conservation area fund. This fund will be used for *inter alia*, reforestation expenses, water and soil conservation measures and public recreation and nature conservation. Licences and permits are also significant considerations and the Minister may authorise the Director to issue licences for the harvesting of forest produce, the control of chainsaws and milling equipment, visitors and any other purpose that is consistent and relevant to the Act. These licences are subject to conditions, procedures, fees and time spans.

Officers may also be appointed by the Minister under s. 42 by notice published in the Gazette. Part IX deals with the various powers of officers. These powers include the power to arrest a person without warrant if the person refuses to give information such as his name and address, or if he is suspected of giving a false name or address, or if he refuses to cease committing the offence. Penalties are dealt with below. These officers may be assisted by the police. If a person is found trespassing on a forest reserve without reasonable grounds and is suspected of committing or attempting to commit an offence, the officer may stop and search the person and any baggage or vehicle, enter any temporary land occupied by the person or enter or search a building occupied by the person. He may also seize any tools, vehicles, equipment, livestock, forest produce or minerals that he reasonably feels were connected to an offence. The officer may also inspect timber plantations, operations and sawmills, and may collect information on certain matters, such as forestry operations, sale of timber and forest produce.

Offences and penalties

During the course of creating the conservation plan described in s. 6, the Director is authorized to collect forestry data from any public or private institution that may be able to supply such information. If any such institution does not provide such information within sixty days of a written request by the Director of Forestry, he would have committed an offence and is liable on a summary conviction to a fine not exceeding one thousand dollars²³ (EC\$1,000). A citizen who requests information may make a request in writing and if the Director of Forestry finds that the data is of a confidential nature requiring protection from disclosure, under 9(3) he will take all steps necessary to protect this information. In this sense, the citizen has some level of protection. However, if the Director does not find the information to be confidential, he will inform the

citizen requesting protection in writing of his decision. The citizen in turn has the right to appeal the decision in writing within thirty (30) days of the date of the receipt of the notification²⁴.

Section 30 provides that a person may not be found in a conservation area polluting any river or stream with live stock activity, garbage, chemicals or other waste, taking any sand, gravel, shale, boulders or other natural material out of a river or stream not designated for that purpose. Furthermore, he may not undercut or cause the erosion of a slope which will cause a landslide, violate the terms of a conservation plan or a plan prepared specifically for a parcel of land, violate any conservation regulation or rule, and he may not destroy any tree or vegetation without authority of the Director, or produce charcoal. If a person is found in contravention of any of these acts, then he will be liable to a fine of not more than five thousand dollars (EC\$5,000) or a term of imprisonment for no more than one year, or both, and may be liable to an additional fine of two hundred dollars (EC\$200) for each day that the offence continues.

If a person contravenes the provisions of s. 42 then he is liable on summary conviction to a fine not exceeding two thousand dollars (EC\$2,000) or a term of imprisonment for no more than 6 months or both the fine and imprisonment. The Miscellaneous Part declares a number of offences. Section 31 deals with a person found in a forest reserve or in contravention of a cooperative forest agreement and is *inter alia*, felling, cutting, uprooting, burning or removing any timber or forest produce, stripping off the bark of leaves from or damaging any trees or vegetation, clearing, cultivating or breaking up any land for cultivation, pasturing or permitting livestock on the land, damaging, altering or removing any notice or boundary marker or erecting any building or shelter. He will be liable on summary conviction to a fine not exceeding five thousand dollars (EC\$5,000) or to a term of imprisonment for no more than 1 year or both. This will not apply to person if he has a permit, licence, lease or agreement or is an authorised officer performing his duties under the Act. If a person assaults, hinders, obstructs or encourages another person to do the same, or resists a forest officer in the course of his duties, then he will be guilty of an offence and liable on summary conviction to a maximum fine of ten thousand dollars (EC\$10,000) or imprisonment for 2 years, or both. If this person is convicted of a second offence within 5 years of a previous conviction, he will be liable to twice the fine or double the term of imprisonment or both the fine and imprisonment prescribed for that offence.

Section 55 states that if a person is convicted of felling, cutting, removing, girdling, marking, lopping, tapping or bleeding a tree or timber or other forest produce, or injuring timber or other forest produce, then the court may impose an additional penalty requiring the offender to pay compensation not exceeding the market value that will be determined by the Director of Forestry for each tree or log of timber or other forest produce. Further sections deal with property taken from the person charged and the powers of forest officers that allow them to impound livestock trespassing in a forest reserve or in contravention of a cooperative forest agreement or the rules for a conservation area.

Grenada

Current Act Forest, Soil and Water Conservation Act, No. 34 of 1984

Cap 116: 1990 Revised Laws of Grenada

Grand Etang Forest Reserve Act, No.

Cap. 124: 1990 Revised Laws of Grenada

Proposed Acts / Draft Protected Area, Forestry and Wildlife Legislation, 2003
Bills [Meant to repeal current Act]

The Forest, Soil and Water Conservation Act is found in Cap 116 of the 1990 Revised Laws of Grenada. A significant amount of the Island has forest cover and thus forest management is integral to the forest as well as soil stability and water quality. However, the principal provisions of the Act deal with forestry.

Grenada's National Biodiversity Strategy and Action Plan (NBSAP) acknowledges that there is minimal formal information with regards to the types and status of forests. Furthermore, protection exists for only a few forest areas in the islands, and not all forest types are protected. The Grand Etang Forest Reserve is one of the few areas totally protected by legislation from hunting and changes in land use since it has its own separate legislation, albeit shorter. Grand Etang has an area of 1526 ha²⁵ and contains several types of forest communities and is the home for many species such as the Mona monkey (*Cercopithecus mona*). The Act simply states that the forest reserve is officially the area that is demarcated in the survey prepared by the Crown Lands Commissioner and Surveyor and lodged with the Deeds and Land registry. This Reserve, as well as another forested area named Mount St. Catherine is owned by the state. The Grand Etang Act also provides that forest will be strictly reserved for the public purposes of forest conservation.

Powers of the Minister / Governor-General

Section 3 of the Act states that the Minister of Agriculture will establish a Forestry Department within the Ministry of Agriculture to manage and promote the interests of forestry. The Public Service Commission will appoint a Chief Forestry Officer who will *inter alia*, supervise the forest officers as appointed by the Minister in s. 4. The Minister is also empowered to make Rules that prescribe the duties of forest officers under s. 33. Such forest officers may be granted authority in both general and specific cases by the Minister in writing, and these officers, along with rural constables and police officers are authorised under s. 28(1) to prevent the commission of a forest offence. These officers have the power to arrest without warrant a person that is reasonably suspected of being involved in a forest offence if he refuses to provide his name or any other personal information or gives false information or there is reason to believe that he may flee. Furthermore, if there is reason to believe that a forest offence has been committed, the officer may seize any tools, materials or livestock used in the commission of the offence and is obligated to make a report of the seizure to a magistrate. Such seized material must be duly marked and the officer may direct at any time that the property be released if it is not the property of the Crown or Government and may withdraw any charge made in respect of such property. Under s. 32, the Minister may order a reward to be paid for any seizure made to any person who made the seizure or to a person who provided information that aided in seizing the

²⁵ Government of Grenada National Biodiversity Strategy and Action Plan. 2000. Grenada.

material. Section 31(1) further details the power of the Minister to authorise forest officers to accept compensation.

In 1999, a National Forest Policy was approved and a 10 year strategic plan was submitted in 2000.²⁶ The plan includes the protection of biodiversity, awareness and capacity building, creating a database of information collected and encouraging institutions to participate in the conservation and management of the country's biodiversity. During the development of the Plan, the public maintained that protection and conservation of the forests took precedence over timber production.

Section 6 is the only section devoted to forest reserves and gives the Governor-General power to declare any area or crown land to be a forest reserve by proclamation in the Gazette. The section also prohibits any land from being granted, devised or sold within a forest reserve. The following section gives further power to the Governor-General to declare land other than crown land to be a protected forest when it appears that it is necessary to do so for reasons that include but are not limited to preventing soil erosion and landslip, maintaining water supply in springs, rivers, canals and reservoirs, for the maintenance of health, or for the protection of roads, bridges, airstrips and other lines of communication. A protected forest may also be declared to prevent the wastage of resources of timber and for securing the proper management of lands where trees may be growing and are not under permanent agricultural cultivation. If a land is declared to be a protected forest, then under s. 11(1), the owner of the land may claim for compensation and must lodge a statement of his claim with the Ministry of Agriculture with details of his estimated loss. Section 13 makes it lawful for the Governor-General to declare any crown land to be a prohibited area when it appears necessary to give effect to his declaration of a protected forest under s. 7.

The Minister is empowered to make Rules that will regulate or prohibit activities within a protected forest which includes felling, cutting, lopping and burning of or injury to any tree or timber, breaking up or clearing land for cultivation, or the setting of fire. The Minister can also make Rules under s. 33 for prescribing the form of permits as well as providing for their issue, production and return. He may further regulate the issue of property marks and classification marks for timber and their registration and declaring the circumstances in which such registration may be cancelled or refused. Other matters include prescribing the time for which the registration will be valid, limiting the number of marks that can be registered by one person and providing the levy of fees for the registration.

Offences / Penalties

Section 27 stipulates that any offence under the Act may be prosecuted and any penalty incurred may be imposed or recovered summarily on the complaint of a forest officer or a police officer. The Act also provides a general penalty under s. 34 by stating that if a person commits an offence and no actual penalty has been specified, he will be liable on summary conviction to a fine of two thousand dollars (EC\$2,000) and to imprisonment for 6 months.

Section 18 details the offences that a person may commit. If he fells, cuts, girdles, marks, lops, taps or bleeds a tree or injures by fire, causes damage by negligence when felling a tree or cutting or dragging timber, removes or subjects any timber to any manufacturing process, he will be guilty of committing an offence. Furthermore, he will be guilty of an offence if he kindles,

²⁶ Government of Grenada National Biodiversity Strategy and Action Plan. 2000. Grenada.

keeps or carries any fire or permits livestock to trespass, or clears, cultivates or breaks up land for cultivation or enters a prohibited area. He will thus be liable on summary conviction to a fine of three thousand dollars (EC\$3,000) and imprisonment for 6 months. Section 24 adds to this penalty and allows the magistrate to add to any punishment that he may give and order that the person pay to the Government compensation not exceeding five dollars (EC\$5) for each tree or log of timber with respect to the offence. This section extends to a person who is convicted of felling, cutting, removing, girdling, marking, lopping, tapping or bleeding trees or timber, or of injuring them by fire or otherwise, in breach of this Act. Furthermore, if a person is convicted of a forest offence then all forest produce, tools, and livestock are liable to forfeiture at the magistrate's discretion based on the circumstances of the case. This may be in addition to any penalty or compensation prescribed for such offence.

Another offence is outlined in s. 21. A person may not knowingly counterfeit any tree or timber or having possession of any instrument for counterfeiting, or unlawfully or fraudulently affixes to any tree or timber a mark used only by forest officers, or alters, defaces, or obliterates any mark placed on any tree or timber by or under the authority of a forest officer. If he commits any of these acts, then he is liable to a fine of three thousand (EC\$3,000) and to imprisonment for three months.

3.1.3 National Parks

St. Vincent and the Grenadines

Current Act	National Parks Act, No. 33 of 2002
--------------------	---

Current SROs	-
--------------	---

The National Parks Act of St. Vincent and the Grenadines is relatively new and establishes a national parks authority to make further provisions for the preservation, protection management and development of the natural, physical and ecological resources and the historical and cultural heritage of St. Vincent and the Grenadines and for any connected matters.

Powers of the Minister / Bodies established under the Act

The Act establishes a National Parks, Rivers and Beaches Authority by virtue of s. 4. Since it is created as a body corporate, the Authority has perpetual succession, a seal and also has the power to enter into contracts to sue and be sued in its corporate name. In addition, the Authority may acquire property, hold a mortgage or lease and dispose of all kinds of property. Section 7 details the powers and functions of the Authority. The Authority has the power and control over all rivers, streams, springs, swamps, waterfalls, waterpools and beaches in the state. Twenty functions and responsibilities are listed in s.7(2) . These include such functions as advocating and promoting conservation and the overall management and maintenance of all national parks which includes all rivers, streams, springs, swamps, waterfalls, waterpools and beaches, along with other national and historic resources of the state as identified by the Minister. The subsequent provisions deal with establishing mechanisms for creating and managing national parks as well as supervising the operation of a system after the national park is set up. The functions are quite comprehensive in several respects since it attempts to manage all aspects of national parks, from inception to continuous management and protection. The Authority is concerned with ensuring that there is permanent protection of habitats and species and goes a further step by regulating exploitation in the parks and ensuring the replenishment and rehabilitation of depleted fish stocks

and marine habitats. The provisions also incorporate the possibility of tourism but also strive to ensure that any development outside a national park does not adversely affect the park itself. Appropriate records must also be kept, and a management plan must be prepared for each park that includes information gathering and research, which will serve as the scientific basis for the plans. Further provisions state that the Authority has the responsibility to ensure the creation of public information and education campaigns in order to create national conservation awareness.

Section 12 of the Act distinguishes between the two recognized types of parks, a terrestrial national park and a marine national park. Marine Parks are dealt with by the Marine Parks Act, No. 9 of 1997, and the subsequent Marine Parks (Tobago Cays) Regulations, No. 26 of 1998 deal with the Tobago Cays marine park specifically. The terrestrial park is described as comprising areas of land including any river, spring or stream or any inlet from the sea and all things therein whether living or non-living. Section 11 allows the Minister to declare any areas of the land and / or water owned by the Crown as a national park due to its “outstanding natural beauty, special historical, cultural or archaeological value, geologic or scientific importance, or the opportunity it provides for open-air recreation,” and because it requires appropriate management for preserving and enhancing its natural beauty and state. The Minister must then issue a notice by Order in the Gazette after consultation with the Board. This Order must identify the boundaries of the national park and will be subject to affirmative resolution of the House of Assembly. After the park is officially declared, s. 11(3) and (4) requires that a map be prepared demarcating the boundaries of the park and notice of the preparation of the map must be placed in the Gazette and the time, place and date for public inspection will be specified as well. Section 14 allows the Minister, after consultation with the Board, to alter the limits and boundaries of the park by notice in the Gazette and is once again, subject to affirmative resolution of the House of Assembly.

The Act also makes provision for the cabinet to appoint a National Parks Director who is the head of the National parks, rivers and beaches authority and has overall responsibility for the management of the parks under the direction of the Minister. The director may also delegate duties in writing to officers and is the only one with such power. Section 8 establishes a National Parks Board that is comprised of a number of representatives from different ministries and departments and organizations in the country appointed by the Cabinet. The Board has a number of functions and powers, which includes providing advice to the ministry on a wide range of issues, especially with regards to preserving, protecting and managing national parks and to encourage as far as possible the use of the sea for activities within certain marine parks such as sailing, boating, diving, baiting or fishing. This is done by monitoring and discussing the condition of the parks and advising the ministry on these matters. The Board can also advise the ministry on the provision and improvement of facilities for visitors to the parks and also has the responsibility to formulate and prepare a terrestrial national parks management plan. Subsequent regulations may also add to the functions and duties of the Board.

Section 10 stipulates that the Director must also prepare a national parks plan for the management and development of national parks. This plan must be prepared within six months of the declaration of the national park. The national parks plan must identify each park, its extent of development as well as an inventory of the resources found in that area.

The plan must also contain a description of objectives and policies that address matters that include but are not limited to development of all land in the park, maintenance and protection of environmental areas as well as the protection and conservation of the species of flora and fauna

and heritage and historical sites found in the park. Further provisions detail the process of the approval of the plan.

Section 15 states that fishing priority areas, areas leased for aquaculture, marine reserve areas and areas where permission for scientific research is granted are allowed in a national park if it is within its boundaries. If such areas are found within the park, then the provisions of the Fisheries Act, Cap 52 will apply.

Duties / responsibilities of the citizen

Ownership of land is a relevant issue addressed in this Act. The Government has the power to lease, exchange, buy or acquire property for use as a national park, according to s. 20, and private land is dealt with extensively. An individual has the power to designate his land a national park and have it managed as one, provided he states his wishes in writing to the Minister and agrees that the land will be managed or supervised by the owner as a national park and that all relevant Acts and Regulations will apply. If the request is approved, the Minister by order will publish such notice in the Gazette. The Director may also enter into an agreement with the owner, lessee or occupier of any land to manage the land as a national park and may impose certain restrictions under s.17(2). Land may also be compulsorily acquired for establishment of national park by the state if the Director after consultation with the Board feels that it is in the best interest of the state that the land be established as a national park. He will then issue a statement to that effect and the land will be acquired by the government under the Land Acquisition Act as land for a public purpose. This is however subject to s. 18(2), which states that the government will not take such measures unless it is certain that the Director is acting on all reasonable terms and will be unable to manage the park under the stipulations in this section. Certain acts are prohibited in national parks, as outlined by s. 23, which forbids *inter alia*, damaging, destroying or removal of any flora, fauna, living or non-living thing,, and obstructing, polluting or diverting any river, lake, sea or body of water. Contravention of these provisions makes a person liable to a fine of no more than ten thousand dollars (EC\$10,000) or imprisonment for 1 year or both.

Grenada

Current Act **National Parks and Protected Areas Act, No. 52 of 1991, No. 42 of 1990**

Cap 206: 1990 Revised Laws of Grenada

The National Parks and Protected Areas Act was created to provide for the designation and maintenance of national parks and protected areas and connected matters.

Powers of the Minister / Bodies established under the Act

In this Act, the Minister and the bodies established are very closely related and depend on each other for the efficient execution of their duties and functions. The Act gives the Minister authority to appoint a Director of National Parks as well as park attendants, officers and employees, who will constitute a body called the National Parks Authority. The Director has the power to employ more workers when he deems necessary, in keeping with any terms and conditions for employment as set out by the Minister. Powers of police officers and park attendants are dealt with later in the Act in ss.16(1)(a)-(g), and allows interrogation of a person found in a national park in possession of flora or fauna or any article of historical, cultural or

archaeological value. Other powers include arrest, stop and search, entering premises with the consent of the lawful owner or with a search warrant and calling upon a person to produce a licence or permit.

Section 8 establishes a National Parks Advisory Council under which officials are appointed, including the Chief Forestry Officer and a representative from the Ministry of the Environment. The Minister must further appoint a chairman and deputy chairman of the council. The council's main function is to advise the Minister on matters that relate to the administration, management and control of the national parks system and any other related matters. In order to give effect to this function, the Director must provide all relevant and necessary information. The council is also responsible for the maintenance of the land that is part of the national parks system and ensuring that the land remains viable and unspoiled for the benefit and enjoyment of both present and future generations. The Director's responsibility extends to the preparation of a management plan which should contain a scheme of operations that will be submitted to the Minister. Once approved, the Minister must publish in the Gazette a notice which will specify the addresses of where the plan is available for public inspection, and where any comments or representations about the plan may be sent.

Sections 4 and 5 seem to be the most significant provisions in terms of actual land designation. The Governor-General also has some amount of power in this Act since s.4 allows him to declare any government land to be a national park, or he may add to an existing national park by using any government land or any land leased to the Crown. If the lease expires, then the land shall no longer be deemed to form part of the park and the Governor-General must then, by proclamation, rectify the description of the land included in the park. The Governor-General may also add any private land to an existing park that is leased or purchased by private treaty or donated for the purpose of its preservation or protection. Section 5 allows the Governor-General to declare any government land to be a protected area for the purposes of "preserving the natural beauty of the area which includes flora and fauna, creating a recreational area, commemorating an historic event of national importance, or preserving an historic landmark or a place or object of historic, prehistoric, archaeological, cultural or scientific importance." The Act further places restrictions on land in the national park since unless provided by the Act, it prohibits the grant, sale or disposal of government land within the parks system and prevents any person from settling, using or occupying the land. Prescriptive rights, title or interest in any land in the parks system cannot be attained and the Governor-General may grant any right of way for the construction and maintenance of a road or public utility, or he may grant a lease, licence or consent for occupation, locating or maintaining an exchange, office, substation or other necessary installation related to a public utility. Section 13(1) adds to this since the Governor-General may grant any lease or licence of government land for the purpose of providing accommodation and services for visitors to a park, subject to any conditions or reservations that he may deem fit. It is vital to note that such a licence or lease will not be granted if it is contrary to or inconsistent with any management plan in force in that area, and that the Minister may require that visitors to any park or protected area pay user fees.

The Minister has power to make regulations to assist in implementing the Act and ss.12(2) (a)-(1) list subjects that may require further legislation such as the preservation of flora and fauna and the regulation and prohibition of hunting, shooting and fishing. Subsequent sections deal with the establishment and details of a National Parks Development Fund which will only be used to promote the purposes of the Act.

Offences / penalties

Offences under the Act are contained in s. 17, and a person is prohibited from assaulting or obstructing a park attendant, a person assisting a park attendant or acting in such a capacity in the course of his duties. If this is breached, then he will be guilty of an offence and liable on summary conviction to a fine of one thousand dollars (EC\$1,000) and imprisonment for 6 months. A person will also be liable on summary conviction to a fine of two thousand dollars (EC\$2,000) and imprisonment for 6 months if he is found guilty of hunting, trapping or killing any wild animal or wild bird, or picking or digging up any wild flower, shrub or plant or removing or defacing any historical or archaeological artefact without lawful authority in a national park. The final provision in this Act is meant for an individual who breaches any regulations and makes him liable on summary conviction to a fine of two thousand dollars (EC\$2,000) and imprisonment for 3 months.

It is notable that at the 8th Conference of the Parties (COP) to the Convention on Biological Diversity, Grenada pledged to put 25% of nearshore marine and 25% of terrestrial natural resources under effective conservation by 2020,²⁷ a bold and promising move for protecting future generations.

3.1.4 Plant Protection

St. Vincent and the Grenadines

Current Act	Plant Protection Act, No. 16 of 2005
Current SROs	-
Previous / Repealed Acts	Plant Protection Act, No. 10 of 1941 [Repealed by current Act but any subsidiary legislation made in support of the Act will remain in force unless it is inconsistent with the current Act.]

St. Vincent and the Grenadines is well known for the mountainous terrain and wide array of flora and fauna. The Plant Protection Act was recently enacted in 2005²⁸. The previously existing legislation was the Plant Protection Act No. 10 of 1941. Section 39 repeals the 1941 Plant Protection Act²⁹ but states that subsidiary legislation made in support of the 1941 Act remains in force unless it is inconsistent with the 2005 Act, until further legislation is created to repeal it. The Act was enacted in accordance with international obligations set out by the International Plant Protection Convention. The purpose of the Convention is to prevent the spread and introduction of pests of plants and plant products, as well as to promote measures for their control³⁰. The Convention is governed by the Commission on Phytosanitary Measures, which in turn adopts the International Standards for Phytosanitary Measures. The Act primarily deals with prevention and control of plant pests and to protect plants and to facilitate trade in plants and plant products. There are specific parts within the Act that deal with imports and exports as well as the containment and eradication of pests. The Government of St. Vincent and the Grenadines

²⁷ Nature Conservancy: Grenada Pledges to protect its future, <http://www.nature.org/exclude/print.php>

²⁸ No. 16 of 2005

²⁹ Act 10 of 1941

³⁰ <https://www.ippc.int/IPP/En/default.jsp>

website contains a copy of the current as well as previous Plant Protection Acts and accompanying regulations.

Duties / obligations of the Minister

As is standard in most legislation, a section is always reserved which empowers the Minister to make regulations to give effect to the provisions of the Act. In this Act, s.38 allows him to make such regulations on a number of matters, such as conditions for the importation and exportation of any plants, plant products or other regulated articles, the way in which such plants, plant products or other regulated articles must be stored or transported in the state, and the procedures to be adopted for the treatment for imported plants, plant products and other regulated articles. This list is not exhaustive and there are at least 19 listed matters that the Minister can make regulations about.

According to s. 3, the Minister of Agriculture has primary responsibility for the administration of the Act but has the authority to delegate certain powers in writing subject to conditions that may further be specified. When dealing with applications for imports, the National Plant Protection Organization must apply international standards or conduct a pest risk analysis to determine phytosanitary requirements. According to s. 14, the Minister, on the advice of the NPPO may permit the entry of a plant, plant product or other regulated article for a scientific or experimental purposes, subject to certain terms and conditions, and he may further prohibit or restrict the entry of plants, plant products or other regulated article into the state, or take any other necessary action to prevent the introduction or spread of quarantine pests.

The Minister has a duty to protect plant resources and the environment, and as a result, has the power to allow the entry of plants, plant products or other regulated articles for experimental and scientific purposes subject to certain terms or conditions. According to ss. 14(b) and (c), the Minister also has the power to restrict entry altogether, as well as to take any action to prevent the introduction or spread of quarantine pests.

The containment and eradication of pests is a significant area of this Act. As with any country, the introduction of plant species or plant products into an environment without appropriate measures to control and effectively eliminate pests and other possible effects can wreak havoc on many sectors of society as well as to society as a whole. The citizen has the duty to report to the NPPO when he, as an owner or occupier of a premises, suspects that a pest is present. The Minister, on the advice of the NPPO, declare premises that are affected or are suspected to be affected by a plant to be under quarantine, and he may prescribe measures for the treatment or disposal of such plant or plant product, or prescribe the period of the quarantine. The NPPO may also take action where a quarantine pest is present by requiring in writing that the owner or occupier of any premises or even the owners or occupiers in the vicinity take measures that are necessary to eradicate, restrict or contain such pests and may also take such measures for the treatment or disposal of plants, plant products or any other regulated article on the premises. A phytosanitary emergency may also be declared under s. 23, and will expire when the Minister, after consultation with the NPPO, decides that the conditions that gave rise to the emergency no longer exist. When the NPPO is satisfied that a pest does not exist in an area, and they adopt phytosanitary measures to keep the area pest free and they institute a monitoring system to ensure that the area does remain free, the Minister may declare such area to be a pest-free area.

Bodies established under the Act

St. Vincent and the Grenadines Islands are noted for their agriculture and productivity. Anecdotal and documented evidence³¹ indicate that pests and diseases are not significant issues in St. Vincent and the Grenadines. However, the Plant Protection Unit within St. Vincent is the principal agency that deals with quarantine requirements and aims to prevent the introduction of exotic pests and eradicate invasive pests where possible. The Unit goes a step further and aims to educate farmers on pesticide use and also to implement Integrated Pest Management Programmes to assist farmers and the agriculture use on the whole³².

Section 5 of the Act outlines the duties of the NPPO which is designated under the Ministry of Agriculture. These duties include implementing standards, and more specifically, responsibilities under Article IV of the Convention. Responsibilities of the NPPO include the surveillance of growing plants, which includes areas under cultivation and wild flora, and for plants and plant products in storage or being transported for the purpose of reporting the occurrence, outbreak, and spread of pests and control of those pests. Other duties include the protection of endangered areas and designating, maintaining and surveying pest free areas and areas of low pest density and prevalence. The NPPO may also provide information that deals with import and export regulations that are in force, as well as technical requirements for plants, plant products and other regulated articles when requested by any international, regional or national plant protection organisation.

Officers of the NPPO may also be designated, which have duties such as inspecting plants, plant products or other regulated articles under cultivation, in storage or transit, in order to report the existence, outbreak, and spread of quarantine and non-quarantine pests, and inspecting consignments of plants, etc. that are for import or export and to determine whether they are affected and where necessary, verify the pest status of consignments by taking samples or otherwise.

Enforcement is also an important factor in this Act. Inspectors under this Act have a number of powers, and may enter and inspect any premises not being a dwelling house, open any container or receptacle that he has reason to believe contains any thing that the Act applies to, and may also take samples. He may also enter and inspect any premises provided that he has a warrant issued by a Magistrate when he has reasonable grounds to believe that an offence is taking place. He may be accompanied and assisted by a police officer. Inspectors also have the duty to seize any plant, plant product or regulated article which he may reasonably believe presents a risk of the introduction or spread of pests. In such cases, the Inspector will then as soon as practicable, inform and advise the owner of the plant, plant product or regulated article the reason for the seizure and that it may be subject to any actions under s. 28 within a specified time. These actions include storing, treating, quarantining or disposing of the plant, plant product or regulated article, and moving it another location, as well as requiring the owner himself to store, treat,

³¹Government of St. Vincent and the Grenadines. Agriculture – Plant Protection and Quarantine. <http://gov.vc/Govt/Government/Executive/Ministries/Agriculture&Fisheries/Agriculture/SRD/AgricultureSci.asp?z=86&a=277> (Accessed September 03, 2006)

³²Government of St. Vincent and the Grenadines. Agriculture- General Information. <http://gov.vc/Govt/Government/Executive/Ministries/Agriculture&Fisheries/Agriculture/SRD/AgricultureSci.asp?z=86&a=272> (Accessed September 03, 2006)

dispose of, export or move to any other place. Under s. 30, the inspector may also confiscate and dispose of any plant, plant product or regulated article which lies unclaimed after treatment for a certain time, or any thing that he reasonably believes to be a pest. He must then advise the owner of its reason for its confiscation.

