



Assessment of Legislative Frameworks Governing Waste Management in Niue



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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 Niue, 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, the Kingdom of 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 Niue. It provides:

- A **stocktake of the existing legislative environment for waste management** in Niue, 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 Niue, 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 Niue's government to enact the instruments included in the legislative framework.
- **Options for strengthening the legislative framework** for the Government of Niue 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 Niue

Legislative Summary

Legislation impacting waste governance

Waste management issues in Niue are governed under general environmental and public health legislation. There is no specific legislation for waste management. Given the lack of natural water sources on the island, another important piece of legislation relevant to preventing water pollution is the Water Act 2012.

An analysis of the national waste situation was undertaken in the National Integrated Waste Management Strategy 2010-2015. This was developed after a previous Waste Management Plan from 2000 could not be fully implemented due to insufficient resources. Implementation of the National Integrated Waste Management Strategy and accompanying Action Plan are to be coordinated by the Niue Department of Environment. The Action Plan refers to the Environment Department taking the lead in establishing a body to oversee implementation of the Strategy.

The following tables provide a stocktake of the existing legislative environment for waste management and governance Niue. 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 Niue.
- **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 Niue

Legislation	REGULATIONS
<p>Environment Act 2015</p> <p>General environmental protection legislation including provision for development consents for certain activities affecting environment, including those related to waste disposal, activities affecting freshwater supplies and air quality or the atmosphere. Carrying out these activities without a development consent is an offence</p> <p>Section 15 deals with disposing of waste or other matter, and removal and disposal of asbestos. Method of disposal must be authorised by Act or Regulations or have development consent.</p> <p>Section 38 lists the functions of the Environment Department which include design and implementation of programs for waste management and pollution control</p> <p>Under section 39 the Department also has functions relating to MEAs and their implementation in Niue.</p> <p>Section 49 authorises environment officers to seize and remove certain wastes, including vehicles, vessels, trailers, satellite dishes, solar panels, gas cylinders, whiteware or e-ware.</p> <p>Section 53 gives general powers to Cabinet to make regulations.</p>	<p><u>Reg 2017-01a Environment (Development Consent & EIA) Regulations 2017</u></p> <p>Schedule 2 sets out a number of waste-relevant activities that require development consent. This includes landfills, recycling or collection stations, drainage or disposal systems, wastewater and sanitation schemes, and human waste disposal systems.</p>
<p>Mining Act 1977 (as at 2006, vol 2, p.1085)</p> <p>Creates the Office of Chief Mining Inspector.</p> <p>Regulates mining wastes and empowers cabinet to make relevant health and safety regulations.</p>	<p>None identified.</p>
<p>Pesticides Act 1991 (as at 2006, vol 3, p.1405)</p> <p>Section 4 establishes a Pesticides Committee including the Director of Health, whose functions and powers include to ‘promote the efficient, prudent and safe use of pesticides by the public generally’.</p>	<p>None identified.</p>
<p>Public Health Act 1965 (as at 2006, vol.3 p.1491)</p> <p>Specifies sanitation requires for food premises, buildings and dwellings and creates related offences and inspection powers.</p>	<p>None identified.</p>

Village Councils Act 2016

Section 18 specifies the functions of village councils which include provision of health and sanitation services, services for the purposes of establishing and maintaining village cleanliness and for the prevention of pollution of water sources and land resources.

Water Act 2012 (as at 2012) N.B. Environment Act 2015 (amends Water Act s 54)

Objective to provide for sustainable water management in Niue, including prevention of pollution.

The Environment Director has responsibility for water quality and its protection including functions related to licensing, inspecting, overseeing, and regulating activities that have the potential to pollute water.

Section 38(1) prohibits the disposal of any matter underground by means of a water bore, or in such a way as may pollute any groundwater. 38(2) requires activities listed in Schedule 2 (e.g., waste collection and disposal sites and facilities, sewerage treatment and disposal operations) to apply for a water pollution control licence. Penalties are specified for contraventions.

Section 50 on disposal of wastewater provides the outlet from sinks, basins, washing machines or swimming pools or water catchment on any premises shall be fed into a soak hole constructed to the satisfaction of the Environment Director or shall be disposed of in such other manner as the Environment Director may require.

None identified.

Reg 2017-01 Water Regulations 2017

Specifies information requirements for water pollution licences.

Water (Wellhead protection) Regulations 2020 - to allow for the creation of Wellhead Protection Plans that identify potential sources of pollution that may adversely affect the quality of the water extracted from a particular water bore and to develop contingency plans to address in the event water quality is compromised. The Regulations also establish protection zones which restrict certain activities from been undertaken within certain distances from the water bore, 50m, 100m and 150m.

The Regulations also lists the activities that are prohibited to be undertaken within each zone.

Table 2: Policies and reports impacting waste governance in Niue

POLICY	DESCRIPTION
Solid Waste Strategy 2006 Infrastructure Plan Section N – Solid Waste 2016 Asset Management Plan	Not available online. Not available online.
Infrastructure Plan Section F – Water and Wastewater 2016 Asset Management Plan Drinking Water Safety Plan 2009	Not available online. Discusses risks to water safety from wastewater, industrial waste, agricultural waste and seepage from piggeries, septic tanks, and dumpsites.
Food and Nutrition Security Policy 2015-2019	Table 2 outlines the contributions of the Ministry of Infrastructure to food utilisation (through water and sanitation) and food stability (through water and sanitation, and waste management). Policy Area 3 – Management and use of natural resources identifies revised and implemented national water and sanitation and waste management plans as an expected output.
Health Strategic Plan 2011-2021	Strategic Action 3.4 (‘Promote the delivery of effective and efficient pharmacy services) highlights disposal of health waste as a goal in table 5 and table 3.
National Biodiversity Strategy and Action Plan 2015	Theme 5 is ‘Management of waste and pollution’, Theme 6 is ‘Management of water resources’. Improvement of waste management and control of pollution a consistent goal across themes. Note: Refers to outdated Environment Act 2003.
National Implementation Plan for Stockholm Convention, 2005	Submitted in fulfilment of Niue’s obligations as a party to the Stockholm POPs Convention.
National Integrated Waste Management Strategy 2010-2015 (copy of accompanying Action Plan on file with SPREP and UoM team)	Includes legislative/regulatory/institutional overview, assessment of situation as at 2010, with sections on waste reduction, reuse, recycling, collection, and disposal. Action Plan includes Priority Action to ‘consult with the Crown Law Office to identify a way forward in developing the necessary waste regulations as identified in the report: <i>Analysis of environment-related legislation in Niue.</i> ’ Note: Refers to outdated Environment Act 2003 and Village Councils Act 1967.
National Strategic Plan 2016-2026 Sustainable Coastal Development Policy 2008	‘National Development Pillar’ Environment and Climate Change includes statements on Waste Management and Pollution. Goal 3 on p 15 is ‘Pollution Control and Waste Management’, including objectives and action strategies. Note: Refers to outdated Environment Act 2003.
The Niue Cabinet authorised the Customs Import Prohibition (Plastic Shopping Bags) Order 2020	Prohibits the importation of single use plastic shopping bags into Niue effective as of the 1 st March 2020

