



# Rapid Assessment: Criminal justice response to wildlife and forest crime in Papua New Guinea

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## Acronyms

AML/CFT	Anti-money laundering/counter-financing of terrorism
CEPA	Conservation and Environment Protection Authority
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
DJAG	Department of Justice and Attorney General
EEZ	Exclusive Economic Zone
FASU	Financial Analysis and Supervision Unit
FFA	Pacific Islands Forum Fisheries Agency
FSC	Forest Stewardship Council
ICR	Internal Revenue Commission
IUU	Illegal, unreported, and unregulated (fishing)
NAQIA	National Agriculture Quarantine and Inspection Authority
NCC	National Coordination Committee (AML/CFT)
NFA	National Fisheries Authority
OCO	Oceania Customs Organisation
OPP	Office of the Public Prosecutor
PEFC	Programme for the Endorsement of Forest Certification
PNG	Papua New Guinea
PNGCS	Papua New Guinea Customs Service
PNGFA	Papua New Guinea Forest Authority
RPNGC	Royal Papua New Guinea Constabulary
SABL	Special Agricultural and Business Lease
SGS	Société Générale de Surveillance
SPREP	Secretariat of the Pacific Regional Environment Programme
TCU	Transnational Crime Unit
UNCAC	United Nations Convention Against Corruption
UNODC	United Nations Office on Drugs and Crime
UNTOC	United Nations Convention against Transnational Organised Crime
VMS	Vessel monitoring and surveillance

## Introduction

The objective of the rapid assessment is to understand the current context of wildlife and forest crimes in Papua New Guinea (PNG) and to determine the effectiveness of the criminal justice response in addressing these crimes. The research was based on a desk review of the available primary and secondary data and interviews with key stakeholders from the government agencies. Interviews were conducted with environment/forestry officials involved in law enforcement, customs, police, biosecurity, anti-corruption, and financial intelligence authorities. Unfortunately, the assessment team was unable to meet with prosecutors. Wherever possible, interviews were conducted at the level of departmental head or deputy.

For the purposes of this report, “wildlife crime” refers to the taking, trading (supplying, selling, or trafficking), importing, exporting, processing, possession, obtaining or consumption of wild fauna and flora (including timber and other forest products) in contravention of national or international law. In this report, “forest crime” specifically refers to the exploitation of timber or other forest produce in contravention of national or international law, including acts such as harvesting protected species, logging in protected areas, logging outside of concession areas, breaches of relevant licences or permits, and so forth. Given the importance of oceans and coral reefs in the Pacific context, this study also looked at the way these crimes affect certain marine species such as dolphins, marine turtles, giant clams, sea cucumber, sharks, and others that may be targeted for illegal trade in a similar way to terrestrial wildlife species. However, illegal, unreported, and unregulated (IUU) fishing and other related fisheries crimes were outside the scope of this study and were not considered during the meetings or analysis.

The political commitment to use criminal justice resources to target the illegal exploitation and trade in wildlife and timber is one of the starting points for this country analysis. Criminal justice systems deal with multiple crime types and face considerable public and political pressure on a range of issues. In practice, criminal justice actors prioritise their interventions to meet the extensive demands on their services in the best way possible, given the limited resources at their disposal.

While criminal justice systems are designed in theory to respond to all crimes, the aim of this report is to map out the roles, responsibilities, and processes undertaken by the various agencies in investigating and prosecuting wildlife and forest crimes in PNG, how these agencies interact, their strengths and challenges, and capabilities to undertake complex investigations. The report concludes with a set of recommendations which are aimed at national policy makers, but also at generating a wider discussion as to how criminal justice interventions could play a more effective role in tackling transnational wildlife and forest crime.

## Papua New Guinea background and context

PNG is endowed with rich natural resources and culture and is known globally as a cultural and biodiversity hotspot. The country has a land area of 462,840km<sup>2</sup> and is made up of the eastern half of the island of New Guinea, three larger islands of New Britain, New Ireland, and the Autonomous Region of Bougainville, as well as over 600 smaller islands and atolls. It is classified as a mega-diverse country, containing over 7% of the world’s biodiversity, one of the largest areas of intact tropical forest in the world, and a number of globally significant ecosystems and endemic species. Among its human population, there are over 840 languages spoken by more than 1,000 tribes.<sup>1</sup>

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<sup>1</sup> State of the Environment Report 2020, accessed at: <https://soec.sprep.org/png/>



In 2021, the population of PNG was estimated at approximately 9,119,000 and the GDP at USD 26.5 billion, according to World Bank Data.<sup>2</sup> Most people live in rural areas (87%) in strong traditional social groups linked to tribal and ethnic identities and relationships to the land. The majority of Papua New Guineans are dependent on subsistence agriculture and fishing for at least part of their livelihood. Geographically, PNG has a rugged mountainous interior surrounded by flatter lowlands reaching to the coast. The terrain has made it difficult to develop transportation infrastructure and some areas are accessible only on foot or by aeroplane. The country's economy is dominated by two broad sectors: the agriculture, forestry and fishing sector that employs the most people (the majority informally), and the minerals and energy extraction sector that accounts for most export earnings and GDP.<sup>3</sup>

Virtually all land (97%) is owned by clan or tribal groups under customary law, with many areas of land and sea recognised as “tambu”, or areas of special spiritual significance. Vast expanses of primary forest cover around 72.5% of the country (33.6 million hectares), forming the world's third-largest tropical rainforest.<sup>4</sup> PNG is also one of the world's largest exporters of tropical wood, with around 15 million hectares of forest currently covered by logging concessions which are operated by mostly foreign-owned logging companies. The 2014 State of the Forests report found that 13% of PNG's rainforest had been logged at least once since 1972, with forests being cleared or degraded at a rate of 0.49% per year.<sup>5</sup>

The timber industry is beset with allegations of corruption, political interference, and widespread illegal practices across the sector. These issues have been widely documented by both official government reports and NGO reports. Some of the most commonly reported illegal practices include licences issued or extended in breach of regulations, failure to obtain proper consent from traditional landowners, substantial breaches of harvesting regulations by logging operators, and the abuse of forest clearance permits for commercial agricultural projects.<sup>6</sup> The timber industry is also assessed as being a high-risk sector for money laundering, with illegal logging considered to be the second highest proceeds-generating offence in PNG after corruption.<sup>7</sup>

PNG is home to 813 species of birds (more than 300 species of which are endemic to the island of New Guinea), 298 species of mammals, 335 species of reptiles, 352 species of amphibians (almost 80% of which are endemic to PNG), and an estimated 25,000 to 30,000 vascular plants. The world's largest species of butterfly, tree frog and orchid are found here, as are the only poisonous birds on earth, and 12 of the 14 known species of tree kangaroos. Many species have important cultural significance in PNG, particularly crocodiles in the Sepik region, and the bird of paradise, which is the national emblem and also features on the national flag.<sup>8</sup>

A wide range of species are hunted primarily for subsistence purposes, including cuscus, tree kangaroo, cassowary and other birds, wallaby, bats, and reptiles. Eggs from turtles and birds such as megapodes, and feathers from birds of paradise are collected for cultural and ceremonial purposes.

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<sup>2</sup> <https://data.worldbank.org/country/PG>

<sup>3</sup> <https://www.worldbank.org/en/country/png/overview>

<sup>4</sup> APEC Experts Group on Illegal Logging and Associated Trade (2021), *Papua New Guinea Timber Legality Guide*, p.2.

<sup>5</sup> Bryan, J.E., Shearman, P.L. (Eds), (2015). *The State of the Forests of Papua New Guinea 2014: Measuring change over the period 2002-2014*. University of Papua New Guinea, Port Moresby, p.7.

<sup>6</sup> Lawson, S. (2014), *Illegal Logging in Papua New Guinea*, London, Chatham House, pp. 25-26.