Section 31 precludes action or legal proceedings against an inspector for any act or omission done in good faith in the exercise of his duties, and s. 32 exempts the Crown for liability for loss that may result from the destruction or disposal of plants, plant products or other regulated articles under s. 33, but the Cabinet may order compensation to be paid to a person. Compensation will not be paid if the person commits an offence under this Act.

Duties / responsibilities of the citizen

Part III is applicable to citizens wishing to import plants or plant products. Such plants or plant products may only be imported into the country at the prescribed ports of entry as specified by the Act. If an import permit is required under s.10(2), then the importer must apply to the NPPO and pay a fee. When dealing with the application, s. 11(2) states that a pest risk analysis may be conducted or consideration of existing international standards will be done to determine the appropriate plant protection requirements. After the application is approved and the plants or plant products are imported, they are subject to inspection at the ports of entry. If any citizen of St. Vincent and the Grenadines, especially an employee of the postal corporation, a private postal operator, private shipping concern or an employee of the customs department, port authority or police force has knowledge of the illegal arrival of plants, plant products or other regulated articles into the country, he/she has the responsibility to detain and report this to the NPPO.

Citizens wishing to export plants are required to take heed of restrictions set out in Part IV of the Act. It prevents a person from exporting plants, plant products, or other regulated articles from the state unless he applies to the NPPO in the prescribed manner, produces all necessary documentation, pays all prescribed fees and makes the consignment available for inspection under s. 17. The NPPO may inspect such consignment and issue a phytosanitary certificate or deny the certificate if requirements have not been met.

Offences / penalties

Section 35 lists a number of offences under this Act, while s. 36 gives a penalty of no more than one thousand dollars (EC\$1,000) or imprisonment for no more than 6 months, or to both fine and imprisonment. This fine encompasses all offences previously listed. Such offences include growing, possessing, selling, offering for sale, transporting or distributing in any manner any plants, plant products or regulated articles that person knows are affected by a quarantine pest. A person may not assault, resist, threaten, intimidate, or obstruct an inspector in the course of his duties, or tamper with any samples taken, or alter, forge, deface or destroy any document issued under the Act. Furthermore, a person may not import any plant, plant products or regulated articles contrary to any requirements under the Act, and a person may not export such articles except in accordance with Part IV. In addition, a person may not knowingly or recklessly provide information which is false for the purpose of obtaining any document. This list is not exhaustive and the aggrieved person can lodge an appeal with the Minister within three days of the decision.

Grenada

Current Act	Plant Protection Act, No. 19 of 1986 Cap 242: 1990 Revised Laws of Grenada
Amended by	Plant Protection (Amendment) Act, No. 13 of 2005 Plant Protection (Amendment) Act, No. 3 of 2002

The Plant Protection Act of Grenada is significant since its purpose is twofold; it is meant to provide for the control of pests that are harmful to plants as well as prevent the importation of plants and materials that are harmful to agriculture. Plant protection has become increasingly important since the advent of the 1951 International Plant Protection Convention. In 1994, the pink hibiscus mealy bug arrived in Grenada and caused significant damage to cocoa and other agricultural crops. Under s. 10 of the Act, the citizen is obligated to report the presence of any suspected or identified plant pest to the Ministry.

Powers of the Minister

The Minister has a significant amount of power in this Act. Under s. 3, he may prohibit or restrict import into or movement within Grenada of any plant, plant product, plant pest, soil or article specified in an Order if he feels that such acts are necessary to protect the agricultural resources of the country. The Minister may alternately issue import permits for plants or plant products if it is found to be free of plant pests upon inspection and importation is justifiable. This extends to plant pests, predators or parasite of any plant pest, or soil, and a person may not import any of these unless the permit is granted. In certain cases, the permit may be revoked or modified if the Minister prohibits or restricts imports under s. 3 by Order. The Plant Protection (Amendment) Act, No. 3 of 2002 alters s. 3 by deleting the definition of a notifiable plant pest in s. 2 and inserting a subsection before the current text in s. 3, which allows the Minister by Order to “declare any plant pest of substantial economic significance requiring measures to be taken for its eradication or control to prevent its spread to be a notifiable plant pest for the purposes of this Act.” This will ensure consistency and coordination of permits and importing restrictions.

All plants, plant products, plant pests, live beneficial organisms and soils that are imported into Grenada must have a phytosanitary certificate that was issued by the relevant body in the exporting country. The Plant Protection (Amendment) Act of 2005 inserts an additional section to s. 5 of the principal Act which allows the Minister to issue a phytosanitary certificate for all plants, plant products, plant pests, live beneficial organisms and soils exported from Grenada. The Minister may quarantine any imported plant if it is infected or infested with any plant disease and take measures to prevent its spread. Section 12 further allows him to make any Order that may be necessary to prevent the spread of notifiable plant pests and lists the details required for the Order. The Government is excluded from liability when material imported in contravention of the Act is destroyed, or if there is any delay due to quarantine or treatment considered necessary.

The Minister also has the power under s. 18 to make regulations that will assist in giving effect to the Act such as permitting the import of plants, plant products, pests or live beneficial organisms for experimental purposes, controlling prohibited or restricted materials in transit through Grenada or the carriers of such materials, and inspecting and certifying plants that are intended for export. Act No. 3 of 2002 adds another paragraph to this section, allowing the Minister to make regulations for prescribing fees for any permit issued or service provided under

the Act. Act No. 3 of 2002 adds a new section to the Act, which states that when exercising the powers that are granted by ss. 3, 6, 12(1) and 18, the Minister acts on the advice of the Plant Protection Board.

Bodies established under the Act

The Minister has the authority under s. 9(1) to establish a Plant Protection Service and a Plant Quarantine Service and appoint any officers to administer and enforce the Act. Designated officials have the power to stop and search without warrant, seize, detain, treat, destroy or dispose of any prohibited or restricted materials that may pose a threat to the agricultural resources of Grenada, provided that their identity is made known prior to such acts. An officer may also enter land that he believes to contain a plant pest without warrant and conduct a survey and treat, destroy or remove any material or plant pest found. Section 11 states that an officer must give notice in writing to the owner or occupier of land of the steps necessary to control or eradicate any notifiable pest and can further require the occupier or owner to take such action at his own expense within a specified period and to take reasonable control or eradication measures whether they are stipulated in the notice or not. This notice will remain in force until the Ministry gives the owner or occupier a certificate that relieves him of his responsibilities under the notice and after an inspection by an officer at no cost to the occupier or owner. If there is no actual occupier or an occupier or owner cannot be found, then s. 14 states that the notice will be affixed in a conspicuous position on the land. Section 15 gives the Minister sole discretion to compensate any individual whose crops or material has been destroyed in the course of executing the Act.

The Minister may also appoint a Plant Protection Board, whose duties are to advise the Minister on particular issues such as making or amending Orders and regulations and declaring any plant pest as a notifiable plant pest. Other duties include advising the Minister on matters such as the status of planting material, fruits, vegetables, plant products, plant pests and soil that may be offered for importation as well as management, operation and material requirements of the Plant Quarantine Service. Section 16 on the whole details the composition of the board as well as its procedure.

Offences and Penalties

Section 17 deals with offences and penalties under the Act. A person may not act in contravention of the sections that prohibit or restrict import of any plant, plant product, pest, predator or parasite of any plant, pest or soil or fails to report the presence of any suspected or identified plant pest. Additionally, he may not breach the terms of an Order made under s.6 or s. 12(1). Section 13(2) makes it unlawful to remove or cause the removal of any planting material, fruits, vegetables, plant products or soil from the land to which the notice under s. 11(1) relates. Furthermore, it is unlawful to alter, forge, counterfeit, deface or destroy any document that may be provided for in the Act and also an offence to obstruct, impede, assault or cause bodily harm to any designated officer in the course of his duty. Any person found engaging in any of these acts will be guilty of an offence and liable on summary conviction to a fine of ten thousand dollars (EC\$10,000.00) and to imprisonment for 2 years after amendment of the old penalties by Act No. 3 of 2002. Section 6(c) of this new Act also adds a new subsection which allows proceedings in a court of summary jurisdiction for an offence to be prosecuted by a member of the Plant Quarantine Service.

Current Act **Protection from Disease (Plants) Act,**
Cap 258: 1990 Revised Laws of Grenada

Powers of the Minister

The Protection from Disease (Plants) Act is aimed toward providing for the eradication of plant disease. Similar to the Plant Protection Act, the Minister has a large extent of power in this Act since he can make rules to carry out the provision of the Act under s. 12. His powers are further exemplified in s. 3(1)(a)-(k). The Minister may declare by Order any district that is infected with plant disease or suspected to be infected. He may also prescribe and regulate the installation of fences or creation of ditches to isolate actual or suspected infected land, as well as the destruction or removal or removal, disposal or treatment of plants and products. Furthermore, he may require the cleaning and disinfecting of any area specified in the Order and state the period when it will be unlawful to plant or replant. The Minister may also declare any plant disease to be a notifiable or infectious plant disease. He may also control the duties of any person appointed to execute the Order and prescribe any measures that can be taken by the owner or occupier for the treatment of any notifiable or infectious plant disease. He may also revoke or vary the Order or any part of the Order at any time. The Minister may also appoint officers to carry out the provisions of the Act and these officers have the power of entry on land that is declared to be infected or suspected of being infected and examine any plant, article or thing and do any other act or thing that will enable them to determine whether the plant or land is infected.

Section 9 allows the Governor-General, with the approval of the House of Representatives to publish a proclamation in the Gazette to declare that a portion of land will be acquired and will vest in the Governor-General for public purposes if it is declared to be infected with plant disease. This applies to any land that may be used as an entrance or exit to the infected land in order for diversion of any nearby or adjoining roads or paths. The Minister may then require any land acquired under s.9 to be fenced and permit payment out of the Treasury for the cost. It must be noted that decisions made by the Chief Technical Officer with regard to the presence or identification of any notifiable or infectious plant disease will be sufficient authority for carrying out the purposes of the Act.

Responsibilities of the citizen

If the owner or occupier or person in charge of management of the land suspects the presence of any notifiable plant disease on the land he/she must give notice to the Chief Technical Officer in writing of his suspicion and give as much information as possible about the nature and extent of the disease. If a person is charged for breach of this section, he will be presumed to have had knowledge of the existence of the disease unless he proves that he did not have knowledge and could not have reasonably obtained such knowledge. Furthermore, if the person in charge of the land fails to carry out measures required by an Order, then the Chief Technical Officer or an authorised person may enter the land and carry out such measures and the cost will be borne by the person in charge of the land. This is considered to be a civil debt before a magistrate.

Offences & Penalties

Section 8 of the Act deals with penalties and offences. If an individual acts in contravention of any of the Provisions, Orders or Rules made under the Act, or does not perform any measures required of him by any of these Orders and rules or fails to give notice that he is required to give,

he will be guilty of an offence. Furthermore, he will be guilty of an offence if he refuses an authorised person entry to his land for examination, or obstructs or impedes a person from entering, examining or carrying out any other activity done in the course of performing his duties. He will also be guilty if he assists in such activities. Any of these acts makes the individual liable on summary conviction to a fine of three thousand dollars (EC\$3,000.00) and imprisonment for 3 months in default of payment. In terms of any further conviction within a period of 12 months for a second offence, the individual will be liable in the discretion of the court to imprisonment for 6 months in lieu of the fine to which he is liable.

3.1.5 Wildlife Protection

St. Vincent and the Grenadines

Current Act	Wildlife Protection Act, No. 16 of 1987 Cap 55: Revised Edition, 1990 Laws of St. Vincent & the Grenadines Wildlife Protection Act, No. 16 of 1991 Wildlife Protection Act, No. 42 of 1988
Current SROS	Wildlife Protection (Amendment) Act, No. 67 of 1992
Previous Acts	-

The Wildlife Protection Act, No. 16 of 1987 of St. Vincent and the Grenadines is a vital instrument in protecting the many endemic and indigenous fauna that inhabit the archipelago. The Act deals with many components of wildlife management although the purpose of the Act simply states “for the protection of wildlife and matters connected therewith and incidental thereto.” Wildlife is defined in s. 1 as any species of mammals, birds and their eggs, frogs and their eggs, reptiles, fishes and their fry and eggs, and crustaceans. Section 7 of the Act claims that all wildlife³³ found in St. Vincent and the Grenadines are owned by the Crown and as a result may only be hunted or captured at a time solely determined by the provisions of the Act. The Act is divided into three parts: Wildlife Management, Protection and Control, Enforcement and Miscellaneous.

The most popular species in the state is the St. Vincent Parrot (*Amazona Guildingii*), which is not only endemic to the island, but is also its National bird. In 2004, the parrot was classified as vulnerable in the IUCN Redlist³⁴ and is listed in Appendix I of the Convention on International Trade in Endangered Species (CITES). Appendix 1 deals with species that are threatened with extinction. Section 30 of the Act is devoted to the St. Vincent Parrot specifically to ensure the survival of this endemic bird, and stipulates that any St Vincent Parrot in captivity must be registered through an application in writing to the chief wildlife protection officer. Section 30(2) of the Act states that all parrots were to be registered within three months of the commencement of the Act, and that there would be no registering of any parrots after that time. At present, there is no update of this provision. Unregistered parrots are subject to confiscation and the keeper may be prosecuted, and on the death of the parrot, its carcass must be delivered to the chief

³³ This includes captive wild species.

³⁴ BirdLife International 2004. *Amazona guildingii*. In: IUCN 2006. *2006 IUCN Red List of Threatened Species*. www.iucnredlist.org (Accessed 06 October 2006).

wildlife protection officer. CITES lists eight (8) species in its Appendix I, one hundred and ten (110) species in its Appendix II and sixteen (16) species in Appendix III for St. Vincent & the Grenadines. Another species that is listed as Critically Endangered on the IUCN Red List is the Black snake (*Chironius vincenti*).³⁵

An interesting feature of the Act is the wealth of information found in the Schedules. The First Schedule of the Act is important to note since it lists all the wildlife reserves located in the Grenadines, and entire islands such as Petit St. Vincent, Prune Island and areas such as the Tobago Cays are classified as Wildlife Reserves. According to ss. 9(3) and (6), the chief officer can delineate and maintain the boundaries of all wildlife reserves and can order the payment of fees for visitors to the reserve. These fees, as well as funds obtained from permits and any other contributions or donations will be paid into a special fund established by the Minister under s. 31 of the Act solely for the conservation of wildlife and their natural habitats. The wildlife reserves are meant to be managed as natural areas and land within this area cannot be devised, granted, leased or sold. In addition, defined boundaries in areas such as King's Hill and the St. Vincent Parrot Reserve are listed. The Second and Third Schedules list the protected wildlife and partially protected wildlife respectively in St. Vincent and the Grenadines. The Fourth Schedule deals with specific dates for closed seasons for certain species of reptiles, mammals and birds. Birds and mammals have a closed season beginning March 1st to 30th September, while the only reptile listed is the iguana which has a closed season from 1st February lasting until 30th September. The Schedules are referred to within the Act and in the cases of Schedules 1, 2, 4 and 6, the Minister has the power to add to the schedule or delete from the schedule by order in the Gazette.

Powers of the Minister / Bodies established under the Act

The Chief Wildlife Protection Officer as appointed by s. 3(1) of the Act is primarily responsible for ensuring that the provisions of the Act are complied with and implemented adequately. The complete list of his duties is clearly outlined in s. 6. The chief officer also has the power of delegating duties to any other wildlife protection officers as well as revoking such delegations. There is no specified amount to the amount of wildlife officers necessary to execute the provisions of the Act. To better inform and advise on matters dealing with wildlife conservation, the Minister may appoint a Wildlife Conservation Advisory Committee under the authority of s. 8(1). Section 8(2) follows by stating that the Committee will include the chief officer as the chairman and the remainder will be comprised of other members that the Minister deems appropriate. The chief wildlife protection officer also deals with the granting of permits. Since entire islands are classified as Wildlife Reserves, an individual who is a resident within one of these reserves may apply in writing under s. 16 to the officer for a resident's licence that will enable him to keep dogs, licensed guns or any other instruments that can be used to hunt wildlife. In addition, s.17 entitles the chief officer to grant a special hunting licence to individuals wishing to hunt for a specific purpose. These include scientific research, collecting for zoological gardens, museums or similar establishments, culling, or extermination of wildlife that qualifies as vermin listed under the Sixth Schedule and noted in s.23. Section 23 also allows the Minister to add to or remove vermin from the list in the Schedule, and that these may be hunted at any time without a licence. The format for the special hunting license is found in the Fifth Schedule

³⁵ Henderson, R. 1996. *Chironius vincenti*. In: IUCN 2006. 2006 IUCN Red List of Threatened Species. www.iucnredlist.org. Downloaded on 07 October 2006.

of the Act, and is subject to s. 17(3). This appears to contradict s. 17(1)(p). Section 32(1) gives the citizen the right to report any protected wildlife to the chief officer that may be destroying or causing damage to any private property. The officer then is allowed to take steps to rectify this issue, which includes the grant of a special permit to kill the animal, and any part of product of the wildlife becomes the property of the Crown. This is not mentioned in s. 17(1) although it does seem to constitute a special licence. According to s. 18(1), the chief officer also has the right to cancel or suspend a permit under the preceding provisions. It must be noted that the grant of a permit does not authorize the holder to enter private land or waters, but the individual must always carry his licence with him when he is engaged in an activity authorised by the Act.

Duties / responsibilities of the citizen & Offences / penalties

Section 11 of the Act is pertinent to the individual. Subsection 1 states that if a person is found hunting in the reserve by any method listed, he will be liable on summary conviction to a fine of two thousand dollars (EC\$2,000), and if he contravenes this provision a second time, will be liable to a penalty of four thousand dollars (EC\$4,000) and imprisonment for one year. Furthermore, although the chief officer may appoint a person to do any acts that that are essential for the appropriate management of the park, if a person is found unlawfully engaging in the activities listed in s. 11(3), he will be liable on summary conviction to a penalty identical to a person found guilty of hunting in a forest reserve. The individual also has the right to kindle, keep or carry a fire within the protected area of the wildlife reserve once the chief officer has approved that the fire will serve to prepare food for human consumption. Section 29 is especially important for the citizen, as it lists ways in which an individual may be liable for frightening, stupefying, injuring or killing any protected or partially protected wildlife listed in the First and Second Schedules of the Act. This provision includes pollution, as it prohibits the discharge of any adverse substances in water that may be the habitat for fish, shrimps or crabs, and further restricts discharge in areas where these substances may lead to or enter water.

It is notable that there is an entire part comprising of five sections devoted to enforcement. Section 24 (1)(a)-(f) outlines the powers of the officers to, *inter alia*, stop and search vehicles, enter and search any premises in the presence and with consent of the owner or occupier of a dwelling house. An officer may also seize any wildlife that he may believe was obtained or being kept in breach of the Act, as well as any guns, dogs, boats, vehicles or other equipment that he may reasonably suspect was used in connection with the offence. If a person is subsequently convicted of an offence, any wildlife or equipment used in the commission of the offence may be forfeited to the Crown at the magistrate's discretion. If such wildlife cannot be preserved or salvaged, the magistrate will, on completion of the case, will make an order for its suitable disposal. Section 26 protects the wildlife protection officer by attaching a penalty to a person who has assaulted, obstructed or otherwise hindered the officer in fulfilling his responsibilities under the Act. The offender will be liable on summary conviction to a fine of two thousand dollars (EC\$2,000) and imprisonment for six months. The Act also considers offences for which the Act does not expressly provide, and s. 34 addresses this by stipulating that a person will be liable for a fine of seven hundred and fifty dollars (EC\$750) and imprisonment for three months.

Although this Act was promulgated almost twenty years ago, it is not so outdated as to render it redundant. Provision is made in s. 35 allowing the Minister to make Regulations which include matters such as "providing generally for the better carrying out of the provisions of the Act." To date, there have not been any Regulations.

Grenada

Current Act Birds and Other Wildlife (Protection) Act

Cap 34: 1990 Revised Laws of Grenada

Current SROS

Previous Acts Birds and Other Wildlife (Protection) Act, No. 10 of 1990

Birds and Other Wildlife (Protection) Act, No. 23 of 1980

Birds and Other Wildlife (Protection) Act, No. 26 of 1964

Grenada has a similar terrain to St. Vincent and the Grenadines but is also the home to a variety of species of flora and fauna. The Grenada Dove (*Leptotila wellsi*) is the sole endemic bird found in the islands and is well known as the country's national bird. The Grenada Dove ranks as Critically Endangered on the IUCN Redlist, moving up from its previously Threatened status in 1988.³⁶ There is a number of other avifauna that rank as Least Concern, such as the hookbilled kite (*Chondrohierax uncinatus*)³⁷ and the peregrine falcon (*Falco peregrinus*)³⁸ although they both are listed in Appendix I of CITES, which classifies them as threatened with extinction and trade is only permitted in exceptional circumstances. There are conflicting reports as to the status of these birds, since the Grenada NBSAP³⁹ corroborates the CITES data and identifies the hookbilled kite as endemic and endangered, which is inconsistent with IUCN data. There appears to be insufficient data on the amount, status and distribution of some species, but it is believed that Grenada's terrestrial wildlife consists of four amphibian species, eight species of lizard, five species of snake and 150 species of birds⁴⁰. The Birds and Other Wildlife (Protection) Act was promulgated in an attempt to preserve certain species that inhabit the islands of Grenada, Carriacou and Petit Martinique. "Wild birds" as mentioned in the Act refers to the birds listed in the First and Second Schedules. The First Schedule generalizes by including "all wild birds with the exception of those enumerated in the Second Schedule," but at the same time excludes poultry, geese, turkeys, pea-fowl, guinea-fowl or any other type of domestic fowl. According to s.3(2), exportation of any of the wild birds listed in the first schedule is strictly prohibited. Since the Schedule does not actually list birds, it appears easier to compare the second schedule with the first and then determine the category of each specific bird by the process of elimination. Section 3(1) makes it an offence to kill, wound take or have in his possession any wild bird or its eggs.

Duties / responsibilities of the citizen & Offences / penalties

The Second Schedule lists 19 birds, such as the peregrine falcon, that have a closed season for being hunted, according to s. 4 of the Act. Section 4 also deals with closed seasons for lobsters,

³⁶ BirdLife International 2004. *Leptotila wellsi*. In: IUCN 2006. *2006 IUCN Red List of Threatened Species*. <http://www.iucnredlist.org/search/details.php/11766/summ> (Accessed October 06, 2006)

³⁷ : BirdLife International 2004. *Chondrohierax uncinatus*. In: IUCN 2006. *2006 IUCN Red List of Threatened Species*. <http://www.iucnredlist.org/search/details.php/49310/summ>. (Accessed October 09, 2006).

³⁸ BirdLife International 2004. *Falco peregrinus*. In: IUCN 2006. *2006 IUCN Red List of Threatened Species*. <http://www.iucnredlist.org/search/details.php/49518/summ> (Accessed November 01, 2006)

³⁹ Page 20

⁴⁰ NBSAP, p20

turtles and oysters. The closed season for birds is the longest season, lasting from 1st March until the 31st August, while the seasons for oysters and lobsters last from 1st May to 30th September. The shortest closed season is for turtles, lasting from 1st June to 30th September. During this time, no person may kill, wound or take, or even attempt to kill, wound or take any wild birds that are listed in the Second Schedule or any lobsters, turtles or oysters. A person may not take or possess any of the eggs of these species during these seasons as well, and if he is found in breach of any of these provisions, will be guilty of an offence, which according to s. 11, makes him liable on summary conviction to a fine of one thousand dollars (EC\$1,000) and to imprisonment for six months. Section 5 gives the Minister authority to alter the Second schedule by adding or removing species by notice in the Gazette. The Act also makes weight and size restrictions on taking, killing, selling, purchasing or possessing turtles and lobsters. Section 9 indicates a minimum weight for turtles and lobsters, and section 9 (4) requires a person who finds a female lobster with eggs to return it to the sea immediately or else he will be guilty of an offence. There appears to be some protection with regards to inappropriate fishing practices, since s. 10 specifies prohibited methods for fishing, such as poisoning, stupefying, intoxicating or destroying fish by explosion or discharge of noxious substances, and makes it an offence to engage in any of these activities.

The Act makes special provision for the protection of turtles and turtle eggs by making a person who takes, destroys or possesses such turtles or turtle eggs, guilty of an offence. In some cases, the burden of proof lies on the defendant, and s. 8 makes reference to such cases. If a person is found in possession of any turtle or any wild bird or its eggs specified in the First Schedule, he must prove that either the turtles or the wild bird and its eggs were killed, wounded or taken outside the jurisdiction of Grenada. Similarly, if the individual is found in possession of any wild bird or bird eggs listed in the Second schedule, or if he is in possession of any lobsters, turtles or oysters after the third day of the beginning of the closed season for that species or before the end of the season, he must establish that they were wounded, killed or taken outside of Grenada. Additionally, he may instead prove that the birds, turtles, lobsters or oysters were wounded, killed or taken before the commencement of the closed season.

A notable aspect of this Act is that penalties for individual offences are not stipulated, but rather a general penalty is outlined in s.11. This section is supported by s.13, which requires the individual on conviction to forfeit any wild bird, lobster, oyster, turtle or its eggs, as well as any equipment used in the commission of the offence. Any police, revenue or fisheries officer may also seize any equipment found on the shore or coastal waters that may be used for the capture of any turtle during closed season and such equipment is also subject to forfeiture, based on the decision of the harbour master.

This Act empowers a number of public officers. As discussed above, police, revenue or fisheries officers have the power to seize equipment under s.14, and the Minister has various powers, which includes his power to authorise the killing or taking of wild birds found in both schedules, turtles, turtle eggs, their nests, or oysters for scientific purposes under s. 15.

3.2 The Marine Environment

3.2.1 Maritime Areas

The 1982 United Nations Convention on Law of the Sea (UNCLOS) is the most comprehensive international instrument that deals with both reasonable exploitation and conservation of marine resources and protection of the environment. It consists of 320 Articles and 9 Annexes and came into force on the 16th November, 1994. Grenada signed UNCLOS on the 25th April, 1991 while St. Vincent and the Grenadines signed after, on the 1st October, 1993. UNCLOS covers a wide range of issues that cover all matters that relate to oceans, their resources and the law of the sea as a whole. The Convention clearly addresses the use of ocean space by demarcating standard areas that are under the jurisdiction and management of each country and may be used for specific purposes. UNCLOS addresses international management of coastal and marine resources which includes matters such as dumping at sea and protection of the marine environment.

Prior to UNCLOS, few maritime boundaries existed. UNCLOS expanded the breadth of the territorial sea from three miles to twelve miles, and established the Exclusive Economic Zone (EEZ) which extends 200 nautical miles from the territorial sea baseline and allows the state sovereign rights over living and non-living resources and jurisdiction over the protection of the marine environment. This provision is one of the most significant features of the Act although this right is not automatic since the state must claim their EEZ and in order to acquire pollution jurisdiction, the state must have some sort of national legislation in place.

Such conventions are particularly important to islands such as St. Vincent and the Grenadines and Grenada that are situated in areas that are frequented by marine traffic and have to reconcile this with other marine activities, such as fishing and tourism related activities. The national legislation of St. Vincent and the Grenadines and Grenada dealing with delimitation of marine areas are both consistent with provisions set out in UNCLOS.

