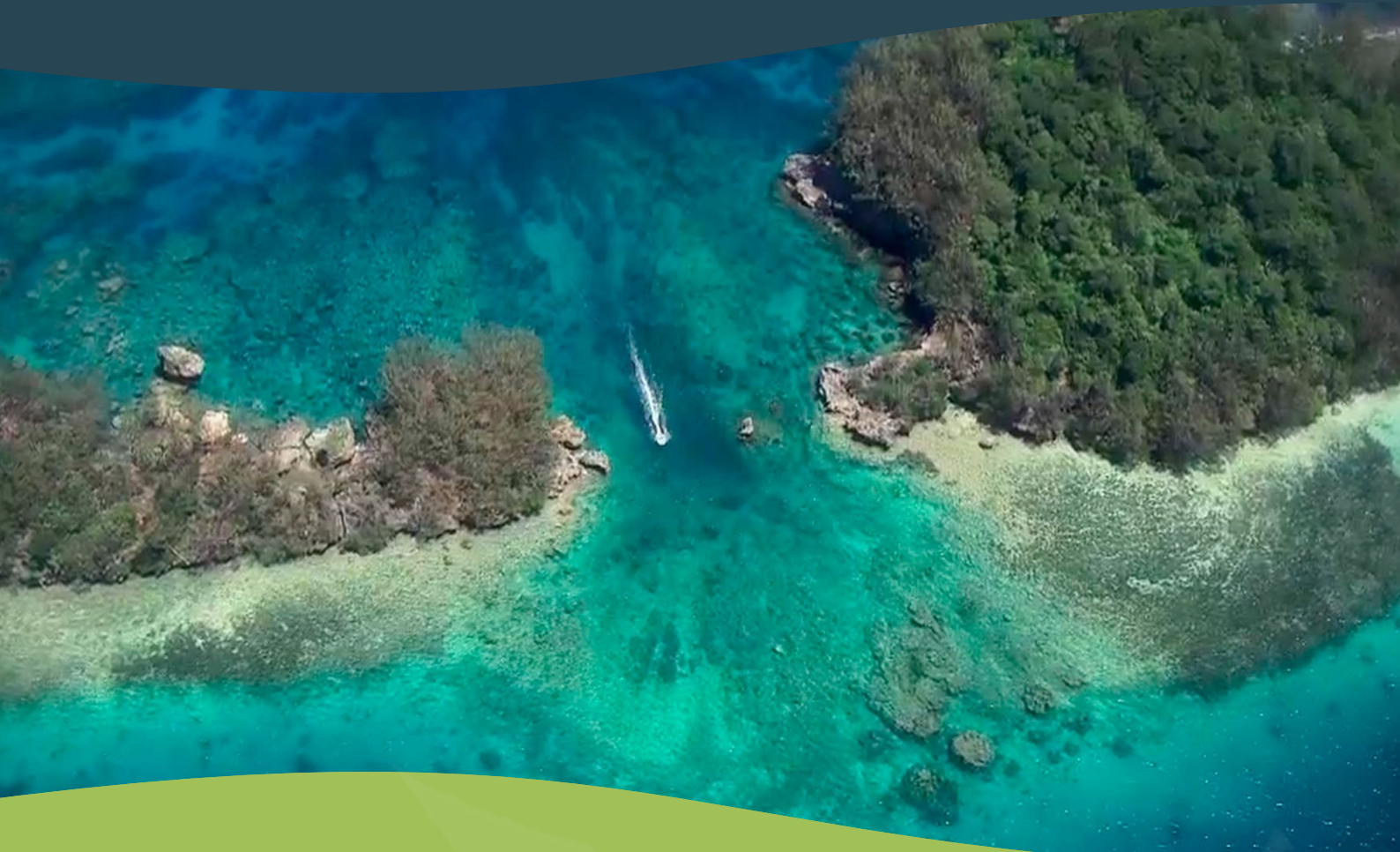




Assessment of Legislative Frameworks Governing Waste Management in Tonga



November 2020



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Our vision: A resilient Pacific environment sustaining our livelihoods and natural heritage in harmony with our cultures.

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About this Report

Sources of Information



Publicly available online resources about waste management laws in the participating countries (e.g. PacLII, EcoLEX, SPREP, InforMEA and FAOLEX, as well as the websites of government departments and other agencies administering waste and other environmental laws in the participating countries)



Qualitative information derived from interviews (remote and face-to-face) with in-country stakeholders



Additional information on legislation or pipeline initiatives identified by in-country contacts



An online survey sent to in-country participants requesting information on waste laws in their countries and their implementation, administration, and enforcement

In Tonga, interviews were conducted remotely with participants from government departments, agencies and contractors addressing issues of environmental protection, waste management, legal matters, as well as the private sector and NGOs.

Additional interviews were conducted with external consultants and SPREP staff working on specific programs relevant to the Waste Legislative Review.



Available online sources do not always contain the most up-to-date legislation or may be incomplete. Where possible, the UoM team drew on contacts with parliamentary libraries in the participating countries to source more recent legislation. However, it is not possible to say with certainty that all relevant legislation, or the most current versions, were identified in the desktop review.

For identifying proposed legislation, the UoM team relied on an online survey sent out to 110 in-country contacts in the participating countries (with a 21% response rate), as well as interviews with in-country contacts in the Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, Niue, Palau, Papua New Guinea, the Republic of the Marshall Islands, Samoa, the Solomon Islands, Timor-Leste, Tonga, Tuvalu, and Vanuatu.

Introduction

This assessment has been prepared by the *Secretariat of the Pacific Regional Environment Programme's* (SPREP) EU-funded PacWastePlus programme (PacWaste Plus or 'Programme'), drawing upon reporting developed by the University of Melbourne (UoM) on behalf of PacWastePlus for that programme's *Waste Legislative Review* project. The UoM team reviewed legislation relevant to waste management in 14 Pacific region countries and Timor-Leste. Separate assessments are provided for each of the PacWastePlus participating countries.

This assessment was designed to achieve a number of outcomes:

- Gain a working understanding of the legislative framework governing waste management in PacWastePlus participating countries
- Determine which countries have legislation that actively manages issues caused by the generation of waste streams that are the focus of the PacWastePlus programme activities (asbestos, e-waste, healthcare waste, recyclables, organics, bulky waste, disaster waste and waste water) and plastic waste
- Understand strengths and weaknesses of the legislative frameworks to manage the waste issues and social and environmental problems caused by the generation of these wastes
- To provide some guidance on possible modifications to the legislative framework to improve waste management outcomes.

This assessment provides the broad findings of the research and investigation undertaken by the UoM team in relation to Tonga. It provides:

- A **stocktake of the existing legislative environment for waste management** in Tonga, focusing on the PacWastePlus priority waste streams of healthcare waste, asbestos, e-waste, recyclables, organics, disaster waste, bulky waste, and wastewater, as well as plastic waste, and including implementing legislation for the following multilateral environmental agreements (MEAs): Waigani, Basel, Stockholm, Rotterdam, and Minamata.
- A **stocktake of pipeline legislative initiatives** in Tonga, including an assessment of their impact and approximate timeframe for development.
- An **assessment of the legislative framework** and its relevance to the PacWastePlus programme focus waste streams and plastic waste
- An **assessment of the capacity** of Tonga's government to enact the instruments included in the legislative framework
- **Options for strengthening the legislative framework** for the Government of Tonga to deliver its desired waste management outcomes.

SECTION 1: LEGISLATIVE STOCKTAKE



This stocktake provides a detailed view of the legislative environment governing waste management currently in operation in Tonga

Legislative Summary

Legislation impacting waste governance

As a result of a substantial reform program undertaken in the mid-2000s, Tonga has dedicated legislation for waste management. This legislation provides a central point of administration for waste management matters in Tonga under the auspices of the Tonga Waste Authority Ltd (WAL).

The following tables provide a stocktake of the existing legislative environment for waste management and governance in Tonga. Each table includes hyperlinks (current as of the date of this report) to electronic versions of these instruments.

- **Table 1** details the legislation impacting waste governance in Tonga.
- **Table 2** lists the key policy instruments and reports.
- **Table 3** notes the departments with responsibilities for waste management.

Table 1: Legislation impacting waste governance in Tonga

LEGISLATION	REGULATIONS
<p>Waste Management Act Cap 32.18 (as at 2016)</p> <p>This Act provides for the development of the waste management sector, with wide ranging powers and responsibilities for the Waste Authority Ltd (WAL).</p> <p>The Act establishes waste management service areas and provisions for waste collection and disposal services; contracting arrangements; fees to be levied and collected; preparation of operating plans and reports; development of codes of practice; community awareness raising; and monitoring of public health and environmental impacts.</p> <p>Sections 24–26 define specific waste-related offences, including littering, dumping, movement of hazardous wastes, and creates enforcement and prosecution provisions.</p> <p>Standards of environmental waste management practices and facilities are prescribed, monitored, and enforced by the Ministry of Environment (s 22).</p>	<p><u>Waste Management (Plastic Levy) Regulations 2013 Cap 32.18.1</u></p> <p>This Regulation imposes a 10% levy on import of certain plastic bags (r 3–4) from 4 July 2013, empowering authorised officers to ensure that correct payments are made (r 6). WAL is the collection authority.</p>
<p>Hazardous Wastes and Chemicals Act Cap 47.08 (as at 2016)</p> <p>This Act provides for the regulation and proper management of hazardous wastes and chemicals in accordance with accepted international practices and the international conventions applying to the use, transboundary movement, and disposal of hazardous substances.</p> <p>The Conventions to which the Act refers are the Stockholm, Rotterdam, Basel, and Waigani Conventions. The Act applies to POPs (Persistent Organic Pollutants), hazardous wastes and chemicals listed in the Conventions.</p> <p>Part II of the Act provides for the limitation of POPs by regulating and, in some cases, prohibiting their use within Tonga.</p> <p>Parts III–IV sets out specific prohibitions, management procedures and rules for transboundary movement of hazardous wastes, including import, export, or transit of hazardous wastes within the area of national jurisdiction.</p> <p>Section 22 sets rights for Tonga to control entrance, exit and transit of substances within the country. The Minister may, with Cabinet’s consent, make regulations necessary for effective implementation of the Act and applicable Conventions.</p> <p>Section 37 sets out a wide range of authorities entitled to enforce its provisions:</p> <ul style="list-style-type: none"> • Police officers 	<p>None identified.</p>

LEGISLATION**REGULATIONS**

- Environment Officers appointed under Environment Management Act
- Authorised officers under the Public Health Act
- Custom officers
- Quarantine officers
- Authorised Officers of any Port Authority; and
- Any other environment officers authorised, in writing, by Minister for Environment

Environment Management Act Cap 47.02 (as at 2016)

This Act establishes the Ministry of Environment and Climate Change to ensure the protection and proper management of the environment and the promotion of sustainable development.

Regulations made under the Act may relate to regulation or prohibition of pollution of the air, water, or land, and the 'depositing or dumping of litter, rubbish, or any substance of a dangerous, noxious or offensive nature'. Any regulation made under the Act may make provision for offences and prescribe penalties.

Environment Management (Litter and Waste Control) Regulations 2016 Cap 47.02.2

This Regulation defines activities and offences that relate to waste pollution, including the dumping of waste and hazardous waste, waste causing pollution and the burning of litter and waste.

Section 3 makes it an offence to drop, deposit or dump litter at any place. Contravention attracts a fine of up to \$50. Part III outlines 'waste related offences' (dumping waste, dumping hazardous waste, waste which cause pollution, and restrictions on burning litter and waste). Part IV outlines the enforcement provisions.

Public Health Act Cap 28.30 (as at 2016)

This Act regulates waste collection and waste containers, as well as disposal of solid and hazardous waste. It prohibits import of toxic and hazardous waste, ensuring that recyclers are issued licences. The provisions of the Act extend to ships.

None identified.

Pesticides Act Cap 28.26 (as at 2016)

Section 19 proscribes persons from disposing of a pesticide or pesticide container except in accordance with instructions on registered label, and as prescribed/directed by the Registrar. Section sets out offences and penalties.

None identified.

Ozone Layer Protection Act Cap 47.10 (as at 2016)

This Act implements Tonga's obligations as a party to the Vienna Convention and Montreal Protocol. Its list of prohibited imports includes pre-polymers used in the manufacture of rigid plastic foams.

None identified.

Table 2: Policies and reports impacting waste governance in Tonga

POLICY	DESCRIPTION
Tonga National Infrastructure Investment Plan (NIIP) (2013–2023)	In this Plan high priority is given to the ‘Solid Waste’ sector with, an estimated \$4 million to be invested into new landfill or transfer stations. The Plan notes that WAL cannot fully fund its own operational and maintenance costs and thus requires Government subsidy to remain financially viable. The NIIP also focuses on economic infrastructure facilities, such as water and waste management facilities, to support everyday life and business activity. Sectors include water and waste related services (water supply, wastewater, drainage, and solid waste).
Tonga National Strategic Development Framework 2015–2025	Discusses aim of a ‘more progressive Tonga supporting a higher quality life for all’. To achieve this goal, the framework enumerates seven National Outcomes with 29 supporting Organisational Outcomes. One of the Organisational Outcomes is for a ‘cleaner environment and less pollution from household and business activities building on improved waste management, minimization and recycling’. To achieve this, Tonga plans to ‘develop an effective country-wide program to proactively reduce the creation of solid waste (including e-waste) and manage the segregation, disposal and recycling of wastes.
Tonga Enabling Activities for the Development of a National Implementation Plan for the Stockholm Convention on Persistent Organic Pollutants	Submitted in fulfilment of Tonga’s obligations as a party to the Stockholm POPs Convention.

Table 3: Government departments with waste responsibilities in Tonga

GOVERNMENT DEPARTMENTS	RESPONSIBILITIES
Department of Environment, Ministry of Meteorology, Energy, Information, Disaster Management, Environment, Climate Change & Communication (MEIDECC)	Administers the <i>Environment Management Act 2010</i> . Environment officers have enforcement powers under the Act e.g. to issue an infringement notice. Under the <i>Waste Management Act</i> , the standards of environmental waste management practices and facilities are prescribed, monitored, and enforced by the Ministry of Environment.
Tonga Waste Authority Ltd (WAL)	Established by the <i>Waste Management Act 2006</i> , it is a Government Public Enterprise mandated to manage waste in Tongatapu. Reports to the Ministry of Public Enterprises. WAL is also the designated collection authority for the plastic bag levy
Ministry of Health	The Ministry of Health is responsible for the administration and implementation of the <i>Public Health Act</i> .

Pipeline activities

The following sections provide details of identified pipeline legislative activities for waste management and governance in Tonga. Limited information was available on pipeline activities through the desktop review and responses to the online survey.

In 2017, work was funded by the Australian Department of Foreign Affairs and Trade on the Nukualofa Urban Development Sector Project that developed a *Building Control Act* with a component on waste and sanitation regulation.