REPORTS	DESCRIPTION
Analysis of environment-related legislation in Niue (Powell IWP-Pacific report) Niue SOE Final 2019	Discusses transboundary movement of hazardous wastes noting lack of laws in Niue for this purpose. Outlines options for legislative reform. Not available online.
State of Conservation Report – Niue	Not available online.
Guidelines showing the EIA process in Niue	Not available online.
PacWaste Project: Asbestos Report for Niue 2015	Not available online.
Fifth National Report to the Convention on Biological Diversity 2014	Impacts of waste dumps discussed under heading 3.5 Pollution as a main threat to biodiversity in Niue. Under heading 8, ‘Solid and Hazardous Wastes and Pollution’ is one of seven strategies within ‘Environment’ goal of Niue’s National Integrated Strategic Plan 2009-2013. Target 8 on page 25 is to bring pollution to levels that are not detrimental to ecosystem function and biodiversity by 2020. Outlines responsibilities of various government departments and ministries relating to different types of waste.
Institutional Arrangement for Waste Management in Niue 2018	
Niue Country Report from Seventh Regional 3R Forum in Asia and the Pacific	Report on 3Rs in Niue (reduce, reuse, recycle). Discusses reduction and reuse of municipal solid waste, increase in recycling, a goal of ‘zero waste’, management of e-waste/healthcare/hazardous waste.
Niue Second National Communication Relating to the United Nations Framework Convention on Climate Change 2014	Emissions from waste sector discussed at p 42. Waste management and protection of environment from waste identified as priority. Note: Refers to outdated Environment Act 2003.
PacWaste Hazardous Waste Country Profile: Niue 2016	Report by SPREP PacWaste project on healthcare, asbestos and e-waste proposed actions and impacts.
PacWaste Healthcare Waste Baseline Report for Niue 2014	Report on healthcare waste management structure in Niue, identification of key issues, options analysis, and recommendations. Note: Refers to outdated Environment Act 2003.
Review of Natural Resource and Environment-Related Legislation: Niue (SPREP) 2018	Overview of environment-related legislation in Niue as of January 2018. Includes section on waste management and pollution.
Sewage disposal system available in Niue 2011	Excel data on prevalence of various forms of sewage disposal systems in Niue.
Sustainable Integrated Water Resources and Wastewater Management in the Pacific Island Countries: Niue 2007	Report on various forms of waste that affect Niue water supply and recommended measures to manage impacts. Note: Refers to outdated Environment Act 2003 and Water Act 1996.

Table 3: Government departments with waste responsibilities in Niue

GOVERNMENT DEPARTMENTS	RESPONSIBILITIES
Department of Environment, Ministry of Natural Resources	<p>Administers the Environment Act 2015, including designing and implementing, in collaboration with other departments where relevant, programs for waste management and pollution control.</p> <p>Under the Water Act 2012 s 12(2), the Environment Director may cause a program of investigation and monitoring of water quality to be prepared, which may provide for the collection, collation and analysis of data including, without limitation, the quality of water resources.</p>
Office of Chief Mining Inspector	<p>Role created by the Mining Act 1977.</p>
Department of Health, Ministry of Social Services	<p>Administers the Pesticides Act 1991, Public Health Act and has functions under the Water Act 2012. Under the Water Act 2012 s 12(3), the Health Director may cause a program of investigation and monitoring of public water supply quality to be prepared, which may provide for the collection, collation and analysis of data including, without limitation, the quality of water in the public water supply system.</p>
Department of Public Works	<p>Functions under the Water Act 2012 (as amended). Under s 12(1), the Public Works Director may cause a program of investigation and monitoring of water resources to be prepared, which may provide for the collection, collation and analysis of data including,</p> <p>... (c) any other matters in connection with the availability of groundwater or its suitability for use or its protection from depletion, wastage, or pollution of water resources.</p>
Department of Agriculture, Forestry & Fisheries, Ministry of Natural Resources	<p>Responsibility for the Stockholm Convention and Waigani Convention implementation</p>

Pipeline activities

The following sections provide details of identified pipeline legislative activities for waste management and governance in Niue. Information on these activities was obtained primarily from the desktop research and the online survey.

Niue is currently party only to the Stockholm and Waigani Conventions. It is not a party to the Basel, Minamata or Rotterdam Conventions but this has been identified as a key priority for 2020. The Action Plan accompanying the National Integrated Waste Management Strategy 2010-2015 (NIWMS) also refers to a priority action of developing waste regulations to address the transboundary movement of hazardous wastes impacting Niue.

A Niue Waste Recycling facility was to be built and be operational by the end of 2019. The intention is for this facility to begin with glass bottles and PET plastic bottles and then expand to other types of materials e.g. steel and aluminium cans, paper and cardboard, e-waste, lead-acid and lithium batteries and end-of-life vehicles. It is not clear what legislative framework, if any, is in place to support this activity.

Table 4: Pipeline activities for Niue

PIPELINE ACTIVITY	DESCRIPTION	TIMEFRAME
Ratification of MEAs	Niue is currently not party to the Basel, Minamata and Rotterdam Conventions. If ratification proceeds, national implementing legislation would be necessary, such as waste regulations for hazardous waste shipments identified as a priority in the Action Plan accompanying the NIWMS.	Key priority for 2020.
Niue Waste Recycling Facility	Recycling facility for glass and PET bottles, extending to other wastes. Unclear whether supporting legislation in place.	Due to be operational end of 2019.

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 Niue to these MEAs.

Table 5: MEAs active in Niue

MEA	IN EFFECT FOR COUNTRY	DESIGNATED NATIONAL AUTHORITY OR NATIONAL FOCAL POINT	IMPLEMENTING LEGISLATION
Basel Convention	Not party		
Minamata Convention	Not party		
Rotterdam Convention	Not party		
Stockholm Convention	1 Dec 2005	Mr Haden Talagi Director, Environment Department P.O. Box 80 Alofi, Niue Island Phone: +683 4021 or 4011 Email: haden.talagi@mail.gov.nu	No specific implementing legislation but see National Implementation Plan for Stockholm Convention 2005 .
Waigani Convention	1 Dec 2005	Mr Haden Talagi Director, Environment Department P.O. Box 80 Alofi, Niue Island Phone: +683 4021 or 4011 Email: haden.talagi@mail.gov.nu	No specific implementing legislation but see National Implementation Plan for Stockholm Convention 2005 .

SECTION 2: LEGISLATIVE ASSESSMENT



This qualitative assessment of Niue's legislative environment has classified Niue'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 Niue 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 Niue'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 Niue to develop and/or implement additional legislative instruments to in achieving waste management and environmental outcomes.

Overview of the legal system



Niue is a self-governing country in free association with New Zealand. It is a coral island with an area of 260 square kilometres and a resident population of around 1,500 people. Niue became a British Protectorate from 1901 and was then annexed to New Zealand in 1901. It was part of the Cook Islands dependency until the Niue Act 1966 (NZ), which provided for increased self-government. Niue achieved independence on 19 October 1974 and has sovereign responsibility for its internal affairs. New Zealand retains responsibility for external affairs and defence at the request of the Government of Niue.



Niue is a sovereign state, a constitutional monarchy, and a parliamentary democracy with a Westminster system of government. The Head of government is the Prime Minister. There is a unicameral parliament and a three-tiered court system. Thirteen villages on the island have elected village councils.



Niue has a common law legal system. Sources of law are the Constitution, Acts of the Legislative Assembly, regulations, Niuean custom and the common law of Niue. Article 33 of the Constitution recognises customary land title and section 23 of the Niue Amendment Act (No 2) 1968 prescribes that Niuean custom in relation to land is to be recognised.

Legislative Assessment

This section contains a qualitative legislative assessment for Niue 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 Niue waste-related laws in their specific operating context. A glossary of legal terms used in the report is provided in **Annex 1**.

Relevance



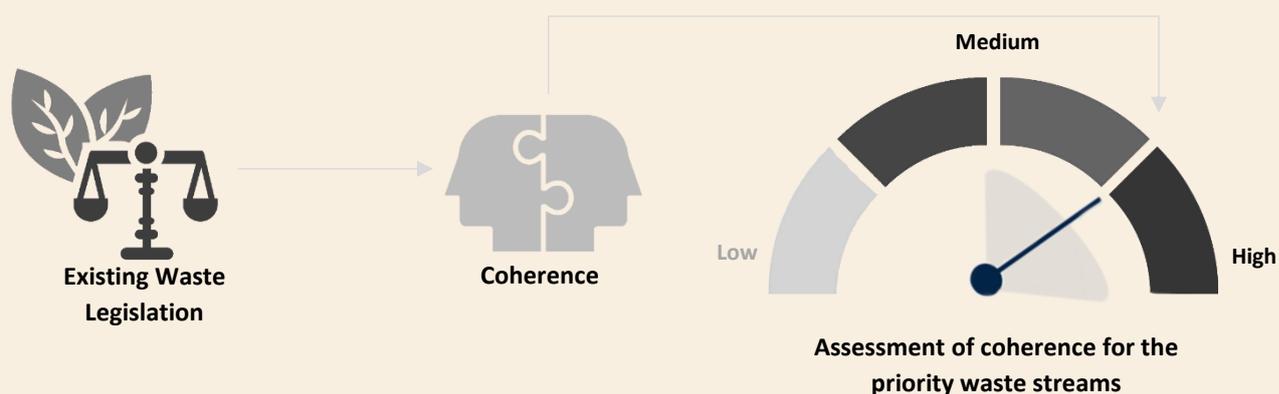
Waste management in Niue is governed primarily under the general environmental and public health legislation. There is no specific legislation for waste management. To determine relevance, consideration of the various legislative definitions has been assessed.