St. Vincent and the Grenadines

Current Act(s) Maritime Areas Act, No. 15 of 1983

Amended by: Act 25 of 1989

Cap 333: 1990 Repealed Laws of St. Vincent and the Grenadines

Continental Shelf Act, No. 49 of 1970

Amended by: Act 3 of 1978

SRO 38 of 1980

Act 20 of 1987

Cap 332: 1990 Repealed Laws of St. Vincent and the Grenadines

Amendments Act 5 of 1994

(After 1990) Act 8 of 2006

The Maritime Areas Act, Cap 333 is a significant instrument in all of the laws of St. Vincent and the Grenadines that relate to the ocean. The Act is meant to declare the maritime areas in St. Vincent and other related matters. Although the Act does not have many environmental

provisions, it remains significant since it identifies areas in the surrounding waters over which St. Vincent and the Grenadines has jurisdiction. These areas are then managed accordingly. Sections 3 to 8 in particular define the different zones and areas in the waters. Internal waters is defined by s. 3 as comprising the waters of the landward side of archipelagic closing lines to the low water mark of all the island areas of St. Vincent and the Grenadines. Section 4 continues by defining the archipelagic waters as the waters from the landward side of the archipelagic baselines to the archipelagic closing lines. The territorial sea extends from the landward side of the baseline seaward for twelve (12) nautical miles. The contiguous zone extends from the archipelagic baseline seaward for twenty-four (24) nautical miles. The exclusive economic zone (EEZ) extends for two hundred (200) nautical miles from the archipelagic baseline and is made up of the waters, seabed and subsoil that are adjoining to the territorial sea. Section 8 defines the continental shelf, which is comprised of the seabed, subsoil and the submarine areas that are contiguous to its territorial sea and extends to a limit of two hundred (200) nautical miles. Section 9 of the Act ties these provisions together by declaring that the waters of St. Vincent and the Grenadines which includes the airspace above and the bed and the subsoil form part of the territory of St. Vincent and the Grenadines. The Act then speaks of the right of innocent passage in s. 10, and s.10(3) allows the Minister to make regulations in relation to the right of innocent passage that may deal with *inter alia*, the conservation of living resources of the sea or the protection of the environment of St. Vincent and the Grenadines and the prevention, reduction and control of pollution.. If a foreign ship engages in any of the listed activities in s.11 without prior permission by the relevant authority, their passage will be deemed to be acting in contravention of the peace, good order and security. Such acts include pollution that may cause harm to the resources, marine environment or to St. Vincent and the Grenadines on the whole, according to s. 11(1)(h).

A noticeable feature of this Act is that it deals with issues within each designated zone, and as a result, some environmental provisions may seem redundant although on closer inspection, this is not the case. Section 13 deals with conduct in archipelagic sea lanes, and s.13(3)(b) requires that ships in distress adhere to generally accepted international regulations and procedures and practices for the prevention, reduction and control of pollution from ships. Section 14 continues by allowing the Minister to make regulations for the prevention, reduction and control of pollution by giving effect to international regulations, with regards to the discharge of oils and oily wastes and any other polluting substances. The Minister is also empowered to make regulations for the exercise of control in the EEZ in matters such as protecting and preserving the marine environment, and the “exploration and exploitation, conservation and management of living and non-living resources of the seabed and subsoil and super-adjacent waters.” The Minister has similar powers regarding the continental shelf since he may make regulations regarding the exploration and exploitation of the living and non-living resources on the continental shelf, as well as preventing, reducing and controlling marine pollution connected to seabed activities.

The role of the International Maritime Organization (IMO) is highlighted in s. 15, since any designations or other related matters for sea lanes will be submitted to the IMO or their successor for adoption.

The Continental Shelf Act, as its name suggests, is aimed solely towards managing the continental shelf. It is notable that this act was established before the Maritime Areas Act as well as the international UNCLOS. It is meant to implement the provisions of the 1958 Convention on

the High Seas. The definition of the continental shelf is not fully consistent with the Maritime Areas Act since it deals with depth rather than distance. The definition refers to the seabed and subsoil of areas that are adjacent to the coast of St. Vincent and the Grenadines but outside the areas of the territorial sea to a depth of 200 metres and beyond the limits to where the depth of the superadjacent water allows exploitation of the natural resources of the area. It can be seen that there is no mention of the length that the continental shelf extends. This is illustrative of the fact that UNCLOS established the EEZ and redefined certain maritime areas. Apart from addressing matters such as laying submarine cables, defining the applicability of the petroleum production laws, and detailing the procedure for licences for exploring and exploiting the continental shelf, the Act deals with oil discharges in a designated area. The Act also deals with designated areas for the purpose of customs duties. The Act consists of 12 provisions, and the final provision gives the Governor-General the power to make regulations to assist in implementing the Act, and also gives him the powers to amend or vary the Petroleum (Production) Regulations.

Grenada

Current Act	Territorial Sea and Maritime Boundaries Act, No. 25 of 1989 Cap 318: 1990 Revised Laws of Grenada
Current SROs	-
Previous/ Repealed Acts	Grenada Territorial Waters Act, No. 17 of 1978 Marine Boundaries Act, No. 20 of 1978

The Territorial Sea and Maritime Boundaries Act of Grenada contains a number of definitions that are necessary when dealing with all maritime affairs. The Act, as previously indicated, is consistent with UNCLOS which Grenada signed on 1st October, 1993, one year before the Convention came into force. In the Act, the baseline is defined as the low water line, or the Minister may identify a straight archipelagic baseline which will be drawn in accordance with international law and must contain its geographical coordinates. Section 8 declares sovereign rights over the territorial sea, internal waters, archipelagic waters as well as the airspace above and the seabed and subsoil below these waters. These areas are defined, with the territorial sea extending 12 nautical miles seaward from the closest point on the baseline while the contiguous zone extends 24 nautical miles from the nearest point on the baseline, and is described as an area ‘beyond and adjacent to the territorial sea’, according to s. 9. Section 9(2) then continues by stating that if the contiguous zone extends into the territorial sea of a neighbouring state, the previous provision will be deemed to be modified so that the contiguous zone does not invade the other state’s territorial sea. Internal waters are classified by s. as any part of the sea that is found on the landward side of the low water line, although the Minister has the right to prescribe closing lines to define any internal waters. Archipelagic waters are any part of the sea aside from internal waters found on the landward side of an archipelagic baseline established by the Minister in s. 4(2). It must be noted that section 33 states that if the term “territorial waters” is used after the commencement of the Act, it shall be construed as the definition in s. 5. Furthermore, s. 33 establishes that if the term “maritime area” is used in any written law, it is meant to include the internal waters, territorial sea, archipelagic waters, contiguous zone, continental shelf, and the EEZ.

The continental shelf in this Act is comprised of the areas of the seabed and subsoil in the submarine areas beyond and adjacent to the territorial sea throughout the natural prolongation of the land territory of Grenada to the outer edge of the continental margin, or it extends 200 nautical miles from the nearest point of the baseline wherever the outer edge does not stretch to that distance. The continental margin as defined by s. 10(3) is the submerged part of the land mass that which consists of the seabed and subsoil of the shelf, the slope and rise, but does not include any part of the deep ocean floor. If however, the continental shelf extends further than 200 nautical miles, then the additional part will be established and delineated with regard to provisions of international law that are applicable to defining this distance. If the equidistance line between Grenada and a foreign state is less than 200 nautical miles, Grenada promises to make its best efforts to ensure that the continental shelf or EEZ is dealt with by an agreement between the two states in order to achieve an equitable solution, or will be otherwise dealt with under the provisions of international law that address settlement of disputes. Section 11(1) claims sovereign rights for Grenada for exploiting, exploring and managing natural resources and further reserves the sole right to construct, authorize and regulate the construction, operation and use of as well as jurisdiction over artificial islands or any installations or structures. Grenada also claims jurisdiction over regulating, authorizing and controlling marine scientific research as well as preserving and protecting the marine environment and preventing and controlling marine pollution.

The EEZ defined in the Act is consistent with UNCLOS as it states in s. 12 that it is measured 200 nautical miles from the baseline and that Grenada has sovereign rights over the EEZ for the purposes of exploration, exploitation, conservation and management of the resources of the seabed, subsoil and super adjacent waters. This provision also asserts sovereignty over renewable energy produced by tides, winds and currents. Similar to the continental shelf, jurisdiction is also claimed with respect to artificial islands or structure, marine scientific research, protecting and preserving the marine environment and controlling and preventing pollution. EEZ sovereignty is not meant to be narrowly construed since the final subsection of s. 13 states that the Grenada has sovereignty over any other rights that are recognized by international law, which can substantially broaden rights. It is important to note that such rights over the EEZ and continental shelf will be exercised only if they do not infringe or hinder navigation or other rights or freedoms of foreign states under international law.

For the purposes of exercising jurisdiction in the courts of Grenada, the territory will include the internal waters, the territorial sea and archipelagic waters and extends to the continental shelf and EEZ. A person who commits an offence punishable by summary conviction in any of these areas will be dealt with by a magistrate appointed under the powers of the magistrates Act, Cap. 177.

Further provisions in the Act deal with issues that may potentially conflict with rights, such as the laying of submarine cables and pipes, or rights of passage for foreign ships. Innocent passage and transit passage is permitted for ships and is detailed within the Act, but activities such as pollution likely to cause damage or threaten marine resources, fishing or extracting resources or carrying out research or any kind of survey, *inter alia*, will be deemed to be prejudicial to the peace, order or security of the state if they are committed without the appropriate authority. If the ship is deemed to be prejudicial to such peace, then captain or any others participating in the offence will be liable on conviction on indictment to a fine of one hundred thousand dollars or imprisonment for five years, or is liable on summary conviction to a fine of thirty thousand dollars or imprisonment for two years. The Act also makes provision for archipelagic sea lane

passage, which allows a right of navigation or overflight through or over archipelagic waters for continuous, expeditious or unexploited transit between a part of the high seas and the zone. There is a detailed part within the Act that deals with arrest, jurisdiction and offences, which includes immunity and liability of foreign ships, as well as the state's power of arrest.

Section 25 reiterates that a person may not explore or exploit any resources, carry out any search or excavation, conduct any research, drill in, construct, operate and maintain any structure or device, or carry on any economic activity without a permit or license granted by the Minister or relevant authority or Act. A person is also exempted if he is acting in pursuance of an agreement with the government of Grenada. If a person is found in breach of these provisions, then similar to s. 24(2) (a) and (b), he is liable on conviction to a fine of one hundred thousand dollars or imprisonment for five years, or is liable on summary conviction to a fine of thirty thousand dollars or imprisonment for two years and may additionally under any conviction may have to surrender any equipment or gear used in connection with committing the offence.

Additionally, the minister has the power under s. 34 to make regulations to implement the provisions of the Act with respect to conduct of individuals and generally the use of the internal sea, archipelagic waters and territorial sea. Furthermore, regulations that control activities in the continental shelf and EEZ may be made, including but not limited to exploiting, exploring, conserving and protecting resources. Section 34(2)(h) adds a penalty of no more than thirty thousand dollars (EC\$30,000) or imprisonment for no more than two years or both on summary conviction for breach of any regulation made under the section.

Finally, s. 35 ensures that the Territorial Sea and Maritime Boundaries Act does not in any way affect the operation or any act done under the Fisheries Act, Cap. 108, the Petroleum and Gas Deposits Act, Cap. 240 or any lease, licence or authority granted or any agreement entered into under any of those Acts. This ensures an extent of coordination and reduces direct conflict between Acts, which is vital when attempting to reconcile so many different issues.

3.2.2 Beach Protection

St. Vincent and the Grenadines

Current Act	Beach Protection Act, No. 10 of 1981, Cap 331: 1990 Revised Edition, Laws of St. Vincent & the Grenadines
Current SROs	Beach Protection (Fees) Order, SRO No. 21 of 2002 Beach Protection (Declaration of Beaches) Notice, No. 20 of 2002
Previous / Repealed Acts	Beach Protection Act, No. 25 of 1963

St. Vincent and the Grenadines is clearly entirely surrounded by water. As a result, protection of the beach is of paramount importance, as any beach loss or erosion can result in an unstable shoreline and reduced protection from wave energy and natural disasters. The majority of the population resides along the coast, as the interior regions are more based on agriculture, and this intensifies the potentially devastating effects that an unstable beach can have on the country.

The Beach Protection Act of St. Vincent and the Grenadines, No. 10 of 1981, aims to “protect the beaches and to prohibit the removal of sand, corals, stones, shingle, gravel and other material from the shores of St. Vincent and the Grenadines and sea beds adjoining.” With the exception of certain cases, the Act prevents any individual from digging, taking or carrying away any of the materials as described above and additional materials may be added by notification by the Governor-General. According to S. 4(4), individuals that have property along the shore are permitted to take a reasonable amount⁴¹ of sand or gravel for their bona fide own personal use, provided is not in contravention with s. 4(1)(d). This section states that the Minister has power to specify beaches where there will be a total prohibition of removal of any kind of material.

In respect of individuals that wish to remove material and apply for a permit, the Authority may grant permission if it is satisfied that the grant will not be detrimental to the public interest, or the permit may be granted with certain conditions that once those conditions are fulfilled, the removal will not be detrimental to the public interest. According to ss 9(1) and (2), if permission is in fact granted, the Authority may specify the route, time and mode of removal, and the permit must be presented to the officer present at the location for endorsement. The Minister also has the power to make special orders for the removal of a small quantity of sand subject to limitations that he may specify. The Authority also has the power to reject an application. In 2002, the Beach Protection (Fees) Order was enacted in accordance with s. 5 of the Act, which deals with payment of fees with every application for removal. This is related to the management of the beach to an extent.

Section 11 of the Act prescribes penalties for infringement of the stipulations in this Act and a fine is imposed on conviction for first time, second time, and third time or subsequent offences. Additionally, the Act authorizes any person of the Police force to arrest any person who is found acting in breach of s.3(1) of the Act by digging, taking or carrying away any material along the beach or sea bed. The citizen has the right to appeal an order made under the Act to the Minister, whose decision will be final. A person may also appeal to the Cabinet regarding an order made by the Minister, and similarly, the Cabinet’s decision will be final.

In 2002, a Beach Protection (declaration of beaches) Notice declared Larikai Bay and Rabacca River as beaches. This was done under s.2(a) where a beach was defined for the purposes of the Act and was left open to include any other place that the Governor-General may specify by notice.

Grenada

Current Acts	Beach Protection Act, No. 67 of 1979 Cap. 29: 1990 Revised Edition, Laws of Grenada
Current SROs	-
Proposed Bills / Acts	Grand Anse Management Authority Act, 2003

In Grenada, the Beach Protection Act was promulgated two years before the Beach Protection Act of St. Vincent & the Grenadines. The Act itself is concise, as is its purpose: “to prohibit the unauthorized removal of sand, stone, shingle and gravel from the seashore.” Section 2 explicitly

⁴¹ A “reasonable amount” is described as one truckload per year.

states that if a person digs or carries away any sand, stone, shingle or gravel from the seashore, he will be guilty of an offence. His penalty on summary conviction is a fine of five hundred dollars (EC\$500.00) and imprisonment for six (6) months. The Act makes the penalties for non compliance even more stringent by establishing that if a person used a motor vehicle to aid in the infringement of s.2, he will also additionally be disqualified from holding or obtaining a driving license for a period of twelve (12) months. Similar to the Beach Protection Act of St. Vincent and the Grenadines, police officers are also authorised to arrest a person that he may find committing a section 2 offence. Section 5 is a unique provision in this Act, since it awards no more than half of the fine stipulated by the court to an “informant” or a person who was instrumental in the procurement of the conviction. Section 6 is the final provision in the Act and enables the Minister to exempt any person from liability or part of the seashore from the application of s.2 by an Order.

The Grand Anse Management Authority Act is a bill that was created in 2003 and is not yet legally binding. Its main purpose is to create, as the name suggests, a management authority for the management of both the marine and terrestrial aspects of the Grand Anse beach. The Authority will be a body corporate and the Minister charged with responsibility for its implementation is the Minister of Tourism. The Authority’s functions are to manage the marine and terrestrial resources of the beach, to advise the Minister with regards to measures that can be taken to protect the beach, to meet occasionally with stakeholders or interest groups, and to obtain equipment that may be necessary to execute its functions. Furthermore, the Authority will be responsible for preparing a management plan for a period of no more than three years. The Bill mostly deals with the composition of the Authority and its powers as well as protection, benefits and remuneration of its members, and other related matters such as use of funds and resources. The Schedule lists the members that will comprise the Authority and gives the Minister power to revoke the appointment of any such member. The Schedule also grants the Authority the power to regulate its own procedure and make rules to that effect, and outlines the formation of a quorum. The Bill also allows the Authority to charge user fees for the beach as prescribed by the Minister and requires the Authority to submit annual reports to the Minister. Finally, the Bill allows the Authority to make regulations that give effect to the Act, such as prescribing procedures to be followed for the management of the beach and designating different areas for various purposes as decided by the Authority.

Current Act Bathing Places Act, No. 31 of 1958

Cap. 28: Revised Edition, 1990 Laws of Grenada

The Bathing Places is a short Act, consisting of only 3 sections. This Act also deals with management of the coastline and thus complements the Beach Protection Act, Cap 29. The Act states to “empowers the Minister to make rules for the development, regulation and control of public bathing places on and around the coastline.” Section 2 of the Act largely repeats the title and adds that he may also declare any bay or portion of the seashore to be a bathing place. Penalties are also prescribed in s.2(2) for the breach of any rules made by the Minister in the form of a fine not exceeding five hundred dollars (EC\$500) recoverable in a summary manner before a magistrate. Furthermore, there is also a provision that awards a portion of the fine to a person who was instrumental in obtaining the conviction of the individual who was in breach of the Act. This is an interesting provision as it encourages public participation and relieves some of the burden on officers and forces citizens to act more cautiously as there is a better chance of being convicted. The unique quality of this Act is that it forms the foundation for subsequent

Acts and SROs although this has not yet been utilised and no rules have been enacted. This has proven to be the downfall in many cases, since the public is not aware of such rights and privileges bestowed upon them.

3.2.3 Marine Pollution

Prevention of marine pollution is a significant component of achieving a healthy marine environment. There have been a number of International and Regional conventions that have generated interest in St. Vincent and the Grenadines and Grenada, who have become members of various conventions. As a result, they have adopted national legislation that attempts to implement their responsibilities under the international or national convention. Tables in this section will also include the convention that the national legislation is modelled after or based on.

St. Vincent and the Grenadines

Current Acts	Convention on Oil Pollution Damage Act, No. 6 of 2002
Previous / Repealed Acts	Oil Pollution (Liability and Compensation) Act, Cap 367: Revised Edition, 1990 Laws of St. Vincent & the Grenadines
International Convention	International Convention on Civil Liability for Oil Pollution Damage (CLC), 1992 International Convention on the Establishment of an International Fund for Oil Pollution Damage, 1992

International Agreements are important for countries that wish to commit themselves to combating a common issue. Such agreements are especially necessary when it comes to environmental issues since resources are shared and disasters in one area can have transboundary effects. Transport of oil by sea creates a potentially disastrous situation, and legislation must be created to protect parties involved, as well as to determine liability.

The Convention on Oil Pollution Damage Act was created to combine and implement both the 1992 International Convention on Civil Liability for Oil Pollution Damage (CLC) and the 1992 International Convention on the Establishment of an International Fund for Oil Pollution Damage. The Act is divided into two parts, Part I containing the provisions that relevant to the CLC. The First Schedule contains the CLC Articles that are relevant to the Act, while the Second Schedule contains the relevant Articles of the Fund Convention. The Act itself is very short, since it is meant to reinforce the provisions of the Conventions. Perhaps the most important provision in this Part of the Act is s. 3, which identifies Articles I-XI of the CLC and states that these will form part of the law of St. Vincent and the Grenadines, but are subject to the provisions of the Act.

Section 4 of the Act allows for an action for compensation to be brought before the High Court in St. Vincent and the Grenadines if pollution damage resulted in the territory, territorial sea or exclusive economic zone (EEZ) of the country, or if measures have been taken to prevent or minimize the damage. Article I of the CLC, contained in the first schedule contains the interpretation of several terms, which therefore reduces the list contained in the Act itself. Sections 7 and 8 deal with issuing certificates of insurance and registration.

The International Convention on Civil Liability for Oil Pollution Damage (CLC) was established in 1969 by the International Maritime Organization (IMO). The Convention is meant to ensure that compensation is given to parties that have suffered as a result of oil pollution damage caused in the territory or territorial sea of a member state, in the EEZ, or in an area adjacent to the territorial sea of that State, determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured.⁴² Furthermore, the Convention also applies to preventative measures, wherever taken, to prevent or minimize such pollution damage. The Convention was originally created in 1969, and entered into force in 1975. However, subsequent Protocols in 1976, 1984 and 1992 made changes to the Convention. Article III attaches liability to the owner of the ship unless he can prove that he falls under the exceptions outlined in the subsequent paragraphs. Exceptions include pollution damage as a consequence of war and hostilities.

Current Act Management of Ship-Generated Solid Waste Act, No. 16 of 2002

International Convention MARPOL: International Convention on the Prevention of Pollution from Ships, 1973 [as well as its 1978 Protocol]

The Management of Ship-Generated Solid Waste Act was created to give effect to the MARPOL Convention and specifically to provide for the jurisdiction in relation to pollution of the seas from ships, prevention of pollution, and further prevention of pollution by solid waste. The advent of MARPOL was based on the 1967 Torrey Canyon Disaster, where a Liberian oil tanker ran aground on a reef in the English Channel and spilled 120,000 tons of crude oil into the sea. This has been the worst oil disaster to that date, and after meetings in 1969, the MARPOL Convention was adopted in 1973 with amendments in 1978. The Convention has six Annexes, each dealing with a specific pollution issue. Annex I and II deal with oil and chemical pollution respectively, and all parties are bound by these. The subsequent Annexes are optional, and Annex III addresses harmful substances carried in packaged form and Annex IV deals with sewage. Annex V deals with prevention of pollution by garbage from ships while Annex VI deals with air pollution. St. Vincent and the Grenadines is a party to the Convention as well as all of its Annexes except Annex VI.⁴³ The Act simply states its objects in s.3(3), which are to “prevent the deliberate, negligent or accidental disposal of solid waste from ships or pleasure craft for the protection of and preservation of the marine environment and the conservation of the natural resources of that environment, and to that end, regulate maritime activities.”

Duties / responsibilities of the citizen

Part I deals with the prevention of pollution from ships and applies to all ships that are registered under St. Vincent and the Grenadines and any ships that may be operating within the territorial sea, archipelagic waters or EEZ of St. Vincent and the Grenadines. The Maritime Areas Act is especially relevant in all cases that relate to the marine environment since it defines all terms and maritime areas. The Act does not apply however to any ship belonging to the government and engaged in government, non-commercial service, or to any war, naval or any other kind of ship

⁴² Art. II (a)(i)

⁴³ International Maritime Organization. *International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78)* http://www.imo.org/Conventions/contents.asp?doc_id=678&topic_id=258#2 (Accessed September 27,

that is owned or operated by a MARPOL member state and is being used for government non-commercial service. Section 8 requires that the Minister observe, measure, evaluate and analyse as far as possible the risks or effects of pollution of the marine environment, and monitor the effects of any activities that he actually does permit to determine whether the activities are likely to pollute the marine environment. If the General Manager of the National Solid Waste Management Authority or the Director of Marine Services has reason to believe that the activities of a vessel may cause significant pollution or changes to the environment, he must assess the possible effects of such activities on the marine environment and will share his report with the IMO. Although the Director has the power to deny entry to and detain ships under s. 6, s. 12 softens this provision by requiring the Director to make every possible effort to prevent unduly detainment or delay of ships. Unduly detained ships will be compensated for any loss or damage suffered if the Director cannot avoid such an unduly delay.

Part II is concerned with the prevention of pollution by solid waste. Section 15(5) states that disposing all plastics, including but not limited to synthetic ropes, fishing nets, fishing ropes and plastic garbage bags is prohibited but this is subject to ss. 16 and 19. Disposal of solid waste shall be done as far as practicable from the nearest land but in any case is prohibited if the distance from the nearest land is less than 25 nautical miles for dunnage, lining and packing materials that will float, or 12 nautical miles for food waste and all solid waste which includes paper products, rags, glass, metal, bottles, crockery and similar materials, excluding incinerator ashes from plastic products that may contain toxic or heavy metal residues. The material may be permitted when it is passed through a grinder and is made as far as possible from the nearest land, but in any case is prohibited if the distance from the nearest land is less than three nautical miles. Section 16 states that disposal of solid waste is prohibited from fixed or floating platforms that are engaged in the exploration and exploitation or other activities relating to seabed mineral resources and from all ships when alongside or within 500m of the platforms. However, disposal of food waste is allowed provided that it is passed through a grinder and discharged from a fixed or floating platform that is located more than 12 nautical miles from land, and all other ships, when alongside or within 500 m of the platform. Such food shall be ground to the point of being able to pass through a screen with openings of no more than 21mm. Section 19 addresses with mixed solid waste, and states that if such waste is mixed with discharges that have different disposal or discharge requirements, then the more stringent requirements will always apply.

Disposal of solid waste within special areas is also prohibited. Special areas are those listed in Schedule 1 of the Act. 'Solid waste' in this part is taken to mean all plastics, including but not limited to synthetic ropes, fishing nets and plastic garbage bags, and all other solid waste including paper products, rags, glass, metal, bottles crockery, dunnage, lining and packing materials. This section also allows disposal of food waste within special areas, provided that it shall be made as far as possible from land, but in any case, no less than 12 nautical miles from the nearest land. Section 18 makes a special provision for disposal of solid waste in the wider Caribbean region, and s. 21 deals with exceptions to certain provisions. One provision requires that a ship having 400 gross tonnage and above and every pleasure craft certified to carry 15 persons or more must have a solid waste management plan that the crew must follow. The plan must contain written procedures for the collection, storing, processing and disposing of solid waste, which includes that use of equipment on board and must designate a person in charge of carrying out the plan and this shall be in accordance with the guidelines developed by the IMO and should be written in the working language of the crew. In addition, s. 24 stipulates that such

ships will be provided with a Solid Waste Record Book and further sections stipulate the procedure for entering information.

Section 31 requires that accessible and adequate solid waste facilities be provided at ports, terminals, marinas, and any designated anchorage for ships and pleasure craft under s. 50. In this instance, the Port Manager and the Director must cooperate with the National Solid Waste Management Authority to ensure that adequate and accessible solid waste reception facilities are provided in these areas. Where solid waste is about to be disposed of at a facility, the owner or master of the ship is required to give notice to the General manager and Port Manager where the waste is to be landed. This notice will contain particulars that are outlined in s. 33(2).

Offences / penalties

A number of penalties are stipulated in each section of the Act. S. 27. If a ship or pleasure craft, or the owner or master of such vessel does not comply with the requirements of the Act or the Schedules that are related to the Act, then the owner and master of the ship each commit an offence and will each be liable to a fine no greater than five hundred dollars on summary conviction. A person does have a defence if he can show that he took all reasonable precautions and exercised all due diligence to avoid such an offence.

Part III deals with the control of marine pollution. Section 28 expressly prohibits a person from disposing any solid waste from any ship, pleasure craft, platform, structure or apparatus into the territorial waters of St. Vincent and the Grenadines. It further prevents a St. Vincent and the Grenadines ship from discharging any solid waste into any part of the sea outside St. Vincent and the Grenadines waters. If a person breaches these provisions, then he is liable on summary conviction to a fine no more than five hundred thousand dollars (EC\$500,000.00) or to imprisonment for no longer than 5 years. If there is an accidental disposal into territorial waters then it will be the responsibility of the master or owner to report to and notify the Director, General Manager and medical Officer of Health of the nature and location of disposal. If a person fails to do so, then he will be liable on summary conviction to a fine of no more than one hundred thousand dollars (EC\$100,000) or imprisonment for a term not greater than a year. If no notice is given within two hours of the spill then the Act states that it will be taken that the spill was intentional and thus the master and owner will be guilty of an offence.

There is also provision for each ship or pleasure craft to have on board a Solid Waste Record Book and a comprehensive solid waste management plan. There is a special provision for pleasure crafts in s. 30, which requires that the owner or manager of any marina or other facility for pleasure craft dispose of solid waste in accordance with requirements of the Act as well as in a manner that does not pose a risk to the human health, safety or the environment. The owner or master who actually discharges solid waste in other than the prescribed manner will be liable to a fine not exceeding one hundred thousand dollars (EC\$100,000) on summary conviction or to imprisonment for no more than one year.