<sup>7</sup> Bank of Papua New Guinea (2017), *Money Laundering and Financing of Terrorism National Risk Assessment*, p.89

<sup>8</sup> Papua New Guinea National Biodiversity Strategic Action Plan, 2019-2024

However, there is almost no monitoring of species abundance or distribution and hence it is difficult to determine the precise impact of hunting on PNG's wildlife, although it is considered to be high.<sup>9</sup>

There is an increasing international demand for PNG's wildlife species, which is a new threat on top of the domestic demand and is concerning due to the current lack of enforcement of wildlife protection laws in the country. The trafficking of PNG's species is evidenced by seizures that have been made in other countries, particularly birds and reptiles, but the extent of this threat, the perpetrators, and their modus operandi are not well known.

PNG's marine environment hosts a large and highly diverse system of inshore lagoons, estuaries, seagrass beds, mangroves, fringing and barrier reefs, shallow banks extending into deep offshore reefs and seamounts, ridges, and abyssal ocean trenches. It has more than 20,000 km of coastline and an exclusive economic zone (EEZ) of more than 2.4 million km<sup>2</sup>.<sup>10</sup>

Sea cucumber is considered to pose the highest threat for illegal harvesting and trade due to its high value and the complexity of managing this fishery, and the species represents more than 50% of fisheries cases prosecuted in court. The over-fishing of sharks was reported as a major issue, and two shark cases are currently before the courts involving foreigners. Saratoga, a valuable freshwater aquarium fish, and swim bladders of several species were also reported as being in high demand in the illegal trade and believed to be destined for Asian markets.

As a country rich in natural resources and rare and endemic species that are highly valuable in the trade, PNG is an attractive source location for large multinational logging companies, wildlife criminals, and specialist collectors. Many of the main wildlife and forest crime issues are well known among the various government agencies, particularly the high risk of illegal logging, the use of logging ships to collect and smuggle wildlife, the porous land border with Indonesia as a wildlife smuggling route, and the active international trade in many species of birds and reptiles. However, there is almost no oversight or enforcement on the ground, incidents are not recorded, and no data is available to indicate the scale or extent of these issues. This assessment found that there have been no investigations and prosecutions of wildlife and forest crime cases by government agencies, with severe resourcing challenges and low capacity for investigating complex cases to a standard that could be brought for prosecution being common themes in all the interviews. In addition, there are reports of systemic corruption, an absence of cooperation with police (which is dealing with its own serious, systemic issues), and a lack of coordination and information sharing between key government agencies.

In terms of responding to transnational crimes, PNG faces the same challenges as many other Pacific countries in having an extensive geographic area, porous maritime borders, and scarce law enforcement resources to patrol its vast territory. For criminal enterprises, the relatively low risk of detection and the profitability of transnational and organised crime contribute to the Pacific's appeal as both a location and transit route for transnational crime.

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<sup>9</sup> Ibid.

<sup>10</sup> <https://www.fisheries.gov.pg/fisheries-industry>



## Legal framework

PNG has a range of pieces of legislation relating to the investigation and prosecution of wildlife and forest crimes, as well as ancillary crimes such as corruption, money laundering and smuggling, including:

- International Trade (Fauna and Flora) Act 1979 (as amended)
- Fauna (Protection and Control) Act 1966 (as amended)
- Crocodile Trade (Protection) Act 1974
- Environment Act 2000 (as amended)
- Forestry Act 1991 (as amended)
- Fisheries Management Act 1998 (as amended)
- Criminal Code Act 1974
- Police Act 1998
- Customs Act 1951 (as amended)
- Anti-Money Laundering and Counter-Terrorist Financing Act 2015
- Organic Law on the Independent Commission Against Corruption 2019
- Proceeds of Crime Act 2005 (as amended)
- National Agriculture Quarantine and Inspection Authority Act 1997

This section provides an overview of the main laws, provisions, offences, and penalties available to address wildlife and forest crimes in PNG. The full text of some of the key provisions is included in Annex I of this report.

## Wildlife crime

The main legislation used to regulate international wildlife trade in PNG is the International Trade (Fauna and Flora) Act 1979 (hereafter referred to as the International Trade Act), which is administered by the Conservation and Environment Protection Authority (CEPA). The International Trade Act regulates the import, export, re-export, and introduction from the sea of all CITES-listed species, the export of controlled native species, and the import of exotic species into PNG. Under this law, all such activities require a valid permit or certificate to be issued by CEPA as the CITES Management Authority. Export permits are not to be issued unless the Management Authority is satisfied that the specimen was not obtained in contravention of any law in PNG. Schedules 1-3 of the Act list all the species in CITES Appendices I, II and III, all of which are covered by this law, Schedule 4 lists species naturally occurring in PNG which are exempt from the provisions of this law, and Schedule 5 lists exotic specimens that are exempt from the requirements of this law.

Authorised inspectors under the International Trade Act include police officers, customs officers, quarantine officers, fisheries officers, and rangers. Inspectors have powers of entry and search, seizure, arrest, production of documents and electronic records without a warrant, as well as search of a private dwelling with a warrant.

The key offence under the International Trade Act is the import, export, re-export, or introduction from the sea of any CITES-listed specimen (Appendix I, II or III), export of any controlled native species, or import of any exotic species, without having a valid permit or certificate. Such offences are subject to a fine of up to PGK 10,000 for corporations (USD 2,800), or a fine of up to PGK 5,000 (USD 1,400) and/or imprisonment of up to five years for individuals. Specimens traded without permits in contravention of this Act are also classified as prohibited imports or exports under the Customs Act. Other offences under the International Trade Act include the possession of any specimen without a permit or certificate and providing false or misleading information, which are also subject to the same penalty.

The Fauna (Protection and Control) Act 1966 (hereafter referred to as the Fauna Act) regulates PNG native protected animal species, including mammals, birds, reptiles, fish, and insects. The Fauna Act is also administered by CEPA and relies on the International Trade Act, Customs Act, and Firearms Regulation Act for its enforcement. The export of protected fauna without obtaining the requisite permission is an offence under the International Trade Act and a prohibited export under the Customs Act. Taking or killing any protected fauna by use of a firearm as specified in the Firearms Act 1978 is an offence under the Fauna Act punishable with a fine of up to PGK 1,000 (USD 280) per animal. Taking or killing protected fauna through other means such as explosives, dogs, nets, or other instruments is subject to fines up to PGK 500 (USD 140) per animal. Other offences include buying, selling, offering to sell, or possessing protected species, which are also subject to fines up to PGK 500 per animal. CEPA is authorised to issue permits to take protected species, which may specify the species, quantity, location, and any other necessary conditions. Any acts that contravene the permit conditions may be fined up to PGK 40 per animal (USD 11).

The Fauna Act also provides for the declaration of sanctuaries, protected areas, and Wildlife Management Areas to protect wildlife species in their natural habitat, and the appointment of rangers to enforce the Fauna Act. Rangers have limited law enforcement powers of entry and search (only with a warrant), seizure of specimens, and requiring persons to produce information, but no powers of arrest.

The Crocodile Trade (Protection) Act 1974 (hereafter referred to as the Crocodile Act) regulates and protects the crocodile skin trade and is also administered by CEPA. The Act allows for the acquisition, disposal, and export of crocodiles from PNG for approved licence holders. Individuals who acquire or dispose of crocodiles without a licence may be fined up to PGK 400 (USD 113), while companies exporting crocodiles without a licence may be fined up to PGK 800 (USD 227). Regulations under the Act may also prohibit or restrict activities relating to crocodiles according to species or size of the animal. Rangers appointed under the Fauna Act are responsible for the enforcement of the Crocodile Act. CEPA is currently in the process of drafting a new Bill to amend the Crocodile Act, aiming to improve the licensing arrangements and regulations for crocodile skin processing and trade and wild egg harvesting.<sup>11</sup>

Additionally, there are provisions in several other laws that provide opportunities to protect threatened species through the protection of their habitats. For instance, the Conservation Areas Act 1978 (as amended) provides for the establishment of conservation areas to protect sites of biological, topographical, geological, historical, scientific, or social significance, or other special value. A Protected Areas Bill 2022 has also been drafted to establish and manage a national system of protected areas to help preserve PNG's species and ecosystems.<sup>12</sup> In addition, CEPA has developed the Protected Area Policy Implementation Plan 2018-2028.<sup>13</sup> CEPA has set up three large Conservation Areas under the Conservation Areas Act, and another two are in the process of being established.