Table 6: Definitions of waste Niue’s legislation

Legislation	Definitions
<i>Environment Act 2015</i>	<p>‘Waste’ is ‘anything disposed of or discarded’. This definition is specifically stated to include:</p> <ul style="list-style-type: none"> Wastewater <p>a type of waste that is defined by its composition or source, (for example, human waste, animal waste, organic waste, electronic waste, hazardous waste, or construction and demolition waste)</p>

The formulation of a wide general definition of waste as ‘anything disposed of or discarded’ is reasonably effective in terms of scope of coverage of the priority waste areas. However, there may be some boundary issues at law as to when matter is disposed of or discarded, which is in effect a determination of when ownership of the item passes due to abandonment or sale. Normally with waste disposal and treatment, for example, for human and organic wastes, this is not a problem, however, where wastes have some economic value, such as e-waste, there may be a need for further clarification. While the incidental powers to deal with healthcare wastes are in place, the proper regulation of healthcare wastes is unclear. The Environment Act’s broad definition of waste, such as human waste, for example, could apply to various forms of healthcare waste. That legislation, however, is more clearly directed to environmental protection rather than primary human health protection. Under section 68 of the Public Health Act, the powers conferred in relation to sanitation and environmental health do not derogate from powers contained in other legislation.

Coherence



Niue's waste-related legislation provides a clear line of administrative responsibility and articulation of management powers in respect of most of the priority wastes. Where specific wastes are not identified they are typically subject to general waste definitions and management regimes within the Environment Act 2015, Water Act 2012, and/or the Public Health Act.

The Environment Act establishes the Environment Department under the Ministry of Natural Resources as the lead agency for most waste matters. National coverage of waste legislation is supported by plenary powers at a local level to deal with wastes under the Village Councils Act 2016.

Customary law, while not constitutionally entrenched, also plays a role at the local authority level. The Niue Act plays an important role in expanding general governance functions, which among other matters will relate to wastes.

Dedicated waste legislation may be beneficial to deal with emergent waste management areas, such as disaster waste in order to provide a coordinated approach, although this waste only occurs sporadically.

Given the relatively small population of Niue, the present degree of coverage in the legislation governing various waste forms meets many aspects of a coherent legal framework for meeting sustainable development objectives for the community.

The Environment Act, as the central governing legislation, is a well-structured regime that covers not only the specific regulation of wastes but also provides a well-structured EIA and environmental protection regime alongside the waste management system. There are, some gaps in terms of provisions directed to specific wastes such as plastics and bulky wastes. The Act sets out clearly the administration matters, enforcement, and penalties within the one statute. It also makes clear the priority of the Act over other legislation dealing with waste, where relevant. There is a need perhaps to further strengthen this legislative framework by expanding the range of regulations under the Environment Act that are dedicated to specific and emerging forms of waste management, particularly in respect of waste recovery and recyclables.

One area where coherence is not as evident is in respect of healthcare waste, particularly where it relates to hazardous forms of waste, including infectious and chemical or radioactive substances within a hospital or medical setting. In part, the difficulty stems from needing to have a general model of public environmental health that requires broad powers directed to food safety, sanitation and inspection of premises and so on, while also needing specific detailed protocols for managing wastes in the hospital or clinic context. Other gaps are also apparent in terms of regulating wastes that form a specific risk to human health.

Effectiveness



The Environment Act 2015 provides a comprehensive model for managing the priority wastes with some identified gaps in coverage. There is a need to develop further regulations and environmental standards for waste management, as the effectiveness of the laws depend in part on identifying non-compliance with those standards. Many of the existing environmental protection standards with relevance to waste are outdated, e.g. wastewater management, where well-established guidelines such as water quality ambient standards can be used due to the wider availability of testing facilities.

The Environment Act prescribes a range of enforcement powers relevant to waste Section 47 contains a power of environment officers to seize and remove certain waste.

There is a well-defined set of graded offences under Part 3 of the Act which includes:

- A general offence of failing to comply with the Act;
- General offences and infringement offences, and civil remedies for environmental contraventions; and
- Provision for community service orders.

The Public Health Act 1965 identifies a range of general offences related to failure to obey directives, wilful obstruction, and failure to comply with duties or obligations and making a false statement. Such offences are broad enough to cover general management of healthcare waste and waste streams such as organics (food) and human waste, but regulations that specify more precise offences in relation to high risk wastes, such as infectious materials, would be of benefit. Clarification of the manner of taking enforcement actions would also be helpful.

Efficiency



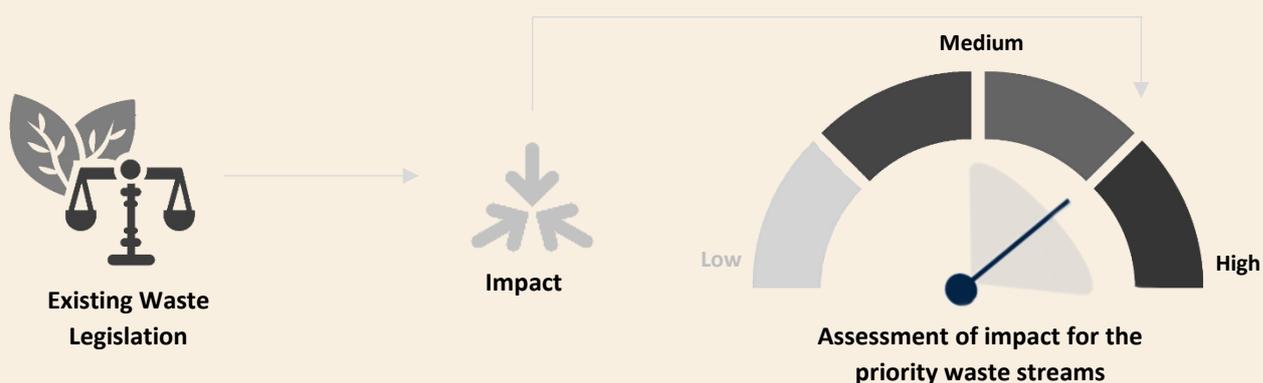
As a small nation with limited financial resources, the responsibilities, and resources for waste management at a national and local level through the Village Councils appear to be reasonably well allocated given available resource and personnel constraints.

The Environment Act's waste management and environmental protection measures are supported by a legislative system of charges, fees and penalties for non-compliance that would support the fulfillment of legislative requirements.

With respect to emerging waste management areas such as disaster wastes, devolution to the local village level provides a wide coverage of the areas of Niue that are covered by the disaster planning process. Some clarification of the operational responsibilities between the national level departments and Village Councils in terms of disaster clean up and dealing with hazardous wastes could assist the clarity of institutional arrangements.

It is apparent that there are major resourcing gaps in areas such as bulky waste collection and monitoring and compliance across many waste streams. While there are capacity building measures and training available, the limited staff number to fulfil the many functions under the legislation is a major barrier to efficient and effective allocation.

Impact



The Niue *Environment Act* has impact in terms of its scope in protecting the environment and in managing most types of the priority wastes that fall directly within its jurisdiction. There are some urgent matters that need attention such as open dumping of septic waste waters and the growing stockpiles of many forms of priority waste.