Current Act

International Convention

Dumping at Sea Act, No. 53 of 2002

Convention on the Prevention of Maritime Pollution by Dumping of Wastes and other Matter, 1972

The Dumping at Sea Act is unique as it aims to control dumping at sea via a detailed system of licensing procedures. Section 3 states that a license under the Act is needed for the deposit of

substances or articles within St. Vincent and the Grenadines either in the sea or under the seabed, whether it is from a vehicle, vessel, aircraft, hovercraft or marine structure, from a container floating in the sea, or from a structure on land wholly or mainly constructed for depositing solids into the sea. Further, a license is needed for the loading of a vehicle, vessel, aircraft, hovercraft, marine structure or floating container, the scuttling of vessels or for the towing of a vessel for scuttling anywhere at sea. Section 4 continues by stating that a license is required for *inter alia*, incineration of substances or articles on a vessel or marine structure in the country's waters, anywhere at sea if it takes place on a St. Vincent and the Grenadines vessel or structure, or if the incineration takes place anywhere at sea on a foreign vessel on a foreign structure but the but the vessel was loaded in St. Vincent and the Grenadines.

Section 5 once again deals with licenses, but states that in the course of determining whether a license is issued, the authority shall take into consideration the need to protect the marine environment, the living resources that it supports and human health, and the need to prevent legitimate uses of the sea, and other relevant matters. Section 5(3) also requires that the licensing authority include provisions in a license that are the same as the considerations mentioned above. Further subsections detail the procedure for obtaining a licence, and also states that the licensing authority may vary or revoke a license issues if it appears to the authority that the license be revoked because of a change in circumstances relating to the marine environment, living resources which it supports or human health, because of increased scientific knowledge or any other relevant matters. Offences that relate to the licensing system are dealt with in section 6. However, penalties assigned for these offences are found in s. 10. Furthermore, the Minister has the power to appoint officers in s. 8 and authorize such person to enforce the Act. These officers will be subject to any limitations imposed in the instrument authorizing him. Certain powers are outlined in this provision, but the First Schedule also contains a number of powers of these officers.

Grenada

Current Act **Civil Liability for Oil Pollution Damage (International Convention) Act, No. 7 of 1998**

Oil Pollution Damage Compensation Fund (International Convention) Act, No. 6 of 1998

International Convention International Convention on Civil Liability for Oil Pollution Damage (CLC), 1969 and amended by its Protocol in 1992

International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, and amended by its protocol in 1992

Grenada's attempt to fulfil obligations under the International Convention on Civil Liability for Oil Pollution Damage is exemplified in the Civil Liability for Oil Pollution Damage Act. The Convention was created in an attempt to compensate individuals who had suffered oil pollution damage that arose from maritime casualties that involved oil-carrying ships.⁴⁴ The Act states that Articles I to XI of the Convention will have the force of law in Grenada and that terms defined in

⁴⁴ http://www.imo.org/Conventions/contents.asp?doc_id=660&topic_id=256

the Convention will be taken to have the same meaning in the Act. The entire text of the Convention is found in the Schedule, which allows for easy reference since the Act itself consists of only 11 sections.

The Oil Pollution Damage Compensation Fund (International Convention) Act was created to make provision for implementing the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (Fund Convention), 1992. The Fund Convention establishes a Fund for providing compensation for oil pollution incidents beyond that provided for by the CLC Convention.⁴⁵ The Act therefore sets out to support the CLC Convention within Grenada and s. 3 ensures that the Fund Convention will have the force of law in Grenada, subject to certain provisions.

Powers of the Minister

The Minister has the power to make regulations in s.10 that may seem necessary in order to fulfil the provisions of the Act as well as the Convention and force their administration. He may also publish in the Gazette a list of countries that have the Convention in force. The Minister has similar powers in the Fund Convention Act.

Offences and Penalties

Certificates of insurance are issued by the Director of Maritime Affairs and the form of such certificates is set out in the annex of the Convention. He may issue the certificate to a ship that is entering or leaving a port in Grenada that flies the flag of a State that is not party to the Convention. In keeping with paragraph 11 of Article VII, the Director of Maritime Affairs will ensure that the relevant insurance and security is in force for a ship carrying more than 2,000 tons of oil in bulk as cargo if it is entering or leaving a port or offshore terminal in the territorial sea of Grenada. If a ship leaves or enters a port in Grenada without valid insurance issued under the Act and the Convention, it is deemed to have committed an offence and the owner of the ship will be liable on summary conviction to a fine of no more than five hundred thousand dollars (EC\$500,000) and if he is convicted on a second or subsequent offence, he will be liable to a fine not exceeding two million dollars (2,000,000). This is regulated by s. 8 of the Act. If a person is liable under the Fund Convention Act to make contributions to the fund and fails to do so, he will be liable to a fine of no more than five hundred thousand dollars (EC\$500,000) and for a second offence, to a fine of not more than two million dollars (EC\$2,000,000) on summary conviction.

Any action for compensation made under this Act and the Convention may be instituted in the Court by virtue of s. 4 if pollution damage was caused or sustained in the territory, territorial sea or EEZ of Grenada, or if measures have been taken to prevent or minimise pollution damage in any of these areas. This is analogous to s. 9 in the Fund Convention Act which allows the Fund Convention to be instituted for similar reasons. "Pollution damage" is defined by the CLC Convention as "loss or damage caused outside the ship by contamination resulting from the escape or discharge of oil from the ship, wherever such escape or discharge may occur, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken." Additionally it means the costs of preventative measures and further loss or

⁴⁵ http://www.imo.org/Conventions/mainframe.asp?topic_id=256

damage caused by preventative measures. Section 6 allows an action for compensation under the Convention to be entertained by the Court in the exercise of its ordinary original jurisdiction, but subject to the terms and provisions of the Convention.

3.2.4 Fisheries

St. Vincent and the Grenadines

Current Act	Fisheries Act, No. 8 of 1986 Amended by: No. 32 of 1986 No. 25 of 1989 Cap 52: 1990 Revised Laws of St. Vincent & the Grenadines
Current SROs	Fisheries Regulations, S.R.O. 1 of 1987 Amended by: S.R.O. 3 of 1987 S.R.O. 36 of 1989
Previous / Repealed Acts	Birds and Fish Protection Act, No. 44 of 1926 Fishing Nets Act, No. 171 of 1926 Fishing Industry Act, No. 19 of 1962 [All three Acts are repealed by s. 47 of the present Act although regulations, orders, notices made under these Acts and any licences, permits issued will continue to have effect as if they were made under the present Act to the extent that they are consistent with the present Act.]

Fisheries legislation is vital in any island, as there are many conflicting issues related to the sea and it is difficult to reconcile these in many cases. A coordinating mechanism is vital in order to ensure the most environmentally and economically viable outcome that is beneficial to all concerned. In St. Vincent and the Grenadines, specific issues concerned with management of the sea are dealt with by different Acts. The country is also a signatory to a number of international and regional maritime and fisheries agreements. The Fisheries Act, No. 8 of 1986, is meant to promote and manage fisheries as well as related matters. The Act makes reference to “fishery waters” a number of times, and this term is defined in the second section as “the waters of the exclusive economic zone, territorial, archipelagic waters and internal waters as defined in the Maritime Areas Act, Cap. 333, and any other waters over which St. Vincent & the Grenadines claims fisheries jurisdiction.” This definition immediately indicates that there is a link between these two Acts.

There is much maritime legislation on a global scale. Perhaps the most important treaty is the 1982 United Nations Convention on Law of the Sea (UNCLOS), of which St. Vincent & the Grenadines is a party or associated with. There are also a number of other instruments that carry great weight such as the FAO Code of Conduct for Responsible Fisheries, as well as the 1995 Fish Stocks Agreement.

Powers of the Minister

In this Act, the Minister has a significant amount of responsibility which includes promoting the management and development of fisheries. In order to assist in achieving this, ss. 3(2)(a) and (b)

of the Act allows the appointment of a Chief Fisheries Officer and other fisheries officers, assistant fisheries officers and any other officers. The Chief Fisheries Officer has individual responsibilities as well, such as preparing and keeping under review a fisheries management and development Plan under s. 4, which will *inter alia*, deal with licensing programmes and will identify and assess each fishery to determine its current status as well as specify objectives that need to be achieved. The plan also will identify management and development measures to be taken.

In a later provision of the Act, S. 32 the Minister may also appoint individuals, including members of any local, regional or sub-regional marine enforcement authority to act as authorised officers to enforce the Act. Subsequent sections detail the powers and immunities of these authorised officers, which include but are not limited to seizure of vessels, gear, fish or poisonous substances. A notable feature of the Act is power of the Minister to make regulations for further management and development of various aspects of fisheries, according to s. 45. This section is very wide, as it contains 24 subsections, which greatly increases the scope of the Minister's powers.

Although the Minister has great authority, the Fisheries Act makes provision for participation in a wide range of matters. Preparation of the plan involves the public at its preliminary stages, since the Chief Fisheries Officer will consult with local fishermen, local authorities, other persons affected by the fisheries plan and any fisheries advisory committee appointed under s. 5 of the Act S. 4(3), which is responsible for the development and management of fisheries and is comprised of the Chief Fisheries Officer and any other individual who the Minister deems appropriate. The plan and subsequent reviews must be submitted to the Minister for approval. Section 6 of the Act widens this scope, and allows the Minister to enter into agreements other countries in the region or any regional organization to provide for a number of matters, including coordination of data collection systems and assessment of the state of fisheries resources within the region S. 1(a). Other matters include the synchronization of licensing procedures as well as taking joint enforcement and establishing regional fisheries management bodies. Section 6(1)(g) also makes mention of the welfare of fishermen, which indicates that although there is provision for regional cooperation, the legislation essentially remains focused on the welfare of citizens of the country, and those that will be affected by the Act. Section 7 of the Act deals with fisheries access agreements that are once again made with foreign states. This section supports the fisheries plan since it stipulates that the access agreements and subsequent fishing rights will be limited by the amount of fishing allowed to the relevant category of foreign vessels under the fisheries plan. It further states that any agreement entered into must contain a clause that will place responsibility on foreign vessels to comply with the terms and conditions of the agreement and with any laws that relate to fishing.

In addition to the sections described above, Part I of the Act continues by dealing with licenses for both foreign and local fishing vessels Ss. 8 and 11 respectively, including the particulars, conditions of the license S.13 and relevant fees and royalties to be paid S. 14. Section 15 addresses cancellation and suspension of fishing licenses. This may be done by the Minister or the Chief Fisheries Officer, who may feel that the suspension or cancellation is necessary to allow for the proper management of any particular fishery, or because the vessel has breached any agreement or law. Regulation 11(i) in the 1987 Fisheries Regulations stipulates that the laws, regulations and any other instruments made under the Act must be complied with by the master and each crew member of the vessel.

Although the Fisheries Act isolates the main environmental provisions by placing them in Part II under the heading of “Marine Reserves and Conservation Measures”, there are still references to the environment in certain sections, such as s. 18 which deals with local fisheries management areas. The section empowers the Minister to identify and designate an area as a local fisheries management area with a management authority consisting on any local authority, fisherman’s cooperative or association or any other body on representing fishermen in the area. If there is no relevant body, then the Minister can encourage the formation of a body. This body is also required to make by-laws that deal with fishing conduct in the designated areas that are not consistent with the Fisheries Act. These by-laws must be approved by the Minister and published in the Gazette before they are passed, and the Act allows a penalty of two hundred and fifty dollars to be put in the by-laws for breach of its provisions.

In addition to being able to designate local fisheries management areas, the Minister may also declare any area to be a fishing priority area under s. 20 which will ensure that fishing in the area is not obstructed or hindered. The Minister may also declare any area of the fishery waters and possibly any land in the vicinity to be a marine reserve. He may do this for a number of reasons, such as protecting flora and fauna and preserving habitats for many species, especially in cases where the flora or fauna may be endangered. Other reasons include allowing for natural regeneration of certain species or stocks that have been depleted, for preserving the natural beauty of such areas and promoting education and scientific research in these areas S. 22(1)(a)-(d). In addition to this, if a person is found engaging in certain prohibited activities in the marine reserve without permission he/she will be guilty of an offence and liable to a fine of one thousand dollars (EC\$1,000). The activities may be justifiable if written permission is obtained from the Minister or someone appointed by him, and if the proposed activity is necessary to contribute to its management or to promote any of the initial purposes for creating the reserve. Generally prohibited activities are fishing or attempting to fish, taking or destroying any flora or fauna, dredging or removing any sand or gravel, discharging harmful substances, polluting or otherwise damaging the natural environment, or constructing or erecting buildings on or over any land or water S.22(2)(a)-(d). Regulation 21 of the Fisheries Regulations, Cap 52 prevents the use of spear guns in ‘conservation areas’ which are listed in the Eleventh Schedule of the Act. Specific coordinates on the islands of Bequia, Canouan, Isle Quatre, Mustique, Mayreau, Tobago Cays, Petit St. Vincent, Union Island, Palm Island and St. Vincent are provided. The Act allows research of fisheries and in fishery waters under S.23.

Offences / Penalties

A significant conservation measure in the Act is that it expressly prohibits both destructive fishing methods and possession of destructive fishing gear. Section 24 bans the use or attempted use of any explosive, poison or noxious substance for killing, stunning, disabling or catching fish or in any way to make fishing easier and further states that if a person has in his possession any explosive, poisonous or noxious substance for the purpose of fishing, he/she will be guilty of an offence and liable to a penalty of two thousand five hundred dollars (EC\$2,500). Subsection 2 makes 24(1)(b) even more stringent because if any harmful substance is found on board any vessel, it will be presumed that the substance was intended to be used for any of the prohibited fishing methods. In addition, s. 24(3) provides that any individual found landing, selling, receiving or merely in possession of any fish acquired by the methods outlined in s. 24(1)(a) and having reasonable cause to believe that they were obtained by such methods, is guilty of an offence and liable to a fine of two thousand five hundred dollars (EC\$2,500). This section goes

further by establishing that if a certificate detailing the cause and mode of death or injury of a fish and signed by the Chief Fisheries Officer or his representative is presented in court, it will be accepted as prima facie evidence without question of the person's official character or proof of signature. Section 24(5) develops subsection 4 by allowing the defendant fourteen (14) days' notice in writing of the prosecution's intent to present the certificate as evidence in court. In addition, s. 41 provides that if an offender is brought to court, the onus of proof lies on him to establish that at the time of the alleged breach, he had the mandatory licence, permission or authority to act in such a manner. The Act also makes provision for compounding or combining offences, but this does not apply to ss. 24 or 36.

In terms of prohibited fishing gear, s. 25 of the Act forbids the use or possession of nets, traps or other fishing gear that do not match the prescribed minimum size or prescribed standards or any other gear prohibited by the Act. This is especially significant in circumstances that may indicate that there is an intention to fish with such gear. The offender is subsequently liable to a fine of one thousand dollars (EC\$1,000). It is also important to note that a burden of responsibility is placed on an employer because if his employee commits an offence, then he is liable as well. Such provisions with penalties attached encourage and insist on sustainable and responsible fishing practices of fishermen and any employer that wishes to protect himself.

Part IV of the Fisheries Regulations deals with Fishery Conservation Measures, which implements s. 45(2)(b) of the principal Act, which allows the Minister to prescribe regulations for fisheries management and conservation measures, including mesh sizes, gear standards, minimum species sizes, closed seasons, closed areas, prohibited fishing gear or methods or fishing, as well as methods for limiting entry into certain fisheries. Regulation 25 is the final regulation in this section and states that the regulations identified in this part are not applicable to any fishing activities done for the exclusive purpose of fisheries research, provided that permission was granted by the Minister and that such operations are conducted in compliance with any conditions attached to this permission. Section 23 of the Fisheries Act gives the Minister power to grant such permission, allows him to impose conditions and makes it an offence for a person to breach any conditions of the permission or to commence any research without permission. Regulations 16 to 20 are specifically aimed for management of particular species, namely lobsters, turtles, conch, coral and aquarium fish. These regulations deal with a number of different factors. The common provision for lobsters, turtles and conch include closed seasons, which are specified by the Act. Regulation 16(1) defines what qualifies as "undersize" for a lobster and (2) continues by banning the possession, sale or purchase of any lobster which is carrying eggs, undersize or moulting. Regulations 16(3) and (4) state that a person may capture any lobster by no other method than hand, loop, pot or trap, and must not sell or have in his possession any lobster that was speared, hooked or otherwise impaled. Removing the eggs or selling, purchasing or having possession of a lobster from which its eggs have been removed is restricted. According to regulation 16(8), an individual also cannot land a lobster that is not whole.

The Regulations declare the 1st May to 31st August as the closed season for lobster where a person is prohibited from fishing for lobster during this period. It is also prohibited to sell any lobster during this season, although hotels and restaurants are permitted to sell lobster that was purchased before the beginning of the closed season. The closed season for turtle is 1st March to 31st July, and a person is prevented from taking, selling, purchasing or possessing turtle or any part of it during this period. The closed season for Conch is interestingly not stated in the Act

and simply states that the Minister may declare in the Gazette any period as a closed season, which prevents any person from fishing for conch during this season. Regulation 18 further outlines the characteristics or criteria that classifies conch as immature, and prohibits the taking, selling, purchasing or possession of any immature conch.

Turtles are dealt with in Regulation 17 which defines “undersize” as any of the turtle species weighing less than the minimum weight stated in the Tenth Schedule. A person is prohibited from taking, selling, purchasing or possessing any undersize turtle or the shell of an undersize turtle. Taking, selling, purchasing, possessing or disturbing any turtle eggs is expressly forbidden, as is interfering with a turtle nest. Coral on the whole is addressed in Regulation 19, which simply stipulates that no person may remove any coral from the fishery waters except with the written permission of the Chief Fisheries Officer and subject to any conditions that he may impose. Permission for the import, export or sale of aquarium fish must also be obtained by the Chief Fishery Officer, subject once again to conditions that he may indicate.

The Regulations also restrict the use of spear guns in fishery waters without the permission of the Minister for the use of that specific gear in the fishery waters and as previously mentioned, the use of these guns in any conservation area identified in the Eleventh Schedule is prohibited. The use of tangle nets are strictly prohibited by Regulation 22, whereas in Regulation 23 the individual must adhere to the minimum mesh size for other nets, which is no less than one inch square for seine nets and no less than one half of an inch square for ballahoo nets. Ballahoo nets are not allowed to be drawn up onto the land, and cannot be hauled onto *inter alia*, any vessel, wharf or jetty located within fifty (50) feet of the land.

The Fisheries Resources & Regulations booklet published by the Fisheries Division in 2003 clearly describes the Regulations found in the 1987 Act that are especially critical for the public. It couples the legislation with other practical information which outlines the importance and life history of species, provides statistical patterns, answers potential questions and illustrates the role of the regulations in fisheries. It is commendable that the Regulations, in particular the regulations for lobster, turtle and conch were enacted virtually immediately after the creation of the Act. These species, along with certain species of coral are found on the CITES list. All turtles listed in the Regulations are found in Appendix I, while conch exports are dealt with in Appendix II. It appears that the legislation works along with CITES since relevant provisions establish periods of fishing which results in regulation of trade on the whole.

Regulation 30 stipulates that an individual who breaches any of the regulations will be guilty of an offence and will be liable to a fine of five thousand dollars (EC\$5,000).

3.2.5 Whaling

St. Vincent and Grenadines

Current Act

Fisheries Act, No. 8 of 1986

Cap 52: Revised Edition, Laws of St. Vincent & the Grenadines

Current SROs

Aboriginal Subsistence Whaling Regulations, 2003

Dependence on the sea and its bounties is a tradition in small islands and communities. Whaling in Bequia in the Grenadines is a centuries-old tradition, beginning in 1876 and continues to the present. St Vincent is a member of the International Whaling Commission (IWC), which was established under the 1946 International Whaling Convention. The Commission deals with

implementing the Articles of the Convention. This is primarily focused on the manner in which whaling is carried out and further includes whale protection and closed and open whale seasons. The IWC is also concerned with designating whale sanctuaries and regulating whaling by creating specific rules as to the type, age and size of whale prohibited from being caught.⁴⁶ If the IWC rules are broken, the fishermen will face a fine.

Duties/ rights of the citizen

Because of the conflict between global concern and local tradition in St. Vincent and the Grenadines, the Aboriginal Subsistence Whaling Regulations were established in 2003 in exercise of the power of the Minister conferred by s. 45 of the Fisheries Act, which allows him to make regulations for the development and management of fisheries. The Act is very clear on the requirement for a whaling permit for a whaling captain as well as any person involved in a whaling activity unless he is a member of a team that is led by a captain in possession of a permit. Such a permit must be approved by Minister and issued by the Chief Fisheries Officer, and the application process is detailed in s. 3(3). If whaling is done without a licence, person will be liable upon summary conviction to a fine of no more than five thousand dollars (EC\$5000) or imprisonment for no more than three months S. 3(6). Similarly, an individual who engages in a whaling activity without being under the direct supervision of a captain with a whaling licence would also be guilty of an offence and will be liable on summary conviction to a fine of no more than two thousand five hundred dollars (EC\$2500) or imprisonment for no more than six months. Furthermore, s. 3(9) states that the whaling captain is liable for any breach of a whaling permit by any member of a whaling team that is under his supervision although it does not absolve the individual from liability.

Powers of the Minister

The Minister may declare closed seasons for whaling, and a person found engaging in any whaling activity during this period will be found guilty of an offence and liable on conviction for a fine of six thousand dollars (EC\$6000.00). Furthermore, the Minister may specify certain closed areas or priority areas within the fishery waters⁴⁷ of St. Vincent and the Grenadines for whaling, whereas whaling altogether is prohibited outside the fishery waters.

Humpback whales are classified as “Vulnerable” on the IUCN Red List⁴⁸ and are acknowledged as only being actively hunted in Bequia in the Grenadines. As a result, s.7 of the Regulations contains various restrictions on the type of humpback whale allowed to be hunted. The Minister specifies the total number of humpback whales that can be landed in the Gazette, but more detailed rules are found within these Regulations. A whaler may not strike a humpback whale calf or female humpback whale accompanied by a calf, and the whaler is prevented from striking, landing or processing a whale that is less than twenty-six (26) feet⁴⁹, which is described as “minimum size”. The Act further stipulates the procedure for whaling and stipulates that a

⁴⁶ <http://www.iwcoffice.org/commission/iwcmain.htm#membership>

⁴⁷ “Fishery waters” is defined in s.2 of the Fisheries Act as “the waters of the exclusive economic zone, territorial sea, archipelagic waters and internal waters as defined by the Maritime Areas Act and any other waters over which St. Vincent and the Grenadines claims jurisdiction.”

⁴⁸ <http://www.iucnredlist.org/search/details.php/13006/summ>

⁴⁹ Measured from the point of the upper jaw.

whale cannot be processed unless the Chief Fisheries Officer or a relevant officer records measurements, sex and any other relevant information. The Act also has a general penalty provision, which covers breaches where penalties have not been specifically prescribed. It provides that a person will be liable on summary conviction to a fine no more than five thousand dollars (EC\$5,000.00) or imprisonment for no more than six (6) months.

Despite the current restrictions, whaling is still a celebrated event, complete with prayers, singing, eating and drinking, and residents try to use as much of the whale as possible, even down to the bones and vertebrae. The Aboriginal Subsistence Whaling Regulations thus appear to be a positive attempt to reconcile the conflicting issues of global concern for whaling with the maintenance of culture and traditions. Furthermore, membership of the International Whaling Commission and establishment of the Regulations signifies St. Vincent's national and international acknowledgement of the importance of proper whaling conduct and methods.

Grenada

Current Act	Fisheries Act, Cap 108: 1990 Revised Laws of Grenada Fisheries Act, No. 25 of 1989 Grenada Fisheries Act, No. 15 of 1986
Current SROS	Fisheries (Amendment) Regulations, SRO 2 of 2001 Fisheries (Amendment) Regulations, SRO 24 of 1996 Fisheries (Marine Protected Areas) Order, SRO 77 of 2001 Fisheries (Marine Protected Areas) Regulations, SRO 78 of 2001 Fisheries Regulations, SRO 9 of 1987: Cap 108: 1990 Revised Laws of Grenada

The Fisheries Act is aimed to provide for the promotion and management of fisheries in the fishery waters of Grenada and for connected matters. Fishery waters is defined in the Interpretation section of the Act as “the waters of the territorial sea and of the EEZ, and the internal waters and the archipelagic waters, as defined in s. 2 of the Territorial Sea and Maritime Boundaries Act, Cap 318 and any other waters over which Grenada claims fisheries jurisdiction.” This indicates that some sort of coordination is necessary between the Acts and therefore the agencies that implement them.

Powers of the Minister

Part V of the Act only has two provisions. Section 40 of the Act empowers the Minister to make regulations on a number of matters such as the management and development of fisheries such as measures for the protection and conservation of fisheries, including mesh sizes, standards of fishing gear, minimum species sizes, close seasons, closed areas, prohibited methods of fishing, prohibited fishing gear, and schemes for limiting entry into all or any specified fisheries. He may also make regulations that govern the management and protection of marine reserves and fishing priority areas, as well as measures for the protection of turtles, lobsters, conches, sea moss and weeds and species of endangered fish. The Minister may take measures as he deems appropriate under the Act for promoting the management and development of fisheries for the benefit of Grenada, which is exemplified in the number of subsidiary legislation that deal with a myriad of issues.

A Chief Fisheries Officer may be appointed as well as any other fisheries officers, assistant fishery officers or any other necessary officers. The Chief Fisheries Officer is in charge of preparing and keeping a fisheries plan for the management and development of fisheries in the fishery waters under review. Section 4(2) details what the Plan should contain and (3) stipulates that consultation must occur with the Fisheries Advisory Committee and with stakeholders such as local fishermen, local authorities and any other persons affected by the plan.

The Minister is also entitled to enter into arrangements or agreements with other countries within the region in order to provide for harmonising systems and licensing procedures and conditions as well as taking joint or harmonized enforcement measures. Other matters include issuing foreign fishing licenses, establishing a regional register of vessels and any other cooperative measures that will encourage the welfare of fishermen and insurance of vessels or fishing gear. Furthermore, under s. 7, he may enter into access agreements that will provide for the allocation of fishing rights to vessels from those states. Any such agreement will contain a provision that makes the foreign state responsible for taking appropriate measures to ensure compliance with the laws that relate to fishing in the fishery waters. The Minister may also prescribe the manner in which fishing gear of a foreign vessel must be stowed. Section 10 ensures that the grant of a licence does not exempt a foreign fishing vessel, its master or crew from any obligations or requirement dealing with navigation, customs, immigration, health or any other matters. Further sections detail the procedure for attaining a licence as well as conditions, suspension, cancellation and appeals.

Part III in the Act is devoted to marine reserves and conservation areas. It gives the Minister responsibility to declare any area to be a fishing priority area where he considers special measures are necessary to ensure that authorized fishing within the area is not hindered. He may further declare any area of the fishery waters and adjacent land to be a marine reserve when he feels that special measures are necessary. Measures include the protection of flora and fauna, especially those threatened with extinction, preserving the natural habitat and breeding grounds of aquatic life, allowing for the regeneration of aquatic life, promoting scientific study and research, and preserving and enhancing the beauty of such areas.

The Minister also has powers under Part IV, s.27 of the Act to designate members of the enforcement authorities or regional or sub-regional entity as authorised officers for enforcing the Act. The further sections detail the powers of such officers, such as stopping, boarding and searching a vessel or stopping or searching a vehicle without a warrant, enter or search any premises when he has reason to believe that an offence has been committed or when he has reason to believe that the illegally taken fish are being stored. Officers may also take samples of fish found in a vessel, vehicle or premises and may also seize a vessel along with its gear and cargo, vehicles, fishing gear net or any other equipment that he feels was used in the commission of the offence. Officers may also seize fish, explosives and poison that he believes was used in contravention of the provisions of the Act. Section 30 confers immunity on the authorised officer and prevents any action from being brought against him.

Finally, the Minister has power to compound offences under s.39 when he is satisfied that a person has committed an offence and can accept from the offender on behalf of the Government, a sum of money not exceeding the maximum fine specified.

Bodies Established under the Act

A Fisheries Advisory Committee is established under s. 5 of the Act which will advise on the management of and development of fisheries and will consist of the Chief Fisheries Officer and any other appropriate persons. Furthermore, s. 2(1) of the Fisheries Regulations establishes a Fisheries Advisory Committee and proceeds to outline the various members that compose this Board. The functions of the Board are also detailed and although most functions deal with advising the Minister in some capacity, the matters range from advising the Minister on fisheries management and development and related matters, to considering and advising the Minister on the plan for the management and development of fisheries in the fishery waters and on each review of the plan.

Duties / powers of the citizen

A significant aspect of the Fisheries Regulations 1987 is the attention paid to foreign, local and fish processing licenses, which will not be addressed in this report. Fishery conservation measures are also provided for, which are directly relevant to the citizen. However, the provisions dealing with species were amended by the Fisheries Amendment Regulations, 1996, which repeals and replaces Parts VII and VII of the principal regulations.