A key concern with the three main wildlife laws is the very low maximum fines available in the penalties compared to the price of some high-value species in the illegal trade. For example, public reports indicate that birds of paradise can sell for 10-20 times the value of the maximum fine in the European market.<sup>14</sup> This provides little deterrent to would-be offenders, particularly when there is a very low chance of detection and cases are not prosecuted through the court system.

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<sup>11</sup> <https://pasifika.news/2021/07/png-crocodile-trade-protection-act-and-its-regulations-to-be-amended/>

<sup>12</sup> <https://www.looppng.com/png-news/protected-areas-bill-2022-finalised-109182>

<sup>13</sup> <https://png-data.sprep.org/system/files/PROTECTED%20AREAS%20POLICY%20IMPLEMENTATION%20PLAN.pdf>

<sup>14</sup> <https://www.occrp.org/en/investigations/astronomical-money-how-smugglers-made-tens-of-millions-moving-rare-birds-around-the-world>

Another potential weakness is the lack of provisions to designate full protection to any threatened species or groups of threatened species and prohibition from trade or commercial captive breeding. Currently, all wildlife trade is legal provided that the appropriate permit or certificate is obtained, and the International Trade Act includes an additional requirement that export permits are not to be issued unless the Management Authority is satisfied that the specimen was not obtained in contravention of any law in PNG. The concern here relates to implementation issues, particularly the lack of enforcement officers on the ground and minimal monitoring of wildlife populations in the field, which means that authorities have no data or information on the extent or legality of hunting and trade activities or the impact of these activities. This makes it very difficult, if not impossible, for authorities to identify and effectively respond to any present or emerging illegal trade issues.

### Forest Crime

The main legislation in PNG to manage forest resources and investigate forest crimes is the Forestry Act 1991 (as amended) and its subsidiary Regulations, which are administered by the PNG Forest Authority (PNGFA). In addition, the National Forest Policy 1991, PNG Logging Code of Practice, PNGFA Corporate Plan 2021-2030 and the National Forestry Development Guidelines 2009 provide supplementary policy guidance. The Forestry Act and the National Forest Policy are currently under review, with PNGFA reporting during the interview that increasing the penalties and prison terms under the Act will be one of the key amendments. It is anticipated that the amendments will be tabled in Parliament in 2023.

Around 97% of PNG's total landmass is under customary ownership, for which there is predominantly no formally recorded title. PNG's legal system recognises both customary and common law land rights, and the issue of customary land ownership and specific boundaries are determined through traditional mediation processes or in the courts if necessary.<sup>15</sup> As more than 99% of forestry projects are developed on customary land, obtaining timber rights and the consent of customary landowners is a fundamental component of the Forestry Act 1991.

The Forestry Act aims to manage, develop and protect PNG's forest resources, to conserve and renew them for future generations while also achieving economic growth and employment for Papua New Guineans. The key requirements under the Forestry Act are being registered as a forest industry participant, holding a project agreement, holding the relevant permit, and paying a performance bond. The relevant permit depends on the volume of timber to be harvested and the type of land on which the activity will be carried out. The various permits available under the Forestry Act include a Forest Management Agreement (FMA), Timber Authority (TA), and a Forest Clearing Authority (FCA). The Forestry Act lays out the process for handling and approving applications for each type of timber permit, while the Forestry Regulations 1998 prescribes the forms for various applications.

The Forestry Act contains numerous offences, including (among others) unlawful felling or removal of forest produce, counterfeiting timber stamps, destroying or altering boundary markings, and unlawfully occupying land to carry out forest industry operations, all of which are subject to a fine up to PGK 50,000 (USD 14,200) and/or up to three years imprisonment. The offence of acting in the absence of or contrary to the relevant timber permit or licence is subject to a fine of up to PGK 100,000 (USD 28,400) and/or imprisonment for up to five years. Unlawful possession of forest produce, or receiving forest produce that was unlawfully obtained, is subject to a fine of up to PGK 2,000 (USD 568) and/or imprisonment for up to two years. In addition to penalties for offences, offenders may be liable for any loss or damage caused by the offence and the timber permit or licence may be cancelled.

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<sup>15</sup> APEC Experts Group on Illegal Logging and Associated Trade (2021), *Papua New Guinea Timber Legality Guide*, p.2.

Forest inspectors have powers of entry and inspection without a warrant on any land where forest operations are being carried out, and with a warrant in any other location, and powers to seize and sell timber or other forest produce that is obtained in contravention of the Forestry Act. Forest inspectors may also conduct prosecutions for offences under this Act. Only appointed officers of the National Forest Service are authorised to be forest inspectors or forest officers under the Forestry Act, meaning that police, customs, or any other agencies are not empowered to conduct investigations under this law.

Round logs are the major forest product exported out of PNG. Round log exports are governed by the Forestry Act, the Forestry Regulations, and the Procedures for Exporting Logs, requiring both an export permit from the Minister for Forests and an export licence from the Department of Foreign Affairs and Trade. All other processed wood products or other forest products only need an export permit from the Minister for Forests.

The Customs Tariff Act 1990 bans 15 timber species from export in round log form due to their scarcity in the natural forest; however, these species may be exported as processed products. These include kauri pine (*Agathis* sp.), hoop pine (*Auracaria cunninghamii*), klinkii pine (*Auracaria hunsteinii*), celery-top pine (*Phyllocladus hypophyllus*), Cordia (*Cordia dichotoma*), Dacrydium (*Dacrydium nidulum*), ebony (*Diospyros ferrea*), kerosene wood (*Cordia subcordata*), Libocedrus (*Libocedrus pauanus*), Podocarp (*Podocarpus* sp.), brown podocarp (*Decussocarpus swalichianus*), highland podocarp (*Dacrycarpus imbricatus*), rosewood (*Pterocarpus indicus*), balsa (*Ochroma lagopus*), and blackbean (*Castanospermum australe*).

Wildlife and forest resources are also protected under the Environment Act 2000 (amended in 2014), administered by CEPA, which recognises the protection of areas of significant biological diversity and the habitats of rare, unique, or endangered species as a matter of national importance. Under the Environment Act, it is an offence to carry out an activity which may cause material or serious environmental harm, or which may have a negative or significant negative impact on a matter of national importance, without an environment permit for that activity. Such offences are subject to a fine of up to PGK 10 million (USD 2.8 million) for a corporation, or for a natural person a fine of up to PGK 5 million (USD 1.4 million) and/or up to five years imprisonment.

The Environment Act categorises activities as level 1, 2 or 3 according to their environmental impact, and the Environmental (Prescribed Activities) Regulations 2002 specifies types of level 2 and 3 activities. Examples of level 2 activities include minor forest activities carried out under a Timber Authority issued under the Forestry Act, and the operation of stationary sawmills and treatment facilities with a production capacity of more than 30,000 m<sup>3</sup> per year of sawn timber.<sup>16</sup> Level 3 activities include logging operations where the minimum annual allowable cut is greater than 70,000 m<sup>3</sup>.<sup>17</sup> Environmental Impact Assessment provisions apply to applications to conduct any level 3 activities, and to level 2 activities that may result in serious environmental harm or may have a significant impact on a matter of national importance.

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<sup>16</sup> Other level 2 activities related to wildlife or forests include logging operations carried out under a timber permit or licence, chemical treatment facilities for timber with a production capacity of more than 100 tonnes of treated products per year, wood processing to form veneer, plywood, particleboard or fibre board, and wood processing to form pulp, paper, or cardboard.