There are limited technical facilities to recover economic value from wastes, and specialist waste areas are not particularly well regulated. In practice, there are several factors mitigating against the impact of the governing legislation. Waste management does not have a high profile in Niue despite various policy platforms that emphasise its importance for preserving the pristine environment of Niue, its contribution to community well-being and the conservation of traditional custom and protected areas. Inadequate resourcing is a major barrier to legislative impact.

While there are effective measures for asbestos removal project controls, a specific regulation may be needed to advance measures such as ongoing monitoring of buildings to identify asbestos and to ensure the safety of its long-term storage and disposal.

There are positive opportunities, to build on successes in community awareness programs that assist in promoting changing values toward waste management, prompted by a reasonably effective waste management legal framework. Niue can draw on a range of waste management assistance to enhance its legal and technical waste management framework.

SECTION 3: CAPACITY ASSESSMENT



This qualitative assessment of Niue'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 Niue'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 Niue'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



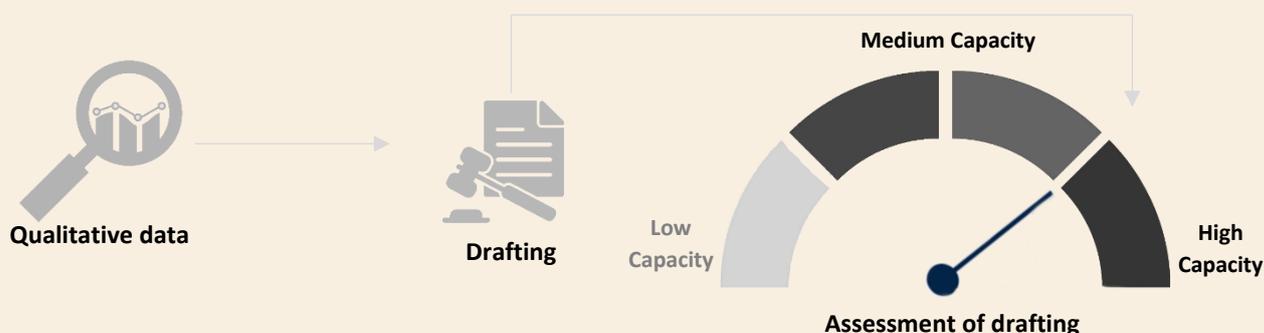
Reporting under relevant MEAs

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 Niue’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



The *Environment Act 2015*, as the main legislation governing waste management in Niue, exhibits many features of effective environmental law and waste management drafting while also embedding the legislation in its community and environmental protection context. The effective drafting covers not only the technical statutory structure, coverage of priority waste streams and clarity of the meaning of various provisions, but also the extent to which the legislative model is 'fit for purpose' and establishes effective institutional responsibilities to achieve legislative objectives. The legislation has been drafted in a cohesive manner that indicates that Niue, while a relatively small jurisdiction, can draw upon considerable drafting capacity to produce effective legislation that largely meets its statutory objectives. The Niue Crown Law Office (CLO) as assisted by the New Zealand Parliamentary Counsels Office (PCO) issues guidelines and protocols for drafting legislation and drafting instructions that support overall drafting capacity in the jurisdiction.

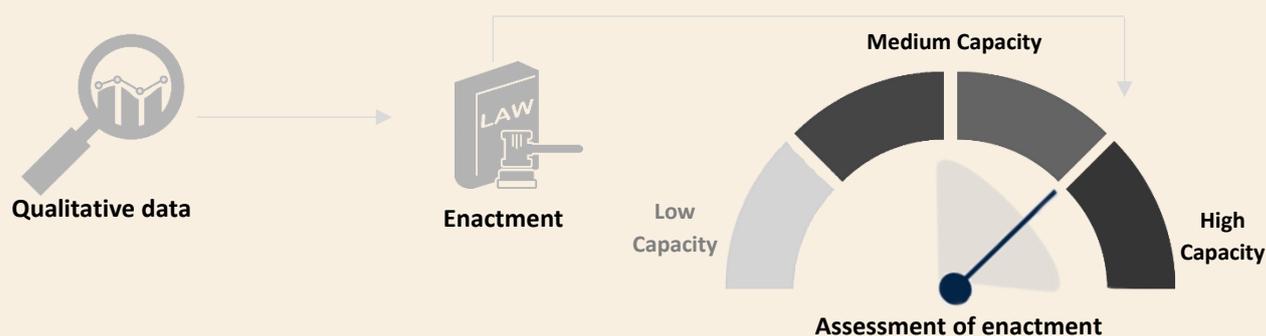
Any assessment of drafting capacity needs to consider the institutional and administrative context which is enabled through the legislation. The *Environment Act* enables a clear institutional structure, with delineated responsibilities to support its substantive law provisions. Similarly, the *Village Councils Act 2016* exemplifies subsidiarity principles in drafting legislation designed to ensure local management of environmental and waste matters, and the continuation of local authority structures. It also emphasises the role of custom and customary land ownership as a special feature of the country.

The substantive content of the *Environment Act*, in some specific instances, could be enhanced by incorporation of scientific or technical knowledge in prescribing environmental standards, and in enhancing waste and pollution controls. It was not clear the extent to which Niue can readily call on scientific and technical expertise, such as engineering expertise, in drafting its waste management laws.

Niue has adopted many aspects of New Zealand’s environmental laws in the drafting of its environmental and waste management laws; an influence arising from its historic and contemporary close relationship with New Zealand. In addition to looking to New Zealand laws for models, Niue could draw further upon Pacific regional 'drafting instructions,' such as models for plastic wastes and recyclables legislation, which could also extend the drafting capacity available to the country.

Assessment of in-country drafting capacity also needs to consider available legal professional capacity, both within government and the private profession. The drafting capacity in Niue, given its small population base, appears to be largely confined to the CLO and any relevant lawyers within departments or state-owned enterprises, along with support from the New Zealand Parliamentary Counsels Office.

Enactment



The legislative framework governing the priority wastes in Niue is a mixture of relatively recent legislation (e.g., *Environment Act 2015*, *Biosecurity Act 2016*, *Village Councils Act 2016*) and some older statutes which could benefit from the introduction of a new Act or major revisions. The formulation of environmental and waste legislation and regulations may experience some delays in enactment due to the small number of CLO staff and competing priorities.

An area that may warrant attention is that regulations under the *Environment Act* have been drafted, but there has been a delay in them coming into effect. Under the *Environment Act 2015*, for example, there is reliance on some older standards and building codes that were translated from earlier legislation and a recognised need to update these standards. There has been some delay in them coming into effect, not only due to constraints on drafting capacity, but also the need to involve other agencies. The general capacity for the translation of regional and national policies and strategies into legislation or regulation appears sound and generally effective.

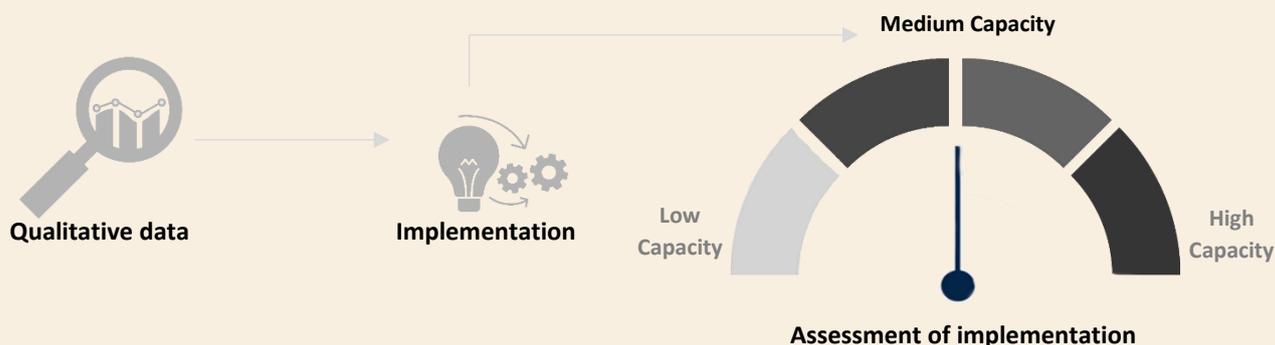
The *Pesticides Act 1991*, largely relies on a model of regulating the importation of pesticides under a permit model, rather than also seeking to control pesticides as potentially harmful waste substances. There are some hazardous and chemical wastes that are stockpiled awaiting export following a project to collect persistent organic pollutants (POPs). It was unclear how this situation was governed under relevant legislation. There are other gaps in the relevant legislation in respect of safe handling of hazardous chemicals entering the country and their long-term safe disposal.