A local initiative in one of the communities in Nukualofa is spearheading the 'No Pelesitiki (plastic) Campaign in Tonga to raise awareness on management of single use plastic in the communities. The group promotes the use fabric bags and baskets woven from natural fibres as an alternative to using plastic bags. They are also encouraging policy makers to ban single use plastics.

Table 4: Pipeline activities for Tonga

PIPELINE ACTIVITY	DESCRIPTION	TIMEFRAME
Building Control Act	Work was done in 2017, funded by the Australian Department of Foreign Affairs and Trade on the <u>Nukualofa Urban Development Sector Project</u> that developed a <i>Building Control Act</i> with a component on waste and sanitation regulation.	Pending with the Ministry of Infrastructure.
Single use plastics - 'No Pelesitiki' (plastic) Campaign	Community-based awareness raising initiative on management of <u>single use plastics and using woven bags and baskets as an alternative</u> . No information found on potential regulatory bans on plastics or increase of the levy on plastic bags.	Ongoing.

Stocktake of Relevant Multilateral Environmental Agreements

The relevant Multilateral Environmental Agreements (MEAs) for the stocktake were the:

- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention);
- Stockholm Convention on Persistent Organic Pollutants (Stockholm POPs Convention);
- Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention);
- Minamata Convention on Mercury (Minamata Convention); and
- Convention to ban the Importation of Hazardous and Radioactive Wastes into Forum Island Countries and to Control the Transboundary Movement and Management of Hazardous Waste within the South Pacific Region (Waigani Convention).

Table 5 provides details of the membership of Tonga to these MEAs.

Table 5: MEAs active in Tonga

MEA	IN EFFECT FOR COUNTRY	DESIGNATED NATIONAL AUTHORITY OR NATIONAL FOCAL POINT	IMPLEMENTING LEGISLATION
Basel Convention	21 Jan 2010	Ms Paula Pouvalu Ma'u Chief Executive Officer Ministry of Meteorology, Energy, Information, Disaster Management, Environment, Climate Change and Communications (MEIDECC) Vuna Road P.O. Box 917 Nuku'Alofa Tonga Phone: +676 28 170 Fax : +676 248 61 Email : paulm@mic.gov.to	<u>Hazardous Wastes and Chemicals Act</u>
Minamata Convention	22 Jan 2019	Mr. Paula Ma'u Chief Executive Officer Ministry of Meteorology, Energy, Information, Disaster Management, Environment, Climate Change and Communications (MEIDECC) P.O. Box 1380, Taufua'ahau Rd, Kolofu'ou, Nuku'alofa, Tonga Phone: (676) 28173 Email: paulm@mic.gov.to	No specific implementing legislation.

Rotterdam Convention	22 Jun 2010	<p>Ms Paula Pouvalu Ma'u Chief Executive Officer Ministry of Meteorology, Energy, Information, Disaster Management, Environment, Climate Change and Communications (MEIDECC) Vuna Road P.O. Box 917 Nuku'Alofa Tonga Phone: +676 28 170 Fax : +676 248 61 Email : paulm@mic.gov.to</p> <p>Chief Executive Officer Ministry of Agriculture, Food, Forestry and Fisheries (MAFFF) Postal address: P.O. Box 14 Nuku'alofa Tonga Phone : +676 23 042 Fax : +676 23 093 * please check the Secretariat website for updated national focal points</p>	<u>Hazardous Wastes and Chemicals Act</u>
Stockholm Convention	26 Oct 2004	<p>Ms Paula Pouvalu Ma'u Chief Executive Officer Ministry of Meteorology, Energy, Information, Disaster Management, Environment, Climate Change and Communications (MEIDECC) Vuna Road P.O. Box 917 Nuku'Alofa Tonga Phone: +676 28 170 Fax : +676 248 61 Email : paulm@mic.gov.to</p>	<u>Hazardous Wastes and Chemicals Act</u> . See also <u>Tonga Enabling Activities for the Development of a National Implementation Plan for the Stockholm Convention on Persistent Organic Pollutants</u> .
Waigani Convention	21 Jun 2003	<p>Mr. Paula Ma'U Chief Executive Officer Ministry of Meteorology, Energy, Information, Disaster Management, Environment, Climate Change and Communications (MEIDECC)) P.O. Box 1380, Taufa'ahau Rd, Kolofou'ou, Nuku'alofa, Tonga Phone: (676) 28173 Email: paulm@mic.gov.to</p>	<u>Hazardous Wastes and Chemicals Act</u>

SECTION 2: LEGISLATIVE ASSESSMENT



This qualitative assessment of Tonga's legislative environment has classified Tonga's waste-related laws on a scale of low-to-high against the criteria of relevance, coherence, effectiveness, efficiency, and impact.

Legislative Framework Assessment

Methodology

Approach and Criteria

This legislative assessment was undertaken utilising a qualitative approach.

Legislation in Tonga was evaluated against the following criteria that build on the OECD Development Assessment Committee (DAC) evaluation criteria 1990, as updated:



Relevance

defined as the extent to which legislation directly relates to, or provides coverage of, the priority waste streams of healthcare waste, asbestos, e-waste, plastic waste (including single-use plastics), recyclables, organic waste, bulky waste, disaster waste and wastewater.



Coherence

defined as the extent to which different elements of legislation and their administration fit together, or whether there are conflicts or lack of coordination between laws that undermine coherence.



Effectiveness

defined as the extent to which the legislation contains mechanisms necessary to achieve legislative objectives relating to the management of the priority waste streams.



Efficiency

defined as the extent to which the legislation makes provision for the allocation of responsibilities and resources (personnel, information, financial) to allow fulfilment of legislative requirements.



Impact

defined as the contribution the legislation makes to waste management and environmental protection from waste-related pollution.

Based on the evaluation of Tonga's legislation against the criteria, gaps in existing legislation relating to waste were identified. These gaps provide a basis for understanding what opportunities exist for Tonga to develop and/or implement additional legislative instruments to in achieving waste management and environmental outcomes.

Overview of the legal system



Tonga is an archipelago comprised of 176 islands, 36 of which are inhabited. There are six island groups: Tongatapu, Vava'u, Ha'apai, 'Eua, Niuatoputapu and Niuafu'ou. Tonga has a population of approximately 106,000 (2020 estimate). The official languages are Tongan and English.



Tonga was united into a Polynesian kingdom in 1845, became a constitutional monarchy in 1875 and a British protectorate in 1900. In 1970 Tonga attained full independence and joined the Commonwealth.



Tonga has a Westminster style of government with the King as Head of State and the Prime Minister as Head of Government. There is a unicameral Legislative Assembly and a three-tiered system of courts of general jurisdiction. There is also a specialist Land Court with jurisdiction to hear and determine disputes, claims and questions of title concerning land in the Kingdom.



Tonga has an English style common law system. Sources of law are the Constitution (as the supreme law), laws enacted by the King and the Legislative Assembly and the common law



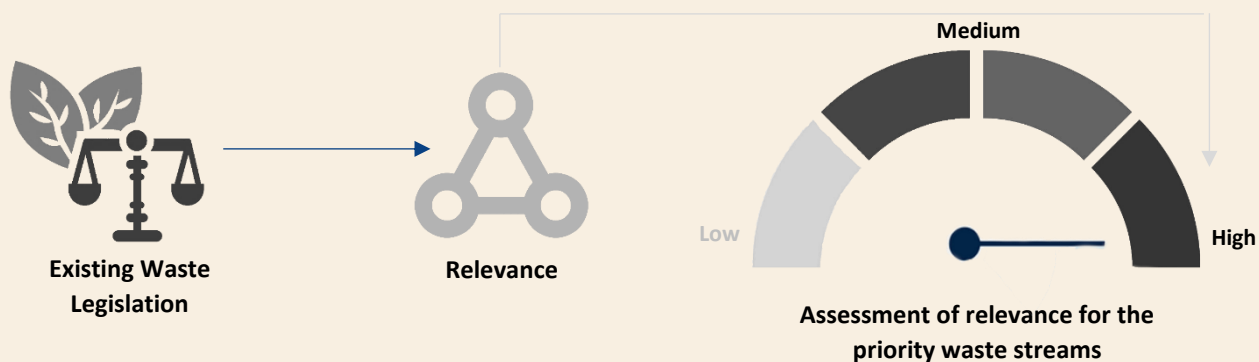
Unlike many other countries in the region, Tonga's constitution and legislation do not make express provision for custom or customary law to be applied in any court or for any purpose in the legal system.

Legislative Assessment

This section contains a qualitative legislative assessment for Tonga against the evaluation criteria: Relevance, Coherence, Effectiveness, Efficiency, Impact. While ratings against the criteria are classified on a scale of low to high, the ratings reflect an assessment of the performance of Tonga’s waste-related laws in their specific operating context.

A glossary of legal terms used in the report is provided in **Annex 1**.

Relevance



Tonga has dedicated legislation for the management of waste, the *Waste Management Act*, which commenced in 2006 and was consolidated in 2016. It also has the *Hazardous Wastes and Chemicals Act* which is focussed on implementing international waste conventions.

On 14 October 2016, Cabinet approved the Hon. Minister for Health, to appoint the Waste Authority Limited (WAL) as the approved authority, responsible for waste management services for the whole of Tonga's outer islands but that it is conditional to the Hon. Minister for MEIDECC, to designate all outer islands as a waste management service area, following the advice from Hon. Minister for Health, in accordance with Section 4(2) of the Waste Management Act 2005.

To determine relevance, consideration of the various legislative definitions has been assessed.

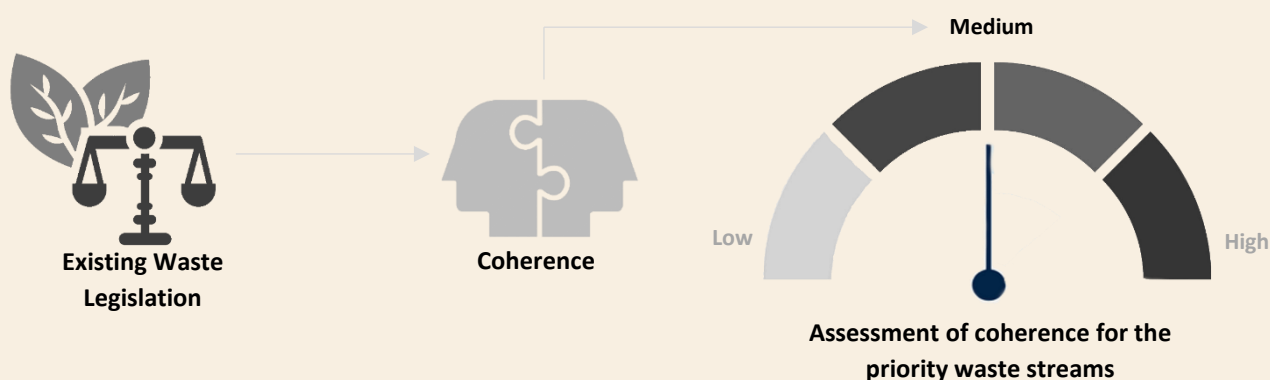
Table 6: Definitions of waste, Tonga's legislation

Legislation	Definitions
<i>Waste Management Act & Environment Management Act</i>	<p>'waste' means 'garbage, household refuse, rubbish, scraps and trade wastes' as well as any matter 'determined' to be waste by an 'approved Authority'.</p> <p>'hazardous waste' means 'any wastes which are, or which have the potential to be, toxic or poisonous, or which may cause injury or damage to human health or the environment'</p>
<i>Public Health Act</i>	<p>'waste' means 'an accumulation or deposit of a substance or a thing.' It does not cross refer to the definitions of waste in other legislation.</p> <p>'public health risk' can arise from such things as 'water', 'waste' or 'a dead or living animal' that 'is, or is likely to be, hazardous to human health, or that contributes to, or is likely to contribute to, disease in humans or the transmission of an infectious condition to humans'.</p>
<i>Hazardous Wastes and Chemicals Act</i>	<p>"Hazardous chemical" means all – (a) persistent organic pollutants; (b) chemicals prohibited or regulated in accordance with the Rotterdam Convention; (c) other chemicals designated as hazardous under any law or by regulations made under this Act; and (d) any chemical which appears in a list of hazardous chemicals declared by the Minister.</p> <p>"Hazardous substance" means any hazardous chemical and hazardous waste.</p> <p>"Hazardous waste" means all wastes of any description which – (a) are regarded as hazardous wastes under the Basel or Waigani Conventions; (b) designated as hazardous wastes under any law in the Kingdom or by regulations made under this Act; or (c) any substances which appears in a list of hazardous wastes declared by the Minister.</p>
<i>Environment Management Act</i>	<p>'litter' includes refuse, rubbish, paper, cardboard, bottles, cans, glass, metal, food scraps, cigarette butts or any part of a discarded cigarette, or any other waste matter of a like nature, which are: (a) discarded as waste; or (b) kept in any place for no purpose other than as waste</p>
<i>Environment Management (Litter and Waste Control) Regulations</i>	<p>'Pollution' is defined to mean 'the introduction by persons, directly or indirectly, of substances or things into the environment which: (a) contaminates the soil, water, sea, air or the atmosphere; (b) may result in harm to living resources and ecosystems, or hazardous to human health; or (c) causes detriment to or degradation of the environment; or detriment to any beneficial use of any part of the environment</p>
<i>Waste Management (Plastic Levy) Regulation 2013</i>	<p>A plastic bag is defined as 'a synthetic bag made from organic compounds for use in commerce, and includes plastic containers that the Waste Authority classifies as disposable containers'</p>

Where waste contaminates or causes detriment or degradation to the environment or may harm the environment or be hazardous to human health, it would constitute 'pollution' and attract relevant provisions of the *Environment Management Act* and regulations.

Wastewater and other liquid forms of priority waste streams are within the scope of the *Waste Management Act*. As a matter of statutory interpretation, it might be excluded from the definition of waste in that legislation. The legal definition of waste is not expressly limited to solid waste and it allows for wastes additional to those specified in the definition to be determined by an approved Authority. Nonetheless, the long title of the Act refers expressly to solid waste, and all the types of wastes described in the definition of waste appear to contemplate solid waste forms.

Coherence



The coherence of Tonga's waste management legislation and its administration is complicated by overlapping responsibilities for waste among or within different government departments, and different definitions for waste under the different laws. This means that distinctions between regulatory functions concerning waste are not in all cases clear from the law.

The scope of responsibilities of the Department of Environment for waste described in the *Waste Management Act* are not, for example, clearly distinguished from some of the responsibilities of the Department of Environment under the *Environment Management Act* with regards to pollution. These responsibilities are, however, addressed within the same government department which would, as a practical matter, aid coordination. Distinctions under the *Waste Management Act* between the responsibilities of the Ministry responsible for the environment (MEIDECC) and the MoH are also not clear in all cases. A range of other ministries are also involved in waste management, such as the Ministry for Agriculture, Forestry, Food & Fisheries (MAFF), with regards to food safety and quarantine matters. This does not mean, that there is necessarily duplication in functions: as a practical matter, departments could be structured in ways that assign distinct functions among divisions or officers within the departments.

