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PacWastePlus Programme

Asbestos Management

**Legislative and Regulatory Analysis -
Policy Recommendations**



October 2021



This publication was developed to assist PacWastePlus participating countries to implement policy instruments that address the management of asbestos and asbestos containing materials (ACMs). This report is the initial output of an assistance package of support for PacWastePlus countries to manage the importation of ACMs at a national level.

Disclaimer

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Acronyms/Definitions

Acronym	Description
Abatement	Asbestos abatement is the legal and safe removal of asbestos from a building, home or worksite.
ACD	Asbestos Containing Dust
ACM	Asbestos Containing Material
ACOP	Approved Code of Practice
APCO	Air Pollution Control and Ordinance (Hong Kong)
ASEA	Asbestos Safety and Eradication Agency (Australia)
Basel Convention	Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (1992)
BRANZ	Building Research Association of New Zealand
CCOHS	Canadian Centre for Occupational Health and Safety
COP	Code of Practice
Duty Holder	Any person who owes a work health and safety duty under Health and Safety legislation (including PCBUs).
EHO	Environmental Health Officer
EPA¹	Environmental Protection Agency
EU	European Union
Friable	Friable asbestos or ACM is asbestos or ACM in powder form, or able to be crumbled, pulverised, or reduced to a powder by hand pressure when it is dry.
Hazard	An event or occurrence that could cause harm.
HSE	UK Health and Safety Executive
ILO	International Labour Organisation
MAP	Model Accreditation Plan (MAP) mandates safety training for those who do asbestos works
MEA	Multi-lateral Environment Agreement
MS (s)	Member State (s)
NIP	National Implementation Plan
Non-Friable	Non-friable asbestos or ACM is, as the phrase suggests, not friable.
OH&S	Occupational Health and Safety
PACM	Potentially Asbestos Containing Material
PICs	Pacific Island Countries
POPs	Persistent Organic Pollutants
PacWastePlus	The Pacific-EU Waste Management Programme. With the objective to generate improved economic, social, health and environmental benefits by enhancing existing activities and building capacity and sustainability into waste management practices.
PCBU	Person Conducting a Business or Undertaking (analogous to Duty Holder)
PPE	Personnel Protective Equipment
RMA	Resource Management Act 1991 (New Zealand)
Risk	Risk is the possibility of one or more hazards resulting in harm occurring.
RPE	Respiratory Protective Equipment
SPREP	Secretariat of the Pacific Regional Environment Programme
UNEP	United Nations Environment Programme
UNIDO	United Nations Industrial Development Programme
Waigani Convention	Convention to Ban the Importation into Forum Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement of Hazardous Wastes within the South Pacific Region (2001)
WHO	World Health Organisation

¹ This acronym refers to EPA agencies in different countries. The document text uses the country name in conjunction with the acronym for clarity.

About PacWastePlus

The Pacific – European Union (EU) Waste Management Programme, PacWastePlus, is a 72-month programme funded by the EU and implemented by the Secretariat of the Pacific Regional Environment Programme (SPREP) to improve regional management of waste and pollution sustainably and cost-effectively.

About PacWastePlus

The impact of waste and pollution is taking its toll on the health of communities, degrading natural ecosystems, threatening food security, impeding resilience to climate change, and adversely impacting social and economic development of countries in the region. The PacWastePlus programme will generate improved economic, social, health, and environmental benefits by enhancing existing activities and building capacity and sustainability into waste management practices for all participating countries.

Countries participating in the PacWastePlus programme are: *Cook Islands, Democratic Republic of Timor-Leste, Federated States of Micronesia, Fiji, Kiribati, Nauru, Niue, Palau, Papua New Guinea, Republic of Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu, Vanuatu.*

KEY OBJECTIVES

Outcomes & Key Result Areas

The overall objective of PacWastePlus is “to generate improved economic, social, health and environmental benefits arising from stronger regional economic integration and the sustainable management of natural resources and the environment”.

The specific objective is “to ensure the safe and sustainable management of waste with due regard for the conservation of biodiversity, health and wellbeing of Pacific Island communities and climate change mitigation and adaptation requirements”.

Key Result Areas

- **Improved data collection, information sharing, and education awareness**
- **Policy & Regulation** - Policies and regulatory frameworks developed and implemented.
- **Best Practices** - Enhanced private sector engagement and infrastructure development implemented
- **Human Capacity** - Enhanced human capacity

Learn more about the PacWastePlus programme by visiting



<https://pacwasteplus.org/>

About the PacWastePlus Regional Asbestos Management Project

The management and disposal of asbestos and asbestos containing materials (ACM) is an ongoing concern in the Pacific region. In seeking to improve the ways that asbestos and asbestos containing materials are managed, our project's focus is to prevent exposure to asbestos fibres in order to eliminate asbestos-related diseases.

Asbestos is a known health hazard and may be present in buildings and pipes throughout the Pacific. A 2016 study estimated some 188,000m² of non-residential asbestos was present in Pacific islands, of which some 146,000 m² (78%) was confirmed as a high or moderate risk to human health (SPREP 2016).