More generally, there could be stronger attention to regularly updating relevant waste management laws to ensure they adequately reflect Niue's international obligations in respect of hazardous wastes under MEAs (see below and **Annex 2**). The interaction of climate change obligations and waste management is another area where stronger enactment of a coordinated approach may be helpful.

Older legislation, such as the *Public Health Act*, could benefit from updating to better manage healthcare wastes. In other respects, that Act would appear to still perform its primary functions in regulating environmental health, food safety, hygiene, and sanitation in the community reasonably well. Various forms of healthcare waste, though, are not well regulated, and there is a need to clearly segregate wastes, to monitor and track their disposal, and to conduct waste audits.

While healthcare wastes technically could come under the existing *Public Health Act*, it may be more effective to introduce a new standalone enactment or regulation that could integrate management of healthcare wastes across several areas, including waste protocols for the hospital. Recent Niue legislation in other aspects has shown clear capacity to enact contemporary legislation and/or develop targeted legal instruments, such as the measures supporting the prohibition on single-use plastics through the *Customs Act*. An area for possible future legislative enactment or revision to the existing *Environment Act* is to provide for recovery of the economic value of wastes more comprehensively. While not the most pressing waste issue (and feasibility in such a small community needs to be gauged) it could be a useful addition to the waste management regulatory tools, given new recycling facilities are to be introduced. Some further clarity on Village Council by-law making capacity in relation to these aspects of waste management would be helpful.

Implementation



Waste is a growing problem in Niue, but Niue is not experiencing the same pressures on land use and high levels of migration to urban areas/informal settlement that exacerbate waste management problems in some Pacific nations. Waste primarily was managed through the environment department, with some specialised aspects implemented through the water division in terms of septic tanks and wastewater management.

Effectively, waste management in Niue operates on a government service/utility provision model and there is limited private sector involvement. Implementation capacity therefore depends primarily on the capacity of the Niue government and community, and Niue's relationship with New Zealand and other external support to implement the waste management legal framework. This introduces strong demands on government in meeting the resource, personnel and financial needs to implement the waste management laws successfully. Resource constraints were regarded as a major barrier. Any new or revised legislation, such as the plastics prohibition, could better incorporate a waste hierarchy model within governing legislation that could assist in reducing implementation costs and reduce the need for enforcement activities. The hierarchy applies in priority order, namely waste prevention, preparing for reuse, recycling, other recovery, and final disposal.

The Niue *Environment Act* does address how to effectively fund waste management. The Act provides various powers in respect of environmental levies and fees. Interview data indicated these measures have played a key role in terms of helping disposal of end-of-life vehicles. Such measures have the potential to assist in funding other forms of waste disposal. The payment of monies into the government consolidated fund is difficult as sufficient funds may not be allocated from that fund when the actual disposal or treatment is required. Revisions to existing legislation to provide demarcated funding for waste management and the ultimate disposal of wastes (which is a significant problem for Niue) may be helpful in supporting more effective implementation.

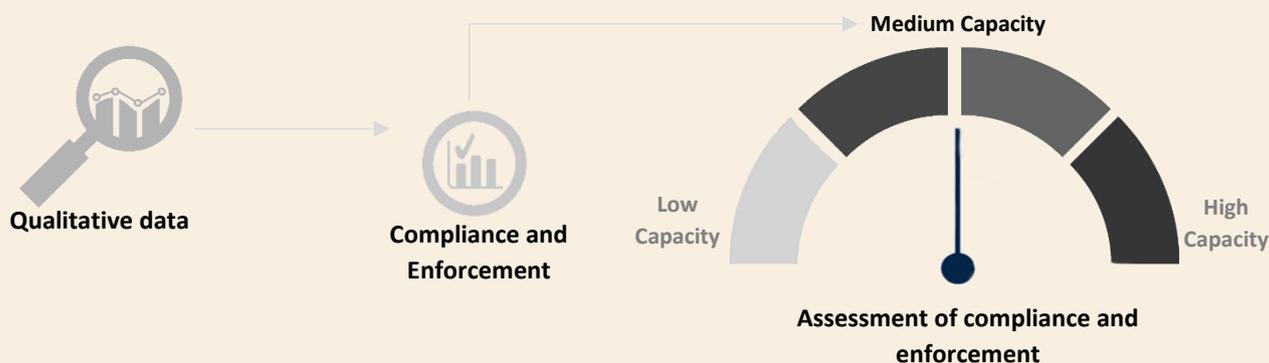
In Niue it was recognised that waste management should be effectively implemented across several agencies, albeit with clearly identified institutional responsibilities. Agencies or departments responsible for managing waste in Niue, tend to be conventionally organised, i.e., for the health area, environmental area, and managing building codes and environmental impact assessment (EIA). Stronger integration and coordination between agencies may enhance implementation capacity, but other factors such as a lack of resources and the small staff numbers with responsibilities for waste management seem a larger barrier to effective implementation of the waste management legislation.

The introduction of a specific regulatory protocol for healthcare waste may assist in better identifying the responsibilities for healthcare waste management between the *Environment Act*, the *Village Councils Act* (which gives councils plenary powers with respect to managing wastes) and the *Public Health Act*.

Due to the extent of customary land ownership and the respect for the autonomy of landowners that there were practical difficulties of implementation for some waste management programs. There have been successful community awareness programs on managing waste in Niue that seek to align with village activities and national activities, there is an inclusive approach to awareness and knowledge of waste management, that seeks to involve all, including women, youth, minority groups in the community.

While in-country implementation of the waste management laws is advancing in Niue despite significant resource and personnel constraints, investigation of more effective financial measures to fund waste management could be considered. These may include the investigation of regional and/or joint initiatives to export wastes from the various countries and the implementation of regional-wide models for managing plastics and recyclables.

Compliance and enforcement capacity



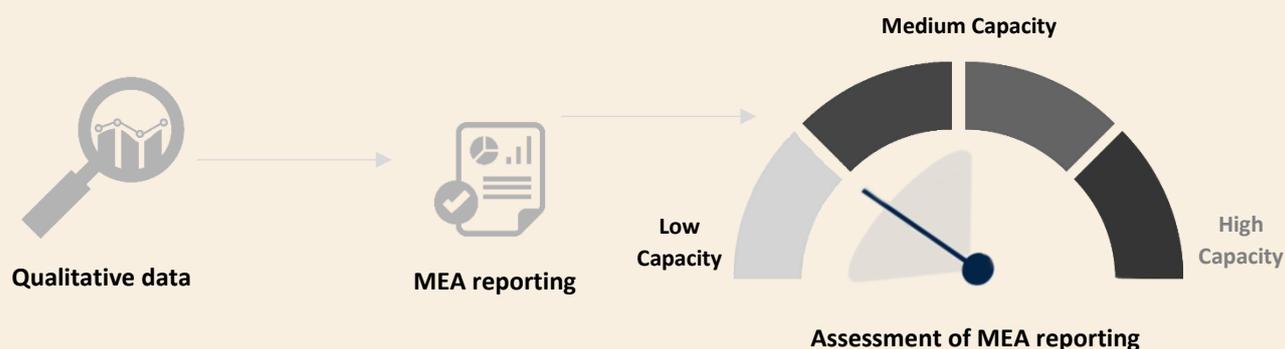
The *Environment Act 2015* adopts a comprehensive model for compliance. It sets environmental standards for environmental protection, with clear outcomes for breach of those standards and identified enforcement measures, such as infringement notices, together with a structured penalty system. Enforcement measures are primarily targeted to monetary penalties. Further use of measures, such as community service orders and negotiated clean-up requirements, may be helpful. Other waste management legislation also relies on a conventional set of fines and/or imprisonment penalties. While the deterrent effect of potential imprisonment on an individual can be substantial, it may do little to ensure widespread community compliance. There may be many factors, including an inability to pay, that may be the cause of non-compliance. Addressing these factors through a graded fee structure may provide an alternative.