There is a committee that meets monthly to coordinate on a range of matters relevant to a clean environment (known as the Beautification Taskforce Team). This committee includes representatives from several ministries (e.g., health, infrastructure, tourism, lands, and natural resources) as well as WAL, private contractors and District Town Officers representing local communities. These meetings could assist with the practical division of labour among the departments for waste management issues.

Further complications for the separation of responsibilities may result from the definition of 'waste' in the *Waste Management Act*. As a matter of statutory interpretation, the definition could be understood to include only solid waste while, as a matter of practice, it is understood to apply also to liquid and gaseous waste. The *Waste Management Act* provides that an approved Authority can, from time to time, determine that a matter is a waste under the Act, but it does not state the manner for communicating or recording such determinations. In practice, it is understood that WAL would request consent from the responsible Minister to make such a determination.

The Environment Management Act works in concert with the Waste Management Act as the Environment Management Act prescribes littering penalties at \$50, whilst the Waste Management Act prescribes 'dumping' at \$1000 to note the severity of the act and risk to health and the environment.

Tonga's waste management laws facilitate a distinction between regulatory and operational functions by assigning operational responsibility to a distinct entity and public enterprise (s 10), the Waste Authority Ltd (WAL). Under the terms of the legislation, the MoH has operational functions regarding the management of waste under the *Waste Management Act* in the outer islands. WAL has been made the approved Authority for some or all the Tongan islands since the legislation was enacted but it is regulated by MEIDECC, to designate all outer islands as a waste management service area, following the advice from MoH.

Some of WAL's functions are regulatory in nature. The Ministry responsible for the environment oversees WAL's activities (s 9) but WAL's functions include regulating persons involved in the transportation, storage and disposal of wastes (s 6), administering licences for commercial waste transportation and undertaking prosecutions (s 8), as well as developing and enforcing rules, operating procedures and codes of practice (s 6, s 20) and administering the levy on imports of plastic bags (under regulations).

Effectiveness



The long title of the *Waste Management Act* is '[a]n act to provide for the collection and disposal of solid wastes and the management of all wastes in the Kingdom'. To that end, it assigns functions to WAL, including waste collection services and management of waste dump site areas, cleaning of public areas, promotion of recycling and minimisation of the effects of wastes on human health and the environment (ss 6-7).

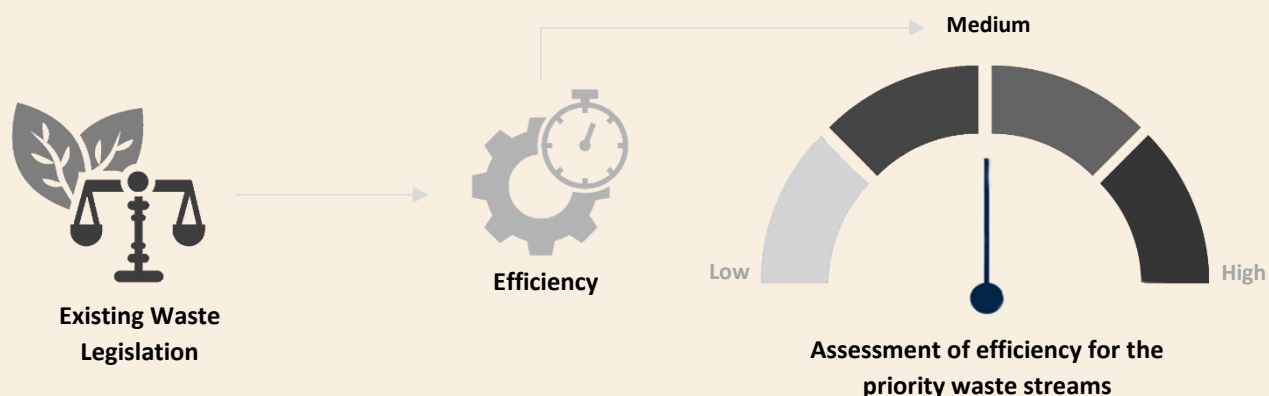
The *Waste Management Act* also grants WAL broad powers to carry out its functions, including the contracting of waste management services from public and private contractors (s 19). The Minister responsible for the environment has oversight, with the power to approve waste dump sites and to make regulations on a broad range of matters.

Mechanisms that would support the effectiveness of the *Waste Management Act* include:

- A system for licensing of commercial waste transportation (s 8).
- Ministerial approval of waste dump sites (s 23);
- A fees system for waste collection and disposal services (s 13);
- Rules, procedures, guidelines, and codes of practice (s 20), as well as standards (s 22);
- Planning and reporting obligations (ss 17-18); and
- Offences and powers to investigate and prosecute offences (part IX).

Regulations made under waste-related legislation contain detailed provisions aimed at achieving legislative objectives. The *Environment Management (Litter and Waste Control) Regulations* contain detailed offences and enforcement provisions, and the *Waste Management (Plastic Levy) Regulations 2013* aims to reduce plastic waste by imposing a levy on the import of plastic bags. Effectiveness would also be facilitated by consideration of waste matters for Environmental Impact Assessments under the *Environmental Impact Assessment Regulations* (r 12).

Efficiency

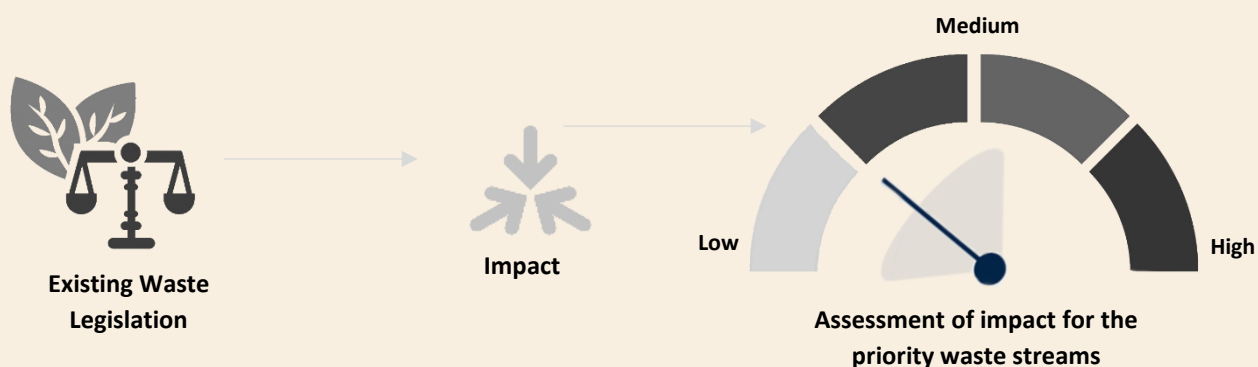


The Waste Management Act expressly assigns waste management functions to the WAL, a public enterprise. The functions are largely operational, but they also include functions of a regulatory nature. The allocation of public monies to WAL has decreased over time from 100% government funding to none. WAL's primary source of revenue is waste collection fees (provided for in s 13), which are presently set at a rate that does not cover operating costs. The levy on plastic bag imports also reportedly provides a minimal source of revenue to WAL.

The imbalance in income and costs was a reason cited by WAL to the Tongan Ombudsman in a recent investigation into WAL's compliance with health and safety standards for its workers. A separate investigation by the Ombudsman into the governance of several public enterprises found that a loan of \$500,000 from Ports Authority Tonga Limited to WAL in 2011/2012 had been properly disclosed and did not amount to a loan to Board members from Board funds.

The Department of Environment is responsible for ensuring effective operations of/compliance to the Environment Management Act, Waste Management Act, including other related legislations, as well as policy development. This is overseen by a Director. The Waste Management and Pollution Control Programme of the Department (one of six programme areas) coordinates and implements activities with regards to waste and pollution issues, with the limited financial and human resources available to them. There is currently the Head of the Waste Management & Pollution Control Programme with three professional staff, and four groundskeepers responsible for maintaining public areas, under this programme. The three officers are respectively responsible for addressing hazardous, solid and liquid waste management issues; submission of quarterly newsletters from the Division; coordinating the national reporting to the Basel, Rotterdam and Stockholm Conventions, to name a few.

Impact



Overall, Tonga's waste legislation appears to have only moderate impact on waste management. Issues of waste management are particularly problematic for the outer islands. A lack of revenue to support waste management would appear to be a significant factor. Revenue appears to be an issue particularly for the WAL but is an issue for staffing in government too.

Related to problems of revenue, a lack of public information about waste management and requirements, as well as limited outreach and engagement with local communities, was also reported as an issue for the impact of laws. Functions of WAL include to raise 'public awareness of matters concerning the minimisation of the generation of wastes and the effective management of wastes' and to promote the recycling of wastes (ss 6, 21). WAL maintains a Facebook page and engages with local media to raise awareness about waste management. Videos such as 'A Day in the Life at Waste Authority', from 2019, could contribute to greater public awareness in the future.

Local community initiatives such as the No Pelesitiki Campaign appear to be having an impact independently of any laws. Partly supported by the New Zealand High Commission, the No Pelesitiki Campaign works to raise awareness and educate the community about plastic pollution, as well as organising clean up and collection of plastics to be reused. Replacements for plastic bags are encouraged through basket weaving using a traditional technique. The campaign is a whole of community response, from young leaders to community elders and supports Government's initiative of introducing a new policy of phasing out single-use plastics, and the management of its disposal, approved in 2019.

SECTION 3: CAPACITY ASSESSMENT



This qualitative assessment of Tonga's capacity to engage in different aspects of waste governance is on a scale ranging from low to high. It considered drafting, enactment, implementation, ensuring compliance with, and enforcing its existing and proposed legislation relevant to waste management, as well as its capacity to comply with reporting obligations under relevant Multilateral Environmental Agreements (MEAs).

Methodology

Approach and Elements

This legislative capacity assessment was undertaken utilising a qualitative approach, evaluating the capacity of Tonga's to engage in different aspects of waste governance on a scale ranging from low to high.

The evaluation was made based on the following aspects of Tonga's waste management legislation/governance:



Drafting

Relating to processes for the drafting of new, modified or additional legislation, including the availability of legal expertise, personnel and supporting technical knowledge or information.



Enactment

Relating to processes for enacting new, modified or additional legislation, including the existence of appropriate powers to legislate on the topic and relevant obligations of the country under international conventions and agreements, such as MEAs, as well as trade and investment agreements.



Implementation

Capacity to carry out existing or proposed legislation, including the availability of appropriate personnel, information, powers, administrative delegations, and resources.



Compliance and Enforcement

Capacity to ensure those bound by obligations under legislation comply with those obligations, as well as the capacity to prosecute or otherwise take action in response to breaches of legislative requirements, including the availability of enforcement personnel, powers, administrative delegations, tribunals for bringing enforcement actions and resources



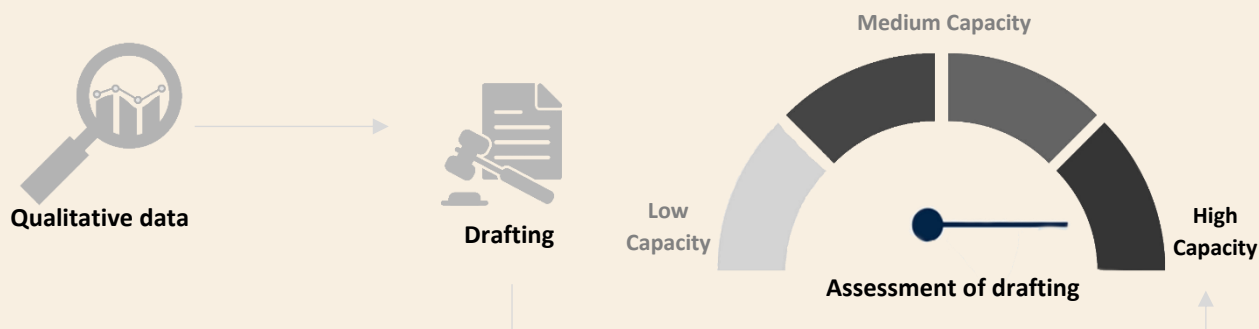
Reporting under relevant MEAs

Capacity to comply with reporting and other notification requirements specified under relevant MEAs to which the participating country is party, including availability of data, personnel and resources to produce the required reports. The assessment of MEA reporting compliance adopted a coding approach that rated the countries' level of compliance based on several indicators.

Capacity Assessment

This section contains a qualitative assessment of Tonga’s capacity with respect to drafting, enactment, implementation, ensuring compliance with, and enforcing its existing and proposed legislation relevant to waste management, as well as its capacity to comply with reporting obligations under the MEAs to which it is party.

Drafting



Tonga has documented, detailed processes for drafting legislation for waste management. There is, a limited number of people with technical and legal expertise available in the relevant Ministry to prepare drafting instructions for use by the legislative drafters in the Attorney General’s Office. Consultants may be engaged to assist with preparing drafting instructions for any new laws on waste management. The legislative drafting process, including the engagement of legislative drafting consultants, is subject to specific requirements set out in the Legislative Drafting Manual authorised by Cabinet in 2019.

Tonga’s Legislative Drafting Manual describes in detail the process for drafting laws from policy and provides clear guidance to policymakers on how to prepare drafting instructions to the Attorney General’s Office. All government entities are expected to follow the drafting process described in the Manual. It sets out the two-stage process contained in the Cabinet Manual of His Majesty’s Cabinet of (1) developing policy and drafting instructions (lead by relevant Ministry) and (2) drafting legislative text (lead by the Attorney General’s Office). Processes for primary legislation, and subsidiary instruments such as regulations, are also described in the Manual.

Three elements of stage 1 of relevance to the drafting of any future waste-related laws are:

- *Consultations must be conducted within and outside Government.* On consultation outside Government, the Manual states that a ‘key aim of systematic public consultation is to make information available to the public, to listen to a wide range of interests, to obtain more and better information from affected parties, and to be more responsive to what is heard. This allows for better information for efficient decision-making. Consultation is not synonymous with consensus. It is a process that permits and promotes the two-way flow of ideas and information among all sectors of society and between them and the Government. Effective consultation is based on principles of openness, transparency, integrity, and mutual respect.’

- *Drafting instructions are to be prepared according to the specified procedure and in the specified form.* The Manual states that it is the ‘drafting instructor’s job ... to translate particular political and administrative policy into drafting instructions. To do this, the instructor needs to have a thorough understanding of the overall policy as well as the administrative mechanisms that will be needed in the legislation to carry it into effect. [...] The drafting instructions should clearly state the policy objectives of the legislation and the proposed legal mechanisms through which they are to be achieved. Drafting instructions should consist of a statement of legislative proposals to give effect to the policy. They should be in writing unless it is a very urgent matter.’
- *Consultants engaged to prepare drafting instructions must be properly qualified and supervised.* Mandatory requirements for the recruitment and engagement of all legislative drafting consultants by government are set out in the Manual. The Manual states that ‘[I]n legislative drafting consultants are heavily relied on to supplement the technical drafting roles of the AG’s Office. Considering the costs to Government in engaging legislative drafting consultants, the responsibility to effectively manage legislative drafting consultants is a critical responsibility that involves regular oversight by Government.’