<sup>17</sup> Other level 3 activities related to wildlife or forests include any large-scale clearing carried out under section 90(a), (b), (c), or (d) of the Forest Act, and activities that may result in a significant risk of serious or material environmental harm in a Wildlife Management Area, Conservation Area, National Park, or other protected area.

Other offences under the Environment Act include breaching environment permit conditions (subject to a fine of up to PGK 100,000 (USD 28,400) for corporations or PGK 50,000 (USD 14,200) for individuals and/or up to two years imprisonment), providing false or misleading information (subject to a fine of up to PGK 100,000 for corporations or PGK 50,000 for individuals), and failing to comply with an Environment Protection Order or a Clean-up Order (subject to a fine of up to PGK 250,000 (USD 71,000) for corporations or PGK 125,000 (USD 35,500) and/or imprisonment of up to five years for individuals). Authorised officers have powers of entry and search without a warrant, taking and removing samples, collecting evidence, and production of documents and records. Additional penalties available upon the successful conviction of an offence include the award of damages, compensation, recovery of costs incurred, rehabilitation or restoration of the environment, and suspension or cancellation of permits.

Furthermore, the Organic Law on Provincial Governments and Local-level Governments 1998 designates some legislative responsibilities to provincial and local governments. Provincial governments may make laws on fishing and fisheries, land and land development, forestry and agro-forestry, and a wide range of other matters, although not on large-scale forestry, fishing, and marine resource ventures. Local governments may also make laws on topics such as the local environment, flora and fauna.

Provisions under the Investment Promotion Act 1992 and its Regulations, administered by the Investment Promotion Authority (IPA), can offer an alternative approach to ensure that foreign companies operating in the forestry sector are complying with the laws of PNG when carrying out their business activities. The IPA is required to monitor the activities of foreign enterprises to ensure their compliance with the Investment Promotion Act, and has the power to request information, books, and records for inspection. Under this Act, any foreign enterprise that fails to comply with the terms and conditions of its certificate of registration or carries on business in a reserved activity is liable to a fine of up to PGK 100,000 (USD 28,400). Companies or persons making false statements or providing misleading information are liable to up to PGK 50,000 (USD 14,200) fine. The IPA has the power to prosecute any offence under this Act and to cancel or suspend the registration of any foreign enterprise that commits an offence against this Act or any other law of PNG (for which the maximum penalty is a fine of PGK 10,000 (USD 2,800) or imprisonment for up to one year).

A key concern with the Forestry Act in particular is the low financial penalties available for offences and the lack of enforcement of these penalties when illegal acts are identified. This is particularly noticeable when comparing the penalty for the offence of logging without having a relevant timber permit or licence under the Forestry Act (a fine of up to PGK 100,000 and/or imprisonment for up to five years) with the penalty for a similar offence under the Environment Act of carrying out an activity that may cause serious environmental harm without having an environment permit (a fine of up to PGK 10 million for corporations, or a fine of up to PGK 5 million and/or imprisonment up to five years for individuals), which is 50 to 100 times higher.

Illegal logging practices throughout PNG's timber industry are well documented and were acknowledged by many government agencies during this assessment as a very serious issue. The penalties available under the Forestry Act are not commensurate with the high value of timber resources, the vast profits generated from illegal logging activities, the very large scale of many foreign-owned logging operations in PNG, and the environmental damage caused when offences are committed. Furthermore, it was reported that there have been no successful prosecutions of illegal logging or other forestry crimes in the PNG court system. The assessment team acknowledges that PNGFA is planning to increase the penalties in the upcoming amendment of the law, but to have any impact in deterring illegality, it is crucial that the law is enforced and penalties are applied when offences are identified.

## Competent law enforcement authorities

### Conservation and Environment Protection Authority

The Conservation and Environment Protection Authority (CEPA) is a national-level agency reporting to the Minister for Environment and Conservation and Climate Change. CEPA's mission is to ensure PNG's ecosystems, natural and physical resources are managed to sustain environmental quality and human wellbeing. It is responsible for a range of functions relating to conservation and environment matters such as biodiversity conservation, environmental regulation, managing water resources, waste, and pollution control. CEPA administers 17 laws and regulations including the Environment Act 2000, CEPA Act 2014, International Trade (Fauna and Flora) Act 1979, Fauna (Protection and Control) Act 1966, Crocodile Trade (Protection) Act 1974, and Conservation Areas Act 1978, among others. CEPA is the national focal point for CITES as well as various other multilateral environmental agreements and is the CITES Management Authority for PNG.

There are around 80 staff in CEPA, the vast majority of whom are based in Port Moresby, with three rangers based in East Sepik (Ambunti), Northern (Oro), and Eastern Highlands (Goroka) provinces. Approximately half of the staff work in technical environmental regulation covering forestry, wildlife, mining, oil and gas, and other sectors, while the other half work in policy coordination and corporate services. There are two officers who are responsible for enforcement of the three wildlife laws – the International Trade Act, Fauna Act, and the Crocodile Act – including managing permits and handling wildlife trade compliance issues.

There is no intelligence unit or intelligence analysts in CEPA. As CEPA has so few officers in the field or in the provinces, it issues wildlife permits but does not inspect the actual wildlife shipments or conduct its own investigations. Instead, CEPA relies on cooperation with other agencies to implement its legislation, particularly with Customs and port authorities and the provincial governments. This cooperation occurs on an ad-hoc basis and there is no formal mechanism or platform to coordinate with other agencies. If a wildlife offence is detected at the border, CEPA will work with Customs and any other relevant authorities to handle the case. It does not cooperate with the Police for assistance with investigations. Interagency cooperation for CEPA typically occurs from Port Moresby as it has no budget for travel. CEPA reported that it has no data on wildlife offences and no wildlife cases have been prosecuted in PNG.

Management plans are in place for some of the most frequently traded species, such as sea cucumber, sharks, gaharu (agarwood), crocodiles, and birdwing butterflies, which include harvesting restrictions and quotas for trade. The sea cucumber management plan and the national action plan on sharks were jointly developed by CEPA and the National Fisheries Authority (NFA), but they are enforced by NFA, which has provincial-level staff across the country. Similarly, the gaharu management plan was jointly developed by CEPA and PNGFA, but it is enforced by PNGFA. CEPA is in discussions with PNGFA to amend this plan as it is now more than 20 years old.

Although it is a CITES requirement to assess species populations in the wild to ensure that trade is not detrimental to their survival, CEPA said this rarely occurs in practice due to a lack of resources for field work, especially in remote provinces. CEPA conducts annual monitoring missions to assess birdwing butterfly and crocodile populations, harvesting practices and impacts, but not for other species. It noted that where species are jointly managed with other agencies, the NFA has the primary responsibility for marine species and the PNGFA for timber and plant species. CEPA reported that it does not allow any trade of live animals due to the lack of monitoring mechanisms.



Captive breeding is not a well-developed part of the legislation in PNG, particularly for zoos, safaris, and sanctuaries, and CEPA sees this as an area for further development in the future. There are currently six captive breeding licence holders: one crocodile farm, four animal parks/sanctuaries, and one birdwing butterfly facility.