When products containing asbestos are damaged or become degraded over time, asbestos fibres are exposed and may become airborne. Health risks are exacerbated in natural disasters, with destructive cyclones damaging products such as asbestos roofing and cladding, an issue of increasing concern as the impacts of climate change are experienced across the region.

The World Health Organisation (WHO) states that when a country stops using asbestos, their asbestos-related disease burden decreases over time. In contrast, countries that continue to use asbestos are likely to have a substantial burden of asbestos-related disease in the future due to their past and ongoing asbestos use. Reducing exposure without addressing ongoing import and use are insufficient to eliminate asbestos-related diseases (Kameda et al, 2014).

PacWastePlus Regional Asbestos Project

The PacWastePlus Regional Asbestos Project will support countries in executing solutions, both legislative and policy driven, to prevent exposure to asbestos fibre, and thereby reduce asbestos-related diseases.

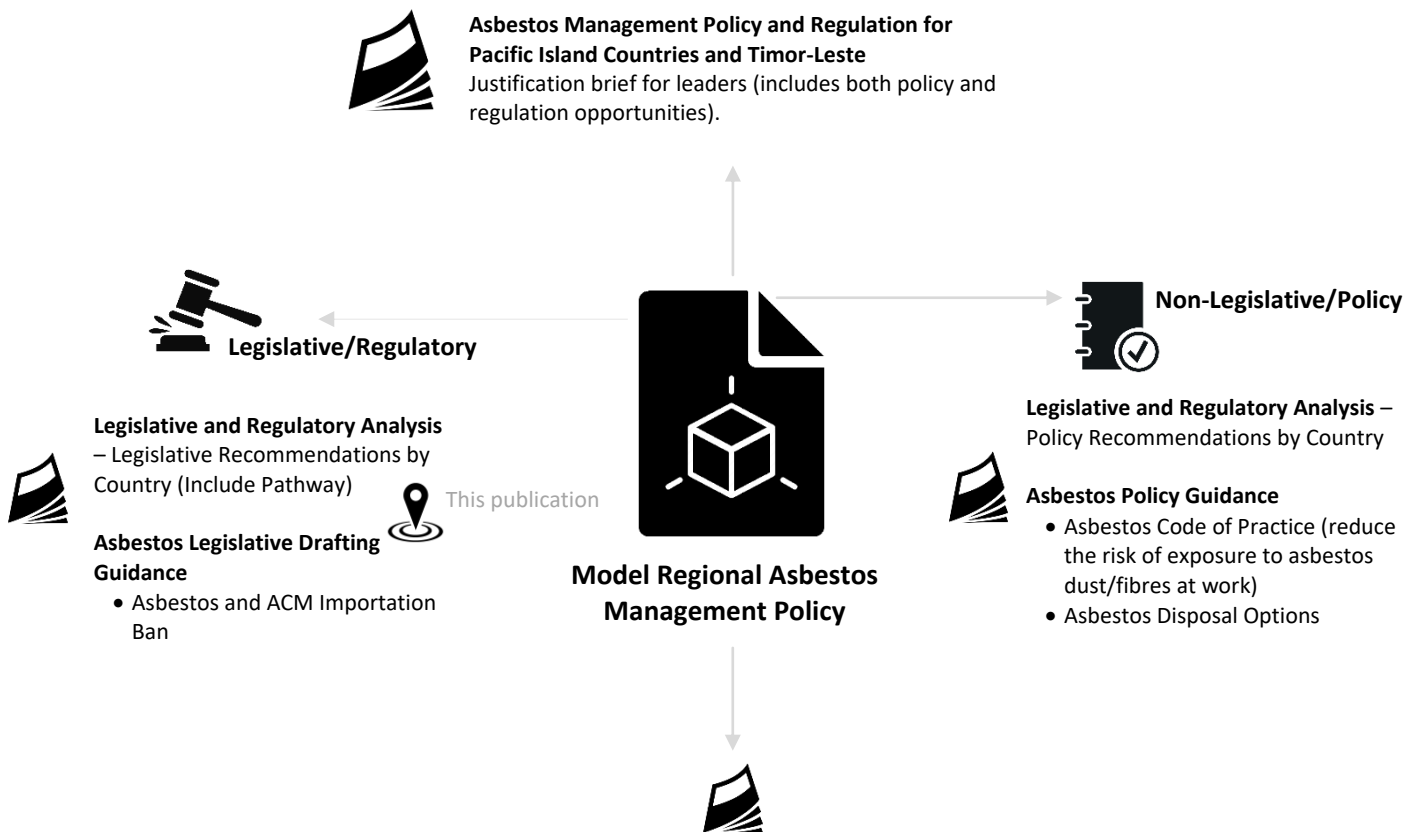
The activities to be delivered by the PacWastePlus Regional Asbestos Project are:

- Promote the understanding of asbestos exposure risks
- Implement legislative/regulatory bans on the manufacture, use, reuse, import, transport, storage, or sale of all forms of asbestos and ACMs
- Create and support the adoption of an ACM Code of Practice
- Provide support tools/documents to properly manage and control ACM.