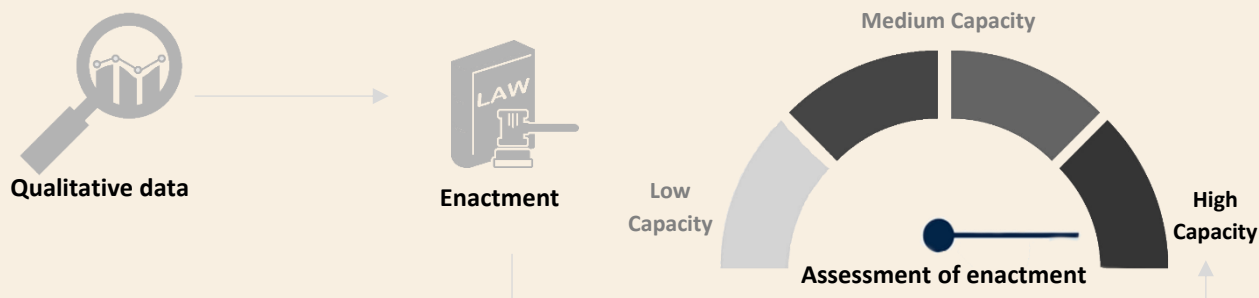
The Department of Environment is responsible for developing policy on waste management issues within the Ministry of Meteorology, Energy, Information, Disaster Management, Environment, Climate Change and Communications (MEIDECC). There is one lawyer based in MEIDECC, with responsibility for all legal matters arising under that portfolio. The department might therefore elect to engage a legislative drafting consultant to assist with preparing drafting instructions relevant to any future legal instruments relevant to waste.

For the purposes of stage 2, the Attorney General’s Office is staffed by Crown Counsel available to draft legislative text. They lead the process of drafting a bill or other draft instrument for submission to Cabinet and, ultimately, tabling in Parliament.

Tonga’s laws on waste management are relatively recent (2006-2016) and have been drafted in a reasonably coherent manner, with a degree of clarity around the regulatory responsibilities of different government entities under the legal framework and the operational responsibilities of the WAL. As a procedural matter, it was reported that more needs to be done to engage local communities, particularly in the outer islands, in the development of drafting instructions for any new regulations or other legal instrument.

Tonga’s Cabinet has approved the development of a policy to ban plastics but information about the scope and nature of the policy was not available. It is reportedly being undertaken in connection with the Commonwealth Clean Ocean Alliance.

Enactment



Tonga's waste-related legislation could be better supported by documented standards on waste management, produced considering specialist technical knowledge and appropriately adapted to the needs and structures for waste management in Tonga. Policy initiatives for the management of waste – such as the proposed ban on single-use plastics and other opportunities such as an expanded levy and deposit scheme to cover, for example, recyclable drink containers and food packaging – could be introduced through secondary regulations under existing laws. They do not appear to require any new primary legislation to enable their enactment, but Tonga might prefer to introduce the requirements through new primary laws.

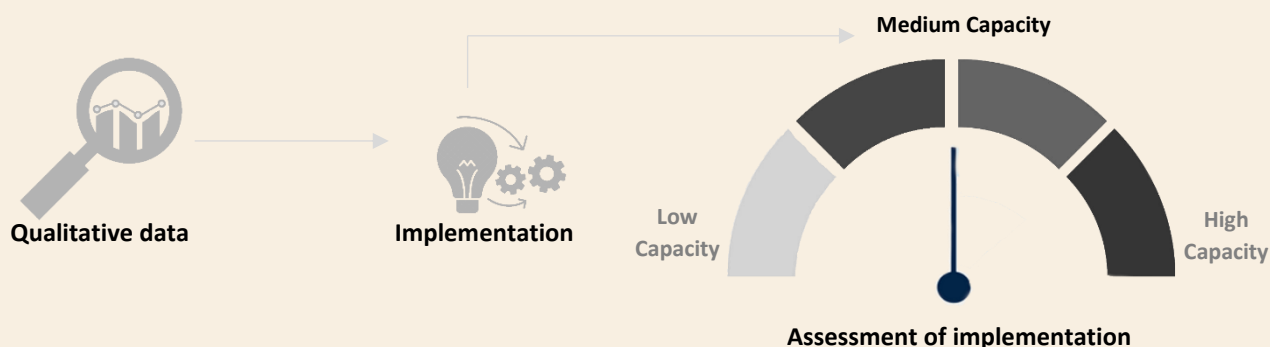
Tonga's powers to enact legislation are contained in its Constitution. The process for making laws is described in detail in the Legislative Drafting Manual. There are also wide-ranging powers to make subsidiary instruments, such as regulations and standards specific to waste management, under the *Waste Management Act* and other waste-related laws.

Three powers of enactment particularly relevant to policy initiatives on waste management are the regulations power and the powers to make operating procedures and standards. Also important is a power to 'determine' that a matter is a waste.

Tonga has no formal recognition of customary law and the engagement of local communities in policy development and law-making has reportedly been very limited.

Annex F of the Legislative Drafting Manual sets out the steps for making regulations, including obtaining Cabinet approval. There is no need to submit the regulations to Parliament for them to become effective but one year after they are made, they are to be submitted to the Legislative Assembly which can approve, amend or rescind them.

Implementation



Overall, Tonga is assessed to have medium capacity and reasonably good institutional structures to support implementation. The country has a developed waste management infrastructure, involving officers across several government departments with differentiated roles. However, the number of staff and financial resources is limited.

There are also few mechanisms in the legislation to assist implementation:

- The Ministry responsible for the environment (currently the MEIDECC) is responsible for the laws on waste management and on environment management.
- A Waste Management Unit within the Department of Environment has a lead regulatory role in waste management.
- A public enterprise, WAL, is primarily responsible for operations but also has some regulatory functions under the legislation.
- The Ministry of Health is responsible for laws on public health risks related to waste.
- Other Ministries, such as the Ministry for Agriculture, Food and Forestry, Ministry of Fisheries, and the Ministry of Public Enterprises, also have roles incidental to waste management. Under the Waste Management (Plastic Levy) Regulations 2013, importers pay the levy to WAL and WAL administers the system of payments and accounts by importers.

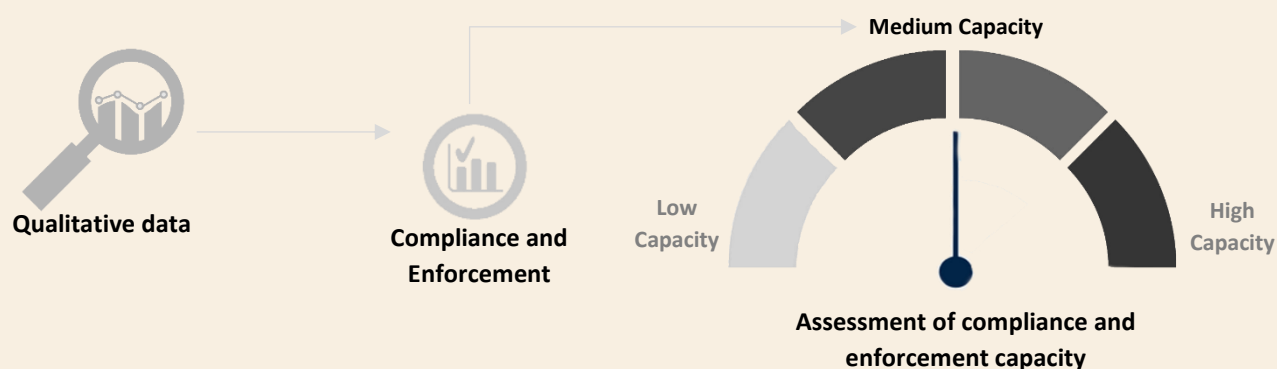
There are few mechanisms in the *Waste Management Act* to assist implementation. The requirements that WAL promotes waste minimisation through 'programmes of public information' (s 18) and recycling (s 21), including through rules for this purpose, are mechanisms that could aid implementation (s 21). Community-led initiatives, such as the No Pelesitiki Campaign, that have been most active in this area, particularly in the outer islands. WAL likely does not have sufficient resources to undertake a role in reducing waste and promoting recycling.

To the extent that fees are paid for waste collection and disposal under the *Waste Management Act*, and a levy is paid on single-use plastic bags by importers under related regulations, these revenue streams have the potential to contribute to implementation. The revenue raised is not sufficient to meet WAL's operating costs as well as its regulatory functions.

There is very little in the *Waste Management Act* in the way of requirements imposed on WAL. It must produce operating plans every three years, including financial projections (s 17), and it must prepare reports on its operations as requested by the Minister responsible for the environment (s 18). As a public enterprise (s 10), oversight of WAL's governance is more directly the responsibility of Ministry of Public Enterprises, as set out in the *Public Enterprises Act*.

From a financial perspective, the reported reduction of government funding to WAL from 100% to none is a significant consideration for the implementation of existing laws and the nature and structure of any new regulations on waste management.

Compliance and enforcement capacity



Overall, the mechanisms for compliance and enforcement of Tonga's waste management laws are complicated by the range of offences appearing in different legislation, and a lack of clarity, in some cases, about the extent of enforcement powers. The ability of enforcement officers from the Waste Management Unit to issue fines in the absence of a complaint is in doubt and could be something that requires an amendment. Public access to law is excellent, with a well-maintained website containing laws, regulations and other instruments as well as select judgments of the courts. Accountability of government is provided through the establishment of the Office of the Ombudsman.

A specific mechanism in the Environment Management (Litter and Waste Control) Regulations that supports compliance are 'notices to cease' (s 16), issued in the form of a 'Litter and Waste Compliance Notice' set out in Schedule 1 to the regulations. Such notices can require a person 'to refrain from doing any act specified in the notice, or to take any action in relation to litter or waste which is stipulated in the notice' (r 16). An environment officer can arrange for remedial action to be taken and recover costs from the offender (s17).

Under the *Public Health Act*, an authorised officer can serve a 'public health order' on a person reasonably believed to be 'responsible for a public health risk' (s 12). This order can require remedial action. If the Chief Executive Officer responsible for health considers that a person has contravened a public health order, an enforcement order can be sought from a Magistrate (s 13). The powers of health officers in relation to enforcement orders are described in detail in the legislation (s 15). Elsewhere in the *Public Health Act*, an authorised officer can issue a 'notice to abate' a nuisance or matter dangerous to health (s 83) and act in the case of non-compliance (s 84).

Offences and penalties are expressed in the laws, and the form that notices of infringement must take is clear. Offences set out in the different laws (the *Waste Management Act*, the *Environment Management (Litter and Waste Control) Regulations* made under the *Environment Management Act*, and the *Public Health Act*) and the respective powers of relevant officers have the potential to overlap making the extent of enforcement powers ambiguous. Limited personnel, including on the outer islands, also compromises compliance and enforcement.

The most common offences under the *Environment Management (Litter and Waste Control) Regulations* reportedly relate to the burning of waste or litter, and storage of asbestos waste. Complaints are made to the Waste Management Unit, by phone or in person, and to public health officers. The Waste Management Unit seeks to investigate complaints and advise complainants of the outcome within 5 days. On-the-spot fines are issued in some cases. Schedule 2 to the *Environment Management (Litter and Waste Control) Regulations* sets out the form of a Notice of Infringement. In cases of non-compliance with a notice, or repeat offending, the Waste Management Unit would refer the matter to the police and the Attorney General's Office would handle any prosecution. The standard of proof for offences is not high, allowing conviction based on evidence of a health risk or where they 'may be' harm done (s 21).

The Waste Management Unit was recently advised by the Attorney General's Office that enforcement officers were only able to issue fines for offences where they were acting on a complaint. Enforcement officers had previously undertaken 'community patrols' to identify any offending but this practice was suspended after receiving legal advice on the extent of their powers under the relevant laws.

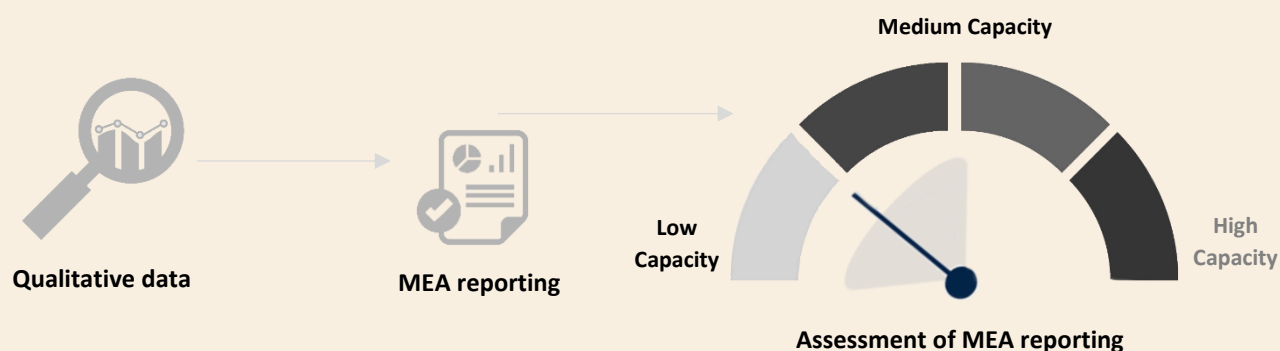
There is one lawyer, a Legal Officer, working for MEIDECC but the Waste Management Unit typically seeks the advice and assistance of Crown Counsel in the Attorney General's Office where it needs to clarify the basis for offences and enforcement provisions.

Penalties across the different laws vary:

- Fines under the *Waste Management Act* can be as much as \$100,000 or 25 years in prison, or both (s 24).
- The Environment Management (Litter and Waste Control) Regulations provide for fines between \$20 and \$2000, although continued offending after receiving a notice to cease can attract a fine up to \$10,000- or 2-years imprisonment.
- The *Public Health Act*, fines range between \$500 and \$5000, but they can, in some cases, be as much as \$50,000 and attract a 5-year prison term (s 237).

Where complaints from the community concern alleged failures of WAL, or the government, in its duties or responsibilities regarding waste management, complaints can be made to the Ombudsman. WAL has responsibilities for waste management under the *Waste Management Act* and it is subject to further requirements under the *Public Enterprises Act*. Under the *Public Health Act*, the Minister of Health has a duty to do certain things to avoid pollution of the water supply (s 65). Both WAL, as a public enterprise, and Government representatives, can be the subject of complaints and investigations by the Ombudsman.

MEA reporting



Tonga is party to the Basel, Stockholm, Rotterdam, Minamata and Waigani Conventions. The notification, information sharing and reporting requirements established by these MEAs for parties are set out in **Annex 2**.

Tonga's level of compliance with the notification, information sharing and reporting requirements under the MEAs to which it is party has been low-to-medium. In the case of the Minamata Convention, Tonga only recently became a party (from 22 January 2019) and hence only a preliminary assessment can be made regarding its level of reporting compliance for this Convention.