Rangers are responsible for inspecting and monitoring the crocodile farm. There are marking and tagging requirements for captive crocodiles and size restrictions for exporting live crocodiles and crocodile skins. Most of the crocodile skin trade is to Australia, Japan, France, and South Korea, but demand has reduced in recent years due to many other countries now farming crocodiles. According to CEPA, no violations have been detected since the crocodile farm was established in 1979. Current regulations only require crocodile farms to be registered when they hold 200 or more crocodiles, and while there is only one registered crocodile facility in PNG that meets this criterion, it was reported that there are many small facilities raising crocodiles that therefore fall outside of the regulations. CEPA is currently drafting new amendments to the Crocodile Act and the crocodile management plan to strengthen the licensing arrangements, penalties and enforcement provisions, with a view to ending wild hunting of crocodiles.<sup>18</sup>

CEPA also has a dedicated enforcement unit for forest monitoring consisting of two officers. Monitoring is focused on high-level and large-scale forestry projects assessed as being level 2 or 3 activities according to their environmental impact under the Environment Act 2000. These projects are monitored to assess compliance with their environment permit conditions, and where applicable, their Environmental Impact Assessments. Most of the forestry projects are classified as level 2 activities, such as smaller scale clearing of natural forest. Previously there were more level 3 large-scale selective logging projects, but there are fewer of these types of projects in PNG now. One compliance mission is conducted per year by CEPA officers. Forest compliance and monitoring activities are not jointly managed with PNGFA.

If a forestry violation is detected during CEPA's forest monitoring activities, it would first investigate to verify if the breach or violation occurred and suspend the operator's permit. If the breach is minor, the operator would have the opportunity to try to correct the action. However, if the breach is serious, CEPA would work with other government agencies such as PNGFA and the provincial government to collect evidence and prosecute the case in court together. CEPA stated there was no data on the number of forestry breaches it has investigated under the Environment Act.

Preparing cases for prosecution was identified as an area of need for training, particularly for the prosecution of cases under the wildlife laws. CEPA does conduct some CITES training for other agencies in the provinces and provides awareness materials and posters. However, it suggested that more training would be useful for Customs, National Agriculture Quarantine and Inspection Authority (NAQIA), and provincial government officers to increase their wildlife species identification skills and improve their understanding of the laws to combat illegal wildlife trade. CEPA acknowledged that there is generally poor enforcement of environmental laws in PNG.

Due to the current arrangements and CEPA's lack of field officers and provincial presence, it has very little understanding of the extent to which illegal wildlife trade is occurring in PNG, which species are most affected, and how and where they are moving. It is almost entirely reliant on other agencies to detect and investigate illegal trade incidents, but the lack of data, cases, and prosecutions indicates that these efforts are not effective.

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<sup>18</sup> <https://www.sprep.org/news/crocodile-trade-protection-act-and-its-regulations-to-be-amended>

Reported data on CITES exports from PNG (see Figure 1 below) shows that crocodiles, agarwood, corals, birds, snakes, and lizards are among the most common legally traded species. Most trade is outgoing, with far fewer imports registered on the CITES Trade Database.

*Figure 1: Reported CITES exports from PNG, 2017-2021*

Year	Reported no. of exports	Species type and quantity
2017	90	Crocodile (36,566 skins, 9,500 kg meat, 2 skulls, 34,079 teeth, 30,750 kg teeth) Agarwood (13,860 kg) Corals (656 specimens) Snakes (68 specimens) Birds (62 specimens, 245 feathers/skins) Lizards (28 skins, 3 specimens, 5 products) Giant clams (37 shells) Other – flying fox (8 skins), cuscus (4 skins), shark (3 skins), nautilus (3 shells)
2018	158	Crocodile (39,421 skins, 8,055 kg skins, 23,150 kg meat, 20,925 teeth, 2,231 products) Agarwood (280,347 kg) Corals (5,573 specimens) Butterflies (853 specimens) Snakes (177 specimens) Turtles (110 sea turtles, 78 pig-nosed) Birds (16 specimens, 210 feathers/skins) Lizards (29 skins, 20 specimens, 1 product) Giant clams (25 shells) Cuscus (10 skins, 10 specimens) Orchid (1 specimen)
2019	133	Crocodile (40,091 skins, 19,000 kg meat, 38,707 teeth, 1,076 products, 11 skulls) Agarwood (2,898 kg) Giant clams (433 shells) Lizards (43 skins, 14 products) Birds (10 specimens, 35 feathers/skins) Turtles (65 pig-nosed, 4 giant softshell) Corals (72 specimens) Lizards (43 skins, 14 products) Cuscus (10 specimens, 5 skins) Butterflies (28 specimens) Other – flying fox (4 specimens), tree kangaroo (1 skin), orchid (1 specimen), ebony (54 kg), green tree snail (3 shells)
2020	84	Crocodile (11,662 skins, 8,500 kg specimens, 57 specimens, 12,421 teeth, 229 products) Sea cucumber (48,938 kg) Agarwood (788 kg) Butterflies (343 specimens) Birds (6 specimens, 38 feathers/skins) Giant clams (27 shells) Lizards (11 skins) Other – sea turtle (7 shells), cuscus (4 skins), nautilus (1 shell)
2021	0	Data not yet reported.

Source: CITES Trade Database

### **Wildlife crime issues**

With its wealth of rare and endemic wildlife species, PNG is primarily a source country for the illegal wildlife trade. However, CEPA officers believe that PNG is also used as a transit point on trafficking routes to some extent, with a few previous cases detected. One case mentioned involved a suitcase of snakes that was found on flight to Asia that transited in PNG, although the originating location was not specified. PNG has flights connecting to Singapore, Manila, and Hong Kong, China in Asia, to Honiara and Nadi in the Pacific, and to several cities in Australia. According to CEPA, these types of cases are not formally reported or documented, and the wildlife would be confiscated with no further investigations or charges.

A major issue that was discussed by both CEPA and PNGFA was logging ships that travel around PNG collecting logs, and sometimes birds, reptiles, or other wildlife en route. It is believed that local communities hunt and sell the wildlife to logging camps and along the roadside. However, CEPA could not provide any data or examples of such cases and how they have been handled.

A wide range of species are hunted in PNG including cuscus, tree kangaroo, cassowary and other birds, wallabies, bats, and reptiles. A large proportion of the wildlife is sold locally on the streets of Port Moresby and in other cities and towns around the country for domestic meat consumption or for use in ceremonial costumes and practices.<sup>19</sup> Despite many of these species being protected under the Fauna Act and buying, selling, or possessing them being an offence, CEPA said it does not come down hard on local wildlife trade due to the traditional cultural practices.

However, these domestic offences can be preliminary offences to the international trade and smuggling of wildlife species. The trafficking of PNG's species is evidenced by seizures that have been made in other countries, but the extent of this threat, the perpetrators, and their modus operandi are not well known. For example, suitcases containing snakes and lizards native to Australia, PNG and the Philippines were seized by Indian Customs officers at Chennai International Airport in October 2019 on a flight arriving from Malaysia.<sup>20</sup> The increasing international demand for PNG wildlife species is a new threat on top of the domestic demand, and is concerning due to the current lack of enforcement of wildlife protection laws in the country.

A recent investigation into an international bird smuggling network that collected rare birds and eggs from many countries including PNG to sell in Europe was estimated to generate around USD 36 million per year, indicating the high values that these species can attract in the international market.<sup>21</sup> According to one of the subjects of the investigation who had been arrested and convicted in Austria, birds of paradise could sell for between USD 31,000-37,000 each and palm cockatoos for USD 25,000 each in the European market. It was alleged that smugglers travel extensively to source rare birds, either directly engaging in poaching in foreign countries or buying from local hunters, and often re-using the same CITES permits to smuggle multiple batches of birds.<sup>22</sup>

It has been previously reported that Solomon Islands has an active bird trade, including CITES-listed species that are native to PNG, which are likely sourced from the wild and laundered into temporary holding sites in the Solomon Islands for export, mostly to Malaysia and Singapore, from where they

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<sup>19</sup> <https://www.abc.net.au/news/2017-09-09/future-for-pngs-unique-and-beautiful-species-doesnt-look-good/8886140>

<sup>20</sup> <https://uk.news.yahoo.com/airport-smugglers-arrested-police-suitcases-105900841.html>

<sup>21</sup> <https://www.occrp.org/en/investigations/astronomical-money-how-smugglers-made-tens-of-millions-moving-rare-birds-around-the-world>

<sup>22</sup> Ibid.

are re-exported to other countries.<sup>23</sup> Analysis of more recent CITES trade data (2017-2020) found that large numbers of birds continue to be exported from Solomon Islands, including species native to PNG. However, PNG's reported CITES trade data does not show any (legal) bird exports to Solomon Islands, raising questions on the legality of the sourcing and import of these birds into the Solomon Islands.