Notwithstanding the offence provisions and enforcement measures under the *Environment Act 2015* and associated regulatory instruments, research into civil and criminal enforcement for breaches of waste management laws in Niue did not reveal any enforcement actions through the courts. The limitations of the available data in PaLii are acknowledged. This gap in cases, however, may in part also be due to a lack of resource and personnel capacity in the Niue legal system to institute proceedings within the courts.

In Niue, in the context of a small cohesive community, there was importance placed on using informal and community awareness models as a way of bringing about behavioural change in waste management laws. Even so, there are no clear measures for third party rights to be consulted about waste management or for the public to be involved in decision-making, beyond the *Village Councils Act* requirements.

There are opportunities to move the waste management system more to one that seeks to reduce or prevent waste, such as plastics entering the country, which would help to reduce the need for establishing regulatory breaches, monitoring, compliance and enforcement. Dealing with 'legacy wastes,' such as asbestos and stockpiling of collected wastes, would remain an ongoing challenge. Wastes generated within the country, such as organic wastes, human sanitation wastes with consequences for wastewater, and wastes necessary to maintaining community well-being, such as healthcare wastes, will continue to require an effective regulatory presence and government support to drive improved implementation practices.

MEA reporting



Niue is party to the Stockholm and Waigani Conventions. The notification, information sharing and reporting requirements established by these MEAs for parties are set out in **Annex 2**. Niue's level of compliance with notification, information sharing and reporting requirements under the MEAs to which it is party varies between the different conventions. Compliance with reporting and other similar requirements under the Stockholm Convention focused on chemicals management has been higher than for the Waigani Convention dealing with hazardous waste management.

There is no legislation in Niue that refers specifically to the country's obligations under the Stockholm and Waigani Conventions. The lack of legislative controls on hazardous chemicals and wastes imported to Niue was identified by interviewees as a major constraint on the country's capacity to manage and ensure safe disposal of these substances.

At a more general level the Environment Department of the Ministry of Natural Resources is charged with certain functions under the *Environment Act 2015* for international conventions relating to the environment or MEAs to which Niue is party (s 39(1)(b)).

These functions include:

- To prepare all necessary reports ... in relation to the implementation of the conventions and MEAs;
- To share information or otherwise provide the cooperation required by the conventions and MEAs;
- To recommend that laws be amended or enacted to effectively implement the requirements of the conventions and MEAs; and
- To work with relevant departments and public authorities to implement obligations under the conventions and MEAs.

In respect of its obligations under the Stockholm Convention, Niue submitted a National Implementation Plan (NIP) in 2005, which included an Action Plan regarding reporting. The country is reported to be in the initial process of updating its NIP under a GEF funded project. Niue has not submitted any reports under the Stockholm Convention in the last four reporting cycles.

Likewise, Niue has not submitted any national reports under the Waigani Convention, which is likely to reflect a lack of resources and capacity in the Environment Department to support this function. Stretched capacity was noted as a key problem for overall implementation of waste management responsibilities, as noted above. Niue has put requests to the Waigani Convention's Conference of the Parties at its previous meetings for support with national training on hazardous wastes and the Waigani Convention.

Capacity to implement the notification and information sharing requirements of the Waigani Convention is also hampered by the lack of a designated Convention competent authority and focal point. The role of the Waigani competent authority in a country is to implement notification procedures for the transboundary movement of hazardous wastes, whereas the focal point is responsible for transmitting and receiving information from the Secretariat and other parties about any accidents that occur with the transboundary movement or disposal of hazardous wastes.

Table 7: Compliance with MEA reporting requirements

Relevant MEAs party to	Comments
<i>Stockholm</i>	<p>Official contact point notified.</p> <p>National Implementation Plan submitted in 2005 including Action Plan for reporting. Niue has GEF-funded project for development of updated NIP.</p> <p>No reports submitted in first four reporting cycles.</p>
<i>Waigani</i>	<p>Competent authority and focal point designated (not updated).</p> <p>No national reports submitted. Appears to be based on lack of resources to support reporting. Niue has put requests to COP at previous meetings for support with national training on hazardous waste and the Waigani Convention.</p>

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 Niue 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 Niue for waste governance was assessed as performing at a medium to medium-to-high level. The legislative framework could benefit from inclusion of stronger waste minimisation provisions and support for re-use (e.g. now largely small items such as beverage containers), as well as recycling and recovery, where economically feasible. Identified gaps were the need for further regulations under the *Environment Act 2015* in setting standards in relation to waste management. Legacy waste storage and long-term disposal remains an ongoing management issue.

The core of the Niue waste management legal framework is sound, but a number of circumstances, such as the global closing of exports markets for many types of recyclable waste, pose barriers for the country.

Waste management in Niue is primarily governed under the *Environment Act 2015* (and supporting regulations) and the *Public Health Act 1965*. The *Environment Act* controls activities generating wastes and it incorporates discharge and pollution controls. The central legislation governing waste management in Niue is a combination of an environmental protection and EIA/development control model. Local government's powers to deal with wastes are found in the *Village Councils Act 2016*. Other key ancillary legislation, such as the *Customs Act*, regulates specific waste issues (e.g. the recent prohibition on plastic bags).

Opportunities for additional legislation or instruments to support improved waste management:

- Amendment of the *Environment Act 2015* to expand waste minimisation provisions (e.g., expansion of prohibitions at the customs point limiting plastics, and introduction of prohibitions on hazardous wastes, such as asbestos), and any necessary cross-referral to the customs legislation. Amendment of the *Environment Act 2015* or adoption of a designated regulation to include specific economic instruments for funding waste collection, treatment, and disposal. Such measures could include a container deposit scheme and producer/importer levies to support improved in-country re-use, recycling, and recovery of recyclable wastes, e.g., beverage containers, plastics, and e-waste. Niue legislation confers powers to impose levies. Introduction of legislative amendments to, or a designated regulation, under the *Public Health Act* on the management of healthcare wastes, dealing with safe handling, segregation of hazardous wastes and safe disposal, with development of associated protocols. Specialist expertise to assist in expanding the technical standards for waste management in regulations under the *Environment Act 2015*, including regulations for waste minimisation and recycling. In addition to the offence style provisions, it may also be helpful to have regulations that identify processes to be followed. This could particularly target protocols to follow in the hospital and medical centres and in quarantine and biosecurity contexts when dealing with hazardous healthcare wastes, in line with the national healthcare waste strategy.

- **Sustainable financing, e.g., container deposit legislation**

Niue has made a useful start on adopting measures for recycling and re-use, but it does not, have a fully comprehensive regime for recovery of the economically valuable components of e-waste. A range of policy and strategy documents identify a more developed waste recovery model as a future need. In tandem, there are opportunities to extend the legal measures limiting the flow of plastics into the country.

There is scope to expand the legal measures to deal with plastic wastes *in situ*, and to use various revenue models to fund facilities to assist in their re-use, recycling and/or final disposal, as well as examining measures to limit the importation of these items into the country. In turn, plastic wastes could be treated as a form of pollution where it enters waterways to allow regulation of the more pervasive impacts of plastic waste e.g., via adoption of a specific regulation under the *Environment Act 2015*.

- **Hazardous and disaster wastes** Disaster wastes are not directly regulated by the *Environment Act* as in that legislation the focus is more on regulating intentional discarding of wastes, rather than impact of a sudden devastating event, such as a cyclone or earthquake. It may be helpful to provide specific reference to disaster

waste in the *Environment Act* and/or set out the institutional responsibilities in other areas of responsibility, such as climate change adaptation.