Tonga has inconsistently reported on its MEA obligations. Since becoming party to the Basel Convention in 2010, Tonga has submitted no national reports (the requirement is for submission of these reports on an annual basis). Similarly, Tonga has submitted no annual national reports under the Waigani Convention, no reports for the third and fourth reporting cycles under the Stockholm Convention after it became party to that treaty in 2010. Tonga has submitted its first short form national report under the Minamata Convention which was due on 31 Dec. 2019.

Tonga's record indicates that significant efforts have been made to complete reports, citing the submission of a National Implementation Plan for the Stockholm Convention in 2015 (prepared in 2009), and the finalisation of an updated NIP that has been verified by UNEP although not yet endorsed by the national government or submitted to the Stockholm Convention Secretariat. Additionally, competent authorities and focal points, necessary for information sharing and transmission of notifications to treaty secretariats and other parties, have been designated for four of the five MEAs to which Tonga is party. In the case of the Minamata Convention, the treaty secretariat's database records no information provided regarding a national focal point. It is likely that once Tonga undertakes an initial assessment as required by the Minamata Convention (currently being prepared with the assistance of Biodiversity Research Institute consultants and funding support from GEF/UNEP) this should facilitate enhanced implementation efforts.

An important indicator of Tonga's capacity to comply with reporting and other notification and information-sharing requirements under relevant MEAs is its specific legislation for implementing these conventions; the *Hazardous Wastes and Chemicals Act* (2016 revised edition). The purpose of the legislation is to 'provide for the regulation and proper management of hazardous wastes and chemicals in accordance with accepted international practices and the international conventions applying to the use, transboundary movement and disposal of hazardous substances' (long title). Section 2 provides that the 'applicable conventions' that it covers are the Basel, Stockholm, Rotterdam and Waigani Conventions. The legislation does not currently extend to Tonga's obligations under the Minamata Convention, but it might be expected that a recommendation flowing from its Minamata initial assessment currently underway would be to amend the *Hazardous Wastes and Chemicals Act* to include provisions on mercury wastes and disposal of mercury-containing products.

The *Hazardous Wastes and Chemicals Act* contains a series of specific prohibitions relating to persistent organic pollutants (POPs) (s 6), radioactive wastes covered by the Waigani Convention (s 8), hazardous chemicals covered by the Rotterdam Convention (s 9) and hazardous wastes regulated under the Basel and Waigani Conventions (s 10):

- Part IV of the Act specifies controls over imports of hazardous wastes
- Part V provides controls over exports of hazardous chemicals, wastes and POPs
- Part VI governs controls over hazardous substances in transit.

The Act's 'general obligations', applicable to those who own, manage or operate businesses dealing with hazardous substances (including those involved in transportation, storage or managing such wastes at a landfill or waste dump), encompass requirements for those persons to maintain records, databases and registers of the hazardous substances with which they are concerned (s 12(i), see also s 13(1)(c)), and to provide whatever assistance is required by the Competent Authority to implement the Act and applicable international conventions (s 12(m), see also s 13(1)(d)).

Section 14(1) of the *Hazardous Wastes and Chemicals Act* contains further requirements for operators to:

- notify the Ministry responsible for the environment of incidents of discharge or release of hazardous substances to the environment
- make available all records, databases, and registers to the Ministry for inspection; and provide any other information relating to hazardous substances at the request of the Ministry's Chief Executive Officer.

The Ministry has an obligation under section 14(2) to make all relevant information available to the Competent Authority to enable it to discharge its responsibilities under applicable conventions, including in relation to the submission of reports, sharing of information or providing notifications. Sections 16 and 17 designate the Ministry as the Competent Authority for the purposes of the Act and the Focal Point for the purposes of the applicable conventions, and provide for liaison between the two to allow notifications and information exchange as required by the conventions to take place.

These provisions provide a comprehensive legislative framework to facilitate implementation of the MEAs covered by the Act and to ensure flows of relevant information to designated national authorities to fulfil reporting and other information sharing and notification requirements.

The provisions of the *Hazardous Wastes and Chemicals Act* are supplemented by other legislation, such as the *Environment Management Act* and the *Waste Management Act*. The former provides that one of its objects is to 'ensure the observance within the Kingdom of its international obligations relating to the protection of the environment' (s 4(c)) and specifies a relevant function of the environment ministry as 'conducting all matters necessary for the observance of the international and regional conventions to which the Kingdom is a party to, including those listed in the Schedule to this Act' (s 8(1)(j)). The Basel, Stockholm, Rotterdam, and Basel Conventions are expressly named in the Act's Schedule. Under the *Waste Management Act*, Tonga's waste management authority – WAL – has the power to 'do anything necessary to assist other government agencies to ensure that Tonga is in compliance with its international obligations in relation to the management and movement of wastes' (s 8(c)).

Despite this comprehensive legislative framework, capacity gaps at the implementation level mean that reporting, notification, and information exchange obligations under the relevant MEAs to which Tonga is party are not always fully carried out. Gaps in relation to Tonga's national reporting under the MEAs were noted above. Tonga's record of notifications of import responses for chemicals regulated under the Rotterdam Convention provides another example. Thirty-one import responses – all for pesticides or severely hazardous pesticide formulations – have been provided but 20 import responses remain outstanding all of which relate to industrial chemicals. This situation may reflect differential implementation capacity across different government departments e.g. environment and agriculture with responsibility for different aspects of chemicals and waste management. Notably, the Ministry of Agriculture, Forestry, Food and Fisheries regulates the importation of pesticides into Tonga under the *Pesticides Act* and the current head is a member of the Rotterdam Convention's Chemical Review Committee.

Table 7: Compliance with MEA reporting requirements

Relevant MEAs party to	Comments
<i>Basel</i>	Competent authority/focal point designated. Notification provided of 2010 hazardous wastes and chemicals legislation. No national reports submitted since becoming party in 2010.
<i>Stockholm</i>	Official contact point/National focal point designated. National Implementation Plan finalised in 2009 and submitted in 2015. Tonga is reported to have finalised an updated NIP that has been verified by UNEP but has not yet been transmitted to the Stockholm Convention Secretariat No national reports submitted in third and fourth reporting cycles since became party in 2010.
<i>Rotterdam</i>	DNAs notified. 31 import responses provided, all for pesticides. 20 import responses outstanding, largely for industrial chemicals including asbestos.
<i>Minimata</i>	National focal point designated. No further notifications provided. Initial assessment in preparation with assistance of BRI consultants and funding from GEF/UNEP. First short form report due 31 Dec 2019, not submitted.
<i>Waigani</i>	Competent authority and focal point designated (updated September 2019). First short form national report submitted. Tonga has lack of resources to support reporting. Tonga has made requests to COP for support with national training on hazardous waste and the Waigani Convention.

SECTION 4: LEGISLATIVE OPPORTUNITIES



The opportunities identified in this section have been drawn from the findings of the legislative assessment and capacity assessment to provide guidance to Tonga on possible actions they may wish to take to strengthen the legislative frameworks governing waste management

Legislative models for waste governance

Waste management has become a pressing concern for the PacWastePlus participating countries. These nations are impacted by growing levels of hazardous and non-hazardous wastes, which cause environmental pollution, and may threaten human health. The mounting levels of waste place socio-economic burdens on these nations and may pose risks to important cultural values and customary land ownership that distinguish these countries and the region. Internationally, Goal 12 of the 2015 United Nations Sustainable Development Goals calls for ensuring sustainable consumption and production patterns.

Trends in waste governance across the participating countries

Waste is a particular problem for many Pacific region countries due to increasing imports of waste-producing items (such as electronic and consumer goods), limited in-country facilities for collection, treatment and storage of many wastes, and a reduced availability of suitable land for conventional waste disposal methods, such as landfills.

In several cases, participating countries have adopted innovative legislation and instruments to better manage and minimise waste, such as: dedicated legislation for waste management, measures to incentivise recovery and recycling, prohibitions on specific waste-generating items entering the country, and measures to promote waste minimisation and cost recovery. Several Pacific countries are also exploring new institutional arrangements, such as identifying lead agency responsibilities for coordination of waste management laws, arrangements for more effectively managing responsibilities across different levels of government, and/or approaches to increase private sector involvement in waste management through licencing regimes and partnerships for extended producer responsibility.

Many countries in the Pacific adopted applicable laws and institutional structures for managing wastes some time ago that may no longer serve current needs. Significant challenges remain in some nations in establishing a firm economic basis to underpin waste management within the relevant legal frameworks, and in dealing with longstanding waste management issues, such as the sorting of wastes and their diversion, where possible, from landfill.

Increasing attention is being directed to questions of how to promote effective implementation of existing laws and to the development of new legislation and regulation for waste management if this is required. This raises critical issues for resourcing of various components of the waste management cycle within each nation, as well as the possibilities for regionally harmonised approaches. A range of ancillary legislation beyond specific waste management laws may be important for facilitating implementation, and there is a need in some participating countries to develop more coherent cross-agency referral models.

Compliance with, and enforcement of, waste management laws is also vital to their effectiveness and impact. At the same time, these measures must be sensitive to the community context, realistic in terms of the available staffing and technical expertise in government departments and municipal organisations, and cognisant of the competing compliance priorities in the legal system. There is scope within the legislation of several participating countries to widen the range of compliance and enforcement measures beyond monetary penalties and criminal prosecutions.

In addition, there are opportunities to broaden the engagement with communities and the non-governmental sector, and to provide a legislative basis or more formal designation for measures such as community education, consultation and partnerships in managing wastes, particularly those of a non-hazardous nature. The participation of the private sector, whether as waste collector contractors, operators of recycling companies, sewage transporters or tourism agents, is likewise important for effective waste management laws. Regulation needs to be carefully targeted but also to ensure transparency and accountability.

Key recommendations to increase national legislative and institutional capacity

Overall, the existing legislation of Tonga for waste governance was assessed as performing at a medium to medium-to-high level. The capacity of Tonga with respect to various aspects of the administration of its waste legislative framework was assessed overall as medium, with the greatest needs arising in respect of support for implementation, compliance, and enforcement of laws.

Tonga's laws on waste are generally relevant to the priority waste streams using broad definitions of waste and hazardous waste under separate legislation dealing with waste management, hazardous waste and chemicals, environment management and public health. Other than the regulation of plastic bags, there are no laws specific to the priority waste streams.

Having several government departments and WAL responsible for elements of waste management could lead to inefficiencies in the administration of the laws. As a practical matter, having waste management and environmental protection within the same department (Department of Environment), and regular meetings of the different government departments, may assist in avoiding duplication, conflicts or gaps in the exercise of respective government functions. Ultimately, a lack of financial support for waste management operations appears to be a significant factor in any lack of impact from Tonga's waste-related legislation on waste management and environmental protection.

Opportunities for improving legislative instruments to support improved waste management

Key opportunities for legislative reform arise in respect of:

- Extension of the import levy system for plastic bags to cover a wider range of products e.g., beverages in recyclable containers, bulky waste, or e-waste, with an option to include a system for part of the levy to be refunded upon return of recyclable waste from the levied products (e.g., container deposit legislation), subject to community consultation and a public awareness program.
- Controls on the manufacture, sale and distribution of plastic bags and other single-use plastics to accompany the existing levy on importation.
- Rules on the segregation of waste, including green waste from natural disasters, with provision for appropriate information and assistance to households and businesses.
- A formal determination that liquid wastes, including wastewater, is a waste under the definition of waste in the *Waste Management Act*, reflecting the practices and understanding of the relevant authorities.
- Review of how the regulatory and operational functions of the Waste Authority Limited (a public enterprise) are organised and funded under the *Waste Management Act*, with provision for necessary revenue and an option of providing for enhanced oversight of Waste Authority Limited's activities by a government regulator under the *Waste Management Act*.
- Clearer description of the scope of authority and responsibilities for waste management among public, semi-public, and private bodies responsible for waste, hazardous waste, pollution, and health.
- Reforms to enforcement powers e.g., the ability to issue fines in the absence of a complaint and resolving overlaps between offence provisions under multiple laws.

Recommendations to address legislative capacity needs

- **Governance**
 - Technical and legal drafting support for any proposed extension of the levy system and the planned prohibition on single-use plastics, subject to the requirements of consultants under Tonga's Legislative Drafting Manual.
 - Support across different government departments, where needed, to augment capacity to meet reporting obligations under relevant MEAs.

- **Sustainable Finances**

- Review of fees for waste disposal and other charges for waste to determine whether they are set at a level to provide sufficient resources for implementation of the *Waste Management Act*, including the operations of the Waste Authority Limited.

- **Transparency & Community Consultation**

- Building public awareness of waste management laws, especially for local communities in the outer islands, and development of cost-effective consultation procedures for any proposed laws on waste management.
- Additional staff and increased resources, particularly to promote segregation of wastes, recycling, and waste prevention, including in the outer islands.
- Building public awareness of waste management laws, especially for local communities in the outer islands, and development of cost-effective consultation procedures for any proposed laws on waste management.

- **Enforcement**

- Additional enforcement personnel, particularly for coverage of the outer islands, with clearer mechanisms by which community members can make complaints to responsible government departments.
- Review of enforcement powers in the absence of a complaint from the community, and of mechanisms for complaints made by community members, and follow-up of those complaints, particularly in the outer islands.

Annex 1: Glossary of legal terms

Table 8: Glossary of legal terms

Term	Definition
<i>Accession</i>	Accession is the act by which a country accepts the offer or the opportunity to become a party to a convention already signed by other states. It has the same legal effect as ratification.
<i>Acts</i>	Also called statutes or laws. An Act is a document stating the law that has been passed by the legislature (the law-making body of government).
<i>Acts as made</i>	Also called Acts as passed, Acts as enacted, and Sessional Acts. An 'Act as made' is an Act with its contents exactly as they were when passed by the legislature.
<i>Amending Acts</i>	Amending Acts are Acts that change one or more provisions of the Principal Act, often titled, for example, as the Environment Protection (Amendment) Act. Amending Acts must also be passed by Parliament. Where amendments have not been included in the Principal Act, the Principal Act and the Amending Acts must be read together.
<i>Bills</i>	Proposed Acts. Once passed by the legislature and enacted by any formalities required in the country (for example, signature, assent, publication, or notification in the official Gazette), a bill becomes an Act.
<i>Chapter</i>	Some countries consolidate all their Acts at the same time. For example, Tonga consolidated all its legislation (both Acts and Regulations) in 2016. Each Act in the Consolidation was given a Chapter number, so the front cover of an Act in this consolidation states e.g. Environment Management Act, Chapter 47.02, 2016 Revised Edition. The Act as made was the Environment Management Act, Act 27 of 2010. 'Chapter' is often abbreviated to Cap. An Act made after the Consolidation will not have a chapter number.
<i>Code</i>	<p>Several countries are former U.S. territories and arrange legislation into Codes. Such Codes contain all the Acts enacted by the legislature that are current (in force) at the time of the compilation of the Code.</p> <p>Codes are arranged by numbered topic. Each topic is called a Title. As each Principal Act is made it is assigned to a Title. The Act may become a chapter in that Title or only a single new section in an existing chapter, or it may amend an existing chapter or section.</p> <p>Example: in the Marshall Islands, all environmental Acts are contained in Title 35: Environment. Chapter 2 of this Title is the <i>Littering Act 1982</i>. This is abbreviated to 35 MIRC Ch 2 i.e. Title 35 (Environment), Marshall Islands Revised Code, Chapter 2.</p> <p>Once in the Code the section numbers in an Act change because the Code numbering is consecutive. So, what was section 1 in the Act as made becomes section 201 in the Code i.e.: Chapter 2, section 1. Sections are generally denoted in Codes by the symbol §, as in U.S. legislation.</p>
<i>Consolidated Acts</i>	Comprise the Act as made and all amendments up to the date of the consolidation. For example, a 2012 consolidation of an Act originally made in 1999 will include all amendments up until 2012. They may also be known as consolidations or compilations or noted 'as amended'.
<i>Executive</i>	The Executive or the Government, is the branch which implements laws through the making of regulations and administers and enforces the laws. The Executive is also generally the branch of government that signs and ratifies international conventions.
<i>Judiciary</i>	Also, the Courts, the branch of government which interprets laws and formally determines legal disputes.
<i>Legislation</i>	The collective term for both principal (Acts) and subordinate laws (usually regulations).
<i>Legislature</i>	The Legislature or the Parliament, is the branch of government which makes laws.