The 1996 Regulations list an undersize lobster as less than 250mm in length when laid flat and measured from behind the horns to the rear edge of the telson, or a carapace of 95mm (3.7 inches) measured from behind the rostral horns to the maximum concavity of the rear edge of the carapace. This is illustrated by a diagram found in the Tenth Schedule of the Regulations, and can be further described as undersize if he weighs less than one and a half pounds (or 680 grams) or having a tail weighing less than 340 grams (12 ounces). The remainder of s. 2, meant to amend Regulation 16 lists prohibited offences, and states that a person may not harm, take, sell, purchase or have in his possession any lobster carrying eggs, any lobster which is undersize, or any lobster which is moulting. A person may not catch any lobster other than by hand, loop, pot or trap and no person may sell or have in his possession any lobster which has been speared, hooked or otherwise impaled. It should be noted that this section contains an error, since the section dealing with lobsters was somehow combined with sections dealing with turtles, and as a result, both section remain incomplete. Turtles, although dealt with in Regulation 17, was amended by the Fisheries Amendment Regulations of 2001.

With respect to Queen Conch (*Strombus gigas*), the 1996 Regulations specify immature conch as having a shell less than 18 cm (9 ¼ inches) in length, a shell which does not have a flared lip, or having a total meat weight of less than 225 grams after removal of the digestion gland. It is unlawful for a person to take, sell, purchase or have in his possession any immature conch. The Minister may identify a closed season for conch in the Gazette as well as a newspaper circulated in the state and no person may fish for conch at this time.

The 1996 Regulations also introduce protection of sea urchins and allows the Minister to also declare closed seasons for sea urchins and also allows him to declare a certain area to be a closed area for urchins. Both declarations must be made in the Gazette as well as a newspaper that is circulated in the state. These provisions are to be construed as Regulation 19 in the principal Regulations. A person may not fish for urchins during a closed season and further may not fish when the average size is less than 90 mm (3 ½ inches) in diameter in a line measured at right angle to the mouth. A diagram illustrating this measurement is found in Schedule 12 of the Regulations. Another introduced species is the oyster, which is dealt with in regulation 21 and

basically prevents a person from disturbing, damaging, taking from the fishery waters, have in his possession, purchase or sell any oysters unless permission is granted by the Chief Fisheries Officer and with any conditions that he may specify.

The new regulation 20 stipulates a further provision for closed seasons for lobster, turtles or urchins. Commercial enterprises that are concerned with the sale or consumption of lobster, turtle or sea urchin will no later than 14 days after the start of the closed season, declare the quantity by weight of any of these species held in storage, or allow any inspection of their stored stocks by authorised officers at any time during the period of the closed season.

Other aquatic species are dealt with in the Regulations but it is notable that the 1996 regulations expand significantly on the provisions for corals and coral reefs. It is unlawful for a person to take or collect coral from the fishery waters unless he has the written permission of the Chief Fisheries Officer and is acting in accordance with any specified conditions. The Regulations continue by stating that a person may not dispose of rubbish or discharge any matter, water ski unless allowed by the Minister in a specific area, anchor boats or remove vegetation at the site of a coral reef. The regulation also prohibit divers from standing on or handling corals, or place an anchor on coral or allow any chain or rope to injure the coral. Further subregulations also deal with the protection of coral reefs, such as imposing duties on persons who operate or use watercraft to ensure that their practices do not strike or damage coral. Regulation 25 prohibits a person who is not a citizen of Grenada from using a spear gun unless he has the permission of the Chief Fisheries Officer, and also may not use a spear gun for fishing while using SCUBA or Hookah equipment. Regulation 26 deals with aquarium fishes and prohibits the import, sale or export of such fishes without written permission of the Chief Fisheries Officer and is acting in accordance with any conditions specified. Finally, regulation 28 requires that a person, group of enterprise that buys, sells or stores lobster, conch or turtle meat or the roe of a sea urchin in excess of 23 kg (50 lbs) must declare such quantity to the Chief Fisheries Officer at the beginning of the appropriate closed seasons and must be made no later than 14 days after its commencement. Furthermore, the regulations stipulate that a person may not use a beach seine that has a mesh size smaller than regulated by the Minister in the Gazette or a newspaper circulated in the state, or has not been registered and licensed by the Chief Fisheries Officer. The mesh size, as identified in sub-regulation 3 is the average measurement taken diagonally of any 10 consecutive meshes, each measurement being taken across the widest opening of the mesh at full stretch.

Offences and Penalties

The Act imposes penalties on a person who commits an offence in a marine reserve. Section 23(2) lists these acts, which extends to a person who fishes or attempts to fish, takes or destroys any flora or fauna, dredges or extracts sand or gravel, discharges or deposits waste or other pollutants or in any other way destroys, disturbs or alters the natural environment. Offences also include the construction of any building or any other structure on or over any land or waters. The penalty for any of these acts on summary conviction is a fine of one thousand dollars (EC\$1,000). However, the Minister may give permission to do any of these things when it may be required for the appropriate management of the reserve.

The Minister may also on the submission of a fisheries plan give written permission for a person or vessel to undertake research by virtue of s.24. In giving such permission, the vessel or person may be exempted from any provisions of the Act. Conversely, the minister may also grant

permission subject to conditions that he may specify. It must be noted that if a person is found undertaking or participating in fisheries research without the requisite permission or if he is in contravention of any of the conditions that may be specified by the Minister, he will be guilty of an offence and liable to a fine of one thousand dollars (EC\$1,000) on summary conviction. It must be noted that s. 32 retains the liability of the master of the vessel, so if an individual or person employed commits an offence then the master will also be guilty of that offence.

Destructive fishing methods are also dealt with in s.25 of the Act and thus makes a person liable to a fine of five thousand dollars (EC\$5,000) on summary conviction if he permits to be used, uses or even attempts to use any explosive, poison or any other noxious substance with the aim of killing, stunning, disabling or catching fish or in any way making them more easily caught. He may also be guilty of an offence and liable to the fine if he carries or has in his possession or control any explosive, poison or otherwise noxious substance which indicates an intention to commit such an act. If a person lands, sells, receives or has in his possession any fish obtained in contravention of s. 25(1) then he will be guilty of an offence and liable on summary conviction to a fine of one thousand dollars (EC\$1,000).

In terms of fishing gear, a person may not use any net which has a mesh size that is less than the minimum mesh size for that type of net, or has any trap or gear that does not comply with standards for that type of trap or gear, or any other net or gear restricted by the Act. Furthermore, he may not have on board any net or gear a fishing vessel which appears to have intent to use such gear. Contravention of such acts makes a person guilty of an offence and liable to a fine of one thousand dollars (EC\$1,000) on summary conviction.

If a person obstructs, assaults, threatens or hinders an authorised officer while acting in the course of his duties, then he will be guilty of an offence and liable to a fine of five thousand dollars (EC\$5,000) and imprisonment for 2 years. The court may also order the release of a fishing vessel or its gear or cargo seized in receipt of a satisfactory bond or other security from the owner or other person claiming such property. The court may also order the forfeiture of any fishing vessel or gear or vehicle used in the commission of the offence, or may order that the proceeds of sale for fish caught or any explosive, poison or noxious substance be forfeited.

The 1996 Fisheries (Amendment) Regulations also add a penalty in Regulation 29 which states that a person found in contravention of any of the Regulations will be guilty of an offence and liable on summary conviction to a fine of no more than five thousand dollars (EC\$5,000) or to imprisonment for a maximum of 2 years, or both the fine and imprisonment.

3.2.6 Marine Parks/ Marine Protected Areas

St. Vincent and the Grenadines

Current Act	Marine Parks Act, No. 9 of 1997
Current SROS	Marine Parks (Tobago Cays) Declaration Order, No. 40 of 1997 Marine Park (Tobago Cays) Regulations, No. 26 of 1998

St. Vincent and the Grenadines Islands form an archipelagic state which includes the Tobago Cays, a set of five islands and a number of reefs including Horseshoe Reef. These islands are Petit Rameau, Petit Bateau, Petit Tabac, Baradal and Jamesby and are classified as a Marine Park, according to the Marine Parks (Tobago Cays) Declaration Order, No. 40 of 1997. In archipelagic states, the existence of a marine park is just as likely as a terrestrial park and

provides a tourist attraction and encourages economic marine activities. This presents a host of new environmental threats, and legislation is needed to regulate such activities and manage these marine parks. Since the area encourages water sports and tourism, the environmental threats and issues that are associated with tourism and water sport activities must be taken into account.

The Act defines “marine park” as a “marine area including the sub-marine area thereof within the territorial waters of St. Vincent and the Grenadines and any adjoining land or swamp area which forms within the area a single ecological entity or complementary ecological unit.” The Act establishes a Marine Parks Board to manage the park and s. 5 empowers the Minister with the authority to declare any area to be a marine park, as evidenced by the Declaration Order for the Tobago Cays. The most relevant part of the Act for the citizen is found in S. 6 (1), which outlines the activities that an individual may not engage in while in a Marine Park. This includes fishing, removing objects, removing or damaging equipment or any facility including buoys or damaging the growth of flora or fauna within the park. Furthermore, the section prohibits the damage or pollution of the air or sea through omission to act or negligence, and expressly forbids any commercial activities except in an area that is designated for that purpose. To complete this subsection, the individual is also prevented from doing anything else prohibited in the Act as well as any subsequent Regulations. The only exception to these provisions are found in S.6(2). It states that the provisions that ban fishing in the area and removing any object from the park may not apply where the person had obtained prior consent by the Marine Parks Board. The composition and formalities of the Board are found in the First Schedule of the Act.

If any individual acts in contravention of these provisions, s. 6(3) assigns a penalty on summary conviction of a fine no less than five thousand dollars (EC\$5,000.00) or imprisonment for no less than a year, or both. Also, in the cases where any equipment has been removed or damaged, the offender will also be liable for its replacement or repair. Section 6(4) adds that a person who has breached the rule that prohibits commercial activity in non-designated areas is liable to confiscation of articles of trade and equipment in addition to the penalties prescribed in the previous section. Section 8 of the Act empowers the Minister to make regulations concerning a myriad of issues, including the protecting of flora and fauna and the care, control and management of the park.

Mention is also made of the Tobago Cays National Park in the Forest Resource Conservation Act, No. 47 of 1992 under s. 10(1). The Act lists the islands of the Tobago Cays such as Jamesby, Baradal, Petit Rameau, Petit Bateau and Petit Tabac, and declares that they are Forest Reserves for the purposes of the Act.

The Marine Park (Tobago Cays) Regulations were enacted in 1998 under the authority of the Minister conferred on him by s. 8 of the Marine Parks Act, which allows him to make regulations. The Regulations state that the Board must appoint a Park Manager, who is responsible, *inter alia*, for ensuring that the ecology of the Park is maintained. The duties may seem conflicting, since another responsibility of the Park Manager is to work with relevant agencies to promote the Marine Park as a tourist attraction, and to ensure that the Park is managed along commercial lines. The Regulations also stipulate that a Park Warden must be appointed who will be answerable to the Park Manager, and will be responsible for policing the waters of the Marine Park as well as collecting garbage and cleaning up the beaches in the area, among other responsibilities, such as assisting in reef monitoring and educational programmes. In further enforcing these Regulations, s. 5 allows the Board to appoint officers.

A large portion of the Regulations deals with attaining permits and paying fees for various activities, such as anchoring a vessel or filming in the area. Regulation 9 outlines the method of applying and the particulars that must be included in an application for a permit and subsequent sections deal with other aspects of the permit. The First Schedule lists the prescribed fees that are referred to in Regulations 7, 9, 10 and 12. Regulation 13 empowers the Board to designate areas for the members of the public, and continues by listing the activities that an individual cannot engage in while in a designated area. These prohibited activities found in Regulations 13(2) are anchoring or mooring a vessel, fishing in the waters that are part of the Park, damaging or destroying flora and fauna, engaging in any activity that could endanger the health or safety of the public, keeping or rearing animals, setting up camp or participating in camping activities. The remaining Regulations are aimed towards speed limits as well as suspension and revocation of permits, and the right to appeal against a revoked or suspended permit. Regulation 20 allows an officer to arrest an individual, subject to certain conditions, while Regulation 21 deals with offences and penalties. It states that if a person contravenes Regulations 6 to 9, as well as 11, 13 and 14 specifically, then he will be guilty of an offence and on summary conviction, will be subject to a fine not exceeding five thousand dollars (EC\$5,000) or imprisonment for no more than one year, or in some cases, will be liable for both.

Grenada

Current Act Fisheries Act, Cap 108

Current SROs Fisheries (Marine Protected Areas) Order, SRO 77 of 2001

Marine Parks and Marine Protected Areas (MPAs) do not have their own principal Act in Grenada, but rather were created as subsidiary legislation to the Fisheries Act by the Minister in the exercise of his authority in s. 40 of the Fisheries Act. Specifically, the regulations rely on s. 23 of the Fisheries Act, which deals with the Minister's powers to declare an area to be a marine park, marine reserve, marine sanctuary or a marine historical site or any combination of these.

The Fisheries (Marine Protected Areas) Order was created simply to declare two Marine Protected Areas in Grenada. The Order consists of three provisions with two Schedules that contain maps delineating the MPA. Section 2(1) declares Woburn/ Clarks Court Bay to be a Marine Protected Area and Multi-zone Management System, with its map found in Schedule 1. Section 2(2) declares that the fishery waters and adjacent foreshore named the Moliniere/ Beausejour Marine Protected Area and Multi-zone Management System. The final provision declares that the Fisheries (Marine Protected Areas) Regulations 2001 will apply to the areas identified.

Current Act Fisheries Act, Cap 108

Current SROs Fisheries (Marine Protected Areas) Regulations, SRO 78 of 2001

Powers of the Minister

While the Fisheries (Marine Protected Areas) Regulations are made under the authority of the Fisheries Act, issues that must be dealt with in a marine park or marine protected vary significantly since activities are not only confined to fishing and subsequent issues. Although the Minister is not prominent in this instrument, regulation 18 makes provision for a person aggrieved by a decision of the Authority. He may ask the Minister in writing to review the decision made by the Authority and after representations from the person and the Authority he may choose to confirm, vary or reverse the decision.

Regulation 21 deals with enforcement and ensures that the regulations are enforced by the marine park warden appointed from among public officers or police officers that the Minister may appoint in writing. The warden's powers also extend to entering all parts of a MPA for preventing an offence, arresting a person committing the offence and seize any article item or thing that he may suspect was utilized in the commission of the offence.

Bodies established under the Regulations

The Regulations describe a Management Authority as well as a Management Committee that can be appointed by the Minister. The Committee is made up of a number of representatives from a number of agencies within the country, and a representative of any NGO that may have a special interest in marine or environmental matters. Furthermore, the regulations stipulate that when a meeting is held concerning a particular area, then the committee must invite a member of the local community in the area to attend. This ensures some amount of public participation which will give a practical perspective to the meeting and considerations.

The Authority has the power to establish a number of zones within the marine park or marine reserve such as access, anchoring, aquatic sports, camping, parking, swimming, training and waterski zones. Furthermore, under Regulation 16, the Authority may specify a type or class of vehicle which is permitted to enter a Marine Protected Area (MPA). This must be published in the Gazette, and if a person enters the MPA without such permission, then he is guilty of an offence. However, regulation 17 makes allowance for special cases where permission is not needed to enter the MPA such as emergencies, during a hurricane warning or when a rescue vessel is performing a rescue.

Duties / obligations of the citizen

Although regulation 6 does not specifically provide penalties, it is vital since it lists generally prohibited acts within the MPA. A person may not take any animal or plant by any method on land or at sea, except to the extent permitted in any fishing zone, he may not destroy, damage or injure any animal or plant, and may not take or damage any artefact found. Furthermore, he may not remove sand, rock, coral or coral rag or any calcareous algae. In terms of anchoring, he may not anchor a vessel except in an anchoring zone, or cause anchor damage to artefacts or to coral or reef structure either living or dead or to marine plant or animal life and may not moor a vessel other than at a buoy. In terms of recreational activities, a person may not dive using SCUBA equipment unless he is or is under the supervision of a certified SCUBA diver, cannot use water skis except in a waterski zone, and cannot use jet skis or hovercraft. He may not use any vehicle unless it is permitted in an access zone or parking zone. This regulation further restricts the individual from dumping any refuse, abandoned vehicle, toxic or other waste, bilge, oil or other petroleum product, pesticide or any other item that may be harmful to animals or plants, or any unsightly item or substance which does or is likely to destroy or reduce the amenities of the area. Finally, the individual may not rest any structure, except with the permission of the Minister.

Regulation 7 addresses marine parks, and as the interpretation section describes, a marine park may be found within a marine protected area that is reserved for public recreation. This regulation merely states that access to a marine park, subject to regulations 6 and 11 is open to all persons by land or by sea. Regulation 10, which deals with marine historical sites is also accessible to all members of the public. A marine reserve is defined as a part of a marine protected area that requires special management for the reason of protecting its natural resources. The regulation also states that access to the reserve is open to all persons by land but is restricted

by sea except with the written permission of the Authority, and this regulation is subject to regulations 6 and 11 as well. It restricts a person from diving from the shore of a reserve except with the written permission of the authority. Furthermore, fishing from the shore or from a vessel is not permitted within a reserve. He will be deemed to have committed an offence if he contravenes any of the regulations. Regulation 9 deals with marine sanctuaries, which is a part of the protected area that is used only for scientific purposes and research, and is a closed area except for research and as required by the Ports Authority. The Regulation further states that if a person enters into a marine sanctuary without the requisite permission or introduces any domestic or other animal or plant not indigenous to the site will be deemed to have committed an offence.

With respect to the zones designated by the Authority, a person will be guilty of an offence if he does anything outside of a zone which is only permitted in the zone, or if he does anything in the zone which is prohibited in the zone.

Regulations 12 and 13 deal require the grant of a permit to collect animal and plant specimens in a marine reserve or sanctuary or to collect artefacts from a sanctuary or historical site, and also for operating a dive or charter vessel in a MPA respectively. In both regulations, the Authority has a significant amount of power. For artefact collection, the Authority may specify conditions and appropriate storage methods, while in dive vessels, the Authority has the power to cancel a permit if false information was supplied. All relevant forms are found in the Schedule I of the regulations, and regulation 20 states that fees for permits are listed in Schedule II.

Offences / Penalties

Regulation 22 sets out a general penalty and states that a person who commits an offence under the regulations is liable to a fine of ten thousand dollars (EC\$10,000) and imprisonment for 6 months on summary conviction. If the offence is continuous however, then he is further liable to a fine not exceeding two hundred dollars (EC\$200) for every day or part of a day where the offence has continued even after conviction. Subregulation 3 also orders the forfeiture of any article, item or things that may have been used in the commission of the offence, apart from a vehicle or vessel, and may require that the convicted person pay any cost of repairing damage to an MPA caused by the offence. Such forfeited articles must be destroyed unless the Minister decides to dispose of it in some other manner. Finally, regulation 22(5) supports the provisions for forfeiture by including the provision made regarding forfeiture of fish in s. 34(b) of the Fisheries Act. It stipulates that this provision will apply to a conviction for an offence under the regulations in the same manner as it would apply to a conviction for an offence under the Act.

3.2.7 High Seas Fishing

St. Vincent and the Grenadines

Current Act	High Seas Fishing Act, No. 26 of 2001
	High Seas Fishing (Amendment) Act, No. 25 of 2003
Current SROs	High Seas Fishing Regulations, 2003

The Maritime Areas Act of St. Vincent and the Grenadines, in accordance with UNCLOS demarcates the maritime areas and describes the activities allowed as well as the powers of the state in these zones. Beyond the territorial sea, archipelagic waters, fisheries zone or EEZ of any state lies the high seas. The High Seas Fishing Act was established in order to regulate and

control fishing in the high seas and any other related matters. Subsequent regulations were created in 2003, under the provisions of s. 23 of the Act. The Act makes reference to the international agreement to promote compliance with the International Conservation and Management Measures by Fishing Vessels on the High Seas adopted by FAO in 1993.

Powers of the Minister / Chief Fisheries Officer

As is common with most Acts, the Minister may make regulations under s. 23 to assist in implementing the various provisions of the Act. These regulations may deal with a large number of matters, such as licences, fees, applications, reports, for the notification of contribution to international conservation and management measures or activities that may impair conservation and management measures. Section 16 also permits the Minister to make regulations that identify activities that are prejudicial to the effectiveness of international conservation and management measures.

The responsibilities of the Chief Fisheries Officer appointed under s.3 of the Fisheries Act extend to the administration of this Act. However, he is subject to the directions of the Minister in policy matters, according to s. 3(3). Part II deals with his duties specifically, and under the Act he has the power to grant, amend, suspend and revoke high seas fishing licences and has a responsibility to keep a record of all licences issued. This is supported by s. 8 which allows a licence to be varied, revoked or suspended if the Chief Fisheries Officer feels that it is necessary to do so for the conservation and management of living marine resources. The High Seas Fishing (Amendment) Act 2003 replaces the form set out in the First Schedule of the principal Act for the application for a licence to fish on the high seas. Furthermore, Regulation 3(7) the High Seas Fishing Regulations 2003 state that the Chief Fisheries Officer may cancel or suspend a fishing licence on a number of grounds. This includes when the owner of a vessel is “engaged in any activity on the High seas that has undermined the effectiveness of international conservation and conservation measures.” The suspension of the licence may be in addition to the fine stipulated in Regulation 16. A licence may also be suspended or cancelled if the vessel has been used in breach of any of the provisions of the High Seas Fishing Act or Regulations or any condition required on the fishing licence, or any other act that he may be required to do in accordance with the provisions of any international agreement that the state may be a party to. These acts must be subject to the approval of the Minister. The Regulations continue by listing instances where a licence can be issued. Regulation 6 lists some general provisions such as conditions that fishing licences are subject to.

In the Act, The Chief Fisheries Officer must also collect fish stock statistics and must monitor, control and conduct surveillance of all vessels in fulfilment of Articles V and VI of the 1993 High Seas Agreement. In addition, the Chief Fisheries Officer must take relevant measures for cooperating with other states in accordance with Articles VII and VIII of the Agreement. Authorised officers also have the responsibility of enforcing the Act and s. 3(5) lists the types of individuals that are appointed as authorised officers. Part III deals with licences and states that no fishing vessel can operate without a valid licence. Section 7(3) identifies some conditions that the grant of a licence is subject to, such as fishing in authorised areas, the type, size and quantity of fish that can be caught, and the method of fishing. Section 7(4) states that the vessel may not engage in any activities that could reduce the effectiveness of international conservation and management measures for living marine resources in the high seas. Contravention of any of these stipulations can result in a fine of five hundred thousand US dollars (EC\$500,000.00) on conviction.

Part IV is special as it deals specifically with international cooperation, which is vital since states may only exert a limited amount of authority in the high seas. As previously mentioned, the two international instruments referred to in the Act are UNCLOS and the International Agreement to promote compliance with the International Conservation and Management Measures by Fishing Vessels on the High Seas. The two sections in this part deal with provision and exchange of information between states and s. 11(1) allows the Minister to make arrangements to assist the exchange of information with states that are parties to the 1993 Agreement. If the Chief Fisheries Officer has reason to believe that a foreign fishing vessel has engaged in activities that violate international conservation and management matters, he may alert the authorities of the flag state when the vessel is in port in St. Vincent and the Grenadines, and furnish such information that will assist them in identifying the vessel. In fact, upon registration of the vessel, Regulation 11 of the High Seas Fishing Regulations requires the Minister to notify the owner of all International Conservation and Management Agreements or Conventions that are recognised by the state. The Part of the Act that addresses enforcement is detailed, and outlines the general powers of authorized officers, release of fishing vessels, disposal of forfeited items and persons arrested, disposal of vessels and other detained things. Regulation 10 of the High Fishing Regulations prevents a person from retaining or dumping or allowing the dumping of any fish of a certain species, size, or age that is listed in any International Conservation and Management Agreement or Convention that is recognized by the state.

Offences / penalties

The offences in this Act are very stringent, since s. 19(1) requires that all offences be prosecuted and taken before a court. The penalties are also significant since the fines listed are very large sums. In fact, under s. 18(5), the attempt to commit an offence is an offence in itself and will be dealt with in the same manner as if the offence had been committed. Also, if a person is convicted for a repeated offence under the Act, he may be liable to fine that is double the original amount prescribed for that offence. Compliance with the provisions and regulations for a licence is imperative and thus severe fines and penalties are imposed. As mentioned previously, contravention of any of the conditions of a licence set out in s. 7(3) or (4) will be liable to a fine of five hundred thousand US dollars (EC\$500,000.00) on conviction. In addition to any penalty imposed by the Act, s. 20 states that where a person is found guilty of any offence then the Court may also order the forfeiture of the fishing licence and disqualification of the person from holding a licence for three years from the date of conviction. Under s. 17(2), a person who purposely provides false information in order to obtain a licence or for supposed compliance with any provision in the Act will be liable on conviction to a fine of not more than five hundred thousand US dollars (\$500,000). Section 17(3) also states that if a person alters a licence that is issued under the Act without any lawful authority, will be liable to a fine of no more than two million US dollars (\$2,000,000).

Section 16 makes it unlawful for a person to engage in any fishing activities that will undermine or impair the effectiveness of international conservation and management measures. If a vessel is found in breach of this, then the master, owner or charterer each commits an offence and on conviction, is liable to a fine not exceeding one million US dollars (EC\$1,000,000). A person may not obstruct, resist or assault an authorised officer in the course of his duty, and may not refuse or neglect to comply with any order or direction made. He is also prohibited from failing to answer a question posed to him by the authorised officer, providing any information or failing to prevent a search of the vessel. Additionally, the individual may not prevent another person

from complying with any orders or giving any information, and may be liable to a fine of no more than two million US dollars (EC\$2,000,000) on conviction for contravention of any of these provisions.

Section 18 of the Act contains general provisions and states that a person who commits an offence for which no penalty is specifically provided will be liable on conviction to a fine specially prescribed. The court may also require that in addition to any fine, any gear or equipment used in the offence or any fish found on board the vessel, or any proceeds of sale be forfeited to the crown and it is in the Chief Fisheries Officer's discretion to decide the manner of disposal. Later sections in the Act deal with cases when a person admits or is deemed to have admitted his offence and may allow him a fine of only half of the maximum amount stated for that offence in some cases. After a person has been charged a penalty, he has thirty days after notice is served to repay such fine according to s. 21(10). The 2003 High Seas Fishing Regulations also stipulates certain penalties to the owner of a fishing vessel, who, uses any gear that is prohibited in the Act or Regulations, violates any conservation or management measures or prevents an authorised officer from carrying out his duty, he will be liable on conviction of a fine not exceeding two million dollars (EC\$2,000,000). Further offences occur when a person fishes without or exceeding his assigned quota for fishing, provides false data on fish catches and effort, forges or conceals any marking or identification of a fishing vessel, or conceals, tampers with or disposes of any evidence that relates to an investigation.

3.3 Land Use and Development

3.3.1 Planning

St. Vincent and the Grenadines

Current Act	Town and Country Planning Act, No. 45 of 1992 Town and Country Planning Amendment Act, No. 2 of 2005 Town and Country Planning (Amendment) (No. 2) Act, No. 19 of 1993 Town and Country Planning (Amendment) Act, No. 18 of 1993
Current SROs	Town and Country Planning (Zoned Area Declaration) (Beachmont/Murray Road) Order, SRO 25 of 2002 Town and Country Planning (Zoned Area Declaration) (Kingstown) Order, SRO 14 of 2000 Town and Country Planning (Zoned Area Declaration) (Bay Street) Order, SRO 18 of 1999 Town and Country Planning (Zoned Area Declaration) (Port Elizabeth – Bequia) (Amendment) Order, SRO 14 of 1997 Town and Country Planning (Zoned Area Declaration) (Beaches) Order, SRO 16 of 1994 Town and Country Planning (Zoned Area Declaration) (Port Elizabeth - Bequia) Order, SRO 15 of 1994
Previous/ Repealed Acts	Town and Country Planning Act, 1976 Preservation of Historic Buildings and Antiquities Act, 1976 [Only Section 4]

The Town and Country Planning Act of St. Vincent and the Grenadines, although promulgated in 1992, remains the principal legislation for land use and planning for the state. However, Act 2 of 2005 adds, alters and replaces a number of definitions found in s. 2 of the principal Act. A notable feature of the Act is that there are a number of sections that deal with environmental protection and thus incorporates land use planning with environmental considerations.