Given ongoing issues in completing asbestos removals in Niue, and legal complexities around acquiring consent to remove material from buildings, standalone legislation, or a specific regulation under the *Environment Act* for asbestos may be desirable.

Recycling of hazardous materials, such as lead acid and lithium batteries and waste oil, pose particular issues that could benefit from prescribed regulatory controls, especially if export from the country is contemplated as a final form of treatment and disposal.

Under the *Environment Act 2015* there is a power to make regulations under section 53 that could be used more clearly to institute controls with respect to freestanding forms of waste, such as e-waste stockpiles, that are a source of pollution.

Recommendations to address legislative capacity needs

The capacity of Niue with respect to the administration of its waste legislative framework was assessed as medium, with the greatest needs arising regarding access to technical expertise, resourcing for implementation and compliance of laws, and building community awareness.

Key actions recommended for Niue to increase its national legislative and institutional capacity to manage wastes and improve related socio-environmental outcomes are:

- **Governance**
 - Additional support for the CLO to undertake review and augmentation of waste-related legislation due to the small staff and the many competing legislative priorities for the Office.
 - Support for increased coordination between agencies to facilitate timely coming into effect of regulations under the *Environment Act* and to assist with more effective implementation and compliance of waste-related laws.
- **Sustainability of funding**
 - Provision of a demarcated fund for waste treatment and disposal (e.g., for bulky waste) flowing from general funding derived from environmental levies under the *Environment Act*.
 - More effective measures to fund waste management, which may involve regional approaches e.g., to increase availability of final export markets for recovered wastes or recyclables (discussed further in the Regional Solutions Assessment report).
 - Additional support for the Niue government to access land and facilities to meet the demand for waste management and disposal, while respecting customary land ownership.
- **Training and capacity building**
 - Access to, and incorporation of scientific and/or technical knowledge in prescribing environmental standards, and in enhancing waste and pollution controls under environmental legislation.
 - Better incorporation of the waste hierarchy/ waste minimisation model at the customs point and into existing legislation to reduce the need for resource-intensive compliance activities. This may involve Pacific regional approaches, e.g., to increase availability of final export markets for recovered wastes or recyclables.
 - Information and/or training on Pacific regional 'drafting instructions,' such as models for plastic wastes (noting the Customs Import Prohibition (Plastic Shopping Bags) Order 2020), recyclables and e-waste legislation.

- Capacity-building on regulation of hazardous chemicals e.g., persistent organic pollutants (POPs), including support for legislative implementation and fulfilment of reporting requirements under the Stockholm and Waigani Conventions.

- **Transparency**

- Support for a process of regular review or auditing of legislation to ensure it adequately reflects international obligations and adapts to new concerns, e.g., e-wastes, healthcare waste protocols, etc.
- Measures for third party rights to be consulted about waste management or for the public to be involved in decision-making.

- **Enforcement**

- Use of a wider range of compliance measures, such as community service orders or negotiated clean-ups, as well as a graded fee penalty structure, to facilitate compliance.
- Improved resource and personnel capacity in the legal system to institute compliance enforcement proceedings.

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 Littering Act 1982. 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>	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.
<i>Principal Acts</i>	Principal Acts contain the entirety of a topic, for example, the Environment Protection Act.
<i>Provisions</i>	Provisions are individual numbered clauses within legislation. The most used provision types are: <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>	Ratification is the act by which a country indicates its consent to be bound to a convention.
<i>Subordinate legislation</i>	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: <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 Environmental Protection Act 1984 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 National Environmental Protection Act 1984 include the Solid Waste Regulation 1989, the Toilet Facilities and Sewage Disposal Regulation 1990, and the Public Water Supply Regulation 1994.</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 Niue

Legislation	Regulations	Description
<u>Environment Act 2015</u>	<u>Reg 2017-01a Environment (Development Consent & EIA) Regulations 2017</u> <u>Ozone Layer Protection Regulations 2007</u>	<p>Section 38 of the <i>Environment Act</i> provides that the Environment Department may design and implement programs for waste management and pollution control. The primary provision is section 15(1), which prohibits disposing of waste or other matter in a manner ‘that contravenes an environmental standard, unless the disposal is expressly authorised by this Act or the environmental regulations or has development consent’. A potential issue here is that for this offence to be substantiated it requires breach of an environmental standard, which in turn raises the matter of the relevant standard.</p> <p>An environmental standard can be established under regulation (s 11(1)) and includes:</p> <ul style="list-style-type: none"> • a regulation made under sections 21 or 23 protecting an area of land • a regulation made under sections 23 or 25 protecting a species or subspecies of plant • any forest management plan made under an enactment (s 11(1)(b)). <p>The <i>Environment Standards (Waste) Regulations 2016</i> are yet to be put into effect.</p> <p>The <i>Environment (Development Consent & EIA) Regulations 2017</i>, schedule 2 sets out a number of waste-relevant activities that require development consent. This includes landfills; recycling or collection stations; drainage or disposal systems; wastewater and sanitation schemes; and human waste disposal systems.</p> <p>The core of the Regulation is centred on an environmental impact assessment (EIA) and development consent model where wastes are regarded primarily as being generated through development processes rather than seeking to regulate wastes deriving from increased levels of consumption and importation of consumer, commercial and industrial goods and products.</p> <p>Asbestos is most located in buildings, and as such is likely to be regulated under building and development controls under the <i>Environment Act 2015</i>.</p> <ul style="list-style-type: none"> • Section 15(2) a person must not remove or dispose of asbestos in a manner that contravenes an environmental standard unless the removal or disposal is expressly authorised. <p>This provision sets standards for handling asbestos and supports the government-led program for removal of asbestos that has operated in the country with a goal of complete removal by 2020 (CBD 2015).</p>

Legislation	Regulations	Description
		<p>Electronic waste is identified in the specified list of wastes under the <i>Environment Act 2015</i> and this legislation is the primary form of regulation. The hazardous waste elements of e-waste, such as heavy metal and chemical contamination could be regulated as part of pollution control or breach of environmental standards measures under section 20 of the Environment Act, where this impacts waters, air, biodiversity, protected areas etc to cause environmental degradation.</p> <p>The <i>Ozone Layer Protection Regulations 2007</i> which give effect Niue's international obligations by providing controls on the import or use of ozone-depleting substances and establishing a system for the application and granting of permits. This is relevant for some e-wastes that have components containing ozone depleting substances. Additionally, the Environment Act 2015 includes provisions for:</p> <ul style="list-style-type: none"> • adopting environmental levies (s 51) • allowing refunds for certain items (s 52) • the seizure or removal of e-waste (s 38). <p>Specifically, in relation to recyclables, under section 51(1) Cabinet may prescribe levies based on the polluter pays principle in respect of any specified items imported into Niue or any operation that produces any product:</p> <ul style="list-style-type: none"> • that will or may have a significant environmental impact when it becomes waste; or • in relation to which there are significant benefits to Niue from reduction, reuse, recycling, or recovery of the items. <p>In addition, for the purposes of maintaining or enhancing Niue's environment, under section 52 Niue's Cabinet may prescribe used items for which a refund may be given (e.g. aluminium cans) and the conditions required for returns.</p> <p>Section 15 of the <i>Environment Act</i> provides: '[a] person must not dispose of waste or other matter, including litter, in a manner that contravenes an environmental standard unless the disposal is expressly authorised by this Act or the environmental regulations or has development consent.</p> <p>Section 49 of the <i>Environment Act</i> authorises environment officers to seize and remove certain wastes, including vehicles, vessels, trailers, satellite dishes, solar panels, gas cylinders, whiteware or e-ware. Some of this bulky waste may contain hazardous materials that may contaminate the surrounding environment.</p>
<p><i>Mining Act 1977 (as at 2006, vol 2, p.1085)</i></p>	<p>None identified.</p>	<p>The objective of the <i>Mining Act 1977</i> is to make provision for the mining of minerals. Although the impact of mining on the environment is clear, the Act does not make mention of matters relating to environmental protection.</p> <p>Relevant provisions include:</p> <ul style="list-style-type: none"> • Section 2. "Minerals" does not include clay, sand, coral, gravel, stone, or earth. • Section 3. All minerals within Niue's territorial limits are the property of the Crown.