Term	Definition
<i>International conventions</i>	<p>Are also known as international agreements, and treaties. Conventions come into effect on a certain date. This is not the date the Convention takes effect in a particular country. For the Convention to take effect in a particular country, the country must become a party to the Convention. Countries may sign a Convention – this does not make it a party. Countries may ratify or accede to a Convention – this makes it a party. Following ratification or accession, written instruments evidencing the country’s consent to be bound by the convention are deposited with the Depository – this is generally the Secretary-General of the United Nations, but also, for example, the South Pacific Forum Secretariat in the case of the Waigani Convention. Once these written instruments are deposited by enough parties, the convention takes or comes into effect in the country and the country becomes a party to the convention.</p>
<i>Principal Acts</i>	<p>Principal Acts contain the entirety of a topic, for example, the Environment Protection Act.</p>
<i>Provisions</i>	<p>Provisions are individual numbered clauses within legislation. The most used provision types are:</p> <ul style="list-style-type: none"> • Articles in Constitutions – abbreviated to Art. or art. • Sections in Acts – abbreviated to s (or § in the case of Codes) • Regulations within a Regulation - abbreviated to r • Clauses in Schedules at the end of Acts or subordinate legislation
<i>Ratification</i>	<p>Ratification is the act by which a country indicates its consent to be bound to a convention.</p>
<i>Subordinate legislation</i>	<p>Subordinate legislation is also called subsidiary legislation, delegated legislation, and statutory instruments. These are collective terms. Individual pieces of subordinate legislation are most called regulations, but other types of subordination legislation include:</p> <ul style="list-style-type: none"> • Rules • Ordinances • By-laws • Orders-in-council • Executive orders • Decrees • Decree-Laws (this terminology is used in Timor-Leste) <p>Acts (principal legislation) expressly authorise the making of subordinate legislation.</p> <p>Example: Section 121 of the Marshall Islands National <i>Environmental Protection Act 1984</i> authorises the Environment Protection Authority to make regulations regarding pollutants and discharge or hazardous waste.</p> <p>Subordinate legislation is made by a person or agency other than the legislature – usually the Government Ministry or Department responsible for implementing the Act. A regulation is usually on a specific topic and contains the practical machinery to implement one or more provisions of the Act.</p> <p>Example: regulations made under Section 121 of the Marshall Islands <i>National Environmental Protection Act 1984</i> include the <i>Solid Waste Regulation 1989</i>, the <i>Toilet Facilities and Sewage Disposal Regulation 1990</i>, and the <i>Public Water Supply Regulation 1994</i>.</p>

Annex 2: Acronyms

Table 9: Acronyms

ACRONYM	REFERRING TO
DAC	Development Assessment Committee
ECOLEX	ECOLEX is an information service on environmental law, operated jointly by FAO, IUCN and UNEP
EIA	Environmental Impact Assessment
EU	European Union
FAOLEX	FAOLEX is a database of national legislation, policies and bilateral agreements on food, agriculture and natural resources management.
ICI	Infrastructure Cook Islands
IEA	Island Environment Authority
INFORMEA	United Nations Information Portal on Multilateral Environmental Agreements
MEA	Multilateral Environmental Agreements
MOH	Ministry of Health
NES	National Environment Service
NIP	National Implementation Plan
NGO	Non-Government Organisation
NZPCO	New Zealand Parliamentary Council Office
OECD	The Organisation for Economic Co-operation and Development
PACLII	Pacific Islands Legal Information Institute
PILON	Pacific Islands Law Officers' Network
POPS	Persistent Organic Pollutants
SPREP	Secretariat of the Pacific Regional Environment Programme
UOM	University of Melbourne
UNEP	United Nations Environment Program

Annex 3: Priority Waste Definitions

The PacWastePlus definitions of the priority waste streams included in the programme are detailed below.

Please note, PacWastePlus programme's waste definitions *do not always directly correspond with definitions found in national legislation*.

For example, public health and water/sanitation legislation may reference 'sewage' within concepts of wastewater or broader definitions of solid waste. Where countries' legislation dealing with wastewater or other waste streams includes sewage in the legislative definitions of wastes, these references have been retained for this assessment. This ensures that of the assessment's reproduction of the legislative provisions are accurate, even though human wastes are not encompassed within the PacWastePlus definition of 'wastewater'.

Table 10: PacWastePlus programme definitions

Priority waste	Definition/understanding
<i>Asbestos</i>	Asbestos refers to six naturally occurring silicate minerals composing of long and thin fibrous crystals. These crystals contain many microscopic fibres that can be released into the atmosphere by abrasion and other processes. Asbestos has been used as a building material for many years. Natural disasters can increase the risk of exposure to asbestos found in damaged building materials.
<i>Healthcare waste</i>	Waste generated by health care facilities. Includes used needles and syringes, soiled dressings, body parts, diagnostic samples, blood, chemicals, pharmaceuticals, medical devices, and radioactive materials. It is essential that all medical waste materials are segregated at the point of generation, appropriately treated, and disposed of safely.
<i>E-waste</i>	Electronic waste or e-waste refers to discarded electrical or electronic devices. Used electronics which are destined for refurbishment, reuse, resale, material recovery, or disposal are also considered e-waste. Electronic scrap components, such as CPUs, contain potentially harmful materials such as lead, cadmium, beryllium, or brominated flame retardants.
<i>Organic waste</i>	Organic waste is waste that is biodegradable and has the potential to disintegrate. These wastes often include vegetable and fruit peelings, paper, and food waste. Organic waste is typically a significant proportion of a waste stream, and if managed through landfill creates leachate and harmful greenhouse gases. When processed appropriately, organic waste can add significant value to soil quality and potentially increase food production/soil water retention and help in elimination of invasive weeds.
<i>Disaster waste</i>	The generated waste during a natural disaster i.e. a sudden devastating event (cyclone, flood, earthquake, tsunami, fire etc) that seriously disrupts the functioning of a community or society and causes human, material, economic or environmental losses that exceed the community's or society's ability to cope using its own resources.
<i>Recyclables</i>	Recyclable wastes refer to wastes that can easily be recovered or made into other products. They typically include glass, paper, cardboard, metal, plastic, tyres, textiles, batteries, and electronics.
<i>Bulky waste</i>	Bulky waste (end-of-life vehicles, tyres, white goods, furniture, and other large household goods) describes waste items that are too large to be accepted by the regular waste collection service. It includes damaged furniture, abandoned vehicles and large appliances.
<i>Wastewater</i>	Wastewater refers to waterways impacted by solid wastes and related aspects, such as leachates from landfills or point source pollution from storm water drains.
<i>Plastic waste</i>	Plastic wastes may be recyclable wastes as discussed above. Plastic packaging and single-use plastics may also be a significant source of plastic waste.

Annex 4: Existing Legislation Addressing Waste Management

A summary of existing Cook Islands legislation related to waste management is provided in

Table 11.

Table 11: Legislation impacting waste governance in Tonga

Legislation	Regulations	Description
<u>Waste Management Act (2016 Revised Edition, commenced 2006) Cap 32.18</u>	<u>Waste Management (Plastic Levy) Regulations 2013</u> Cap 32.18.1	<p>Under the <i>Waste Management Act</i>, the approved Authority (WAL) must promote recycling and is authorised to produce rules, procedures, and guidelines for recycling.</p> <p>Single-use plastic bags, covered by Waste Management (Plastic Levy) Regulations 2013, attract a levy designed to incentivise a reduction in the use of plastic bags by increasing the cost of importation as opposed to encouraging recycling. The proposed law might be a prohibition on the import, sale or distribution of certain plastics as opposed to a law establishing a deposit and refund system on, for example, recyclable plastic beverage containers.</p> <p>Under the <i>Waste Management Act</i>, the Minister responsible for the environment may, with the consent of Cabinet, make regulations for the implementation of the Act (s 27). Several areas are listed as being included within this power to make regulations. They include matters relevant to:</p> <ul style="list-style-type: none"> • the administration, management, functions, and powers of WAL • waste collection fees • ‘special levies on particular goods the disposal of which is likely to have adverse effects on the environment’ • ‘any other type of special levy relating to waste management services, or to raise revenues for the effective management of wastes’ • offences and penalties. <p>The <i>Waste Management Act</i> states that ‘regulations made under this Act may require that persons or companies engaged in commercial activities associated with the recycling of wastes be registered or licensed, and such requirements may be administered by the Ministry or by an approved Authority in accordance with the regulations’ (s 21). The Act also empowers the Minister responsible for the environment to ‘...require the registration and licensing of other waste management facilities and operators in accordance with regulations made under this Act’ (s 23).</p> <p>Under the <i>Waste Management Act</i>, WAL has broad powers to make and enforce ‘rules, operating procedures, guidelines, and codes of practice relevant to any aspect of its waste management functions’ (s 20) as well as ‘rules, operating manuals, codes of practice and standards regulating activities associated with the management of wastes in Tonga’ (s 6).</p>

Legislation	Regulations	Description
<p><i>Hazardous Wastes and Chemicals Act 2010 (2016 Revised Edition, no record of commencement) Cap 47.08</i></p>		<p>The <i>Waste Management Act</i> allows the Minister responsible for the environment to prescribe 'environmental standards relating to waste management practices and facilities. Equally, the Minister of Health may prescribe 'public health standards relating to waste management practices and facilities' (s 22).</p> <p>The Ministers responsible for the environment and for health can, together, extend WAL's responsibility as an 'approved Authority' beyond the main island of Tongatapu to the other islands (ss 4-5). The Minister responsible for the environment must first designate waste management service areas and then the Minister responsible for health (who is otherwise the approved Authority for other areas) can appoint WAL as the approved Authority for that area.</p> <p>WAL can 'determine' that specific types of waste are regulated under the Act (s 2, with s 8). The process is not set out in the <i>Waste Management Act</i> but the UoM team understands that as a matter of practice, this would require Cabinet approval. WAL may also levy and vary fees for residential garbage collection, commercial waste collection, disposal of waste at waste dump sites and disposal of hazardous waste (s 13).</p>
<p><i>Environment Management Act (2016 Revised Edition, commenced 2010) Cap 47.02</i></p>	<p>None identified.</p>	<p>The purpose of the legislation is to 'provide for the regulation and proper management of hazardous wastes and chemicals in accordance with accepted international practices and the international conventions applying to the use, transboundary movement and disposal of hazardous substances' (long title).</p> <p>The <i>Hazardous Wastes and Chemicals Act</i> contains a series of specific prohibitions relating to persistent organic pollutants (POPs) (s 6), radioactive wastes covered by the Waigani Convention (s 8), hazardous chemicals covered by the Rotterdam Convention (s 9) and hazardous wastes regulated under the Basel and Waigani Conventions (s 10):</p> <ul style="list-style-type: none"> • Part IV of the Act specifies controls over imports of hazardous wastes • Part V provides controls over exports of hazardous chemicals, wastes and POPs • Part VI governs controls over hazardous substances in transit.
<p><i>Environmental Impact Assessment Act (2016 Revised Edition, commenced 2003) Ch 47.04</i></p>	<p>Environment Management (Litter and Waste Control) Regulations 2016 Cap 47.02.2</p>	<p>The <i>Environment Management Act</i> provides for the making of regulations 'regulating or prohibiting the pollution of the air, water or land, and the depositing or dumping of litter, rubbish, or any substance of a dangerous, noxious or offensive nature' (s 19).</p> <p>An Act to provide for the application of environmental impact assessment to the planning of the development projects within the kingdom. While this act is not directly tied to waste management activities, the construction of an e-waste storage/dismantling structure or a landfill would likely trigger this requirement.</p> <p>Section 6: <u>All major projects</u> shall be supported by an appropriate environmental impact assessment, conducted as required under this Act.</p>

Legislation	Regulations	Description
<p><i>Public Health Act (2016 Revised Edition, commenced 2015, replacing act of 1992) Cap 28.30</i></p>	<p>Several, including <u>Water Supply Regulations</u> (2016 Revised Edition, commenced 1963) Cap 28.30.4</p>	<p>Section 8 (2): The Minister shall have regard, in making any determination under subsection (1), to the effect the project is likely to have on—(a) any ecosystems of importance, especially those supporting habitats or rare, threatened, or endangered species of flora or fauna;(b) areas, landscapes, and structures of aesthetic, archaeological, cultural, historical, recreational, scenic or scientific value;(c) any land, water, sites, fishing grounds, or physical or cultural resources, or interests associated with such areas, which are part of the heritage of the people of Tonga and which contribute to their well-being;(d) the social and the economic well-being of communities; or (e) whether any project is likely to—(i) result in or increase pollution;(ii) result in the occurrence, or increase the chances of occurrence, of natural hazards such as soil erosion, flooding, tidal inundation, or hazardous substances; (iii) result in the introduction of species of types not previously present that might adversely affect the environment and biodiversity;(iv) have features, the environmental effects of which are not certain, and the potential impact of which is such as to warrant further investigation;(v) result in the allocation o depletion of any natural and physical resources in a way or at a rate that will prevent the renewal by natural processes of the resources or will not enable an orderly transition to other materials; or (f) whether utility services are available and adequate for that activity.</p> <p>And Section 9: Where, in the opinion of the Minister, any matter referred to in section 8(2)(e) of this Act is likely to occur to a significant degree, the project shall be deemed to be a major project and the prescribed procedures in the Regulations shall apply.</p>
		<p>The <i>Public Health Act</i> is broad in scope and could cover several of the priority waste streams through its governance of public health risks in the contexts, for example, of water supply, sanitary facilities, nuisances, air pollution, quarantine and health and safety at work. In its regulation of quarantine, the <i>Public Health Act</i> allows for the destruction, disposal, or removal (re-export) of such things as a cargo container, 'its contents or any cargo or other thing' posing a public health risk (s119). In the context of health and safety at work, an authorised officer who visits a workplace must pay special attention to certain matters including 'the safe disposal of any offensive or toxic waste material' (s 203).</p> <p>The broad definition of 'waste' under the <i>Public Health Act</i> would cover wastewater, and provisions protecting water supply and sewers would extend to wastewater. For example, the Minister of Health has a duty to do certain things to avoid pollution of the water supply (s 65).</p> <p>In addition, the Water Supply Regulations impose penalties on any person who 'causes or suffers the water of any sewer or drain to run or be conveyed into any water in the waterworks or into any water in a catchment area; does any other thing whatsoever or permits any other thing whatsoever to be done to the water in the waterworks or the water in a catchment area whereby or by means whereof the water or any part thereof is or may be fouled, corrupted or injured' (r 9).</p> <p>The integrity of the sewers is also protected from wastewater through a provision under the <i>Public Health Act</i> that prohibits people from 'permitting any toxic, explosive or inflammable material to pass into any sewer, public or private, or into any septic tank' (s 81).</p>