The project will achieve these outcomes through direct work with countries, and development of tools and guidance as described in the following schematic.

The technical resources will be supported through the production and dissemination of a variety of community and government resources, and provision of training to government workers involved in the management of asbestos.

ACM POLICY NOTE SERIES PUBLICATIONS



Asbestos Containing Materials Management Outreach

- Living with Asbestos
- Differences and Similarities between an Asbestos Ban and an Asbestos Code of Practice
- Identification of Asbestos Containing Materials
- Asbestos Legacy Management Case Studies
- Management of Asbestos Containing Materials after Disasters
- Why Ban Asbestos
- Managing Legacy Asbestos
- Impacts of Asbestos Exposure.
- Asbestos Management Options – (Global Legislation, Guidelines and Approved Codes of Practice)

Introduction

This report was developed to assist PacWastePlus participating countries to implement policy instruments that address the management of asbestos and asbestos containing materials (ACMs). This report is the initial output of an assistance package of support for PacWastePlus countries to manage the importation of ACMs at a national level.

This work delivered through the PacWastePlus Regional Asbestos Project is the first step in a broader asbestos management support initiative that seeks to:

- Compile a set of principles to be applied to PacWastePlus participating countries in crafting the necessary legislation and Policy to manage the manufacture, use, reuse, import, transport, storage, or sale of all forms of asbestos and ACMs within the PacWastePlus participating countries.
- Develop documents to guide PacWastePlus participating countries to create and put into effect policies to properly manage asbestos and ACMs.

Aim of the Legislative and Regulatory Analysis

In seeking to improve the ways that asbestos and ACMs are managed in PacWastePlus countries, the focus is to prevent exposure to asbestos fibres in order to eliminate asbestos-related diseases. Inhalation of asbestos fibres can cause a range of fatal diseases such as asbestosis (fibrosis of the lungs) and a range of cancers, including mesothelioma (WHO, 2018). When products containing asbestos are damaged or become degraded over time, asbestos fibres are exposed and can become airborne. Health risks are exacerbated in natural disasters, with destructive cyclones damaging products such as asbestos roofing and cladding, an issue of increasing concern as the impacts of climate change are experienced across the region.

The World Health Organisation (WHO) states that when a country stops using asbestos, their asbestos-related disease burden will decrease over time. In contrast, countries that have not banned asbestos are likely to have a substantial burden of asbestos-related disease in the future due to their past and ongoing asbestos use. Reducing exposure without addressing ongoing import and use are insufficient to eliminate asbestos-related diseases (Kameda et al, 2014).

As recognised by the member countries, one of the challenges is that asbestos and ACMs are still able to be imported into each country and used in ongoing applications such as construction. The ongoing import and use of asbestos and ACMs increase both exposure risk, and the burden of legacy materials to be managed and ultimately disposed of at the end of life or when mitigating risk. A key step in addressing asbestos import and use is the development of an appropriate regulatory framework.

This Legislative and Regulatory Analysis seeks to:

- Understand the political and historical context, along with the current challenges within Pacific Island Countries (PICs)
- To inform the analysis, a review of applicable policies and approaches that have been applied globally have been reviewed to provide information relevant to the cultural context of the Pacific and Timor-Leste.

This report aims to provide guidance for the region, and for individual PacWastePlus participating countries to consider the most appropriate pathways to execute appropriate asbestos and ACM policies.

Global and Regional Context

Situation Analysis in Pacific Island Countries

In 2015, a PacWaste survey conducted across 13 PICs estimated that there was 187,891 m² of non-residential asbestos in-situ, of which an estimated 78% was confirmed as a high or moderate risk to human health (SPREP 2016).

Asbestos use is not evenly distributed across the region, with key findings being:

- Nauru, Niue, and Kiribati carrying the most significant asbestos legacy burden, especially when considering asbestos presence in non-residential uses
- Significant numbers of residential houses containing asbestos building materials, particularly in Nauru and Niue.
- The Cook Islands, Kiribati, Solomon Islands, Tonga and Tuvalu were found to have moderate amounts of asbestos in houses, mostly in cladding material. Other counties had minor amounts in residential use.
- The predominant form of asbestos found throughout the Pacific is chrysolite (white) asbestos, with amosite (brown) and crocidolite (blue) asbestos found to occur occasionally (O'Grady 2018).

The survey concluded that more than USD \$150 million would be required to remove and replace all the asbestos identified in the surveyed locations. The survey also confirmed that importation of new asbestos materials into the Pacific region was still occurring, with Asia being the primary source of this material.

When buildings containing asbestos are in poor repair or a state of dilapidation, they present an asbestos exposure risk to communities, particularly occupants, building users, and construction workers who undertake building modifications or repairs. Natural disasters such as cyclones compound the problem as emergency personnel, volunteer clean-up crews, and waste management workers are potentially exposed to asbestos during clean-up activities in the aftermath of natural disasters or storm events.

