



Stocktake of Existing and Pipeline **Waste Legislation:** PAPUA NEW GUINEA



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Secretariat of the Pacific Regional Environment Programme (SPREP)

PO Box 240

Apia, Samoa

www.sprep.org

sprep@sprep.org

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About this Report

Introduction and Acknowledgements

1. This report was prepared by the University of Melbourne (UoM) consultancy team as part of the PacWastePlus Waste Legislative Review project. The UoM team reviewed laws on waste management in 14 Pacific region countries and Timor-Leste (the 'participating countries'). This research was commissioned by the Secretariat of the Pacific Regional Environment Programme (SPREP), with funding support from the European Union's Delegation to the Pacific.
2. The team acknowledges, with gratitude, the research assistance provided by Ms Rebekkah Markey-Towler and the extensive background legislative reviews undertaken by the MLS Academic Research Service under the stewardship of Ms Robin Gardner and with the assistance of Daniel Carlos Bennett-Spark, Ken Zhunwye Kiat and Luis Bogliolo.
3. The UoM team also gratefully acknowledges project assistance provided by Ms Astari Kusumwardini, as well as the assistance, guidance and contributions provided by the SPREP PacWastePlus team and in-country stakeholders in the participating countries, who generously shared their time and insights with the UoM team.

Methodology

4. The methodology used by the UoM team to prepare this report was primarily based on desktop research using publicly available online resources about waste management laws in the participating countries.
5. Particular databases drawn for the research included those maintained by 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.
6. 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.
7. 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 to date), as well as interviews with in-country contacts (in Vanuatu, the Solomon Islands, Federated States of Micronesia and Samoa only at the time of preparing this report). Further in-country trips and interviews are planned across the remainder of the project period.

Outline of Report

8. This report contains the UoM team's findings relating to:
 - A **stocktake of the existing legislative environment for waste management** in the participating countries, focusing on the PacWastePlus priority waste streams of healthcare waste, asbestos, e-waste, plastic waste, recyclables, organics, disaster waste, bulky waste and wastewater, and including implementing legislation for the following multilateral environmental agreements (MEAs): Waigani, Basel, Stockholm, Rotterdam, and Minamata.
 - A **stocktake of pipeline legislative initiatives** in the participating countries, including an assessment of their impact and approximate timeframe for development.

9. For the pipeline stocktake, the UoM team noted that additional information on pipeline legislative initiatives is likely to be gathered during later in-country visits and ongoing data collection through the survey and interviews with in-country stakeholders. The information in this report on pipeline initiatives is therefore preliminary, and any updated information will be incorporated in later deliverables for the project.
10. The following sections of the report contain the stocktakes for each participating country. Reviews for each participating country include;
 - A brief overview of the legal system and relevant sources of law;
 - A legislative summary providing details of laws, regulations, policies and government responsibilities relevant to waste management and governance; and
 - A summary of available information on pipeline legislative initiatives.
11. The final section of the report provides details of participating countries' membership and implementation of relevant multilateral environmental agreements (MEAs), focusing on the Waigani, Stockholm, Basel, Rotterdam and Minamata Conventions.

Legislative Summary

Overview of the legal system

1. Papua New Guinea (PNG) has a population estimated at approximately 8,526,000 (UN mid-2019 projection). The PNG mainland and its six hundred islands have a total land area of 452,860 square kilometres.
2. The eastern half of the island of New Guinea was divided between Germany and Britain in 1885. The German colony was named 'German New Guinea'. 'Papua' was firstly a British protectorate and then became a British colony in 1888. It was placed under the authority of the Commonwealth of Australia in 1902 and renamed the Territory of Papua. After World War I the British Government assumed a mandate from the League of Nations to govern on behalf of Australia. After the surrender of the Japanese occupying forces at the end of World War II, the United Nations granted the trusteeship of both territories to Australia, which continued to administer the combined areas of Papua and New Guinea until 1975. Papua New Guinea became an independent sovereign state in 1975.
3. The official languages of PNG are Tok Pisin (widely used and understood), English (spoken by 1%-2%) and Hiri Motu (spoken by less than 2%). There are about 839 indigenous spoken languages.
4. The Independent State of Papua New Guinea is a constitutional monarchy. It is a democracy with a Westminster-style parliamentary system. PNG has a unicameral national parliament and a two-tiered system of general jurisdiction courts. Other courts created by the parliament include the Land Court, and there is also provision for the establishment of village courts by the Minister on request from the local community.
5. PNG has a mixed system of common law and customary law. Sources of law are the Constitution (as the supreme law), written laws (e.g. Acts of parliament and subordinate legislation), English common law and customary law, defined as 'customs and usages of the indigenous inhabitants of the country existing in relation to the matter in question at the time when and the place in relation to which the matter arises' (see Underlying Law Act 2000). Written laws take precedence over customary law.
6. The PNG Constitution provides in its preamble that its fourth National Goal is Natural Resources and Environment. It calls for wise use of natural resources, conservation and replenishment of the environment, and adequate protection of flora and fauna.