Legislation	Regulations	Description
<u><i>Pesticides Act (2016 Revised Edition, commenced 2002) Cap 28.26</i></u>	None identified.	<p>An Act to regulate the registration, manufacture, import, sale, storage, distribution, use and disposal of pesticides in Tonga. This act controls the presence and disposal of pesticides in the waste stream. Section 8 defines the Committees advisory role for pesticide disposal and Section 19 sets up the liability scheme to support pesticide disposal costs.</p> <p>Section 8: The Committee shall have advisory functions, shall assess and evaluate every application for registration of a pesticide, determine the conditions of use of any pesticide and recommend such conditions to the Registrar, issue guidelines for the storage, distribution, use <u>and disposal of pesticides and promote the efficient, safe use, storage and disposal of pesticides.</u></p> <p>Section 19: Disposal or destruction of pesticides (1) No person shall dispose of a pesticide or pesticide container except in accordance with the instructions on the registered label or in such manner as may be prescribed or as directed by the Registrar. (2) Where a pesticide has been forfeited to the Crown, the Registrar, acting on the advice of the Committee, shall determine an appropriate means of disposal or destruction. (3) Any costs incurred in the disposal or destruction of a pesticide or pesticide containers shall be borne by the owner of the pesticide or pesticide container, or in a case of a pesticide or pesticide container which has been forfeited to the Crown, the person from whom it was forfeited.</p>
<u><i>Ozone Layer Protection Act (2016 Revised Edition, commenced Cap 47.10</i></u>	None identified.	<p>The <i>Ozone Layer Protection Act</i> has incidental application to plastic waste through the prohibition of imports of certain plastics from countries that are not party to the Montreal Protocol (s 6(2)(i)), namely pre-polymers used to make rigid plastic foams.</p> <p>The <i>Ozone Layer Protection Act</i> is also incidentally related to bulky waste to the extent that it restricts imports of such things as refrigerators, freezers and air-conditioning units containing ozone depleting substances.</p>
<u><i>Food Act (2016 Revised Edition, commenced 2014) Cap 28.08</i></u>	None identified.	<p>An Act to regulate the manufacture, sale, import and export of food for commercial purposes, to guarantee food safety and fitness for human consumption, to promote fair trade practices in food.</p> <p>The only nexus to waste of this act is the ability of the Minister of health to order that any food unfit for human consumption “be destroyed or disposed of so as to prevent its being used for human consumption, and shall supervise the destruction of such food.”</p>
<u><i>Marine Pollution Prevention Act (2016 Revised Edition, commenced 2005) Cap 48.12</i></u>	None identified.	<p>Wastewater would be covered in some circumstances by the <i>Marine Pollution Prevention Act</i>. It applies to all 'potential sources of marine pollution incidents in Tongan territory' (s 1). Also, 'discharges' into the sea regulated by the legislation include releases of 'pollutants, harmful substances or effluents containing such pollutants or substances' caused from a 'place on land' (s 2). This provision would appear to cover the release of wastewater from land-based activity through drains or other passages into coastal areas.</p>

Legislation	Regulations	Description
<u><i>Town Regulations Act</i></u> (2016 Revised Edition, commenced 1903) Cap 22.32	None identified.	The <i>Town Regulations Act</i> states that ' <i>[i]t shall be unlawful for anyone to deposit or to leave or to throw in a Government road or public place or on the beach or on the premises of another, any glass, bottles, can, bits of metal or iron, paper or rubbish or litter or material of any sort whatsoever, whether a source of danger or not</i> ' (s 9).
<u><i>Plant Quarantine Act</i></u> (2016 Revised Edition, commenced 1982) Cap 44.10	Various.	An Act to revise the law relating to the quarantine of plants. Based on concerns relating to the release of invasive plants, the Act (Section 35) does prohibit the discharge of garbage from ships and aircraft. Garbage in this context is defines as: mixed refuse waste material derived in whole or in part from plants, fruits, vegetables, meats or other plant or animal material or other refuse of any character whatsoever that has been associated with any fruits, vegetables, meats or other plant or animal material.

Tonga is a constitutional monarchy with an English-style common law system and no formal recognition of customary law. Since 2010, the Parliament has comprised 9 nobles for the Tongatapu, Ha'apai, Vava'u, 'Eua and Niuafu'ou/Niuatoputapu island districts and 17 people's representatives governing an archipelago of 176 islands, 36 of which are inhabited. Parliament is seated on the main island of Tongatapu and local governance is organised in accordance with the *Fonos Act* and the District and *Town Officers Act*. Tonga's legislation comprises the consolidated laws in the '2016 Revised Edition' and any laws enacted since consolidation, including laws that amend the 2016 Revised Edition.

Annex 5: MEA Reporting

Reporting requirements under relevant MEAs

The relevant MEAs for the PacWastePlus project are:

- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention);
- Stockholm Convention on Persistent Organic Pollutants (Stockholm Convention);
- Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention);
- Minamata Convention on Mercury (Minamata Convention); and
- Convention to ban the Importation of Hazardous and Radioactive Wastes into Forum Island Countries and to Control the Transboundary Movement and Management of Hazardous Waste within the South Pacific Region (Waigani Convention).

These MEAs establish requirements for countries which are party to them to provide certain notifications, share information and produce national reports on their implementation of the conventions. **Table 12** below summarises the key notification, information and reporting requirements for each of the relevant MEAs.

Based on the information summarised in **Table 3**, compliance with these requirements was coded on a five-point scale (with 0 as no data), as follows:

- **5** – high compliance, e.g. all or majority of national reports provided, relevant national authorities designated and updated, all necessary notifications and information provided.
- **4** – medium-to-high compliance, e.g. most national reports provided, relevant national authorities designated, most notifications and information provided.
- **3** – medium compliance, e.g. some national reports provided, some national authorities designated, some notifications and information provided.
- **2** – low-to-medium compliance, e.g. few national reports provided, national authorities not designated or updated, few relevant notifications and information provided.
- **1** – low compliance, e.g. no evidence of national reporting, national authorities not designated, no notifications or information provided.

In some cases, the assessment of reporting compliance was preliminary, for instance, because a particular MEA only recently came into effect for a particular country. An average compliance score was calculated overall based on individual scores for different MEAs for each participating country. This data suggests that participating countries' level of compliance with reporting, information sharing and notification requirements under relevant MEAs tends to increase based on the number of those MEAs to which they are party, although it is noted this is a correlation only.

This trend may arise because countries are able to transfer learning and capacity developed for reporting and information exchange under one treaty to another related treaty. It may also reflect the fact that joining particular MEAs gives countries access to capacity building resources and support under those treaties that has a positive effect for their reporting compliance across other treaties they are party to.

Table 12: Notification, information sharing and reporting requirements of MEAs

MEA	OBJECTIVE	NOTIFICATION REQUIREMENTS	INFORMATION SHARING	REPORTING
Basel Convention	<p>To protect, by strict control, human health and the environment against the adverse effects which may result from the generation, management and transboundary movement of hazardous wastes and other wastes (preamble).</p> <p>Ban Amendment (in force 5 Dec 2019) prohibits all transboundary movements of hazardous wastes from OECD countries to developing country parties.</p>	<p>Parties must notify Secretariat of wastes considered hazardous under national legislation and update as appropriate (Art. 3)</p> <p>Obligation to designate one or more competent authorities (which receive notifications of movements of hazardous wastes) and one focal point (responsible for transmitting decision on import bans) (Art 5.1).</p>	<p>Provision of information to other parties on import bans (Art.4 and Art. 13).</p>	<p>Obligation for annual national reports (Art. 13(3)).</p>
Stockholm Convention	<p>Mindful of the precautionary approach, to protect human health and the environment from persistent organic pollutants (Art. 1).</p>	<p>Notifications to Secretariat for registration of specific exemptions for import/ export (Art. 4)</p> <p>Obligation to designate national focal point for information exchange Art. 9(3) –</p>	<p>Obligation to develop and transmit to Conference of Parties a national implementation plan (NIP), and to review and update plan, as appropriate, on a periodic basis (Art. 7).</p>	<p>Article 15 requires periodic reporting on national implementation measures. At the 1st Conference of the Parties it was decided that national reports should be submitted every four years).</p> <p>Four reporting cycles since convention entered into force (2006, 2010, 2014, 2018). Fourth report was required to be submitted by 31 Aug 2018.</p>

MEA	OBJECTIVE	NOTIFICATION REQUIREMENTS	INFORMATION SHARING	REPORTING
Rotterdam Convention	To promote shared responsibility and cooperative efforts among parties in the international trade of certain hazardous chemicals in order to protect human health and the environment from potential harm and to contribute to their environmentally sound use, by facilitating information exchange about their characteristics, by providing for a national decision-making process on their import and export and by disseminating these decisions to parties (Art. 1).	<p>Parties must designate one or more national authorities authorised to act on the country's behalf in performance of the administrative functions required by the Convention. These details are to be notified to the Secretariat no later than the date of entry into force of the Convention for that party and any changes are to be notified 'forthwith' (Art. 4).</p> <p>Parties required to notify the Secretariat of new or existing 'final regulatory actions' banning or severely restricting a chemical e.g. pesticide or industrial chemical regulated by the Convention (Art. 5).</p> <p>Notifications of export of listed chemicals (Art. 13).</p>	Obligations in respect of chemicals listed in Annex III, include notifications to the Secretariat of the country's proposed response for future imports (e.g. decision to prohibit, allow, allow with conditions). Should be accompanied by details of legislative or administrative measures on which it is based (Art. 10).	No specific requirement for national reporting.
Minamata Convention	To protect the human health and the environment from anthropogenic emissions and releases of mercury and mercury compounds (Art. 1).	<p>Notifications regarding export of mercury (Art. 3).</p> <p>Requirement for designation of national focal point for information exchange and notifications under article 3 (Art. 17).</p>	Discretionary obligation, following an initial assessment, to develop implementation plan and transmit to Secretariat (Art. 21).	Obligation to report on measures taken for implementation (Art. 21). Pursuant to decision of COP MC-1/8 on the Timing and format of reporting by the parties (2017), reporting is on a biennial basis with short form every 2 years and long form every 4 years.

MEA	OBJECTIVE	NOTIFICATION REQUIREMENTS	INFORMATION SHARING	REPORTING
Waigani Convention	To prohibit the importation of hazardous and radioactive wastes into Pacific Island developing countries and to facilitate environmentally sound management of such wastes (preamble).	<p>Obligation to notify Secretariat of wastes considered/ defined as hazardous wastes under legislation beyond those listed in Annex I and inform of any significant changes (Art. 3).</p> <p>Must designate one competent authority and one focal point (Art. 5).</p> <p>Notifications of transboundary movements of hazardous wastes (Art. 6).</p>	<p>Obligation to forward to Secretariat information on any illegal hazardous wastes import activity in jurisdiction (Art. 4).</p> <p>Obligation to provide information to Secretariat on changes to competent authorities/ focal points or changes to national definitions of hazardous wastes (Art. 7).</p>	<p>Deadline for 1st biennial short report 31 Dec 2019, 1st long report 31 Dec 2021.</p> <p>Requirement to submit ‘such reports as COP may require’ regarding hazardous wastes generated in jurisdiction (Art. 4).</p> <p>At its Second Meeting in 2004, the COP agreed that Reporting and Transmission of Information forms should be filled out annually by parties and submitted to SPREP in its role as the Convention Secretariat. Parties were requested to begin reporting starting at the 2004 calendar year.</p>

Annex 6: Models and Concepts for Waste Management

There are a number of general models and concepts that inform contemporary waste management regulation and practice. These models often require quite significant supporting institutional and economic infrastructure that may not be in place or possible in many participating countries. Adopting these models may, therefore, be a long-term strategic goal rather than an immediate policy priority for nations.

The Waste Hierarchy

The generally accepted model for waste management that appears in the strategies of a number of countries in the Pacific region, is the 'waste hierarchy' model.

The aims of the hierarchy are:

- To generate as little waste as possible in the first place; and
- To extract the maximum practical benefit from the waste that is still produced.

The waste hierarchy suggests that as a priority order in waste management legislation and policy, governments should pursue waste avoidance, reduction (prevention or minimisation), re-use, recycling, and other recovery (e.g., waste-to-energy) (see Figure 1). The hierarchy dictates that the last option is disposal for end-of-life products.



Figure 1: Waste hierarchy (Creative Commons Licence BY-SA 3.0)

The Circular Economy

The 'circular economy' is also increasingly regarded as relevant to waste management legislation and policy. A 'circular economy' is one that values resources by keeping products and materials in use for as long as possible. This contrasts with a linear economy – take, make and dispose – approach. In waste management, this means placing a value on re-use and recycling, with the aim of zero waste.

Related to the circular economy are producer responsibility approaches, where producers are required, to design and make products that are recoverable, or recyclable, and accept the return of waste produced by their products. Producer responsibility can be encouraged by importing countries via legislative mechanisms, such as levies on imported products that can be recycled at the end of their operational life.

Environmental Models

These newer policy models sit alongside other general environmental models for managing waste safely and preventing waste pollution. These models may adopt tools such as EIA for waste generating activities, permitting, or licensing of waste management facilities, regulation of waste collection and offences for harmful actions with respect to waste such as littering or dumping, as well as incentives to segregate and separate wastes. Few of the participating countries, however, have extensive testing, monitoring, and tracking measures in their waste management legislation to support the successful operation of these models. Effective compliance and enforcement of standards are also necessary.