There is a growing awareness in PICs of the risks from asbestos and ACMs, with recognition of the need to limit exposure through improving in-situ management, emergency response procedures, and final disposal practices. In addition, it is recognised that reducing exposure is challenging when asbestos materials continue to be imported. Even while raising awareness about the health risks and reducing asbestos within existing infrastructure, continued imports demonstrate that asbestos in PICs is not simply a legacy issue, but an ongoing problem of increasing risk to current and future generations.

Given that over 60 countries, including all member states of the EU, have national asbestos bans in place, markets for asbestos and ACMs have incrementally shrunk in recent years. However, asbestos and ACMs continue to be produced, with global production at over 1.1 million tonnes in 2019 (Mesothelioma.com 2020) with Russia, Kazakhstan, and China the largest producers.



Without individual legal or policy instruments to ban asbestos imports into Pacific Island nations, they become ever more vulnerable to being flooded with asbestos-containing materials that are not accepted in countries with import bans in place.

Beyond the implementation of an asbestos import ban, countries face the challenge of managing existing/legacy materials within each country. Legacy asbestos can be found in existing buildings, or in a range of stock items for ongoing sale and use in products such as brake pads, asbestos piping or block insulation, gaskets, and valves or other equipment where asbestos products are fixed or installed.

In Australia, there are over 3,000 products that are known to contain asbestos, mostly used in the construction/building industry (National Occupational Health and Safety Commission 2005).

The following are common household materials which may contain asbestos (SPREP, 2020):

- Roofing felt
- Pipe lagging
- Block insulation
- Adhesives
- Appliance components
- Ceiling products
- Cement board
- Gardening products
- Flooring
- Paints
- Roofing
- Table pads
- Wallboard
- Insulation
- Fireplace decorations
- Taping compounds and plasters
- Electrical insulation and panels
- Heating and cooling systems





Rationale for Managing the Import and Use of Asbestos and ACMs

The threat that asbestos poses to human health is significant and well understood. To eliminate asbestos-related diseases, a total ban on asbestos importation is a key component of the measures required. Appropriate guidelines or regulatory measures for keeping ACMs properly managed whilst in-situ, and for safe handling, transport and disposal will prevent exposure to these materials currently in the environment (including the built environment).

However, without an effective ban on asbestos imports, ongoing risks continue to accumulate along with existing legacy materials in the economy.

There is no ‘one size fits all’ solution for managing the importation and use of asbestos and ACMs in PacWastePlus participating countries. Each country will need to consider their unique context, particularly their existing legislative framework and powers to enforce various aspects of the ban.

As is the case across the world, the simplest mechanism for banning a material from import is through the existing customs or border control mechanisms. Beyond the implementation of an asbestos import ban, there is also the challenge of how to minimise exposure to existing materials within each country, and material that is not detected through the proposed border controls.

Each country must also consider the means through which they can effectively limit exposure through managing the use, reuse, transport, storage, or sale of all forms of asbestos and ACMs.

Preventing exposure to asbestos fibre, and thereby eliminating asbestos-related diseases will need to address implementation measures and enforcement tools to align with each national context and capacity.

Multilateral Environmental Agreements that Address Asbestos Containing Material

Global action to ban the sale and use of asbestos has yielded results on a range of fronts. Various statements and international conventions on a global or regional level provide opportunities for cooperative actions to reduce the environmental and health impacts of hazardous materials.

Rotterdam Convention

The *Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade* (Rotterdam Convention) was promulgated on 10 September 1998 by a United Nations Conference in Rotterdam in the Netherlands.

The Convention aims to:

- Promote shared responsibility and cooperation efforts amongst Parties to protect human health and the environment from potential harm during the international trade of certain hazardous chemicals.
- Contribute to the environmentally sound use of those hazardous chemicals by facilitating information exchange about their characteristics.
- Provide for national decision-making processes on the import and export of these hazardous chemicals, including the dissemination of relevant decisions made at the national level.

Central to the Convention is the ‘prior informed consent’ procedure, which takes place for all chemicals listed in Annex III of the Convention. The Convention does not impose an international ban, but a mechanism to assist countries to make informed decisions on the import and export of listed chemicals. It provides participating countries with information on the potentially hazardous nature and characteristics of the chemicals and initiates a decision-making process for future imports. The national decisions are shared with all Parties to build an approach of co-operation and information sharing.

In Annex III of the Rotterdam Convention, specific chemicals identified under the Convention are listed. Whilst five out of six asbestos types are already listed in Annex III, the most common industrial asbestos, chrysotile (white asbestos), is omitted from the list. Listing chrysotile asbestos would provide global transparency in trade, tracking national decisions on import and export.

At a national level, it can also provide the impetus to implement a national administrative or legislative decision to cease import. However, individual countries can implement this change at any time, regardless of chrysotile being listed in Annex III of the Convention.