### Papua New Guinea Forestry Authority

The Papua New Guinea Forestry Authority (PNGFA) is responsible for the development and management of PNG's vast forest resources and enforcing the Forestry Act 1991 (as amended) and its Regulations. The PNGFA consists of the National Forest Board for overall management and advice to the Minister for Forests, the National Forest Service as the implementation and operational arm, and the respective provincial forest management committees to coordinate forestry matters between the national and provincial governments. Key functions of the PNGFA include issuing timber permits, licences, and export permits to registered Forest Industry Participants, monitoring and compliance of logging operations, and developing forest conservation strategy. It is also the designated CITES Scientific Authority for CITES-listed flora species.

Tropical rainforests cover approximately 33.6 million hectares (72.5%) of PNG's landmass, supporting livelihood and subsistence needs for the majority of the population as well as providing an important source of foreign exchange for the national economy.<sup>24</sup> Virtually all forest land is owned by clan or tribal groups under customary law, and negotiating timber rights with customary owners is a fundamental component of the Forestry Act to access timber resources.

PNGFA reported that logging concessions currently cover approximately 15 million hectares of forest, and between 2.5 – 4 million m<sup>3</sup> of logs are exported annually. PNGFA views the country's forestry industry as being more comparable to Indonesia and Malaysia in terms of scale and capacity than to other Pacific countries. The Société Générale de Surveillance (SGS) Ltd independently implements the log export monitoring and control procedures on behalf of PNGFA. According to analysis of SGS data, the top five log exporting companies are Malaysian-owned and responsible for over 50% of log exports from PNG in the last decade.<sup>25</sup> China is the main export destination, taking 81% of the total volume of timber exported in 2020.<sup>26</sup>

Most of the forest industry is focused on the harvesting of natural forests for round log exports, although there is a small plantation sector and efforts are underway to shift the industry towards more sustainable harvesting and downstream processing.<sup>27</sup> PNG is phasing out round log exports with a complete ban by 2025 and no new licences are to be issued without timber operators having clear evidence of a downstream processing plan. There is also a target to establish 800,000 hectares of plantation forest by 2050 to facilitate the shift towards sustainable harvesting. The new PNGFA Corporate Plan 2021-2030, the National Strategy for Downstream Processing of Forest Produce in Papua New Guinea 2020-2024, and the revised PNG Logging Code of Practice 2020 set out this new policy direction.<sup>28</sup>

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<sup>23</sup> Shepherd, C.R., Stengel, C.J., and Nijman, V. (2012). *The Export and Re-export of CITES-listed Birds from the Solomon Islands*. TRAFFIC Southeast Asia, Malaysia.

<sup>24</sup> APEC Experts Group on Illegal Logging and Associated Trade (2021), *Papua New Guinea Timber Legality Guide*, p.2.

<sup>25</sup> ACT NOW and Jubilee Australia Research Centre (2021), *Logging and Forest Loss in Papua New Guinea*, Background Paper, p.3

<sup>26</sup> SGS (2021), *Log Export Monitoring Monthly Report December 2020 to the Papua New Guinea Forest Authority*, p. 4.

<sup>27</sup> <https://thediplomat.com/2021/10/pngs-prime-minister-wants-to-save-his-countrys-rainforest-he-cant-do-it-alone/>

<sup>28</sup> <https://www.thenational.com.pg/pm-preserve-forests-in-png/>

There are approximately 40 active forest project sites around the country, some of which are immense and host multiple companies conducting logging operations on various allocated concession areas. Forestry teams are assigned to projects and based on-site to conduct continual monitoring of forestry activities. Teams vary in size depending on the scale of the project site, but each one includes a supervisor (forest inspector), project officers, and monitoring officers. If any compliance issues are identified, the monitoring reports are escalated to PNGFA management to decide how to handle them. Dissatisfied landowners and logging outside of allocated concessions were said to be the most common issues encountered by forestry teams. The supervisor has the power to stop logging operations if major problems are identified while they are being handled by PNGFA. Manual audit forms are used as the basis for inspections, but these may be digitised in the future.

Forestry officers only monitor the areas and issues that are within PNGFA's mandate under the Forestry Act and its Regulations. As such, if any wildlife was detected during compliance monitoring, such as wildlife kept at logging camps or being sold along logging roads, it should be referred to CEPA, but PNGFA officers acknowledged that this rarely occurs.

Wildlife smuggled on logging ships was reported to be a key issue, although PNGFA officers claimed that it could be a challenge to prove whether the wildlife was taken in PNG or not, as logging ships sometimes collect a preliminary load of logs in Solomon Islands, then travel to PNG to collect an additional load before heading to the market country. These multi-stop trips can also occur in the reverse direction, starting in PNG then travelling to the Solomon Islands. Wildlife smuggling on logging ships was also highlighted as a key threat in the UNODC rapid assessment in Solomon Islands.

Satellite monitoring is occasionally used to help identify land use changes and forest loss, but due to the high costs involved it is only undertaken every few years. There are more than 25,000 monitoring points across the country to collect data, mostly stationed around timber concession areas. In the future, PNGFA is aiming to be able to use the system to undertake real-time monitoring to detect disturbance such as logging outside of concession areas.

PNGFA reported that it is difficult to monitor logging compliance on the ground due to the limited resources for enforcement. Poorly equipped forestry officers are responsible for managing vast tracts of forest that are often hard to access. Their training is based on the Forestry Act and the Logging Code of Practice, but they are not trained on conducting investigations, collecting evidence, or building a case for prosecution. Despite these challenges, PNGFA does not request assistance from the police for investigations or refer cases to police, and police are not authorised to investigate forestry cases under the Forestry Act. However, it was suggested that establishing a dedicated Forestry Police unit that was mandated to assist with forest crime investigations could be useful.

PNGFA has recently expanded its legal team with a new legal officer and three supporting officers, who are responsible for providing legal advice and prosecuting forest crime cases. Most previous cases were handled with fines and letters of reprimand, but PNGFA recognises that this approach is ineffective for major cases that should be dealt with through the court system. To prosecute its own cases, PNGFA first needs to obtain consent from the Office of the Public Prosecutor, then it can proceed.

PNGFA claimed that it is blamed for many forestry issues because it is the agency with officers on the ground, but that cooperation is lacking from other agencies that play key roles in the issuance of the various permits and licences such as IPA, Department of Lands and Physical Planning, and CEPA. PNGFA is in discussions with Customs to develop an MOU regarding handling log exports and has an agreement in place with CEPA on the Logging Code of Practice. However, it has been highlighted that

closer collaboration with CEPA is needed to monitor logging operations and improve forest compliance and management.<sup>29</sup>

PNGFA has developed a National Timber Legality Standard that can be used by third parties to verify that forestry projects and operations are compliant with all relevant laws of PNG, with the aim of enhancing forest law enforcement and governance.<sup>30</sup> PNGFA is now in the process of gazetting the Legality Standard and is aiming to pilot it with some large and small logging concessions. Some forestry companies are FSC-certified (Forest Stewardship Council) or PEFC-certified (Programme for the Endorsement of Forest Certification), but PNGFA is hoping that the Legality Standard can assist more companies to gain certification to improve the standing of PNG timber products in the international market.