Powers of the Minister

The Minister is empowered under s.36 to make regulations that give effect to the provisions of the Act for matters that include but are not limited to the method of preparation, content and publication of national, regional and local plans as well as public involvement in these plans. This also includes the preparation, content, and consideration of an environmental impact assessment (EIA) or an environmental assessment statement required by the Board. Other regulations may be made and the Town and Country Planning (Amendment) Act of 2005 inserts new matters that the Minister may make regulations for, dealing specifically with codes and requirements for existing or new buildings. The amendment Act further inserts sections that appoint building inspectors, deals with approval and rejection of plans and the rendering ineffective of plans after two years.

Section 14(1) of the Act allows the Minister to declare a particular area to be a zoned area for a public purpose that must be specified. Where such a declaration has been made, then the Board may not entertain applications for permission for development of land or building in the zoned area. SRO 14 of 2000 declares the public roads, alley ways, sidewalks and adjacent areas of Kingstown a zoned area. It prohibits retail or any sort of vending activities as well as preparing and selling food, drinks or snacks except at designated sites with a permit granted by the Board. The actual parameters of this zoned area are outlined in the Schedule of the SRO.

The Minister has the power in s. 23 to make a building preservation order if it feels that the preservation and protection of a building with a special architectural or historic value is necessary. He is required under s. 24 with assistance by qualified persons if he so chooses, to approve and amend as necessary lists of such buildings that may be compiled by the St. Vincent National Trust, which must be published in the Gazette in two issues. Such an order may prohibit the demolition, alteration or extension of the building, but the Minister may not make such an order if the proposed works would not significantly alter the character of the building. The order will not make the necessary works for health or safety unlawful as long as the notice in writing is given to the Board as soon as the necessity arises. Once a building is included on the list, then a person is prohibited from executing, causing or permitting any works or construction for its demolition or any alteration that may affect its character unless notice was given to the Board in writing of the proposed works at least two months before the works were executed. When the Board receives a notice of any proposed works that may be urgently necessary for the health or safety of the area, they must send a copy to the St. Vincent National Trust and any other relevant persons specified by the Minister as soon as possible.

In the same vein, the Minister may, after information from the Board, direct the Board to take steps to remove, mitigate or prevent altogether any condition that poses or is likely to pose a threat to the environment if he feels it is in the public interest to do so. This is classified in the Act as an Order to protect the environment, which may extend to the entire St. Vincent and the Grenadines or to any specific part and may contain subsidiary matters as the Minister feels appropriate. This section also makes provisions as to public notice, since it requires the Board to

place a copy of any such order to protect the environment in a noticeable place at every police station and post office in the island.

Bodies established under the Act

The Act establishes a Physical Planning and Development Board which consists of 14 members after amendment by Act No. 2 of 2005. Subsequent sections and Amendments outline the composition of the Board as well as its modus operandi. The functions of the Board are also listed, which includes ensuring orderly and progressive development, controlling development of land and creating and maintaining studies of town and country development. Many of the powers granted to the Minister require that he consult with the Board before exercising such powers.

A more significant function of the Board is to prepare national, regional and local plans for the state. The Act ensures that the operation does not become stagnant, since s.8 requires that the Board or Minister keep under constant review a wide range of data such as the principal physical environmental and economic characteristics as well as the numerical size, composition and distribution of the population. This ensures that data will be kept current and promotes accuracy when conducting any kind of development. Section 9(4) supports this since it requires that the Board carry out a new survey of an area for which a development plan exists after five years from the date of approval of the plan by the Cabinet. The fresh survey must be submitted to the Minister along with any additions or alternative plans. The following subsection allows the Board to submit proposals for alterations or additions to the Minister at any time he may specify, or when it appears necessary. Section 8 further details the matters that the Board must consider when preparing national, regional and local plans. When creating a national plan, the Board must take into consideration a number of factors which include but are not limited to the existing physical and environmental conditions, current trends and policies connected with the system of communication and the provisions of any coastal zone management plan. Another matter that is vital to consider is the foreseeable need and availability of land for natural agricultural and forestry reserves, national parks, public open spaces and other areas that may be of national interest that the Board may determine. Similarly, prevailing physical and environmental conditions must be considered during the development of a regional plan. Economic conditions must also be taken into account. Other matters that relate to the environment are determining the most advantageous development and land use within the region, and the environmental impact of any proposal.

Verifying the availability of resources likely to be required for implementing the proposals of the regional plan is also an important matter to be considered. This mirrors a section that deals with the preparation of a local plan. The local plan also has a number of distinct considerations such as the exact locations of all proposed roads, buildings and open spaces or any land set aside as a residential, industrial or agricultural area and any relationships among this infrastructure. Furthermore, s. 8(5) lists four additional matters that must be taken into account when considering all three plans, such as the allocation of land for forest reserves, national parks, agricultural, residential, industrial commercial or other purposes.

Section 16(1) of the Act prohibits development without permission for development issued by the board in writing. Subsection (4) further details the cases in which permission for development is not required. The Town and Country Planning (Amendment) Act 2005 inserts two new subsections in Section 16 that require the issuance of a building permit by the Board in order to construct or demolish a building. Section 17 on the whole deals with permission for

development. The Board, under this section must give first consideration to any approved national, regional and local plans, an approved development plan or an approved environmental impact statement when considering any application for the grant of permission for development. Subsection (2) gives additional matters for consideration if they are relevant to the application, and paragraph (d) lists “any other material considerations”. Subsection (3) expands on this and lists some matters that may be material, such as the likely impact on the environment of the area where the proposed development will take place, whether any pollution, including pollution of the marine environment is likely to be caused by the proposed development and the availability of water, electricity and waste disposal services. Sections 18 and 19 deal with enforcement and stop notices respectively. A stop notice may be given if during the course of the operations there is the deposit of refuse or waste materials on land or beaches which causes environmental damage, or if such acts affect the health or safety of persons or property or disrupts essential services when such action is a breach of planning control.

The Board may also serve a waste order to an owner or occupier if they feel that any area of land or building is derelict, neglected or wasted or a public nuisance or hazard so as to constitute a significant reduction of amenity or enjoyment. The Act also deals with tree preservation orders, which basically allows the Board to prevent the destruction of any tree, forest or woodland after consultation with the Chief Forestry Officer. This is provided that they are satisfied that it is necessary to prohibit this destruction because it currently provides amenity to the public, for soil conservation or tree preservation or water conservation or for any other purpose. If satisfied, then the Board may serve a tree preservation order upon the owner or occupier of any land and on any other person who, in the opinion of the Board, may be affected by the order. It is important to note that such an order will not apply in respect of the destruction of trees which may be dead or dying, have fallen or are in danger of falling. This further does not apply to any measures that are necessary for reducing a public or private nuisance or anything done in pursuance of an obligation or authorization imposed or conferred by any written law for the time that is in force. Lastly, the order will not apply if when the destruction is to such extent as specifically authorized by the Board.

The Board may also require an Environmental Impact Assessment (EIA) to be submitted in such manner and containing such information as stipulated under s.29. This may be done when the Board is aware that the individual wishes to undertake a certain category of construction or works in a specific area and when it feels that such activities either initially or during its operations are causing or are likely to cause pollution or an adverse impact on the environment.

If a person is aggrieved by any decision of the Board or has not received a decision for permission for development within 4 weeks of the expiration of the 12 weeks period, he may appeal to the Minister against such decision under s. 27. This section establishes the Environmental Appeals Tribunal (EAT) and all decisions made by the EAT are final.

Offences and penalties

If a person is served a waste order under s.20 and fails to comply with any of the requirements without reasonable excuse, he/she will have committed an offence and will be liable on summary conviction to a fine of no more than ten thousand dollars (EC\$10,000) and to a further fine of no more than three hundred dollars (EC\$300) for every day that the offence continues. This is also the case if he contravenes subsection (7) by act or omission.

If an individual has been served a tree preservation order issued by the Board and fails or neglects to comply with any requirement or restriction, he/she will be deemed to have committed an offence and will be liable on summary conviction to a fine not exceeding ten thousand dollars (EC\$10,000) and a further fine of no more than two hundred dollars (EC\$200) for each day that the offence continues. Similarly, if a person executes, causes or permits any works in breach of a building preservation order in s. 23, he will be guilty of an offence and liable on summary conviction to a fine of no more than twenty-five thousand dollars (EC\$25,000) or imprisonment for one year or both. Furthermore, in accordance with s. 29(3), if a person refuses to submit an EIA when it is required by the Board, he will be guilty of an offence and liable to a fine of no more than thirty thousand dollars (EC\$30,000) on summary conviction.

In terms of an Order to protect the environment detailed above, if an individual hinders any person in carrying out any duty that is authorized by the order, or if the individual contravenes any provision of the order itself, then he will be liable to a fine not exceeding twenty thousand dollars (EC\$20,000) on summary conviction. If a person conducting works that have already been permitted, fails or neglects to comply with a request for information by the Board under s. 34(1) then he will be liable to a fine not exceeding three thousand dollars (EC\$3,000) and a further fine of one hundred dollars (EC\$100) for every day that the offence continues after the conviction.

Although there are offences and penalties dispersed throughout the Act, s. 31 lists additional offences that a person may commit. Subsection 7 is distinct in that it reserves the power of the Board or the State to initiate prosecutions for any offence under the Act. If he undertakes any development without having first obtained the requisite permission under s.16(3)⁵⁰ then he will be guilty of an offence and liable on summary conviction to a fine not exceeding twenty thousand dollars (EC\$20,000) or imprisonment for a period of no longer than 2 years or both. Subsection 2 makes a person guilty of an offence if, after having been granted permission for development, he fails to comply with any condition or limitation stipulated in s. 17(6).⁵¹ This makes him liable on summary conviction to a fine of no more than twenty thousand dollars (EC\$20,000) and to a further fine of one thousand dollars (EC\$1,000) for every day that the offence continues. Furthermore, if a party to an appeal made under s. 27 to the EAT fails to comply with any decision or condition stipulated when he is required to comply with it, he will commit an offence and is liable on summary conviction to a fine of no more than ten thousand dollars (EC\$10,000) and a further fine of no more than three hundred dollars (EC\$300) for each day that the offence continues.

The section continues with subsection (4) prescribing a general penalty for any offence that does not already have one assigned to it. This makes a person liable on summary conviction to a fine of no more than three thousand dollars (EC\$3,000) and imprisonment for one year or both. With respect to a continuing offence, an additional fine of two hundred and fifty dollars (EC\$250) will be charged for each day the offence continues after the date of conviction without a lawful excuse. This is regardless an appeal is pending but if the person is acquitted on the appeal, then the additional payment will be refunded. Additionally, under subsection (6) of the Act or any

⁵⁰ This requires that notice of the application for planning permission be published in the Gazette giving the particulars of the application and inviting observations from interested persons.

⁵¹ As amended by s. 6(a), Act 2 of 2005

regulations made, if a body corporate commits an offence and the offence is proved to have been committed with the consent or involvement of any director, manager, secretary or other officer of the body corporate, then the officer will also be liable to prosecution as well as liable on summary conviction and punished accordingly.

Grenada

Current Act	Physical Planning and Development Control Act, No. 25 of 2002
Current SROs	Physical Planning and Development Control Amendment Act, No. 30 of 2002 Physical Planning and Development Control (Commencement) Notice, SRO 1 of 2003
Previous / Repealed Acts	Town and Country Planning Act, Cap 322 Land Development Control Act, Cap 160 [The Land Development Regulations and Land Development (Fees) Regulations 2002 made under s. 27 of the Land Development Control Act continue in force upon the coming into force of the current Act until they are revoked or amended by Regulations made under s.61 of the current Act] Town and Country Planning Ordinance, 1946

Land use planning in Grenada began in 1946 with the Town and Country Planning Ordinance. After a significant amount of fragmented legislation, land use planning in Grenada today is governed by the Physical Planning and Development Control Act, enacted in 2002. This Act combines and modifies the provisions of the Town and Country Planning Act and the Land Development Control Act. A unique feature of the Physical Planning and Development Control Act is that apart from its title, it states the objectives of the Act in section 3. The title declares that the purpose is to make “fresh” provision for the control of physical development, along with requiring that physical plans for the country be prepared and that the natural and cultural heritage be protected. The title also indicates that the Land Development Authority be continued.

Bodies established under the Act

Section 5 of the Act supports the continuation of the Land Development Authority which is established by s. 3 of the Land Development Control Act, Cap 160 although it is renamed as the Planning and Development Authority and must be comprised in accordance with s. 6 of the Act. Subsequent provisions deal with further constitution and administration of the Authority. The objects of the Act in s. 3 appear to have greater consideration for the environment since it aims to ensure that appropriate and sustainable use is made of all publicly and privately owned land for the benefit of the public, and to maintain and improve the quality of the physical environment and its amenity. Other objects deal with the subdivision of land and the provision of infrastructure and related services, as well as to maintain and improve the standard of building construction in order to secure human health and safety. The final object of this Act is to protect and conserve the natural and cultural heritage of Grenada.

The head of the Physical Planning Unit is the chief executive officer of the Authority under s. 8 and has a number of responsibilities, which includes carrying out the general policy of the Authority. He must also sign and issue all notices that grant or refuse permission for the

development of land, enforcement notices, stop notices and other documents that are issued under the Act that are authorized by the Authority. The Head must also prepare a physical plan for the entire country according to s. 13(1) and requires the approval of the Authority. Section 15 requires that the head must collaborate with any governmental as well as non-governmental organizations that may have an interest in particular matters for which reference to or proposals may be made in the Plan itself. When the Head has completed the Plan, copies must be available at its office or any other places that the Authority approves and will be subject to public inspection. The locations of the Plan and the times when it may be inspected must be published in the Gazette and in at least one public newspaper. An individual may then make oral or written representations on the draft plan to the Authority within 8 weeks after publication of the notice. After the plan is submitted to Parliament and is approved by affirmative resolution, the Authority must ensure that notice of the approval is published in the Gazette. Once published, the plan has full effect from the date of publication, and it is notable that provision is made in s. 16(8) requiring that copies of the approved plan be accessible for public inspection at its offices and available for sale at a reasonable price. The Head has the power to conduct a review of the plan and submit to the Minister a report on the review along with proposals for alterations or amendments.

Enforcement is vital in this Act, and s. 34 allows the Authority to issue an enforcement notice to a party developing land with the requisite permission, or a person failing to comply with any condition set in their permission. The notice must identify the development alleged to have been undertaken without permission, and may require the steps specified in the notice to be taken within a specified period for restoring the land to its condition before development took place, or for ensuring compliance with conditions. This includes but is not limited to the cessation, demolition or variation of any building, engineering, mining or other operations, or the use of land, or the carrying out of any building engineering or other operations. Such notice must be served no less than 28 days before it takes effect, and takes effect at the expiration of the period specified unless otherwise stated.

The Act makes provisions for natural areas, which allows the Authority to compile and amend lists of places of natural beauty and interest, including submarine and subterranean areas, as well as their flora and fauna. These are not areas that are designated as a forest reserve, wildlife sanctuary, national park, protected area, or a marine protected area under any enactment. If the Authority feels that special protection is necessary for an area on this list, then they may publish by order in the Gazette that the area is declared to be an environmental protection area. This order may *inter alia*, authorize works within the environmental protection area which are necessary for its protection or rehabilitation, that an EIA is required, and restrict or prohibit development or development of any specified class within the area. Additional steps must be taken by the Authority before such area is designated. Reference is also made to the preservation of amenities by virtue of s. 48, which allows the Authority to make provisions for the development of land, preservation of amenities of any area, which includes the protection of existing trees or the planting of new trees. This may be as a condition subject to which permission is granted for the development of land. The Authority may also serve the owner or occupier of the land a notice requiring steps to be taken if he feels that the amenities of the area may be seriously damaged by various reasons. The Authority must also maintain a register that contains particulars of a number of documents, which includes applications to develop land, notices, permission granted and modifications or revocations.

Powers of the Minister

The Minister may make regulations in s. 25(4) that provide for a number of characteristics of an EIA, ranging from the minimum content of a report to the procedures for public participation. Section 49 prohibits a citizen from displaying an advertisement on any building or land except with the written permission of the Authority. The Minister may make provisions to this effect that restrict or control the display of advertisements so far as is necessary in the interests of public safety and amenity. The right to appeal is also found within s. 50, which allows an owner or occupier of a building or land to lodge an appeal if the land is included in a list adopted by the Authority under s. 42 or is located in an area designated by the Authority as a Heritage Convention Area under s. 46. Compensation and acquisition is dealt with later in the Act.

Duties/responsibilities of the citizen

Section 19(1) clearly states that a person may not begin or carry on development works without the prior written permission of the Authority. Section 19(1) is subject to s. 21 which allows the grant of a general development order by the Authority under any conditions in the order. Such order may be revoked or varied by a subsequent general development order made by the Authority. Such an order must be submitted to the Minister for approval and then published in the Gazette, coming into effect on the date of publication. Subsection 2 of s. 19 lists the instances where a person will be deemed to have started development while s. 20 outlines certain operations that do not constitute development and as a result, do not need permission for development. This includes the maintenance, alteration or improvement of any building or road, or the carrying out by or on behalf of the Government or any statutory body of any works for the purpose of inspecting, repairing or renewing any infrastructure such as sewers, water mains, pipes, cables or other equipment which includes breaking open any road or land for that purpose. Another instance that does not constitute development is the use of any land for the purposes of agriculture or forestry and the use for any of those purposes of any building on land, subject to any limitations stated by the Minister. Subsection 2 lists further activities that do not constitute development for the purposes of the Act.

If a person wishes to apply for permission for development, he may first apply to the Authority for approval in principle of the proposed development prior to preparing detailed plans, in accordance with s. 23. The Authority may in turn grant approval in principle with or without conditions, subject to the later approval by the Authority for any matter reserved until detailed plans are submitted. Conversely, the Authority may also refuse to grant approval in principle. It must be noted that approval in principle not permission to begin development and the applicant must still comply with the procedure for applications for permission as well as its particulars which are listed in s. 22 and must be submitted to the Physical Planning Unit. Section 24 reserves the right of the Authority to request additional information for the application and to cancel an application when the applicant fails to provide the information.

Environmental Impact Assessments are a vital aspect of land use and physical planning and s. 25 provides that the Authority may require an EIA to be carried out if they feel that the proposed development could have significant effects on the environment. The Second Schedule lists works in which an EIA may be required, which includes but is not limited to hotels of more than 50 rooms, quarrying and mining sites, marinas, airports, ports and harbours. Permission will not be granted in this case unless it has considered the report on the EIA. Subsequent sections detail the procedures connected with an EIA and stipulates that when an application for permission to

develop land is made to the Authority, the Authority must give its decision within 90 days from the date of receipt of the application unless otherwise agreed. If permission is refused, then the developer has the right to appeal to the Physical Planning Unit under s. 28 of the Act within 30 days of receipt of notice of the decision. Further sections deal with the composition of the tribunal and states that the decision of the tribunal is final. If permission for development of land is granted but is not taken up within a period of 12 months, then such permission lapses and if a development is not completed with 30 months after it is commenced or such period as is specified in the permission, then permission lapses without prejudice to the status of the permitted works that are actually complete. This is provided that there is no new development such as a material change in land. After the works have been completed and the Authority is notified that the building is completed, then the Authority must certify whether the works have been completed in accordance with the permit.

When plans have been submitted to the Authority on an application for permission to develop land and permission has been granted, then the development must be carried out in accordance with the plans and conditions imposed by the Authority. The Head may approve any minor variations to an approved plan which will not alter or significantly affect the terms and conditions of the permission, and if before or during the course of any development of land, the developer feels that it is not economically feasible or impracticable to carry out such development in conformity with the approved plans, then he may apply to the Authority for a permission to amend the plans, in which case the Authority may either approve or reject permission for the amendment. A person whose application is refused may exercise their right of appeal under s. 28. Section 32 deals with modifying and revoking of permission in cases where the Minister feels that it is necessary for matters of national security or general economic policy of the Government or other material consideration. The Authority may also require, as a condition to permission, that land be reserved for public recreation or as an open space, in certain cases.

Part VI of the Act deals with the conservation of the natural and cultural heritage and states that the Authority serves as the national service for the identification, protection, conservation and rehabilitation of the natural and cultural heritage of Grenada in accordance with the UNESCO Convention for the Protection of the World Cultural and Natural Heritage. Section 41 establishes a committee to be called the Natural and Cultural Heritage Advisory Committee which will act in an advisory position to the Authority on all matters that relate to the natural and cultural heritage of Grenada. The Committee can deal with such matters that include the compilation, adoption, amendment of lists of buildings, monuments and sites of prehistoric, historic or architectural merit or interest, issuing interim preservation orders for the urgent protection of unlisted buildings, monuments and sites of prehistoric, historic or architectural merit or interest. The Committee may also compile or amend lists of places of natural beauty or natural interest and declare any such area to be an environmental protection area. Further provisions deal with the composition of the committee. The Authority may compile lists of buildings, monuments, and sites of prehistoric, historic or architectural merit or interest, and may adopt, with or without modification, any lists that are compiled by the Grenada National Trust and may amend such lists from time to time. Interim preservation orders are also dealt with in ss. 44 extensively.

Every owner or occupier of a listed building, monument or site is responsible for the conservation and rehabilitation of it, according to s.45. The Authority may assist the owner or occupier financially and technically for its conservation and the Authority may serve on the

owner or occupier of any listed building, monument or site a notice that requires specified steps to be taken in order to conserve or rehabilitate the building or land in a certain time. Failure of the person to comply with such notice will result in the Authority or its staff or contractors entering on the land and taking necessary steps to conserve or rehabilitate the building and recover as a contract debt any expenses reasonably incurred, or they may compulsorily acquire the land. The Authority may designate any area that contains a group of separate or connected buildings which are of outstanding universal value to be a Heritage Conservation Area. This extends to other land located in the vicinity of the group of buildings that may be important to provide a buffer zone. Further sections list the steps that must be taken by the Authority before designation of such a site, and the Authority is required to create and publish proposals for Heritage Conservation Areas, including conditions for the use of buildings and land other than listed buildings, monuments and sites within the area. These proposals must be incorporated into the physical plan for Grenada.

Offences / penalties

Although specific penalties are listed throughout the Act, s. 58 make a general penalty if a specific one is not prescribed. A person who commits an offence under the Act is liable on summary conviction to a fine of ten thousand dollars (EC\$10,000) and in cases of a continuing offence, is liable to a further fine of five hundred dollars (EC\$500) for each day during which the offence continues. Section 55(3) states that a person who obstructs a person acting in the exercise of his or her authority commits an offence and is liable to a fine of one thousand, five hundred dollars (EC\$1,500) on summary conviction.

3.3.2 Radioactive materials

St. Vincent and the Grenadines

Current Act	Radio-Active Minerals Act, No. 14 of 1949
--------------------	--

Amended By: Act 3 of 1978

SRO 38 of 1980

Act 20 of 1987

Act 23 of 1988

Cap 233: 1990 Revised Laws of St Vincent and the Grenadines

Current SROs -

The Radio-Active Minerals Act of St. Vincent and the Grenadines is primarily aimed towards regulating and controlling prospecting and mining for radioactive minerals and their export. The radioactive minerals referred to in this Act are listed in the Schedule and the Governor-General is allowed under s.10 to alter, vary or amend this Schedule by order in the Gazette. It is notable that the Governor-General has strict control over the mining, prospecting and exporting processes. A person must first obtain a licence from the Governor-General before embarking on mining or prospecting for such minerals, and a subsequent permit is required for exporting minerals. Section 6 ensures that the grant of a licence or permit by the Governor-General is under his sole discretion and he is under no obligation to give reason why a grant was rejected. The Governor-General also has to be continually updated throughout the entire process, since s. 4 requires that once a license is granted, the holder must make a monthly report to the Governor-General of proceedings, and if radio-active minerals are discovered on any land, the person by whom the

discovery was made must notify the Governor-General. Certain powers are also granted to police under s. 9, which allows the power of entry, seizure or arrest and if a person obstructs this process, he may be liable to a fine of five thousand dollars (EC\$5,000.00) and imprisonment for six months. Section 11 list offences under this Act, most of which are connected to the mining, prospecting and export licences and permits or lack thereof. Any mineral obtained that led to the offence and subsequent conviction of the individual will be seized and forfeited to the Crown. Section 12 allows the Governor-General to make Regulations to better implement the Act, and the final section stipulates that the Act will not absolve an individual from adhering to the provisions of any other legislation in force that is related to mining or export of minerals. Although this Act is not specifically environmental, its strict control by the Governor-General indicates that mining practices will be restrained and will help support other mining legislation. It is recommended that legislation be enacted that will address the necessity for appropriate and sustainable mining practices.

3.3.3 Environmental Levies

St. Vincent and the Grenadines

Current Acts	Trade (Environmental Levy) Act, No. 13 of 1991
	Trade (Bottle Deposit Levy) (Amendment) Act, No. 6 of 2006
	Trade (Bottle Deposit Levy) (Amendment) Act, No. 8 of 2002
	Trade (Bottle Deposit Levy) (Amendment) Act, No. 3 of 1998
	Trade (Bottle Deposit Levy) (Amendment) (No. 2) Act, No. 4 of 1993
	Trade (Bottle Deposit Levy) (Amendment) Act, No. 4 of 1993
Current SROs	SRO 38 of 1997
Previous / Repealed Acts	-

The foundation of environmental levies in St. Vincent and the Grenadines is found in the 1991 Trade (Bottle Deposit Levy) Act. The purpose of the Act is to impose a bottle deposit levy on certain beverages in non-returnable bottles. Although the original Act specifies the types of drink bottles that have a levy imposed, Act 6 of 2006 makes the statement more generalized by simply stating “certain beverages”. Although the principal Act only consists of five sections, subsequent Acts have altered the provisions so severely that it is necessary to examine the amendments even more than the principal Act. The Trade (Bottle Deposit Levy) (Amendment) (No. 2) 1994 inserts a Schedule into the principal Act that consists of items that carry a deposit levy of fifty cents. These items are beer, stout, malt, ale, aerated drinks in tins or non-returnable bottles. The 1994 Act further deletes s. 2 and replaces it with two subsections. This new section 2 (2) allows the Minister to add items or change the cost in the Schedule as he may see fit, while s.2(1) basically establishes that a deposit will be levied on items in non-returnable bottles that are listed in the Schedule.

Act 3 of 1998 adds to section 4 although it does not significantly alter its content. When combined with the amendment, the section states that a deposit levy is refundable to the depositor when he re-exports the bottles in the cartons of original export. It is also refundable when bottle disposal plans have been made and carried out within six months of the payment of

the deposit. This deposit must be claimed no later than the end of the six month period and if it is not claimed, then it will be forfeited and credited to a consolidated fund. The deposit is payable to the Comptroller of Customs and Excise and payment is enforced under the Customs Act. Act 8 of 2002 inserts a subsection into section 3 which diminishes the imposition of a deposit levy if the product in the bottle was manufactured in St. Vincent and the Grenadines or if it was manufactured in a member state of the OECS and then imported into St. Vincent and the Grenadines and if the manufacturer or importer further provides for bottle disposal arrangements for bottles listed in the Schedule. The final provision remains unchanged and retains power for the Cabinet to vary the deposit levy on a bottle or class of bottles from time to time.

Grenada

Current Act	Environmental Levy Act, No. 5 of 1997
Current SROs	Environmental Levy (Exemption) Order, SRO 20 of 2002 Environmental Levy (Exemption) Order, SRO 58 of 2001
Previous / Repealed Acts	Trade (Non-returnable Container) Levy Act 1993 Trade (Non-returnable Container) Levy Order 1996 [Revoked] Environmental Levy Act, 1996 [The repeal by the current Act does not affect any levy payable or owing by virtue of the Environmental Levy Act, 1996]

3.4 Waste and Land Pollution

3.4.1 Waste Management

St. Vincent and the Grenadines

Current Act	Waste Management Act, No. 31 of 2000
Current SROs	-

The Waste Management Act of St. Vincent and the Grenadines was established to provide for the management of solid waste in conformity with best environmental practices. Schedule 1 of the Act lists all wastes that are classified as hazardous waste, while Schedule 2 states that the Central Water and Sewerage Authority, the Port Authority and the Physical Planning and Development Board are all relevant agencies concerned with solid waste management.