In May 2017 in Geneva, Pacific Island Parties to the Rotterdam Convention spoke in strong support of listing chrysotile asbestos in Annex III of the Convention. The proposal failed to be adopted in 2017 for the sixth consecutive time due to opposition from a small number of Parties that are associated with the trade of asbestos and ACMs. This barrier to change has continued, including at the most recent Rotterdam Convention in May 2019 where the listing of white asbestos was again unsuccessful.

Whilst the Convention does not require member countries to impose import bans for listed chemicals, the informed consent procedures are a mechanism to highlight risk in the trade of these chemicals, a process that can assist in countries where the awareness of risks can be low.

Basel Convention

The *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal* (Basel Convention) was adopted in 1989 under the auspices of the United Nations Environment Programme (UNEP). The aim of the Basel Convention is to protect human health and the environment by controls over the generation, storage, transport, reuse, recycling, recovery, and disposal of hazardous waste (Basel Convention, 2014). Any waste that contains asbestos falls under the Convention, which aims to reduce movements of hazardous waste between nations, particularly the transfer from developed to less developed countries. Import and export controls, along with strict notification procedures are important protection measures. However, the Basel Convention is only relevant once materials are determined to be wastes.

Stockholm Convention

The *Stockholm Convention on Persistent Organic Pollutants* (Stockholm Convention) is relevant as a global instrument, as it provides the framework for managing current and legacy issues with hazardous materials. Signatories to the Convention agree to take measures to eliminate or reduce environmental releases of Persistent Organic Pollutants (POPs).

The Convention has five key aims:

- To eliminate dangerous POPs, starting with 12 identified as the worst
- To provide support for the process of transition to alternatives
- To identify and target additional POPs for action
- Clean-up of stockpiles of POPs and equipment containing POPs
- To foster cooperation to work towards a POPs free future.

Signatories are required to develop a National Implementation Plan (NIP) to define implementation measures, with the United Nations Industrial Development Organisation (UNIDO) assisting with baseline assessments, inventories, and sector specific action plans. Unlike the Rotterdam Convention, which lists chemicals rather than end products, the Stockholm Convention provides a life cycle approach that identifies products and focuses on activities for elimination or phase out.

This comprehensive planning at a national level provides a good model to utilise for asbestos and ACMs.

Waigani Convention

The *Convention to Ban the importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement of Hazardous wastes within the South Pacific Region* (Waigani Convention) provides an example of a convention implemented at a regional level. Modelled on the Basel Convention, it addresses the specific needs of the South Pacific Region and provides a mechanism for regional cooperation. The Waigani Convention entered into force in 2001, expanding on the Basel Convention, as it also covers radioactive wastes, and extends across each Party's Exclusive Economic Zone of 200 nautical miles rather than the outer boundaries of territorial seas (12 nautical miles) as per the Basel Convention.

The Waigani Convention specific articles pertaining to asbestos are listed below:

- I. Article 4.1 provides the ban on imports of hazardous waste into PIDPs.

The Basel Convention includes various provisions relating to banning certain movements of hazardous waste to certain countries.

The sixth paragraph of the Preamble to the Basel Convention is “Fully recognizing that any State has the sovereign right to ban the entry or disposal of foreign hazardous wastes and other wastes in its territory”.

- II. Article 4.1(a) and (b) of the Basel Convention states:

- a) Parties exercising their right to prohibit the import of hazardous wastes or other wastes for disposal shall inform the other Parties of their decision pursuant to Article 13.
- b) Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes to the Parties which have prohibited the import of such wastes, when notified pursuant to subparagraph (a) above.

- III. Article 4.2 provides that each Party shall take the appropriate measures to:

- e) Not allow the export of hazardous wastes or other wastes to a State or group of States belonging to an economic and/or political integration organization that are Parties, particularly developing countries, which have prohibited by their legislation all imports.

Following the entry into force of the amendments adopted as Decision III/1, Article 4A of the Basel Convention states:

- i. Each Party listed in Annex VII shall prohibit all transboundary movements of hazardous wastes which are destined for operations according to Annex IV A, to States not listed in Annex VII.
- ii. Each Party listed in Annex VII shall phase out by 31 December 1997, and prohibit as of that date, all transboundary movements of hazardous wastes under Article 1(1)(a) of the Convention which are destined for operations according to Annex IV B to States not listed in Annex VII. Such transboundary movement shall not be prohibited unless the wastes in question are characterized as hazardous under the Convention.

- IV. Annex VII lists OECD (developed) countries; Annex IV A lists disposal operations, Annex IV B lists recycling and recovery operations. In accordance with Basel Convention Article 17 (Amendment of the Convention), Article 4A only creates obligations for Parties that have accepted that amendment.

Both the Waigani Convention and the Basel Convention endorse the sovereign right of states to ban imports of hazardous waste under national legislation. The Waigani Convention is stronger in the sense that it requires PIDPs to do so (even though most have not legislated the ban).