### **Forest crime issues**

PNG has a comprehensive forestry legal framework, but it is undermined by a critical lack of enforcement including inadequate allocation of resources (human, financial, and technical) for monitoring and compliance, corruption, widespread illegal practices across the forestry sector, and low (or no) penalties when violations are detected. These issues have been widely documented by both official government reports and NGO reports. Some of the most commonly reported illegal practices include licences issued or extended in breach of regulations, failure to obtain proper consent from traditional landowners, substantial breaches of harvesting regulations by logging operators, and the abuse of forest clearance permits for commercial agricultural projects. Some NGO reports have estimated that 40-70% of logs sourced from PNG may be illegal in some way.<sup>31</sup> Despite these issues, other assessments have indicated that irrespective of how it was sourced, most of the country's timber is exported legally and there is relatively little or no smuggling of timber abroad.<sup>32</sup>

According to PNG's Money Laundering and Financing of Terrorism National Risk Assessment, illegal logging is one of the country's most significant proceeds-generating crime threats for money laundering. The assessment analysed log export revenues from PNGFA, financial data from the Bank of PNG reported as payments for logging products, and log export volumes reported by SGS. Its analysis found that logs in excess of the approved volumes for a particular area are regularly exported. These illegally taken logs are retrospectively "authorised" by PNGFA prior to export. PNGFA then collects royalties on these exports even though the logs have been taken outside of the approvals issued under the Forestry Act. The assessment suggests that as an alternative approach, these logs could be considered the proceeds of crime and therefore seized under the Proceeds of Crime Act, then sold on behalf of the PNGFA rather than the logging company, and the full sale value (not just the royalty payment) retained by PNG.<sup>33</sup>

In May 2021, PNG's Internal Revenue Commission (ICR) announced a crackdown on the logging industry, accusing it of entrenched tax evasion, transfer pricing and deceptive behaviour. The ICR has launched an audit of 20 companies and expects to add more to the list as it scales up compliance activities, which could include criminal prosecutions. Its preliminary observations revealed that many logging companies have evaded corporate income tax for decades by continually claiming losses every

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<sup>29</sup> CEPA and SPREP (2021), Papua New Guinea State of the Environment Report 2020, <https://soec.sprep.org/png/>

<sup>30</sup> APEC Experts Group on Illegal Logging and Associated Trade (2021), *Papua New Guinea Timber Legality Guide*

<sup>31</sup> Lawson, S. (2014), *Illegal Logging in Papua New Guinea*, London, Chatham House, pp. 25-26.

<sup>32</sup> UNODC (2016), *Transnational Organized Crime in the Pacific: A Threat Assessment*, p.59.

<sup>33</sup> Bank of Papua New Guinea (2017), *Money Laundering and Financing of Terrorism National Risk Assessment*, p.92



year, despite exporting millions of cubic metres of timber, while also paying minuscule salary and wages taxes.<sup>34</sup>

Special Agricultural and Business Leases (SABLs) are a type of leasing arrangement that allows companies to acquire and clear forested land for agricultural and business purposes, but they were never intended to be used for full-scale logging operations as the primary business activity. The PNG Government established a Commission of Inquiry into the legality of SABLs in 2011 following growing concerns that they were being widely exploited by foreign logging companies to obtain valuable timber while avoiding the rules for sustainable forest management under the Forestry Act and making only token investments, or none at all, in the agricultural projects that were supposed to be the purpose of the lease. The inquiry found that many of the leases issued were illegal, with unscrupulous individuals and corrupt government officials taking advantage of and abusing the SABL process while dispossessing traditional owners of their land. The inquiry reported allegations of bribes and inducements being offered by project developers and representatives of landowner companies to procure SABL titles, and undue “political pressures” being put on government officials by senior Ministers and politicians to fast-track SABL applications and issue titles.<sup>35</sup>

While the Inquiry recommended all SABLs be shut down due to these systemic problems, nearly one-third of PNG’s log exports between 2012 and 2016 originated from SABLs and other forest clearance permits and no penalties have been handed to companies or officials for legal violations identified under the scheme.<sup>36</sup> New cases continue to occur, with an investigation in 2020 indicating that a permit was illegally issued to a Malaysian company for the conversion of forest on Manus Island to a rubber plantation, and while logs valued at almost USD 2 million were cut and exported, no rubber trees were planted.<sup>37</sup> SGS data showed that forest clearance permits accounted for 24% of PNG’s total logs exports in 2020.<sup>38</sup>

Aside from timber, gaharu (agarwood) is a forest product that is also exploited for illegal trade in PNG. Gaharu harvesting is not a traditional activity and is believed to have been initiated by Asian buyers and traders around 1997. Anecdotal reports suggest that illegal trade occurs across the border to Jayapura (Papua, Indonesia) from Vanimo by land (most likely by foot) and sea (by small boat).<sup>39</sup> According to the CITES Trade Database, Singapore, Hong Kong, China, and China are the most common destinations for large, legal shipments of PNG-sourced gaharu, with more than 297 tonnes exported between 2017-2020.

### Société Générale de Surveillance

The assessment team was unable to interview representatives from the Société Générale de Surveillance (SGS), so the information in this section is collected from publicly available SGS reports and responses during the PNGFA interview.

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<sup>34</sup> <https://actnowpng.org/blog/blog-entry-irc-adds-more-financial-crimes-logging-companies%E2%80%99charge-sheet>

<sup>35</sup> Numapo, J. (2013), *Commission of Inquiry into the Special Agriculture and Business Lease (SABL)*, Final Report.

<sup>36</sup> Forest Trends (2021), *Timber Legality Risk Dashboard: Papua New Guinea*, p.6

<sup>37</sup> Global Witness (2020), *Bending the Truth*, <https://www.globalwitness.org/en/campaigns/forests/bending-the-truth/>

<sup>38</sup> SGS (2021), *Log Export Monitoring Monthly Report December 2020 to the Papua New Guinea Forest Authority*, p. 10.

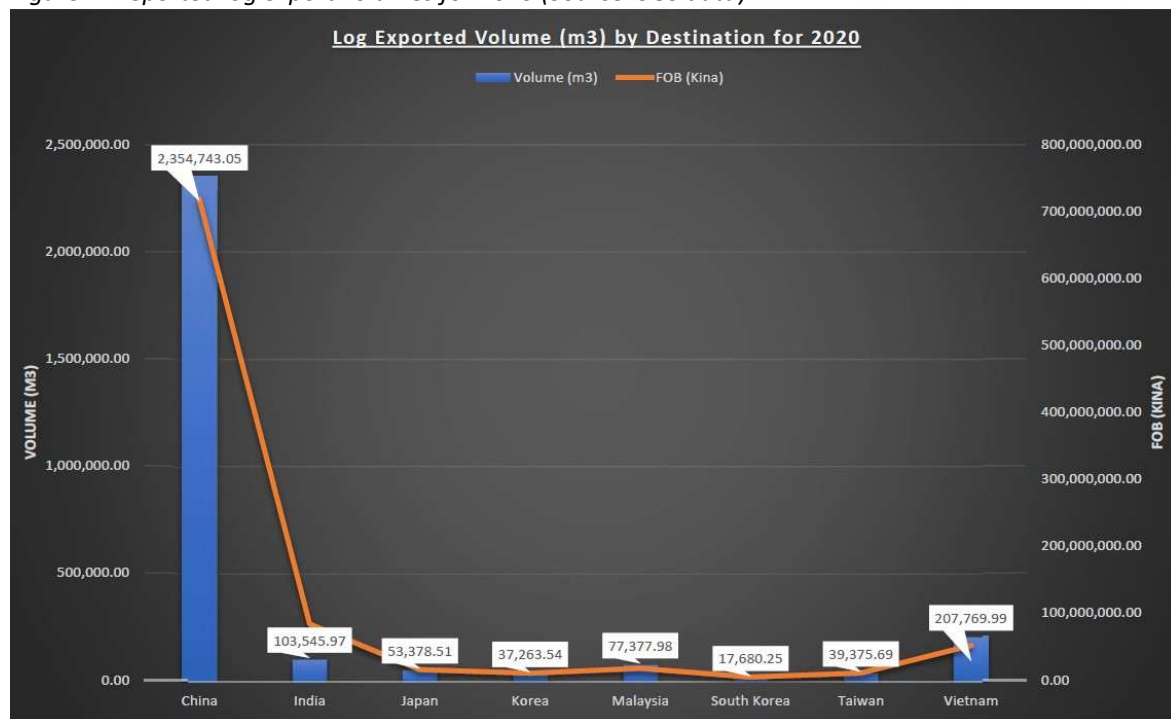
<sup>39</sup> Zich, F. and Compton, J. (2001), *Agarwood (Gaharu) Harvest and Trade in Papua New Guinea: A Preliminary Assessment*, TRAFFIC Oceania.