Legislation impacting waste governance

7. Responsibilities for waste and environmental management exist within a range of legislation and regulations, but no single point of control exists to regulate planning and operation.
8. The PNG government has identified the need for policies and strategies to rectify this situation and to implement its commitments under relevant MEAs effectively. An audit conducted by the Office of the Auditor-General of PNG in 2010 included a specific recommendation that the Department of Environment and Conservation consider formulating consolidated solid waste management legislation that deals with the management of solid waste in PNG. However, no such legislation has yet been enacted.
9. Apart from the above-mentioned audit, no recent analysis of the main national waste situation has been undertaken and no inter-sectoral mechanism was identified.
10. The following tables provide a stocktake of the existing legislative environment for waste management in PNG located in the UoM desktop review. Each table includes hyperlinks (current as of the date of this report) to electronic versions of these instruments. We note that several relevant PNG regulations are not available online and will need to be sourced in hard copy during the planned in-country visit.
 - Table 1 details the legislation relevant for waste management and governance in PNG found through the UoM's stocktake research.
 - Table 2 lists the key policy instruments and reports.
 - Table 3 notes the relevant departments administering waste management relevant laws.

Table 1: Legislation impacting waste governance in PNG

Legislation	Regulations (N.B. Several of these regulations are not available online)
<p>Environment Act 2000 (as at 2006) Environment (Amendment) Act 2010 Environment (Amendment) Act 2012 Environment (Amendment) Act 2014 Environment (Amendment) Act 2015</p> <p>This is the principal legislation for environmental protection, providing for constitutional requirements and regulating the environmental impacts of development activities and the management of national water resources. It is implemented through multiple environment regulations under the Department of Environment and Conservation through the Conservation and Environment Protection Authority. It empowers provincial and local governments to develop environmental legislation, policies and by-laws for waste management. The legislation also requires the development of national policies and a national solid waste management strategy with associated regulations.</p> <p>NB. The Act linked above includes amendments up to 2006. For additional amendments the subsequent amending legislation must be consulted.</p>	<p>Environment (Water Quality Criteria) Regulation 2002 (commenced 2004) Environment (Prescribed Activities) Regulation 2002 (commenced 2004) Environment (Prescribed Activities) (Amendment) Regulation 2011 (commenced 2011) Prescribes activities, including those related to waste treatment and disposal, which require permitting. Environment (Ozone Depleting Substances) Regulation 2007 Environment (Control of Biodegradable Plastic Shopping Bags) Regulation 2011 (commenced 2011) According to the PNG Profile in the Solid Waste and Recycling Sector (PRIF, 2018), this regulation controls the manufacture and importation of biodegradable plastic bags through the issuance of an environment permit. Bags are required to be labelled and must meet the standards of the Department of Environment and Conservation. Environment (Registration of Contaminants and Hazardous Contaminants) Regulation 2011 (commenced 2011)</p>
<p>Public Health Act 1973 (as at 1973) Public Health (Amendment) Act 2015</p> <p>Administered by the Department of Health. Provisions relate to practices of scavenging and waste disposal, as well as fines for illegal dumping.</p>	<p>Public Health (Sanitation and General) Regulation 1973 Public Health (Sewerage) Regulation 1973 Public Health (Septic Tanks) Regulation 1973</p>
<p>National Water Supply and Sanitation Act 2016</p> <p>Provides that ‘the Company’ (Water Papua New Guinea Limited) shall operate and maintain sanitation systems in a sanitation district.</p> <p>Functions of ‘the Company’ include:</p> <ul style="list-style-type: none"> to provide, design, construct and maintain such sanitation systems as may be required in and for the disposal of sewage and wastewater in and for cities, towns and rural areas 	<p>National Water Supply and Sewerage Regulation</p>