The Basel Convention provides stronger protection in the sense that it places reciprocal obligations on all Basel Convention Parties (not only Australia and New Zealand) to respect and help to enforce any legislated national ban on imports of hazardous waste.

Participation by Country

Table 0.1 provides the status of signature and ratification of the various MEAs and Regional Conventions.

Table 0.1 Parties to Conventions²

Country	Waigani	Basel	Rotterdam	Stockholm
Australia	X	X	X	X
Cook Islands	X	X	X	X
Democratic Republic of Timor-Leste				
FSM	X	X		X
Fiji	X			X
Kiribati	X	X		X
Nauru	S	X		X
New Zealand	X	X	X	X
Niue	X			X
Palau	S	X		X
PNG	X	X		X
Republic of Marshall Islands		X	X	X
Samoa	X	X	X	X
Solomon Islands	X			X
Tonga	X	X	X	X
Tuvalu	X			X
Vanuatu	X	X	X	X

X: Ratified or accepted; S: Signed but not ratified

Pacific Island Countries Resolutions and Endorsements Concerning ACM Import Bans

The issue of asbestos management has been a consistently raised at international fora since 2011. Details of the discussions and decisions are included in Table 2.2.

² SPREP (2002): Waigani Convention. Available at [https://www.sprep.org/convention-secretariat/waigani-convention#:~:text=The%20Waigani%20Convention%20is%20modeled%20on%20the%20Basel,regime%20\(%20Basel,%20Rotterdam%20and%20Stockholm%20Conventions%20\).](https://www.sprep.org/convention-secretariat/waigani-convention#:~:text=The%20Waigani%20Convention%20is%20modeled%20on%20the%20Basel,regime%20(%20Basel,%20Rotterdam%20and%20Stockholm%20Conventions%20).)

Table 2.2 Resolutions and Endorsements Concerning ACM Import Bans in PICs

International Forum	Discussion and Decision
<p>2011 – 22nd SPREP Meeting</p>	<p>An <i>Asbestos Free Pacific – A Regional Strategy and Action Plan</i> (SPREP 2011) was adopted at the 22nd SPREP Meeting (Samoa) in 2011. The strategy was co-sponsored by SPREP and WHO. The strategy outlines the serious potential health risks that asbestos materials and wastes pose in the Pacific. The focus of the strategy was to act on existing asbestos materials and waste, particularly building materials.</p> <p>The vision of the strategy is:</p> <p style="text-align: center;"><i>An asbestos-free Pacific that reduces negative environmental and public health impacts in Pacific Island countries.</i></p> <p>The strategy does not recommend legislative change, with a focus instead on the development and implementation of a national asbestos policy for each country. One of the recommendations was to undertake a Pacific survey of asbestos distribution in the region.</p>
<p>2016 – 27th SPREP Meeting</p>	<p>Following the release of <i>The State of Asbestos in the Pacific</i> (SPREP 2016), the 27th SPREP Meeting of Officials held in September 2016 in Niue, included asbestos on the agenda.</p> <p>The discussion highlighted the results from the 2013/2014 PacWaste Project regional baseline survey across 13 PICs, noting widespread asbestos in seven of these countries, the reuse and resale of asbestos in several locations, and the sale of new asbestos products found in stores in the Solomon Islands and Vanuatu.</p> <p>The briefing notes also highlighted that there were no import bans in PICs, and the ongoing risks that this presents. The meeting agreed to the following:</p> <ul style="list-style-type: none"> • Note the ‘<i>State of the Asbestos in the Pacific</i>’ synthesis report produced under the PacWaste project which summarises the findings of the project’s Regional Asbestos Baseline Survey • Endorse a Pacific-wide ban on asbestos imports • Direct the Secretariat to progress a Pacific-wide ban on asbestos imports through Cleaner Pacific 2025 and related project envelopes. <p>Whilst the above proposal received very strong support from the Meeting, there were also some concerns raised from Members as to how the implementation of such a ban would be resourced.</p>
<p>2017 – 28th SPREP Meeting</p>	<p>At the 28th SPREP Meeting of Officials held in Apia Samoa in September 2017, Cook Islands with support from Tonga and Australia sought endorsement and commitment from Members to develop and implement a Pacific wide ban on the importation, re-sale, and re-use of products containing asbestos.</p> <p>Concerns previously raised by Members about the implications of an asbestos ban in relation to the World Trade Organisation (WTO) were discussed, with clarification provided that such a ban would not breach any obligations under WTO membership.</p> <p>The recommendations passed by Member states were:</p> <ul style="list-style-type: none"> • Note the information provided in the paper presented by Cook Islands - Agenda Item 13.1: The need for a Pacific wide ban on asbestos; • Note letters of support in favour of a Pacific wide asbestos ban provided by the Tongan and Australian Government representatives; • Note the work conducted by the EU-funded PacWaste project that has contributed significant resources to asbestos remediation, monitoring and awareness across 13 PICs; • Note the threat posed by new asbestos to Pacific Island communities; • Endorse the development and implementation of a Pacific-wide ban on the importation, reuse and re-sale of products and wastes containing asbestos; and • Direct the Secretariat to progress work on the development and implementation of such as ban, in collaboration with SPREP Members, to be resourced through Cleaner Pacific 2025 and PacWastePlus.
<p>2021 – 30th SPREP Meeting</p>	<p>In the 30th SPREP Meeting of Officials held in September 2021, a ‘strategic planning and management of hazardous waste’ paper was tabled. The meeting endorsed the “Asbestos Management Legislative Reform Pathway” (see Section 5.2 Asbestos Management Legislative Reform Pathway) and supported progress towards the adoption of national bans of asbestos and ACMs</p>