Legislation	Regulations	Description
		<ul style="list-style-type: none"> • Section 6. Mining inspectors have the duty to inspect mines to determine adverse effects to persons, livestock, or buildings (but not to the general environment). Directions can be given to remove, prevent or alleviate the hazard or danger. • Section 12. Cabinet has authority to investigate and acquire Niuean land by way of lease or purchase for mining and related necessary purposes. • Section 13. All Crown land is open for mining in accordance with this Act. • Section 19. Cabinet may grant mining licences. • Section 21. Licences may contain conditions (although no conditions relate to environmental protection). • Section 35. Cabinet may make regulations concerning a range of safety and operational issues.
<p><u>Pesticides Act 1991</u> (as at 2006, vol 3, p.1405)</p>	None identified.	<p>This provides for the assessment and issuing of permits for the importation and sale of a pesticide and the promotion of efficient, prudent, and safe use of pesticides by the public.</p> <p>It constitutes a Pesticides Committee under section 4, with functions and powers including the assessment and evaluation of every application made under the Act for importation or sale of a pesticide, the promoting of efficient, prudent and safe use of pesticides by the public generally, and advising the Cabinet and Minister on pesticide-related matters.</p>
<p><u>Public Health Act 1965</u> (as at 2006, vol.3 p.1491)</p>	None identified.	<p>The primary legislation governing healthcare waste (both general and hazardous) is the <i>Public Health Act 1965</i>. The Act does not contain a specific definition of wastes or indeed healthcare wastes. It does identify powers for the Director of Public Health and the responsibilities of public health officers that would encompass powers with respect to the management of healthcare waste (and other priority wastes such as food or organic waste) that pose public health risks.</p> <p>Section 5 outlines functions of the Director in relation to public health administration which include:</p> <ul style="list-style-type: none"> • ‘to prevent, limit, and suppress infectious and other diseases’ • ‘generally, to take all such steps or to advise the Cabinet on taking such steps, as may be necessary to secure the promotion and conservation of human health’. <p>Together with such measures as the appointment of public health inspectors and the controls on sanitation under Part 7 of the Act, the legislation confers powers generally to manage healthcare wastes from hospitals and clinics, and from diffuse sources outside medical centres, and to treat and dispose of hazardous wastes, such as infected matter. There is also a requirement for safe storage of drugs under the Act, and powers to seize drugs that pose a serious health risk.</p> <p>There are a range of enforcement powers under the <i>Public Health Act</i> that would encompass healthcare waste, such as powers of entry, inspection, and seizure, as well as offences related to non-compliance with directives.</p>

Legislation	Regulations	Description
		The medical issues associated with asbestos exposure (where it constitutes a risk to human health), could be regulated by the <i>Public Health Act</i> .
<u><i>Village Councils Act 2016</i></u>	None identified.	<p>Local government powers to deal with wastes are covered in the <i>Village Councils Act 2016</i>. There are 13 Village Councils in Niue with wide governance powers that encompass waste management and ancillary matters.</p> <p>Section 18 of the Act relevantly provides that Village Councils have powers and responsibilities in respect of, amongst other things:</p> <ul style="list-style-type: none"> • construction, maintenance, and regulation of certain infrastructure • provision of services relating to health, sanitation, prevention and suppression of infectious and other diseases and disposal of the dead, including services for the purposes of establishing and maintaining village cleanliness and the prevention of pollution of water sources • the provision of services for the prevention and abatement of nuisances • establishment and regulation of markets and commercial enterprises. The function relating to prevention and abatement of nuisances would seem wide enough to cover wastes that constitute a risk to human health and to environmental values. <p>Powers under the <i>Public Health Act</i> directly relate to the control of wastewater from sanitation sources in buildings and provide powers of inspection and clean up by serving of notices. The other significant point is that Niue has no natural flows of water as a coral atoll so the wastewater linking to waterways is particularly problematic.</p>
<u><i>Water Act 2012 (as at 2012)</i></u> <u><i>Environment Act 2015 (amends Water Act s 54)</i></u>	<u>Reg 2017-01 Water Regulations 2017</u>	<p>The main source of regulation of wastewater, apart from sanitation wastes, would be the <i>Environment Act 2015</i> where waste in section 5 is defined as comprising, ‘anything disposed of or discarded; and ... (b) includes (i) wastewater’. The Act also identifies a series of activities and omissions that are in breach of relevant environmental standards and which contaminate water. This Act works in conjunction with provisions under the <i>Water Act 2012 (Water Act, s 54)</i>. The central objective is to provide for sustainable water management in Niue, including prevention of pollution.</p> <p>The Environment Director has responsibility for water quality and its protection, including functions related to licensing, inspecting, overseeing, and regulating activities that have the potential to pollute water. In particular:</p> <ul style="list-style-type: none"> • section 38(1) prohibits disposal of materials that may pollute groundwater. • Section 38(2) requires scheduled activities, e.g., waste collection and disposal sites and facilities, to apply for a water pollution control licence.
<u><i>Customs Act 1966</i></u>	Customs Import Prohibition (Plastic Shopping Bags) Order 2020.	Niue has introduced a ban on single-use plastics via the Customs Import Prohibition (Plastic Shopping Bags) Order 2020, with the order in force from 1 March 2020. The ban on single use plastic bags will be phased in over a year with households offered substitute organic bags.

Legislation	Regulations	Description
<u>Niue Act 1966</u>	None identified.	Customary law, while not constitutionally entrenched, also plays a role at the local authority level. The Niue Act plays an important role in expanding general governance functions, which among other matters will relate to wastes.
<u>Biosecurity Act 2016</u>	None identified.	The <i>Biosecurity Act 2016</i> would cover the amounts of quarantined wastes that are organic in character and which are seized at border entry and disposed of by burning in a dedicated incinerator.
<u>Public Emergency Act 1979</u>	<u>Public Emergency Regulations 2004</u>	To manage public emergencies this Act provides powers to the Cabinet. Specific powers have been conferred to the Cabinet also with the Public Emergency Regulations 2004. The Cabinet may, among other powers, secure and regulate the supply and distribution of food and water. The Act does not make mention of matters relating to environmental protection.

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>

<p>Rotterdam Convention</p>	<p>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>	<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>	<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).</p>	<p>No specific requirement for national reporting.</p>
<p>Minamata Convention</p>	<p>To protect the human health and the environment from anthropogenic emissions and releases of mercury and mercury compounds (Art. 1).</p>	<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>	<p>Discretionary obligation, following an initial assessment, to develop implementation plan and transmit to Secretariat (Art. 21).</p>	<p>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.</p> <p>Deadline for 1st biennial short report 31 Dec 2019, 1st long report 31 Dec 2021.</p>

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).

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).
Must designate one competent authority and one focal point (Art. 5).
Notifications of transboundary movements of hazardous wastes (Art. 6).

Obligation to forward to Secretariat information on any illegal hazardous wastes import activity in jurisdiction (Art. 4).
Obligation to provide information to Secretariat on changes to competent authorities/ focal points or changes to national definitions of hazardous wastes (Art. 7).

Requirement to submit 'such reports as COP may require' regarding hazardous wastes generated in jurisdiction (Art. 4).
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.

Annex 6: Models and Concept 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 [WMA]</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"> • Solid Waste Management Regulations in Yap State (the FSM), Palau and the RMI • Environment Management (Waste Disposal and Recycling) Regulations 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 • Solid Waste Management Regulations 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.

<ul style="list-style-type: none"> • Licencing/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</i> [2014] 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 • Typically combined with in-country prohibition on manufacture, sale, and distribution 	<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.

Development control / impact assessment regimes / licences [EIA]

- 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

- 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

- 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

- 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.

Compliance and enforcement/ changing behaviour [Comp/enforce]

- 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

- 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

- 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
- Integration with traditional/ community-based authorities, esp. in rural areas

- All participating countries, e.g.
- 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 making of by-laws and community programs and initiatives

<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"> • 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 	<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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