<ul style="list-style-type: none"> to abide by such water quality and sewerage discharge standards as are from time to time in force 	
<p>Customs Act 1951 (as at 2005) Customs (Amendment) Act 2009 Customs (Amendment) Act 2014</p> <p>Regulation of imports of goods into PNG.</p> <p>Regulations under this legislation prohibit the import of plastic shopping bags defined as: 'being any of the substances defined as all High Density Polyethylene (HDPE) plastic bags with or without handles used or provided at the point of sales, used as carrying or transporting of retail or wholesale goods including: (a) HDPE carry bags; and (b) Vegetable or tear-off bags; and (c) Food bags (used at Kai Bars)'.</p>	<p><u>Customs (Prohibited Imports) Regulation 1973 (as at approx. 2009)</u> Customs (Prohibited Imports) (Pesticides) Regulation 1993</p> <p>Customs (Prohibited Imports) (Plastic Shopping Bags) Regulation 2009 Customs (Prohibited Imports) Plastic Shopping Bags (Amendment) Regulation 2011</p> <p>Not available online.</p>
<p>National Capital District Commission Act 2001 (numerous amendments, including in 2004, 2006, 2007, 2008 and 2009)</p> <p>Provides for public welfare protection in relation to waste and environmental management.</p>	None identified.
<p>Local-Level Governments Administration Act 1997 (as at 2005) Organic Law on Provincial Governments and Local-level Governments (as at 2014)</p> <p>This legislation empowers local governments to formulate waste management policies, legislation, and by-laws.</p>	None identified.

Table 2: Policies and reports impacting waste governance in PNG

Policy	Details
PNG Development Strategic Plan 2010 – 2030 (2010)	Section 6.6 deals with the Environment.
National Health Plan 2011–2020	Discusses effective waste disposal in the context of reducing disease outbreaks.
PNG National Water, Sanitation and Hygiene (WaSH Policy) 2015–2030	Includes reference to effective disposal of solid waste.
National Climate Compatible Development Management Policy	References to eco-industrial development, infrastructure for solid waste management and recycling.
Papua New Guinea Vision 2050 (2009)	Chapter 16 deals with Environmental Sustainability and Climate Change.
National Strategy for Responsible Sustainable Development for Papua New Guinea (2nd Ed, 2014)	Reference to green growth policies include cost recovery in waste management and environmental taxes such as pollution charges.

Medium Development Plan III 2018–2022	Includes supporting waste management activities as a medium term focus.
Environment (Ban on Non-Biodegradable Plastic Shopping Bags) Policy 2009	Unable to locate policy document online but implemented through Customs regulations discussed above.
National Implementation Plan for Management of Persistent Organic Pollutants in Papua New Guinea	Submitted in fulfilment of PNG’s obligations as a party to the Stockholm POPs Convention.
NCDC Strategic Plan 2017-2022	Strategic plan for National Capital District Commission.

Reports	Description
Effectiveness of Solid Waste Management in Papua New Guinea 2010	Audit report by the Office of the Auditor-General of PNG (2010). The audit was undertaken under s 214 of the Constitution of PNG on a number of public entities involved in the management of waste, focusing on whether they have used their resources in carrying out their solid waste management responsibilities.
Statements by the National Capital District Commission	Includes a brief summary of the NCDC’s approach to waste management at the provincial level.
Basel Convention National Report 2004	Submitted in fulfilment of PNG’s obligations as a party to the Basel Convention.