Key Principles and Policy Goals for Successful Asbestos Management

The following are key principles to consider when determining the most appropriate pathways for reform:

- Simplicity of the law/s and how it can apply within the existing legislative framework of the country without creating contradictions or confusion,
- Relevance to local culture and practices,
- Clarity of roles and responsibilities and
- Understanding the resourcing requirements for implementation, including training and community awareness.

The aim of any legislative reform is to provide a comprehensive, complementary, and consistent set of laws. Each regulatory area of public health, environment, workplace health and safety, customs, and hazardous substances, should be reviewed, and where appropriate, updated to ensure consistency.

The laws and regulations should be drafted to contain an appropriate penalty regime that deters non-compliance and be supported by actively implemented compliance and enforcement policies and procedures.

The high-level outcome recommended to drive the reform process is *“to eliminate asbestos related disease in the Pacific through reducing exposure to asbestos fibres”*.



Policy Goal – Banning Import of Asbestos and ACMs



A ban utilising customs or border controls should provide clarity on how asbestos is identified



Noting the differing country standards in product labelling, customs officials need to be empowered to seize suspected asbestos and ACMs and undertake testing



Consideration of how to fund this compliance and testing action (potentially at the importer's cost) should be considered when drafting these powers



Once imported goods are confirmed to contain asbestos, consideration should be given to the scope of powers necessary for inclusion in the regulatory mechanism.

It is recommended powers include the ability to:



Return goods to point of origin at the expense of the originator/shipper

or



Provide the option for the originator/shipper paying a levy to the government for safe disposal, including:

- temporary storage
- safe handling
- transport
- safe final disposal (if such a management practice is available)



If any product is banned under the laws of any country, consideration should be given to whether that product immediately becomes a waste (of the governing legislation), and if the laws relevant to waste management become applicable



Regulations must then provide guidance on the management responsibilities related to the safe transport and disposal of this material



The application and enforcement of international conventions (MEAs) relating to hazardous substances and wastes under domestic laws may need to be considered in the context of regulating the transboundary movement of asbestos materials and products.



Where countries are applying the conventions under domestic law, the convention requirements apply. However, in attempting to re-ship materials to a country that has banned the importation of asbestos, this may not be allowed. In these instances, applying a levy for in-country disposal may need to be considered.

Note: Even if a receiving country is not party to an MEA, they may be constrained in their action if the originating country is party to an MEA, or the material may need to be transported through sovereign waters of a country that is party to an MEA, and therefore need to abide by the MEA requirements.



Customs /quarantine officers will likely require training on:

- any modified regulations,
- how to recognise asbestos, and ACM products
- source countries that have an elevated risk of materials containing asbestos,
- the process steps for intercepting potential asbestos and ACMs.



Community and business awareness of the ban will be important, ensuring there is a clear understanding that asbestos and ACMs are effectively illegal, and should not be imported or used.

Policy Goal - Banning Asbestos Use



There are existing asbestos materials in the economy, particularly in the reuse economy.



Policy considerations will likely include: granting the authority to seize, store, and appropriately dispose of substances and products that have arrived in breach of any importation ban is an integral requirement of the legislative framework.



Selecting the most effective agency to manage asbestos and ACM use.



Selection processes will likely consider any existing authority provided to agencies, or development of further reforms necessary to grant the required authority. Consideration of officers already delegated for similar issues (e.g., public health officers, building inspectors, or environmental officers) will likely assist with decision making on this.



If there is an operational regulatory framework for occupational health and safety, banning asbestos use may be appropriate under the mandate of protecting the health and safety of workers such as construction / demolition workers and mechanics.



Noting that in many countries, health and safety laws regulate asbestos use by establishing threshold limits for airborne fibres (monitored through air quality testing), PICs may need to consider their capacity for testing and develop an appropriate measure for when their regulation is triggered



Community and industry awareness of regulatory compliance will assist in achieving the goal of protecting human health.



Ensuring there is a clear understanding that asbestos and ACMs cannot be used through the provision of:

- information of what products have an elevated risk of materials containing asbestos, and
- technical assistance to help identify asbestos and ACMs would be advisable.
- effective communication and awareness campaigns that will assist with informing the regulated community of the risks, and the penalties for non-compliance.



Ongoing training of enforcement officers addressing issues of asbestos risks, identification, and enforcement steps will be required.