The model used to formulate the waste management legislative framework will necessarily influence the efforts and input needed to manage not only waste, but the legislation and the government's required management:

- Different types of legislative models can be adopted to give effect to different types of policy objectives. In turn these different models require differing levels of institutional support and administrative arrangements to make them work.
- Operation, regulation, and enforcement are distinct functions that can be divided among different agencies. Sometimes these roles are divided among public and private bodies, but in some cases, they are all the responsibility of government or semi-public entities. All these functions may involve the community in different ways, such as providing information to the community and involving the community in enforcement activities.

Table 13 summarises, in general terms, different kinds of legislative models for waste management, the overall policy objectives they relate to, and the key institutional underpinning required for their administration and operation, as well as examples drawn from the waste-related laws of the participating countries.

Table 14 describes how the existing and pipeline waste management legislation of participating countries maps against these general models.

Table 13: Legislative models and institutional requirements

LEGISLATIVE MODEL	RELATED POLICY GOAL(S)	INSTITUTIONAL REQUIREMENTS	EXAMPLES
<p>Dedicated waste management legislation [WASTE MANAGEMENT ACT]</p> <ul style="list-style-type: none"> • Definitions of waste streams /other waste as prescribed by regulation • Designation of responsibilities for waste management • Standards/protocols for collection, treatment, storage/ disposal • Waste licencing/ permitting of waste operators (OHS/safe handling) • Audit and monitoring provisions • Sustainable financing mechanisms, e.g., levies/ charges • Enforcement provisions and incentive-based regulation 	<ul style="list-style-type: none"> • Waste reduction / prevention • Re-use, Recycling, Recovery • Identification and achievement of waste reduction targets • Safe handling, storage, and disposal • Minimising harm to environment and people • Sustainable financing (e.g., user-pays / polluter-pays; extended producer responsibility) • Incentivising behavioural change, including re-use and recycling • Supporting cultural values in terrestrial and marine environments 	<ul style="list-style-type: none"> • Clear designations of responsibility • Inter-agency cooperative approach • Cooperation between different levels of government • Supporting ‘soft’ law instruments • Staffing / resourcing for implementation, monitoring and enforcement • Ongoing access to information; technical and policy setting • Support for storage, recovery and disposal • Community / private sector consultation 	<ul style="list-style-type: none"> • <i>Waste Management Acts</i> in Samoa, Tonga, Tuvalu, and Vanuatu • Proposed Solid and Hazardous waste legislation in Cook Islands
<p>Regulation of specific waste streams under environment protection legislation e.g., solid waste, bulky waste, organic waste, recyclables, plastics, disaster waste, wastewater [EPAct]</p> <ul style="list-style-type: none"> • Definitions of waste streams • Provisions re storage, collection, segregation, and disposal of waste • Technical standards/ specialist implementation • Enforcement provisions 	<ul style="list-style-type: none"> • Effective / efficient waste management • Minimising harm to environment and people • Sustainable financing • Comprehensive Waste Collection • Improvement of waste sorting and diversion from landfill • Recycling; Recovery • Minimising waste pollution and human health risks • Hazard reduction and climate change adaptation 	<ul style="list-style-type: none"> • Clear designations of responsibility • Inter-agency cooperative approach • Supporting ‘soft’ law instruments • Staffing / resourcing for implementation, monitoring and enforcement • Ongoing access to information • Support for secure storage, recovery and disposal • Community / private sector consultation 	<ul style="list-style-type: none"> • <i>Solid Waste Management Regulations</i> in Yap State (the FSM), Palau and the RMI • <i>Environment Management (Waste Disposal and Recycling) Regulations</i> in Fiji • Proposed <i>Waste Management Bill 2016</i> to amend <i>Environment Act</i> in Solomon Islands
<p>Regulation of hazardous waste e.g., healthcare waste, asbestos, e-waste, wastewater [Haz waste]</p> <ul style="list-style-type: none"> • Identification of hazard sources • Separation and diversion from landfill • Registering, tracking, and monitoring • Staff training and capacity building 	<ul style="list-style-type: none"> • Effective / efficient waste management • Waste segregation • Safe handling, regulated storage, and out of country disposal, as necessary • Minimising pollution harm to environment and people • Utilisation of best practice technologies, with implementation guidelines, e.g. healthcare waste incineration 	<ul style="list-style-type: none"> • Clear designations of responsibility • Inter-agency cooperative approach • Cooperation between different levels of government (local operational to national) • Supporting ‘soft’ law instruments • Staffing / resourcing for implementation, monitoring and enforcement 	<ul style="list-style-type: none"> • <i>Hazardous Wastes and Chemicals Act</i> in Tonga • <i>Solid Waste Management Regulations</i> in Palau and the RMI • Healthcare waste management plans in Samoa, PNG • Asbestos disposal guidelines - PNG • Regulations / guidelines under OHS legislation in Fiji, Samoa, and Niue.

LEGISLATIVE MODEL	RELATED POLICY GOAL(S)	INSTITUTIONAL REQUIREMENTS	EXAMPLES
<ul style="list-style-type: none"> Licensing/permitting (OHS, regulated handling and disposal) Targeted fee/ charges basis to reflect risk management requirements Compliance with MEA obligations 	<ul style="list-style-type: none"> Building capacity to deal with disasters/ pandemics 	<ul style="list-style-type: none"> Ongoing access to information Support for secure storage, recovery and environmentally sustainable disposal 	<ul style="list-style-type: none"> Specific part in dedicated waste legislation in Tuvalu <i>Ozone Layer Protection Act 2010 [2014]</i> in Vanuatu
<p>Sustainable waste-financing systems [Sus fin/CDL]</p> <p>Examples include:</p> <ul style="list-style-type: none"> Container deposit system; recycling /re-use deposit fees Levy on items at customs point e.g., beverage containers/cans, lead acid batteries, PET bottles Advance disposal fee at customs point Scaled landfill fees i.e., higher for recyclables Separate, dedicated fund with regulations. for management and distribution of funds; independent audit functions 	<ul style="list-style-type: none"> Waste reduction / prevention Re-use, Recycling, Recovery Effective / efficient waste management Supporting waste segregation Minimising waste pollution Sustainable financing (e.g., user-pays / polluter-pays; extended producer responsibility) Incentivising behavioural change e.g., through % of amount paid to consumers as refund after use; % paid to support recycling of items Supporting cultural values in terrestrial and marine environments 	<ul style="list-style-type: none"> Inter-agency cooperative approach and cooperation b/n national and provincial/ local government Reservation of fund from consolidated revenue with transparency and independent oversight Staffing / resourcing for implementation at customs point; monitoring and compliance Ongoing access to information Support for storage, re-use, recovery and disposal (e.g., export fees) Community / private sector consultation Public education - communications expertise and resources 	<ul style="list-style-type: none"> Container deposit schemes in the FSM (except Chuuk), Fiji, Kiribati, Palau Waste levy and select refund scheme on wide range of products in Tuvalu, including but not limited to waste that can be recycled/ recovered Cook Islands – advance disposal fee RMI - Waste Fund
<p>Prohibition on import of certain items [Ban]</p> <ul style="list-style-type: none"> Most commonly in the context of plastics e.g. single-use plastic bags, Styrofoam containers, disposable straws/cutlery. May take form of levy rather than outright prohibition Applicable to other high risk, waste-generating products or chemicals e.g., asbestos sheeting, POPs; biosecurity 	<ul style="list-style-type: none"> Waste reduction / prevention Effective / efficient waste management Minimising waste pollution, health and environmental risks Meeting International waste management obligations Supporting in-country industries such as tourism and hospitality Supporting cultural values in terrestrial and marine environments 	<ul style="list-style-type: none"> Clear designations of responsibility and authorisations Inter-agency cooperative approach Supporting 'soft' law instruments Staffing / resourcing for implementation at customs point; in-country monitoring and compliance Ongoing access to information Storage at customs point, as necessary, and disposal Community / private sector consultation/ education - communications expertise and resources 	<ul style="list-style-type: none"> Various prohibitions enacted in the FSM, Fiji, Kiribati, Niue, Palau, PNG, RMI, Samoa, Tonga, Tuvalu, and Vanuatu. Proposed in the Cook Islands for single-use plastics. 'Zero' plastic initiative in Timor-Leste.

LEGISLATIVE MODEL	RELATED POLICY GOAL(S)	INSTITUTIONAL REQUIREMENTS	EXAMPLES
<ul style="list-style-type: none"> Typically combined with in-country prohibition on manufacture, sale and distribution <p>Development control / impact assessment regimes / licences [EIA]</p> <ul style="list-style-type: none"> Waste regulation as component of environmental legislation with regulations. for project EIA to inform development consents and pollution /discharge controls to minimise env. impacts. Broad powers to impose waste-relevant conditions on project and operational (pollution control) licences/permits Supporting regulations - specific regulations for identified wastes/ risk contexts Testing, monitoring & reporting requirements, offence provisions 	<ul style="list-style-type: none"> Waste reduction / prevention Effective / efficient waste management Safe handling, storage and disposal Minimising waste pollution, health and environmental risks including siting of landfills Implement strategic planning objectives e.g., spatial controls to divert wastewater from environmentally sensitive areas Polluter-pays and targeted discharge licences/fees Supporting cultural values in terrestrial and marine environments 	<ul style="list-style-type: none"> Clear designations of responsibility and authorisations Inter-agency and intergovernmental cooperative approach Technical expertise to set standards, and evaluation of EIAs and pollution controls Staffing / resourcing for implementation, testing/monitoring and enforcement Capacity building/OHS for operational staff e.g., at landfills to control pollution Ongoing access to information including technical and scientific standards and BAT Community / private sector consultation/ joint development of codes of practice 	<ul style="list-style-type: none"> Environmental and / or planning legislation in Fiji, Kiribati, Niue, Samoa, PNG, Solomon Islands, RMI Coverage of major developments in Tuvalu Waste Management Act Solomon Islands Water Authority (Catchment Areas) Regulation restricts introduction of pollutant or wastes into catchment areas.
<p>Compliance and enforcement/ changing behaviour [Comp/enforce]</p> <ul style="list-style-type: none"> Civil and criminal offences, and administrative penalties Compliance tools e.g., littering spot fines, clean up notices, reputational penalties e.g., non-compliance notices Offence hierarchy and graded penalties (individuals vs corporations; single vs recurring offences); negotiated penalties Identified role for courts/tribunals and case reporting Community awareness programs 	<ul style="list-style-type: none"> Waste reduction / prevention Effective / efficient waste management Minimising pollution, health and environmental risks Waste Financing (e.g., user-pays / polluter-pays) where e.g., fines revert to waste management Incentivising behavioural change in industry and community Supporting new regulatory models e.g., prohibitions on single use plastics Supporting cultural values in terrestrial and marine environments 	<ul style="list-style-type: none"> Clear designations of responsibility for enforcement, and delegations of powers as necessary e.g., to police, municipal officers Inter-agency and intergovernmental cooperative approach, including with legal officials for prosecutions/ civil actions Enhanced staffing/resourcing for monitoring, compliance and enforcement Interagency training and capacity building programs Ongoing access to information 	<p>All participating countries, e.g.</p> <ul style="list-style-type: none"> RMI - EPA cease and desist orders; imposition of civil penalties; institution of civil proceedings; and any other action authorised under 'any other law'. Littering offences and offences under related legislation e.g., Nauru, Vanuatu Kiribati - Duty to clean-up environment PNG - Duty to prevent significant environmental harm and offences Samoa - community involvement in waste management, including

LEGISLATIVE MODEL	RELATED POLICY GOAL(S)	INSTITUTIONAL REQUIREMENTS	EXAMPLES
<p>Recovery of waste costs from private sector/polluter [Private/polluter]</p> <ul style="list-style-type: none"> • Packages of measures under legislation and ‘soft law’ • Tourism: Information and education; re-useable items; ‘green fee’ as arrival or departure tax; industry responsibility to reduce waste • Extended producer responsibility requirements / standards in legislation and ‘soft law’ • Consumer awareness programs e.g., packaging 	<ul style="list-style-type: none"> • Waste reduction / prevention • Effective / efficient waste management • Minimising waste pollution and reducing environmental and health risks • Sustainable financing (e.g., user-pays / polluter-pays) • Incentivising behavioural change in industry, consumers and community • Supporting cultural values in terrestrial and marine environments 	<ul style="list-style-type: none"> • Integration with traditional/ community-based authorities, esp. in rural areas • Community / private sector consultation and compliance partnerships (soft law) • Clear designations of responsibility and cooperation between public and private sector • Monitoring and facilitation of compliance directed at ‘consumers’ • Government procurement regulations/ guidelines • Management and distribution of funds, with transparency and audit regulations. • Community / private sector consultation and partnerships • Public education - communications expertise and resources 	<p>making of by-laws and community programs and initiatives</p> <ul style="list-style-type: none"> • Palau – responsible tourism measures • PNG – mining contractor responsibility to take back their waste • RMI - Majuro Atoll Waste Company (re tourist input) • Nauru – natural disaster assistance • Samoa -<i>Tourism Development Act 2012</i> (minimise waste) • Tuvalu - Tourism departure fee • Cook Islands – advance disposal fee
<p>Information provision, planning and reporting on waste issues [Planning/reporting]</p> <ul style="list-style-type: none"> • Provisions in legislation for publicly available waste management information • Strategic/priority and target-setting in legislation or regulation • Mandatory reporting by government agencies and waste industry on key targets and operations • Waste audits and reporting • Requirements for public consultation/ education 	<ul style="list-style-type: none"> • Waste reduction / prevention • Efficient and effective waste management • Incentivising behavioural change in industry, consumers, and community • Supporting cultural values in terrestrial and marine environments 	<ul style="list-style-type: none"> • Designations of responsibility for planning and reporting • Inter-agency and intergovernmental cooperative approach • Staffing/resourcing/training for community and industry programs • Ongoing access to information • Community and industry consultation 	<ul style="list-style-type: none"> • Examples of State of the Environment reports in FSM and Palau • Vanuatu – National Statistics Office waste reporting • Tuvalu waste audits

Table 14: Legislative models in participating countries' waste laws

MODEL	COOK ISLANDS	FSM	FIJI	KIRIBATI	NAURU	NIUE	PALAU	PNG	RMI	SAMOA	SOLOMON ISLANDS	TIMOR-LESTE	TONGA	TUVALU	VANUATU
DEDICATED WASTE MANAGEMENT LEGISLATION															
REGULATION OF SPECIFIC WASTE STREAMS UNDER ENVIRONMENT PROTECTION LEGISLATION.															
REGULATION OF HAZARDOUS															
SUSTAINABLE WASTE-FINANCING SYSTEMS															
PROHIBITION/LEVY ON IMPORT OF CERTAIN ITEMS															
DEVELOPMENT CONTROL / IMPACT ASSESSMENT REGIMES / LICENCES															
COMPLIANCE AND ENFORCEMENT/ CHANGING BEHAVIOUR															
RECOVERY OF WASTE COSTS FROM PRIVATE SECTOR/POLLUTER															
INFORMATION PROVISION, PLANNING AND REPORTING ON WASTE ISSUES															



Not present in existing legislation



Present in existing legislation



Present in pipeline legislation



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