Table 3: Government departments with waste responsibilities in PNG

Government departments	Responsibilities
Conservation & Environment Protection Authority (CEPA)	Manages and implements the Environment Act 2003.
Ministry of Health	Administers the Public Health Act 1973.
Water Papua New Guinea Limited	Responsible authority for the National Water Supply and Sanitation Act 2016.
Customs Service	Administers the Customs Act 1951.
National Capital District Commission (NCDC)	Established by the National Capital District Commission Act 2001. Has powers regarding control of litter, sanitation and garbage.
Department of Provincial and Local-Level Government Affairs	Administers the Organic Law on Provincial Governments and Local Level Governments.
Department of National Planning and Monitoring	Responsibility for the PNG Development Strategic Plan

Pipeline activities

1. The following sections provide details of identified pipeline legislative activities for waste management in PNG, summarised in Table 4 below.
2. Limited information was available on pipeline activities through the desktop review. The UoM team hopes to obtain further information through interviews with in-country stakeholders and from data in the online survey.
3. A key, ongoing need identified for PNG is the implementation of commitments to adopt specific waste management legislation. This has been identified as a priority area and legislative need in several reports.
4. In the desktop review, reference was found to regulations under the Customs Act to implement a ban on plastic bags. However, copies of these regulations could not be sourced online to verify their content.
5. News reports refer to a plastic bag import ban coming into effect in PNG from 31 January 2020 following government action taken in November 2019, although questions have been raised as to the legality of this action on the basis that it is 'not supported by legislation'. It also remains unclear how the ban will be implemented and enforced. Another report has indicated that this ban has been postponed until March 2020.
6. PNG is partnering with the Chemicals and Waste Management Programme in UNEP to strengthen and enhance the growth of PNG's economy through the incorporation of a strategic approach to dealing with the risk of chemicals and waste, in accordance with relevant MEAs. This will involve the development of a policy for chemicals and waste management, establishing a national coordinating body and establishing a specific chemicals and waste management division in CEPA.

Table 4: Pipeline activities for PNG

Pipeline activities	Description	Timeframe
Adoption of specific waste management legislation	Need for such legislation identified as a key gap e.g. Papua New Guinea (PNG) Profile in the Solid Waste and Recycling Sector (PRIF, 2018) and The Effectiveness of Solid Waste Management in Papua New Guinea 2010.	Not specified.
Plastic bag import ban	Enforcement of regulations e.g. under Customs Act to implement a ban on single-use plastic bags.	In effect from 31 Jan 2020 according to some news reports; potentially postponed to March 2020.
Chemical and waste management system	Partnership with UNEP Chemicals and Waste Management Programme to develop a strategic approach to chemicals and waste management.	Ongoing.

Stocktake of Relevant Multilateral Environmental Agreements

1. The relevant multilateral environmental agreements 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).
2. The Table below provides details of the membership of Papua New Guinea in these MEAs. Specifically, it lists:
 - The relevant MEAs to which Papua New Guinea is party and the date the MEA was in effect;
 - Details of designated national authorities (DNAs) or national focal points for these MEAs; and
 - Details of any implementing legislation or policies for the relevant MEA.

Table 5: MEAs and implementing legislation

MEA	In effect for country	Designated National Authority or National Focal Point	Implementing legislation
Basel Convention	30 Nov 1995	The Secretary, Department of Environment and Conservation Level 7 Somare Foundation P.O. Box 6601 Boroko, National Capital District Papua New Guinea Phone: +675 325 01 80 Fax: +675 325 01 82 Email: dougal@daltron.com.pg (query currency)	No specific implementing legislation but see Basel Convention National Report 2004 (submitted in 2006).
Stockholm Convention	16 May 2004	The Secretary, Department of Environment and Conservation Level 7 Somare Foundation P.O. Box 6601 Boroko, National Capital District Papua New Guinea Phone: +675 325 01 80 Fax: +675 325 01 82 Email: dougal@daltron.com.pg (query currency)	Not specified but see National Implementation Plan for Management of Persistent Organic Pollutants in Papua New Guinea.
Waigani Convention	21 Oct 2001	Secretary, Department of Environment and Conservation 1st Floor, B-Mobile House PO Box 6601 Boroko, NCD PAPUA NEW GUINEA Tel: (675) 3014500; Fax: (675) 325 0182 E-mail: guntherjoku@gmail.com	No specific implementing legislation.
Rotterdam Convention	Not party.		
Minamata Convention	Not party.		



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