Powers of the Minister & Bodies established under the Act

Section 3 (1) states that the Central Water and Sewerage Authority or other public body that the minister may appoint will be the National Solid Waste Management Authority for the purposes of the Act. The Act requires that the Authority prepare an inventory and characterization of all solid waste in the state and any inventory must identify the total tonnage of waste generated in the state, the proportions of waste and should contain an estimate of the proportion of total waste generated by the different sectors, such as the residential, tourist, industrial, commercial and institutional sectors. This inventory must be revised at least every five years.

The Minister has the power under s. 48 to make regulations to carry into effect the provisions of this Act and may deal with such matters as requirements for waste handling, separation and

processing, the procedure and process by which the waste strategy will be developed and updated, and the procedure and process through which EIAs will be undertaken.

A waste management strategy must be prepared by the Minister and he must ensure that there is the broadest possible consultation in the preparation of the strategy to ensure that all concerns are taken into account by all stakeholders. Section 6 requires that the strategy should contain a summary of the inventory results classified by type, volume, and area of generation, an evaluation of historic, current or proposed activities that may impact on waste generation, a review of the national waste diversion and reduction options. Furthermore, matters should include an evaluation of national environmental and pollution control policies that may impact upon the nature or volume of waste generated, and an implementation programme that outlines programmes, mechanisms, strategies and policies that are to be established to ensure that waste management is carried on in such a way that will not adversely impact on human health or the environment. The following section states that the implementation programme should *inter alia*, establish standards, requirements and procedures for the management of all wastes, including the generation, handling, storage, treatment, transport and disposal. The following subsection establishes the matters that the waste management strategy should address. This includes identifying ways in which hazardous and bio-medical waste and other specified classes of solid waste substances are to be managed, methods by which solid waste is to be transported, establishing procedures for the safe removal, reduction and disposal of litter, and design waste management measures that will make polluters bear the costs arising from the pollution. Furthermore, the section sets specific targets by stating an objective of reducing by 20% all solid waste in St. Vincent and the Grenadines by January 2010 and providing further reduction of solid waste at rates of no less than 5% per decade after the year 2010 until a 50% reduction is achieved. Subsequent sections further outline the process of the Strategy and the waiting period before approval and implementation. The Strategy must be kept under continuous review by the Ministry responsible for Planning as well as the Ministry of Health and the Environment and should have a formal review after 5 years to ensure that all provisions are still effective and valid and are appropriate for the waste management needs of the state.

Part IV deals with an Environmental Impact Assessment (EIA) from its inception to its completion. Section 11 speaks of the pre-evaluation EIA process and states that it is required before any waste management facility is established. Section 13 describes the particulars required in an EIA which will include a number of descriptions such as the proposed area and its environmental setting, the type of project to be undertaken, etc. In addition, a waste management plan may be required to describe the measures to be taken to reduce waste during construction, operation and abandonment. An environmental monitoring programme may also be submitted.

Duties / responsibilities of the citizen

The citizen has a significant role in the Act. It is up to him to implement and plans, policies or programmes that he may submit in s. 13 dealing with EIAs.

Waste Management licenses and permits are also dealt with in s. 19. Section 29 requires the Minister to keep a register of all licences and permits granted under the Act and the register should be available for public inspection upon payment of a fee. It must be noted that a licence granted does not allow the commission of a nuisance. A person may not deposit or knowingly cause the deposit of solid waste in or on any land, beach, foreshore, marine waters, river or river banks, construct or operate any waste management facility without a licence or treat, keep or

dispose of solid waste in a manner likely to cause pollution or harm to the human health. This however does not apply to household waste from a domestic property that treated, kept or disposed of by the owner or occupier. An individual in contravention of these provisions or of any waste management licence will be liable to a fine of seventy five thousand dollars (EC\$75,000) and imprisonment for not more than 12 months and for a corporation, to a fine of no more than two hundred thousand dollars (EC\$200,000).

Existing facilities need to be registered as well, and such registration needs to be accompanied by an environmental protection plan and a disaster preparedness response plan, and the required fee. The minister, acting under the power of s. 22(2) will grant the licence within 90 days of the date when the application was received, and he also has the power to reject such application if he feels that it is necessary for the purpose of preventing pollution of the environmental, harm to human health or will impair the amenities of the area. He may also refuse on the grounds that approval might lead to too many waste management facilities in the State, or if he feels that operating a landfill or incinerator is better reserved for the State. Further sections deal with the particulars that a waste management licence contains and s. 24(2) states that failure to comply with the licence makes a person liable on conviction to a fine of no more than one hundred and twenty thousand dollars (EC\$120,000). Section 25 addresses waste haulage permits. Each person in possession of a waste haulage permit must display such permit on or in a vehicle that may easily be seen from the exterior.

The Minister reserves the right in s. 28 to cancel or suspend waste management licences or waste haulage permits if there is a breach of a condition which poses an imminent threat of serious environmental damage. He will inform the permit/licence holder that they have 15 days to remedy the breach, after which such period will expire and the licence will be cancelled or suspended. The former holder will be responsible for the security of all waste, property and equipment affected by the cancellation or suspension of the licence or permit. If the person fails to secure the waste or fails to allow the collection of waste, then he will be guilty of an offence and liable to a maximum fine of one hundred thousand dollars (EC\$100,000).

Section 31 deals with liability in the event of accidents. If there is any harm to human health, safety or the environment caused by the failure of the permit holder to exercise due diligence, then he is liable to the injured person as well as to the Crown for compensation for any loss to crown property. Further sections prevent a person from importing any waste into the state and make him liable to a penalty of no more than one million dollars (EC\$1,000,000) or imprisonment for 5 years on indictment and to a fine of no more than two hundred and fifty thousand dollars (EC\$250,000) summarily. Whether or not the waste is hazardous, the individual importing waste into the country in breach of subsection 1 will be guilty and liable to a fine of no more than one hundred and fifty thousand dollars (EC\$150,000). Waste handling is also dealt with, and s. 41 requires that derelict vehicles white goods and other scrap metals be taken by the owner to an approved landfill site or other approved site for disposal.

The Act also makes significant provision for monitoring and enforcement. A final general penalty is provided for in s. 46. This states that a person who commits an offence under the Act for which no penalty is specifically provided for is liable on first conviction to a fine not exceeding seventy five thousand dollars (EC\$75,000) or imprisonment for no more than 12 months, or on a subsequent conviction to a fine not exceeding one hundred and fifty thousand dollars (EC\$150,000) and a further two hundred dollars (EC\$200) for every day the offence continues after conviction.

Grenada

Current Act	Waste Management Act, No. 16 of 2001 Grenada Solid Waste Management Authority Act, No. of 1995
Current SROs	Waste Management Act 2001 (Commencement) Notice, 2001 SRO 62 of 2001 Grenada Solid Waste Management Authority (Vesting) Order, SRO 32 of 2001
Previous Acts	-

The Waste Management Act was created in Grenada to provide for the management of waste in conformity with the best environmental practices and is a significant step in the process of efficient waste management. The Grenada Solid Waste Management Authority Act is not repealed by the 2001 Act, but rather supports it as it establishes a Solid Waste Management Authority, which the 2001 Act actually makes reference to. Solid waste is defined in the Act as including “litter, garbage, refuse, organic waste, white goods, derelict vehicles, scrap metal and other solid materials but does not include solid or dissolved material in domestic sewage or other substances in water sources, such as silt, dissolved or suspended solids in industrial wastewater effluents, dissolved materials in irrigation flows or other common water pollutants.” The Second Schedule lists the agencies that are also concerned with waste management and consist of the Ministry of Health and the Environment, the Grenada Solid Waste Management Authority, the Grenada Ports Authority, the Land Development Control Authority, and Ministry of Finance and the Ministry of Works.

Powers of the Minister

The Act requires that a National Waste Inventory be created and revised every 5 years, and then requires the Minister to produce a comprehensive National Waste Strategy. The procedure for creating this Strategy is described in the Act and requires that it include, among other reports, a summary of the Inventory. The Minister must ensure public consultation in the preparation of the Strategy to ensure that it addresses the concerns of all stakeholders. In addition, the Minister must make an evaluation of the social, environmental and economic impacts of the Strategy, and the findings will be submitted to the Cabinet for approval. The Strategy must also contain an implementation programme that outlines mechanisms, programmes, policies and strategies that are needed to ensure that waste management is carried out in a manner that does not adversely impact on human health or the environment. Subsections 2 and 3 list matters that the programme must establish, such as standards, requirements and procedures for managing all waste, including its generation, handling, storage, treatment, transport and disposal of all types of waste, and standards and procedures to be implemented in the reduction, recycling of, recovery, reclaiming and reuse of waste and the use of recycled materials. An interesting feature of this section is found in s. 5(5)(h)(i) and (ii) which requires that dates must be established for the reduction of solid waste with a view to reducing solid waste in Grenada by 20% by 2010 and achieving a further reduction of no less than 5% per decade after the year 2010 until a 50% reduction is achieved. The draft of the Strategy must be submitted for public review and will be advertised in the Gazette, by notice in two consecutive weeks in at least one regularly published newspaper and by broadcast on at least one radio station in Grenada at least three times. These notices will state where copies can be obtained, the address to where any comments may be sent, and the closing date for making such submission. A period of at least 30 days but no more than 45 will

be allowed for public comment. After corrections, the Minister will submit the Strategy to the Cabinet, who may review and either approve or refer it back to the Minister to correct any details. The Strategy is meant to be the foundation of making regulations, and for evaluating the licensing of waste management facilities, issuing waste haulage permits and waste management options relating to all development proposals. The Minister is required to keep the Strategy under continuous review, and must undertake a comprehensive review within 5 years of its approval to ensure that it is kept current and effective, and that it complies with international and regional responsibilities among other factors. The Strategy may also be varied, and any review must also be done including public consultation with stakeholders.

Environmental Impact Assessments (EIA) are dealt with in Part II of the Act. Section 11(1) states that an EIA is required before any waste management facility is established, regardless of whether it is only for waste management or whether it has additional purposes. This does not apply to a facility which was in operation or under construction at the time of commencement of the Act. Sections 12 to 18 detail the procedure for attaining an EIA during its whole life cycle, beginning with its pre-evaluation process to monitoring after the project has been completed. Section 15 allows the Minister to either approve or reject the proposal, and s. 16 allows the citizen to implement a monitoring programme, protection plan or mitigation measure that may be a condition of approval and must therefore construct the facility in accordance with the standards that are outlined in the Third Schedule. Inspections may be carried out by a person or body designated by the Minister and if there is found to be some deficiency, then the Minister may issue an order to the developer to stop work, or restore a site to its original condition, or an order to carry out improvement or remediation. When dealing with development proposals for a project other than a waste management facility, the planning authority is required to take into consideration the waste generation and waste management implications as well as the requirements of the Strategy and must not grant development approval if it is not satisfied on those matters. Further information may be required.

The Minister may issue regulations to carry into effect the provisions of the Act, and may also issue guidelines in s. 17 that deal with procedures for reviewing any proposal for establishing a facility or with procedures for monitoring of environmental protection or waste management plans relating to facilities. The power to issue regulations is granted in s. 46, and list a wide range of matters that are not meant to be exhaustive. Such matters include respecting the development and updating of the Strategy, implementing any waste diversion and waste reduction policy contained in the Strategy, and regulations that deal with the contents of environmental protection plans and waste management plans. He may also, under s. 49, amend any of the Schedules by Order published in the Gazette.

A licence issued under s. 22 is valid for the period of one year and ss. 21-24 detail the licensing process. It is imperative to note s. 47 which states that the grant of an approval, licence or permit does not authorise the commission of a nuisance. The application for the licence must be submitted, along with the fee and an environmental protection plan, waste management plan and disaster preparedness response plan. The licence must be granted within 90 days of receipt of the application unless the Minister rejects the application on the grounds that it will pollute the environment, cause harm to human health and safety, or will cause serious detriment to the amenities of the relevant locality. He must also not issue a licence unless the applicant has fulfilled EIA requirements, and may refuse to issue the licence if he feels that there are sufficient facilities in Grenada, or if the proposed activities would be more appropriate for operation by the

Authority itself. The licence must specify certain information such as the facility to which it relates. The Minister may also impose conditions that he feels are necessary.

Section 25 begins to deal with the requisite process for the grant of a waste haulage permit. The Minister may issue the permit within 90 days unless he feels that it should be rejected in order to circumvent creating issues such as pollution of the environment, causing harm to human health and safety, or will cause a hazard on public highways or traffic on the whole. Such permit may be valid for one year or less, based on what the Minister specifies. Every permit imposes the condition that the waste must be adequately covered so it will not be at risk of falling or blowing out of the vehicle. Section 26(4) identifies matters that the Minister must specify when issuing a permit and subsection 5 allows him to attach any other conditions that are consistent with the Strategy and as he may feel are necessary.

The Minister may also cancel or suspend a licence or permit if a condition is breached in a manner that poses an imminent danger of serious environmental damage. Further sanctions explaining the subsequent procedures and offences are detailed below. By the end of March every year, the licence holder must review the disaster preparedness response plan submitted under s.21(2). The authority must also prepare and maintain contingency plans that address aspects of waste management after a natural disaster or waste management disruption. Section 48 stipulates that the Minister keep a register of all licences and permits issued under the Act, and make this register available for public inspection.

Part VI deals with monitoring and enforcement. Section 43 in this Part allows the Minister to list any published waste management standards as a recognised collection of standards for measuring due diligence under the Act. The Minister can designate public officers to assist in giving effect to the Act under s. 42, and (2) states that every police officer and environmental health officer is deemed to be an officer under the Act. Authorised officers have a number of powers that are outlined in subsequent provisions. Section 39 allows the officer to order the removal of any derelict vehicle, white goods or scrap metal to a facility if he reasonably takes into consideration a number of matters, such as whether the item seems likely to cause harm to human health, safety or the environment, or whether it reduces the amenities of a person who is not the owner of the item. Further sections speak of instances when the owner of such item can and cannot be identified. Authorised officers may also enter and inspect any waste management facility to confirm compliance with the Act, as well as stop and search ships or aircraft. A police officer may also stop and search any vehicle believed to be transporting waste to ensure existence of a permit and that conditions of the required permit are being complied with.

Duties / responsibilities of the citizen & Offences / penalties

In s. 16(4), if a person constructs a facility without the requisite approval under s. 15(1)(a), or fails to comply with conditions imposed with approval, or contravenes any order made, then he will be deemed to have committed an offence and will be liable to a penalty of two hundred thousand dollars (EC\$200, 000) or imprisonment for 2 years.

No person may operate a waste management facility without a waste management license, including the authority itself, according to s.19(1), although this is subject to s. 31, which deals with waste management during a state of emergency. If an individual is in fact found operating such a facility without the licence, then he will be liable to a fine of fifty thousand dollars (EC\$50,000) and imprisonment for 6 months, while a corporation will be liable to a fine of two hundred thousand dollars (EC\$200,000). Persons already operating waste management facilities

at the time of the commencement of the Act are required to apply for a licence as soon as possible. In addition, under s. 23(7), if a licensee fails to comply with any condition of a licence then he will be liable to the same penalty specified above, in s. 19(1). This is also subject to s. 31. If a person fails to retain the licence in a place where it can be inspected on demand by the Minister or authorised officer then he is liable to a fine of ten thousand dollars (EC\$10,000).

A person may not operate a business which involves the transport of waste unless he holds a waste haulage permit under s. 25(1), which is also applicable to the Authority. This is also subject to s. 31 and a person in contravention of these provisions will be liable to a fine of one hundred thousand dollars (EC\$100,000) and imprisonment for 12 months. The provisions do not apply to transportation of waste at a facility by the holder of a licence for that facility, transport of waste in a vehicle that weighs less than half a ton by a person carrying on a business, if the waste was generated in the course of other activities of the business, and transport of waste generated by activity in the vehicle in which the waste is being transported, or transport in other prescribed circumstances. In s. 26(7), a permit holder who causes or allows waste to be deposited at a location other than the facility, will be liable to a fine of fifty thousand dollars (EC\$50,000) and imprisonment for 6 months, unless it is allowed in the permit. The permit holder must also ensure that a copy of the permit is placed in or on a vehicle where it can be easily seen from the outside, and failure to do so makes an individual liable to a fine of ten thousand dollars (EC\$10,000). Furthermore, if a person drives a vehicle requiring a permit and such permit is not displayed, then he is liable to a fine of two thousand dollars (EC\$2,000).

A licence holder is liable to a fine of one hundred thousand dollars (EC\$100,000) and imprisonment for 12 months in s. 28(5) if his licence or permit has been cancelled or suspended and fails to secure waste, property or equipment, or if he/she fails to allow the collection of waste or to comply with any direction given as to the facility where waste must be deposited.

In the event of any actual harm to human health, safety or the environment caused through the failure of the licence or permit holder to exercise diligence in the transport or management of waste, then he is liable at the suit of any person injured for damages, and is also liable to the Crown for damages for loss to property and reimbursement of the government's expenses for alleviating harm to human health, safety and the environment. This liability also applies in times of emergency or accident. If waste is spilled as a result of contravention of the condition of adequately covering vehicles during transportation attached to every permit in s. 26(3), then the holder commits an offence with a penalty of twenty thousand dollars (EC\$20,000) and imprisonment for 3 months.

Each individual citizen has a number of duties under this Act, even if they are not involved in waste management and transport activities. Section 32 provides that a person may only dispose of solid waste in an appropriate trash receptacle, by delivering it to the holder of a permit for transportation to a facility, or taking it to a facility that is licensed for reception of that type of waste. If a person generates waste and then discards it in a manner contrary to this, then he will be liable to a penalty of twenty thousand dollars (EC\$20,000) and imprisonment for 3 months. This does not restrict the retaining of waste on premises owned or occupied by the person that has generated the waste, but yet is subject to the provisions of s. 38 that relate to waste generated in industrial, commercial and institutional operations, and to s. 40 that regulates disposal of used oil. A person may not deposit or cause to deposit any litter or waste in or on any national park, protected area, territorial waters, beach, foreshore, marine waters, river or river bank without lawful authority. He will be liable to a fine of fifty thousand dollars (EC\$50,000) and

imprisonment for six months. Furthermore, a person who disposes of waste in a way that may cause pollution of the environment or harm to human health will be guilty of an offence and liable to a fine of fifty thousand dollars (EC\$50,000) and imprisonment for 6 months.

Waste may not be imported into Grenada, except in certain cases such as waste generated on board an aircraft no more than 24 hours before landing, waste generated on board a ship generated after it left port, or any secondary resource imported under conditions prescribed by regulation for the purposes of any manufacturing process. If a person thus imports any waste other than previously stated, then he will be liable on indictment to a fine of four hundred thousand dollars (EC\$400,000) and imprisonment for 4 years or to a fine of fifty thousand dollars (EC\$50,000) and imprisonment for 6 months on summary trial if the waste is not hazardous waste. If the waste is hazardous waste, then a person is liable on indictment to a fine of one million dollars (EC\$1,000,000) and imprisonment for 10 years, or liable on summary trial to a fine of two hundred thousand dollars (EC\$200,000) and imprisonment for 6 months. Wastes that are classified as hazardous are listed in the First Schedule of the Act.

A person who is in occupation of a premises where waste is stored has the responsibility under s. 35(1) of storing the waste in containers that will prevent the escape of wastes, liquids or objectionable levels of odour, and to prevent the infestation of pests and vermin. The occupier must also make such waste available for collection if it is not disposed of on the property, and applies to all occupiers of all premises including domestic, retail outlets and roadside vendors. If a person does not store such waste in an adequate manner under 35(1), then he will be liable to a fine of ten thousand dollars (EC\$10,000) and imprisonment for 1 month. Section 36 governs public events and makes the person holding the public event responsible for providing adequate trash cans for the event and must ensure that litter left on the site or generated by the event is properly disposed of within 24 hours after the end of the event. Subsection refines this and requires that a person selling food or drink or any other item from a stall adjacent to and during an event must ensure that litter left within 5 metres of the stall be removed within 12 hours of the end of the event, and a person who sells similar items adjacent to a public road must ensure that litter within 5 metres of the stall is picked up by the end of the day. Failure to comply with these provisions makes a person liable to a penalty of ten thousand dollars (EC\$10,000) and imprisonment for 1 month.

Section 37 deals with liability for waste and states that if waste is moved to another premises with the consent of the owner to occupier, then ownership and possession of the waste passes to the new person in the absence of any agreement to the contrary. That person transferring such waste must ensure that the transfer is undertaken in such a manner that will prevent the risk of harm to human health, safety or the environment, and he is liable for any effects on human health, safety or the environment that results in the transfer. As previously mentioned, s. 38 deals with industrial, commercial, agricultural or institutional operations on a person's own premises. Institutional operations refer to a school, hospital, prison or similar non-commercial institution. It requires that the person make arrangements for the management of waste and must ensure that waste generated will not cause a risk to human health, safety and the environment. The sections delve into further detail and states that if an appropriate facility is not available in Grenada for managing a particular class of waste, then a person who conducts operations that generates waste will be responsible for the safe management of waste on the person's premises of the export of waste to an appropriate facility overseas.

If a person assaults or obstructs an officer in the course of his duty, then he will be liable to a fine of fifty thousand dollars (EC\$50,000) and imprisonment for 6 months. Prosecution for an offence under the Act or any regulations may be instituted by the planning authority, member of the police force or other person authorised in writing by the Minister. Most offences under this Act are summary offences and are to be taken as such unless otherwise stated, according so s. 44(2). Furthermore, any continuing offence under the Act or regulations can be charged as a separate offence for each day that the offence continues. It must also be noted that Regulations made by the Minister under s. 46 allows an offence to be punishable by a fine of two thousand dollars (EC\$2,000).

3.4.2 Litter Act

St. Vincent and the Grenadines

Current Act Litter Act, 1991, No. 15 of 1991

The Litter Act of St. Vincent and the Grenadines appears to be detailed and relatively comprehensive although its purpose is simply stated as “an Act for the regulation and control of littering in St. Vincent and the Grenadines.” The Act takes into account the various methods of littering as well as details the various areas in which littering can occur. Section 2, which deals with interpretation of terms used throughout the Act, defines “public place” as including⁵² any highway, wharf, jetty, sidewalk, public garden, park, beach, any waters to which the public has access without payment of any fee, forest land or airport, any other place to which the public has access that may be prescribed by regulations, or the territorial waters of St. Vincent and the Grenadines⁵³.

Bodies established / persons appointed under the Act

There is little mention of a Minister in this Act but s. 24 retains the power of the Minister to make regulation for the purpose of giving effect to the Act. Section 19(1) outlines the individuals that may be authorised officers under the Act such as every constable, every public health inspector, every forestry officer, and every harbour master while acting in the course of his duties in that harbour. Section 19(2) allows the Minister to appoint other persons that he may find appropriate to be officers. The functions of such authorised persons are found in s. 20 and s. 18 gives the officer the power to enter a premises at all reasonable hours. An officer or constable is empowered under s. 11(1) to seize any vehicle being used to litter a public place or litter a private place without consent, under s. 3 and 4.

The local authority has power under s. 15 of the Act to issue a notice requiring a person to remove litter when it is left in any public place or private premises which may contribute to the defacement or reduction in amenity or aesthetic value of the area. Penalties for non-compliance are discussed later. Section 21 requires that local authorities provide trash receptacles in an appropriate design and construction. The authority also has the power to *inter alia*, designate areas where the litter receptacles are to be located, and may determine the nature any type of litter which can be deposited in a receptacle or litter collection area.

⁵² This list is not exhaustive.

⁵³ The public places listed are found in subsections (a) to (h)

Offences / penalties

The majority of the Act is listed under the heading of “Offences” and differentiates between littering in public and private places. Section 3, along with making it an offence to dump or leave litter in a public place, also prohibits erecting or displaying anything in a public place or building, wall, fence or structure that adjoins a public place which will in some way contribute to the defacement of such structure. If an individual who is employed or recruited by another person and acts on behalf of him infringes s.3(b), then the employer will be liable unless he can prove that the act was done in contravention of his intentions. Furthermore, he must verify that if the act was done in the manner that he prescribed, it would not have constituted an offence under the Act. A person has a defence if he can show that his action was either permitted by law or that it was with the authorization of the owner, occupier or person in charge of the structure.

The Act also makes it an offence in s.4 for littering in private places without the owner or occupier’s consent. The Act also deals with specific types of litter. Section 5 prohibits the intentional breaking of glass or bottles in a public place without authority or consent by any person, public body or authority having management of the public place. Furthermore, it is an offence for a person to transport along a road or motorway a vehicle or truck carrying any material or substance likely to fall or blow off because it is not properly covered or well secured. This extends to marine pollution as well since a person may not deposit any waste, effluent or substance likely to cause harm to or contaminate the marine environment in the territorial waters. Any person in contravention of these provisions will be liable on summary conviction to a fine of not more than one thousand dollars (EC\$1,000) or to imprisonment for no more than 6 months, and in the case of a body corporate, a fine not exceeding five thousand dollars (EC\$5,000).

Section 7 makes it a requirement that the owner of any bus, taxi, ship, or boat shall provide sufficient trash receptacles while working, and if a person contravenes such provisions, he will be liable to a maximum fine of two thousand dollars (EC\$2,000). Section 8 also provides for a person who knowingly allows, aids or abets a person in any of the above offences, and allows an action to be brought against him either jointly with the principal offender or singularly and is liable on conviction to the same fine as the principal offender. If a person is convicted of a second similar offence, then he is liable to an increased penalty of double the maximum fine provided for the offence. If, under s. 15 a person does not comply with the notice issued by the Authority requiring him to remove litter from a public or private place, then he will be liable under s. 15(4) to a fine of no more than two thousand dollars (EC\$2,000) or imprisonment for 6 months or both, and an additional penalty of no more than two hundred dollars (EC\$200) for every day that the offence continues.

If a person wilfully obstructs an authorised officer under s. 19 in the course of his duty, refuses to provide information or gives false information, or fails within reasonable time to comply with the requirement provided by the officer, then he will be guilty of an offence. He may also be guilty of the offence if he impersonates an officer or if he threatens or uses violence, assaults or intimidates an authorised officer acting in the course of his duties. Furthermore, in s. 18, where a person hinders, molests, interferes or fails to do anything that he is required to do by the officer, then he is liable to a fine of no more than two thousand dollars (EC\$2,000) or to imprisonment for a maximum of 6 months, on summary conviction in a Magistrate’s court.

The Act stipulates that the Court take into consideration a number of factors when sentencing, which are expounded on in s. 17. For offences that do not have a specific penalty prescribed, the

Act contains a general penalty clause which makes a person liable to a fine of no more than five thousand dollars (EC\$5,000), or imprisonment with or without hard labour for no more than 6 months or to both the fine and imprisonment and may additionally be liable to a maximum fine of two hundred dollars (EC\$200) for every day that the offence continues. In addition to this, if convicted under certain listed offences, the offender may be required to clean up and remove the litter from the area. This may be prescribed by the Court and will be done under the supervision and to the satisfaction of a person nominated by the Court. Section 14 also allows the Court to require the offender, in addition to a penalty, to pay the authority responsible for management and control of the public place such sum as may be appropriate for the removal of litter and will be deemed to be a civil debt. Section 23 deals with punishment without prosecution for offences listed in s. 3, which deals with littering in a public place. Lastly, s. 22 of the Act prohibits a person from interfering or tampering with a trash receptacle and makes him liable on summary conviction to a fine of five hundred dollars (EC\$500) if this is contravened.

Grenada

Current Act

Abatement of Litter Act, No. 10 of 1990

No. 35 of 1973

Cap 1: 1990 Revised Laws of Grenada

The Abatement of Litter Act was promulgated in Grenada to control and punish the depositing of litter. The Act defines “person” as a body corporate and an unincorporated association and a partnership. Section 3 of the Act deals with offences connected with litter, and s.3(1) prohibits a person from throwing down, dropping, leaving, or depositing any thing that will cause, contribute or lead to the littering of any open air place where the public is allowed to make use of without payment, or on any premises or Government land. If a person is found guilty of doing so, then he is liable on summary conviction to a fine of one thousand five hundred dollars (EC\$1,500) and to imprisonment for six months. In addition, in the Act if a person causes another person to breach the provisions outlined, then he is also liable on summary conviction to a fine of one thousand five hundred dollars (EC\$1,500) and to imprisonment for six months. However, it is a defence to prove that the act of littering was authorised by law. If it is a case of an employee, he must prove that the act was done on the direction of his employer who is the owner or occupier, or another person or authority that has control over the premises where the act was committed. In terms of government owned land, it is a defence to prove that the government or owner or occupier of the land had undertaken responsibility for the removal of the litter if the person either entered into a contract or was an invitee. A further penalty of three thousand dollars (EC\$3,000) and imprisonment for six months is attached for a second offender under the Act.