Policy Goal – Safe handling, transport, and disposal of asbestos waste products



When asbestos is seized at the border, or at a site of use, the regulatory framework may effectively define this material as a waste product, requiring the material to be safely transported and disposed in line with the regulations.



Issues related to wastes are a common feature of laws which generally apply to environmental management and protection, although in a number of countries, e.g., Tonga and Samoa, there are separate laws dealing with general environment protection, and with waste management.



In several countries, one of the regulatory mechanisms is to certify asbestos disposal companies that have the appropriate training and safety mechanisms in place.



Laws which relate to marine pollution should also be considered, as many of their provisions relate to the way ships must deal with wastes generated on board, the requirements which apply to the carriage and disposal of wastes by ships, and the controls which are applied to the dumping and incineration of all kinds of wastes at sea.



Laws which impose controls over litter and the dumping of wastes are clearly relevant in the context of illegally dumped asbestos or ACMs. These laws set a path forward in the context of prohibiting and regulating asbestos and ACMs.



Disposal of asbestos at sea, whilst not prohibited, is not viewed as a preferred management option. Disposal at sea is not prohibited under the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972, (the London Convention) or the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region 1986, (the Noumea Convention); however, the overall thrust of these two conventions are to eliminate pollution at sea and protect the marine environment. Given the safety requirements and the necessity for deep water disposal, this option is unlikely to be cost effective (SPREP, 2015).



The safe handling and disposal of asbestos should only occur at appropriately regulated disposal sites with trained operators, appropriate safety equipment, and the infrastructure to bury the material.



Procedures to document its placement, and general operations should be considered as part of any system. Given the active management required for asbestos disposal, setting appropriate disposal fees to cover labour and equipment should be considered as part of the broader asbestos management system.

Policy Goal – Adopt an Asbestos Code of Practice



An Asbestos Code of Practice (COP) is useful to advise regulatory bodies, practitioners, trades people and the public on how to undertake safe work requirements when working or encountering asbestos.



A COP provides:

- Evidence of what is known about the hazards and risks of work involving asbestos, and what controls apply to the risks
- What is reasonably practicable when meeting health and safety duties associated with work involving asbestos



It is a practical document that clearly provides information on aspects of working with asbestos, the risk associated and how to manage them.



The COP is designed to

- assist the development of an asbestos abatement program
- the basis of a government monitoring and compliance programme to ensure appropriate practices are being employed
- The Code articulates the potential regulatory requirements concerning asbestos abatement work



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- Government of Nova Scotia, (undated). Asbestos in the Workplace: A Guide to Assessment & Management of Asbestos in the Workplace.
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- Safe Work Australia (2020) How to Manage and Control Asbestos in the Workplace, Code of Practice,
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- Workers' Safety and Compensation Commission (2018) Northwest Territories and Nunavut Codes of Practice: Asbestos Abatement.
- Work safe New Brunswick (1992) A Code of Practice for Working with Materials Containing Asbestos in New Brunswick.
- Work safe New Zealand (2016) Approved Code of Practice for Management and Removal of Asbestos.

Online Resources

<https://www.ccohs.ca/oshanswers/chemical/asbestos> - Canadian Guideline documents:

- Asbestos – What is
- Asbestos – Health Effects
- Asbestos – Control Strategies for Workplaces
- Asbestos – In the Home

<https://www.canada.ca/en/employment-social-development/services/health-safety/reports/asbestos-exposure-management-programs.html> - “Technical guideline to asbestos exposure management programs”

<https://business.gov.nl>

<https://business.gov.nl/regulation/asbestos/> - Working with asbestos

<https://business.gov.nl/regulation/personal-protective-equipment/> - Personal protective equipment

<https://business.gov.nl/regulation/certification-and-registration-asbestos-removers/> - Certification and registration for asbestos removers

<https://business.gov.nl/regulation/all-in-one-permit-demolition-asbestos/> Demolition or asbestos removal

www.government.nl

<https://www.government.nl/topics/asbestos/regulations> - Main asbestos regulations

<https://www.government.nl/topics/asbestos/question-and-answer/step-by-step-plan-asbestos> - Step-by-step plan: what should I do if I discover asbestos?

<https://www.government.nl/binaries/government/documents/leaflets/2011/12/20/asbestos-at-the-workplace/asbestos-at-the-workplace.pdf> - Asbestos at the workplace factsheet.

<https://www.government.nl/topics/asbestos/asbestos-policy-reducing-health-risks> - Asbestos Policy Aimed at Reducing Health Risks

European Agency for Safety and Health at Work

<https://osha.europa.eu/en/publications/factsheet-51-asbestos-construction/view>

Factsheet 51: Asbestos in Construction

WorkSafe New Zealand – Guidance Documents and Templates

https://www.worksafe.govt.nz/topic-and-industry/asbestos/?gclid=Cj0KCQiA7NKBBhDBARIsAHbXCB4hdj1DucYuTrgNv-YkpelfrzbKuJpvUE1R8c_tM2crJ8DATLFI dc8aAplOEALw_wcB



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