The Act gives the Sanitary Authority established under the Public Health Act, Cap 263 some amount of power. If littering occurs on government land, the Authority may give notice to the individual that committed the act or to the owner or occupier of the land, requiring him to remove any litter on the premises during a specified time of no less than 7 days to the Authority’s satisfaction. Further methods of notice are discussed, and if an individual does not adhere to this notice, then he is liable on summary conviction to a fine of one thousand five hundred dollars (EC\$1,500.00) and an additional three hundred dollars (EC\$300.00) for every day that the litter remains after conviction. Section 7 however allows the court the power to fix a reasonable period for compliance from the date of conviction and during this period a fine must

not be imposed. The Sanitary Authority may also enter the premises and remove such litter and may recover expenses incurred as a civil debt by the person who committed the act. In order to achieve this, s. 6 grants the Authority the power to enter a premises at all reasonable hours provided that 24 hours notice is given to the owner or occupier of the premises and the relevant documents are obtained. Issuing of warrants is also addressed, and any warrant issued will continue in force until the purpose for which the warrant was created is fulfilled. A person who interferes with, hinders, prevents or attempts to prevent any person from doing any act that they are authorised to do will be guilty of an offence and liable on summary conviction to a fine of one thousand five hundred dollars (EC\$1,500.00) and imprisonment for six months.

3.5 Environmental Health

St. Vincent and the Grenadines

Current Act	Environmental Health Services Act, No. 14 of 1991
Current SROs	Environmental Health Services (Waste Disposal Fees) (Amendment) Regulations, No. 39 of 1997
	Environmental Health Services (Waste Disposal Fees) Regulations, No. 13 of 1997
	Environmental Health Services (Waste Disposal Fees) Regulations, No. 2 of 1997
	Environmental Health Services (Amendment) Act, No. 34 of 1996

The Environmental Health Services Act was enacted in 1991 with the aim of making provision for the conservation and maintenance of the environment in the general interest of health, particularly in relation to places that are frequented by the public. Part I of the Act deals solely with definitions, defining phrases such as “liquid waste” and “solid waste.” It is pertinent to note that this Act covers a number of environmental issues which are now more specifically dealt with in newer Acts, such as the Waste Management Act 2000.

Duties of the Minister / Bodies established under the Act

The Minister has the responsibility under s. 3(1) to promote and protect public health by ensuring the conservation and maintenance of the environment. Section 3(2) elaborates by stating that the Minister is specifically responsible for regulating, monitoring and controlling both the actual and likely contamination of the environment from any source. He must also ensure compliance with all related activities and establish standards that are necessary for a clean and healthy environment. The Act also establishes both an Environmental Health Board and Committee. The Board is responsible for advising the Minister on any matter relating to environmental health, and the Minister may appoint committees to assist in advising him on any specific matter relating to environmental health.

The Minister has power under s. 31 to make Regulations relating to a wide range of matters, especially the protection of water from infection and pollution by a number of listed actions. A Local Authority may also make by-laws dealing with public health which will have the effect of law after approved by Cabinet and published in the Gazette.

This Act is pivotal as it distinguished environmental health issues from public health issues and created an Environmental Health Division of the Public Health Department. This is found in s.6 which further creates the position of Chief Environmental Health officer, who is meant to act as the principal technical advisor and subject to directions by the Minister, is responsible for the administration and enforcement of the Act, and must maintain constant contact with other relevant agencies. The functions of the Divisions are outlined in s.7(1) and include investigating problems and implementing preventative and remedial measures for environmental pollution, as well as the management and disposal of solid, liquid and gaseous wastes, food and drinks management, nuisance, rodents, insects and general sanitation. The Chief Environmental Health officer also has the power to issue orders. Furthermore, the Chief officer along with the Chief Medical officer and any other person authorised by the Minister all have the power of entry onto a premises for reasons outlined in s. 15(1).

Health officers are also given responsibility. They are to notify the Chief Environmental Health officer if they are notified of any offensive matter, pollutant or contaminant on board a vessel in any port. The Chief Officer may then order the unloading of the vessel and specify the manner in which the matter must be stored, or may simply order its destruction.

Part III deals with environmental health matters, such as the requirement for a certificate of approval for certain matters. Such matters include constructing, altering, extending or replacing any plant, structure, equipment or thing that may emit or discharge a contaminant or pollutant into the environment, or altering a process or rate of production so that a pollutant or contaminant may be emitted into the environment. Further sections detail the procedure for obtaining the certificate.

Duties / Responsibilities of the citizen

Section 11 begins by prohibiting a person from either creating or allowing unsanitary conditions on their premises, or some activity which harbours or breeds rodents, insects, termites or other vermin. Subsection 2 further prevents a person from dumping on, leaving or depositing refuse in any public place or space. This section coincides with the Litter Act 1991, which also prohibits dumping in a public place. Any person who is an owner or occupier of a premise is also required to keep the area between the front of his premises and the road clean. Section 11(6) also prevents a person from transporting, treating or disposing of solid and liquid wastes on or from any premises except in accordance with Regulations. This section is also consistent with the more recent Waste Management Act 2000. If a person deposits, emits or discharges any pollutant into the environment or is responsible for a pollutant or contaminant being discharged into the environment, then he is required to notify the Chief Environmental Health Officer.

If a person is served with a notice under s. 16 requiring certain works to be executed, he has the ability to appeal to a Judge in Chambers under s. 17 on grounds specified, or may appeal to the Magistrate's Court in s. 18. The remainder of these sections detail time limits and the correct procedure for appealing.

Offences / Penalties

A person is charged with an offence if he emits, discharges or permits any pollutant or contaminant into the environment. Furthermore, if a person assaults, resists or hinders an officer from carrying out his duty, or knowingly makes a false or incorrect statement to an officer in the course of his duties, then he is also guilty of an offence. Section 22(1) contains a general

provision that states that if a person fails to comply with any of the provisions of the Act or Regulations he is deemed to have committed an offence and will be liable on summary conviction to a fine of no more than five thousand dollars (EC\$5,000) or imprisonment no more than 12 months or to both when there is no specific penalty provided. In terms of second or subsequent offenders, a fine not exceeding ten thousand dollars (EC\$10,000) and a term of imprisonment not exceeding 12 months is imposed. When the offence is continuous, then the offender is liable to an additional fine no more than five hundred dollars (EC\$500) for every day that the offence continues after conviction, and if the offender fails to pay, then he is liable to imprisonment for 6 months. Subsequent sections deal with offences by a body corporate as well as the liability of an employer. It must be noted that s. 25 imposes a limitation on prosecutions and states that a prosecution under the Act may be instituted at any time within 12 months from the time the issue arose, or the offence was committed, whichever was later.

Section 31(3) imposes a penalty of no more than five thousand dollars (EC\$5,000) or imprisonment for 12 months, and a fine of one thousand dollars (EC\$1,000) for each day that the offence continues if a person is in contravention of any Regulations prescribed by the Minister. In addition, if a person is in breach of their responsibility under s. 34(1) to refrain from disclosing any information acquired in the course of his duties, except in certain circumstances, then he will be liable to a fine of no more than fifteen thousand dollars (EC\$15,000) on conviction or imprisonment not exceeding two years or both the fine and imprisonment.

3.6 Air Pollution

St. Vincent and the Grenadines

Current Act	The Montreal Protocol (Substances that Deplete the Ozone Layer) Act, No. 49 of 2003
Current SROs	Montreal Protocol (Substances that Deplete the Ozone Layer) Regulations, SRO 14 of 2005
International Convention	Montreal Protocol on Substances that Deplete the Ozone Layer, 1987 (and its amendments in 1990, 1992, 1995 and 1997)

The Montreal Protocol (Substances that Deplete the Ozone Layer) Act was established in St. Vincent and the Grenadines in 2003 in an attempt to fulfil obligations made under the Montreal Protocol on Substances that Deplete the Ozone Layer, which is a protocol to the 1985 Vienna Convention for the Protection of the Ozone Layer, and both were acceded to in 1996 by St. Vincent and the Grenadines. The Vienna Convention is largely a framework Convention and the Montreal Protocol adds flesh to these Articles. It is globally regarded as a successful international instrument. It sets specific targets for reducing and eliminating consumption as well as production of ozone depleting substances. There are further Articles that deal with supervision and compliance, transfer of technology and control of trade with non-parties. The Annexes to this Protocol list controlled substances and make special provision within its text for CFCs, Halons and other fully halogenated CFCs, among others.

The Act itself is notably short, as it does not introduce any unusual provisions and merely states in s. 3 that the Articles of the Montreal Protocol are to have the force of law in St. Vincent and the Grenadines but are subject to any reservations that may be communicated by the state. The entire text of the Protocol is located in the First Schedule. Section 4 gives the Minister to make subsequent regulations, and such regulations were established in 2005. The Regulations contain

more detail and Regulation 3(1) restricts a person from importing an ozone depleting substance into the state unless the person is a registered importer holding a valid ozone depleting substance licence issued under the regulations. If a person is found contravening this regulation, then he is guilty of an offence and liable to a fine no greater than five thousand dollars (EC\$5,000) and the substances imported will be liable to forfeiture under Regulation 13.

A National Ozone Unit is established within the Ministry of Health and the Environment and persons may apply to register as an importer of an ozone depleting substance and pay the requisite fee. If the Ozone Unit feels that the individual is appropriate to be registered, then the person will be granted a certificate of registration as set out in form 2 in the Second Schedule. Additionally, a registered importer may apply to the Minister for ozone depleting substance licence which is issued for a limited quantity of the ozone depleting substance determined by the Minister in accordance with the quota issued by the Ozone Unit under Regulation 6. The Ozone Unit is required to publish a quota for the total amount of ozone depleting substances in ozone depleting potential units that may be imported into St. Vincent and the Grenadines together with the upper limit of the quantity of ozone depleting substances that each registered importer will be allowed to import each year. Further regulations deal with restrictions on importing certain equipment as well as standards for import of equipment. Regulation 11 requires that adequate records be maintained by all registered importers to record their importation of ozone depleting substances. Regulations 13, 14 and 15 deal with forfeiture of ozone depleting substances, equipment imported and retrofitted, and forfeiture of substance or equipment not labelled respectively. The First Schedule of the Regulations contains a list of ozone depleting substances and must be thoroughly examined. Schedule 2 deals with the proper format of all forms related to the Regulations, while the Third Schedule lists the requisite fees for registration and applications.

3.7 Councils/Bodies

St. Vincent and Grenadines and Grenada have various councils and corporate bodies whose central purposes vary but deal with areas of environmental protection and sustainable development. Although the following Acts do not have environmental provisions for the citizen to abide by, it is necessary to include these since it will give an idea of the bodies that work along with the government to provide data that can lead to more informed and efficient implementation of legislation.

3.7.1 National Trusts

St. Vincent and the Grenadines

Current Act	Saint Vincent National Trust Ordinance, No. 32 of 1969
--------------------	---

The St. Vincent National Trust is established by an Ordinance of the same name as a body corporate with a number of objects and powers. The Trust has a number of objects that are listed in s. 4 (a)-(k) and have great consideration for the environment. This is exemplified in provisions that state the objects of the Trust to conserve, acquire and hold land, buildings and other property and to list the flora and fauna in areas of natural beauty for the purpose of conservation. The Trust may also locate, restore and conserve areas of beauty including marine zones within the territorial waters of St. Vincent and to protect and conserve the natural life that exists, and may further locate, restore and conserve buildings and objects of archaeological, artistic, historic,

scientific or traditional interest. Public involvement is also significant, since another object of the Trust is to educate the public in the historical assets and natural amenities of St Vincent and the Grenadines. The remainder of the Act outlines the composition of the Trust, its membership and lists powers of the Trust that allow them to acquire or purchase property, enter into and perform contracts and to sell, demise, convey, exchange or otherwise dispose of any land. Being a body corporate, the Trust may sue and be sued and is managed by a Board of Trustees, which may occasionally make rules for regulating the operation of the Trust and other matters relating to its management. The Administrator may also make, amend and revoke Regulations for protecting and controlling Trust property and other related matters and may also prescribe penalties for fines not exceeding five hundred dollars (EC\$500) or imprisonment for no more than 3 months for any offence that may be punishable on summary conviction under s. 17.

Grenada

Current Act

National Trust Act, No. 20 of 1967

Cap 207: 1990 Revised Laws of Grenada

[originally entitled Grenada National Trust Act but was renamed on 1990 revision]

The Grenada National Trust Act is the legal instrument that establishes the Grenada National Trust as a body with limited liability. The purposes of the Trust are listed in the Preamble, which indicates its interest in maintaining Grenada's heritage by preserving places that are historically or architecturally valuable or areas that have national beauty. The objectives of the Trust are found in the Preamble, and provisions include making the public aware of the value and beauty of Grenada's heritage and acting in an advisory capacity and pursuing a policy of preservation. In an environmental sense, the Trust also attempts to promote and preserve areas of beauty or natural or historical interest, their natural aspects and features, as well as animal, plant and marine life for the citizens of Grenada.

Current Act

National Heritage Protection Act, No. 18 of 1990

Cap 204: 1990 Revised Laws of Grenada

In Grenada, the National Heritage Protection Act was created to protect Amerindian art work and Pre-Columbian artefacts and archaeological remains. The Schedule identifies all the Crown Lands located at Pearls in the Parish of St. Andrew which are deemed protected areas for the purposes of the Act.

Powers & Responsibilities of the Minister

Section 3 confers responsibility on the Minister for matters that deal with the cultural heritage and further gives him power to add any area of Grenada to the Schedule which he feels warrants protection. He may also issue licenses to citizens that will allow them to extract or excavate for, purchase, sell or otherwise enter into any agreement or transaction that relates to Amerindian artwork, Pre-Columbian artefacts or archaeological remains after consultation with the Grenada National Trust. Finally, the Minister may appoint officers to enforce the Act, which will be known as National Heritage Protection Officers.

Bodies established under the Act

Although the Act does not establish any regulating bodies, reference is made to the Grenada National Trust, established under Act No. 20 of 1967, Cap 207.

Offences and Penalties

Section 4 prohibits excavation or extraction of any Amerindian artwork, Pre-Columbian artefact or archaeological remains without a licence. If a person is found guilty of doing so, he will be liable on summary conviction to a fine of five thousand dollars (EC\$5,000.00) and imprisonment for two years. Illegal trading is also regulated by s. 5, which makes it an offence to purchase, sell or enter into any transaction in respect of any Amerindian artwork, Pre-Columbian artefact or archaeological remains and is liable on summary conviction to a fine of seven thousand dollars (EC\$7,000.00) and imprisonment for three years. If a person is convicted for a second offence under ss. 4 or 5, then he is liable to a fine of ten thousand dollars (EC\$10,000.00) and imprisonment for four years. Furthermore, the court may order the forfeiture of any Amerindian artwork, Pre-Columbian artefact or archaeological remains that may be seized by a police officer or national heritage protection officer and such items will be lodged at the National Museum.

3.7.2 Science and Technology

Grenada

Current Act(s) **Science and Technology Council Act, No. 28 of 1982**
Cap 298: 1990 Revised Laws of Grenada

The Science and Technology Council Act is meant to establish a body corporate known as the Science and Technology Council. The Council has the responsibility for a number of matters that pertain to science and technology, both essential components of environmental protection and sustainable development. The functions of the Council include making recommendations to the Government for a national policy and plan for science and technology and establishing a system of science and technology planning, especially to the global transfer of technology and further development of indigenous technology. Other functions include coordinating and monitoring scientific and technological projects as well as initiating and evaluating projects and programmes. The Council must also work along with the Grenada Bureau of Standards to assist in the standardization and quality control activities at the national level. The Act also gives the Council certain allowances when performing its functions, such as access to Government information relevant to planning, implementation and progress of scientific and technological programmes. The Council may also advise on budgetary allocations to these programmes, designate resource personnel, and may also apply for as well as receive funding from both local and external sources. The remainder of the Act deals with the appointment of the Director of the Council and staff, and the borrowing powers, funds, application of such funds and records of accounts and transactions. The final provision allows the council, with the permission of the Minister, to create rules that will help to implement the provisions of the Act.

3.7.3 Economic and Social

St. Vincent and the Grenadines

Current Act **National Economic and Social Development Council Act, No. 29 of 2003**

The National Economic and Social Development Council Act was created in order to establish a council known as the National Economic and Social Development Council. The Act lists the functions of the council, and although most deal with economic and social aspects, s. 4(1)(a)

states that one of its objects is "...assessing the interaction of the economy and the environment." Another important object of the council deals with development, more specifically to analyse and facilitate discussions and to advise different economic and social groups on such issues that are characteristic of small island developing states. A general object of the council as listed in s. 4(2)(a), which is to act as an advisory body to the Cabinet on social and economic policy issues in an attempt to promote sustainable growth and development. There are a few environmentally focused functions of the council, one of which is to provide policy support in the creation of development policies and strategies in relation to *inter alia* environmental resource management and sustainable development. The council must also provide support to the Cabinet to establish policies that assist in preparing strategic environmental protection plans in order to ensure the efficient use, protection and conservation of the State's resources. In addition, the council may also review existing integrated developmental policies that reflect changing environmental circumstances and development perspectives and inform the Cabinet on the outcome of such reviews.

The council must consist of representatives from all ministries and civil society organizations, including representatives from the Ministry of Health and the Environment, Ministry of Agriculture and Fisheries, the National Farmers' Union and from the groups representing fisherfolk, the elderly and youths. The remainder of the Act deals with the procedure of meetings, appointment and renunciation of members, funds and their application and the auditor's report. Thus, the establishment of the Council is significant since it indicates that there is national acceptance that the economy and society are intertwined with the environment and the concept of sustainable development.

3.8 Other islands

3.8.1 Mustique

Current Act	Mustique Company Limited Act, No. 48 of 2002
Amendments	Mustique Company Limited (Amendment) Act, No. 25 of 2004
Previous/ Repealed Acts	Mustique Company Ltd. Act, No. 62 of 1989

The island of Mustique is well known as a privately owned island as well as a conservation area by a number of shareholders of The Mustique Company. Although Mustique is part of the Grenadines Islands and has a small population. It has its own Act that deals with matters relating to Mustique specifically. However, section 24 ensures that the laws of St. Vincent and the Grenadines apply to Mustique in the same manner that they apply to the other islands. This keeps Mustique under the ultimate jurisdiction of St. Vincent, but its individual Act allows for matters associated with a privately owned island and conservation area to be addressed adequately.

In the Act, the Mustique Company has a number of responsibilities to fulfil. Since the Mustique Company owns the entire island and it is inhabited, they also have a duty to manage, develop and maintain infrastructure and provide services that are normally the responsibility of public authorities. Infrastructure includes but is not limited to the airport, jetty, roads, and recreational as well as conservation areas. The Company also has the duty to maintain and develop the Mustique Conservation Area. An important means of doing so is to create a Conservation Zoning

Plan, which is found in Appendix VII of the Act. The Plan covers the period from 2003-2019 and the Company is responsible for its implementation.

Section 3 of the Act outlines the obligations of the Company in respect of the Conservation Area, and mainly stipulates that the Company shall protect and improve the natural environment of Mustique. The methods in which this must be done are described in subsections (a) – (h), which include but are not limited to the conservation of its surroundings, such as beaches and landscape, as well as flora, fauna and aquatic life such as coral and fish. Other provisions deal with the control and prevention of various forms of pollution such as air and noise and pollution caused by improper waste disposal.

4 DISCUSSION AND CONCLUSIONS

The Grenadines Islands have the potential for great environmental advancement. Their regional and international commitments hold the key for greater harmonization of their legislation. Such commitments can also provide a forum for meaningful and fruitful discussion and comparison of their treatment of environmental issues. In more recent legislation, emerging patterns indicate that greater emphasis is being placed on environmental considerations. Although this is a significant step in a promising direction, it is imperative that such steps continue. As mentioned throughout this document, creating environmentally conscious legislation in Grenada and St. Vincent and the Grenadines is the first of many challenges to be met.

Informal interviews conducted as well as personal experience have presented a myriad of problems when dealing with legislation throughout these islands. A significant and potentially detrimental issue is the lack of coordination between many Ministries and Departments. Coordination is necessary and is exemplified in Grenada where the country's Forestry Act currently falls under both the Department of Forestry and the Ministry of Tourism. Although the relative remoteness of the islands forces dispersal of human resources, having relevant officials to distribute, make available or even enforce the laws in each island is an essential element in the quest for good governance. In addition, gaining and maintaining public interest has emerged as a critical factor in these islands.

The comprehensive government website of St. Vincent and the Grenadines⁵⁴ must be noted, which contains digital copies of some environmental legislation as well as printable copies of application forms for various activities. As the world enters a new digital age, the availability of electronic documents represents a significant step towards this era.

Since these islands are all located in close proximity, disasters that occur in one state can have an effect of the same magnitude on neighbouring islands. Environmental disaster preparedness can become more efficient if both parties form an alliance to combat and deal with possible disasters. This will not only assist in creating a comprehensive plan, but will also deal with matters such as liability and will clearly identify responsibilities of each parties. These countries have relatively small populations and thus can tackle environmental issues on a more personal level. It is possible to make each citizen feel that they have a personal responsibility to the state of the environment. If successful, the individual may no longer feel like the proverbial 'needle in the

⁵⁴ <http://www.gov.vc>

haystack' whose ecological footprint means nothing on a national and even more so, global scale.

It is therefore hoped that this research has provided the Grenadines Islands with a worthwhile guide to environmental legislation. It is now up to each citizen to take the initiative to keep abreast with the evolvement of their country's environmental legislation and to comply with all stipulations, regardless of weak penalties or minimal enforcement. Such actions not only represent each citizen's desire to live in a society free of environmental hazards and ecological poverty, but also provides hope that citizens will continuously be able to restore, maintain and improve the health and benefits of the environment for present and future generations.

5 REFERENCES

- Anderson, Winston. 2002. Environmental legislative and judicial developments in the English-Speaking Caribbean countries in the context of compliance with Agenda 21 and Rio Agreements. Mexico: United Nations Environment Programme.
- Antoine, Rose-Marie Belle. 1999. Commonwealth Caribbean Law and Legal Systems. Great Britain: Cavendish Publishing Ltd.
- Birnie Patricia, and Boyle, Alan. 2002. International Law and the Environment, Second Edition. New York: Oxford University Press.
- Culzac-Wilson, Lystra. 2003. St. Vincent and the Grenadines Report to the Regional Consultation on SIDS Specific Issues.
- Government of Grenada. Ministry of Health, Social Security, the Environment and Ecclesiastical Relations. 2005. National Environmental Policy and Management Strategy for Grenada. Government of Grenada Printery.
- Government of Grenada. 2000. National Biodiversity Strategy and Action Plan. Grenada, 2000.
- Homer, Floyd and Shim, David. 2004. St. Vincent and the Grenadines Environmental Management Strategy and Action Plan 2004-2006. St. Vincent and the Grenadines: Canadian International Development Agency (CIDA).
- Malanczuk, Peter. 1997. Akehurst's Modern Introduction to International Law. Great Britain: Routledge Press
- VanderZwaag, David, Doelle, Meinhard, Rolston, Susan and Chao, Gloria. 2001. ENCAPD Project Review of Multilateral Environmental Agreements and Documents.
- Websites
- BirdLife International 2004. Amazona guildingii. IUCN 2006. 2006 IUCN Red List of Threatened Species. www.iucnredlist.org (Accessed October 06, 2006).
- BirdLife International 2004. Chondrohierax uncinatus. IUCN 2006. 2006 IUCN Red List of Threatened Species. <http://www.iucnredlist.org/search/details.php/49518/summ> (Accessed October 09, 2006).
- BirdLife International 2004. Falco peregrinus. In: IUCN 2006. 2006 IUCN Red List of Threatened Species. <http://www.iucnredlist.org/search/details.php/49518/summ> (Accessed November 01, 2006).

- BirdLife International 2004. *Leptotila wellsi*. In: IUCN 2006. 2006 IUCN Red List of Threatened Species. <http://www.iucnredlist.org/search/details.php/49310/summ> (Accessed October 06, 2006).
- CIA the World Factbook: Grenada. <http://www.cia.gov/cia/publications/factbook/print/gj.html> (Accessed: April 27, 2006)
- CIA the World Factbook. St. Vincent and the Grenadines. <http://www.cia.gov/cia/publications/factbook/print/vc.html> (Accessed: April 27, 2006)
- Government of St. Vincent and the Grenadines. Agriculture – Plant Protection and Quarantine. <http://gov.vc/Govt/Government/Executive/Ministries/Agriculture&Fisheries/Agriculture/SRD/AgricultureSci.asp?z=86&a=277> (Accessed September 03, 2006)
- Government of St. Vincent and the Grenadines. Agriculture- General Information. <http://gov.vc/Govt/Government/Executive/Ministries/Agriculture&Fisheries/Agriculture/SRD/AgricultureSci.asp?z=86&a=272> (Accessed September 03, 2006)
- Government of St. Vincent and the Grenadines. Forestry Information and Factsheet. No. 1 (2003): 1. <http://gov.vc/contentmanager/articlefiles/3609-Forestry%20fact%20sheet1.pdf> (Accessed: August 25, 2006)
- Government of St. Vincent and the Grenadines. The Legal System. http://gov.vc/govt/about_us/legalsystem.asp (Accessed: August 25, 2006)
- Henderson, R. 1996. *Chironius vincenti*. In: IUCN 2006. 2006 IUCN Red List of Threatened Species. <www.iucnredlist.org>. (Accessed October 07 2006).
- International Maritime Organization. International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78) http://www.imo.org/Conventions/contents.asp?doc_id=678&topic_id=258#2 (Accessed September 27, 2006)
- International Phytosanitary Portal. <https://www.ippc.int/IPP/En/default.jsp> (Accessed July 23, 2006)
- Nature Conservancy: Grenada Pledges to protect its future. <http://www.nature.org/exclude/print.php> (Accessed)
- Organisation of Eastern Caribbean States. Eastern Caribbean Supreme Court. http://www.oecg.org/inst_ecsc.htm (Accessed: May 05, 2006)
- Organisation of Eastern Caribbean States. Mission and Objectives. http://www.oecs.org/about_mission.htm (Accessed November 02, 2006)
- UNEP Caribbean Environmental Programme. Convention and Protocol Status: Seven Key Multilateral Agreements for the Wider Caribbean Region. <http://www.cep.unep.org/law/cartstatus.html> (Accessed: June 23, 2006)

6 APPENDICES

6.1 Appendix 1: Popular International Conventions to which the Grenadines are a party

Convention	St. Vincent & the Grenadines	Method	Grenada	Method
BIODIVERSITY, FORESTRY & WILDLIFE				
1992 Convention on Biological Diversity (CBD)	03 June, 1996	Accession	03 December, 1992	Signed
			11 August, 1994	Ratified
2000 Biosafety Protocol	27 August, 2003	Accession	24 May, 2000	Signed
			05 February, 2004	Ratified
1973 Convention on International Trade in Endangered Species of Flora & Fauna (CITES)	30 November, 1988	Accession	30 August, 1999	Accession
2000 Specially Protected Areas and Wildlife (SPA) Protocol	26 July, 1991	Signed / Ratified	-	-
CLIMATE CHANGE				
1992 United Nations Framework Convention on Climate Change (UNFCCC)	02 December, 1996	Ratified	03 December, 1992	Signed
			11 August, 1994	Ratified
1997 Kyoto Protocol	19 March, 1998	Signed	06 August, 2002	Ratified
	31 December, 2004	Ratified		

1987 Montreal Protocol	02 December, 1996	Accession	31 March, 1993	Accession
1985 Vienna Convention on Substances that Deplete the Ozone Layer	02 December, 1996	Accession	31 March, 1993	Accession
MARITIME & FISHERIES				
1982 United Nations Convention on Law of the Sea (UNCLOS)	1 October, 1993		25 April, 1991	
Cartagena Protocol	11 July, 1990	Ratified/Acceded	23 March 1983 17 August 1987	Signature Ratified/Acceded
1986 Oil Spills Protocol	11 July, 1990	Ratified/Acceded	24 March 1983 17 August 1987	Signature Ratified / Acceded
1973 International Convention on the Prevention of Pollution from Ships, (MARPOL)				
Land Based Sources (LBS) Protocol	-	-	-	-