The PNG Government entered into a contract with SGS (PNG) Limited in 1994 whereby it independently implements the log export monitoring and control procedures on behalf of the PNGFA. SGS is mandated to inspect every timber shipment being exported from PNG with a 100% species check and a 10% sample check based on volume. SGS provides logging operators with barcoded tags which they are required to affix to all felled logs, and the export inspections are then based on scanning the tags. As the tagging system is self-administered by the operators, it is not designed to verify legality. The intention of the arrangement is to ensure that species, volumes, and values of the logs exported are correctly stated, all export-related revenues are correctly stated, and taxes and duties are paid.

According to PNGFA officers, if SGS detects an issue during their inspections, they will report it to the relevant project site, which will then report it back to PNGFA. SGS provides monthly reports to PNGFA, which are also distributed to other stakeholders and tabled in Parliament. The reports include any discrepancies identified during the inspections. PNGFA stated that there is an allowable limit for discrepancies to give room for human error, but when this limit is exceeded, discrepancies must be dealt with.

According to the latest publicly available SGS report, in the month of December 2020 a total of 47 inspections were carried out, and serious discrepancies were detected (of logs without proper export declarations) and corrected for three shipments, representing 6% of all shipments. The report also states that SGS has observed a “significant decrease” in discrepancies over time since surveillance services were established in 1994.<sup>40</sup>

Figure 2: Reported log export volumes for 2020 (Source: SGS data)<sup>41</sup>



<sup>40</sup> SGS (2021), *Log Export Monitoring Monthly Report December 2020 to the Papua New Guinea Forest Authority*, p. 1.

<sup>41</sup> Ibid, p.5.

## National Fisheries Authority

The National Fisheries Authority (NFA) is a semi-commercial statutory authority established and operating under the Fisheries Management Act 1998 (as amended) and related regulations. NFA functions include the management of fisheries, recommendations on granting of licences, research on fisheries stocks, controlling and regulating the export of fish and fish products, collecting data, and implementing monitoring, control, and surveillance schemes. It is also the designated CITES Scientific Authority for CITES-listed aquatic species (other than marine mammals and reptiles). The NFA was considered as part of this rapid assessment in terms of its role and responsibilities relating to the management of certain marine species that may be involved in illegal trade, such as dolphins, sea cucumbers, giant clams, sharks, sea turtles, etc. IUU fishing was outside the scope of this assessment.

PNG's fisheries zone and exclusive economic zone (EEZ) spans 2.4 million km<sup>2</sup> and is one of the largest in the South Pacific.<sup>42</sup> The marine environment includes large fringing and barrier coral reef systems, more than 600 offshore islands, an extensive coastline, and an inshore area with seagrass beds, mangroves, estuaries, and lagoons.<sup>43</sup> Offshore fisheries is mostly focused on tuna, while inshore fisheries cover a wide variety of marine species such as sea cucumber, prawns, crabs, lobsters, and inshore reef fish. The geographical extent of its EEZ and limited capability to effectively patrol such a vast area makes PNG vulnerable to fisheries crimes.

The Fisheries Management Act and its subsidiary regulations recognise customary ownership of fisheries resources. The Act has extra-territorial application and regulates, controls, and manages the fishing industry in PNG and its fisheries and marine aquatic resources and environment. It extends to all persons and vessels in PNG waters and vessels licensed under the Regional Access Licence through the Federated States of Micronesia Arrangement. Authorised officers under the Act include fisheries officers, police, and defence force officers. Prohibited activities include fishing without a valid licence, transshipment at sea, fishing without reporting the catch or misreporting the catch, tampering with or disabling the VMS, falsifying or tampering with vessel markings or registration, among others. Fishing licences may be suspended or cancelled if the vessel has been used in the commission of a serious violation of an international conservation and management measure, human or drug trafficking, or involved in two or more fisheries offences within a two-year period.

The fisheries regulatory framework encourages in-country processing of fisheries products, so very little fish or seafood is exported whole or raw from PNG (unlike the forestry sector). Of the four major ports for landing a catch, three have canning and processing facilities (Madang, Lae, and Wewak), while Rabaul is a transshipment port for fish being exported from PNG. The majority of the NFA workforce is based at the ports, with only a skeleton staff based at the headquarters in Port Moresby.

PNG currently has fishing access agreements with Taiwan, Province of China, Korea, Philippines and China, and a multilateral treaty arrangement with the United States. These agreements establish the number of vessels allowed to fish in PNG waters each year and the fees payable. Usually about 130 foreign purse-seine vessels fish in PNG waters each year, but this is reportedly decreasing.<sup>44</sup>

Within the NFA structure, the Monitoring, Control and Surveillance division is one of 10 business groups and comprises four units: Enforcement, Observer Programme, VMS Operations, and Audit and Certification. The Enforcement Unit is made of up 25 officers who are responsible for ensuring all fishing vessels are complying with PNG laws and their licence conditions. There are more than 400 officers in the Observer Programme who are placed on board fishing vessels operating in PNG waters

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<sup>42</sup> <https://www.fisheries.gov.pg/fisheries-industry>

<sup>43</sup> Government of PNG (2015), *National Marine Conservation Assessment for Papua New Guinea*, CEPA, p.2.

<sup>44</sup> <https://www.fisheries.gov.pg/fisheries-industry>

to collect data and monitor compliance with licence conditions. Observers were recalled during the COVID-19 pandemic, but NFA is developing plans to restart the programme again. It is a dangerous job and NFA has lost four observers missing at sea over the years. The VMS Operations unit coordinates a VMS intelligence surveillance programme and 24/7 monitoring of fishing in restricted waters. The Audit and Certification unit is focused on ensuring that seafood processors understand and comply with food safety laws and export quality standards.

The Enforcement Unit has a flowchart to guide the process of handling and verifying intelligence, opening an investigation, collecting evidence, and building a case. There are no dedicated intelligence officers, but when NFA receives intelligence it will come to the Surveillance Manager first, who will delegate it to relevant officers to handle.

Inspections can occur at various points along the fisheries supply chain: at sea during fishing activities, at port when landing the catch, at processing facilities before processing occurs, and at port before export occurs. Domestic fishing vessels must land and process their catch in PNG, while foreign fleets may catch in the EEZ or high seas around PNG and tranship in PNG. Fisheries officers have powers to conduct undercover investigations and surveillance. They do not need a warrant to enter and search licensed vessels or premises and can apply for a warrant to search private residences. Police will usually accompany fisheries officers when executing search warrants.

The NFA utilises MOUs to facilitate work with other agencies when dealing with issues that are outside of its fisheries mandate. It has signed agreements with CEPA, Customs, Police, Defence Force (maritime element) and the National Maritime Safety Authority. In such cases, NFA will compile an intelligence report then disseminate it to the relevant agency.

NFA receives reports from Customs if marine species are found during inspections of logging ships. Fisheries officers will then inspect the vessel and try to establish the facts of the case. They have the power to detain the whole vessel and all goods on board while investigating. If an offence is established, fisheries officers will submit a report to the NFA Executive Manager to decide how to handle the case. If a full prosecution is not pursued, fixed penalty notices can be given with three categories of charges: Category 1 is subject to a PGK 8,000 fine, Category 2 is subject to a PGK 80,000 fine, and Category 3 is subject to a PGK 800,000 fine.

Cases that are prosecuted in court mostly relate to inshore species, with more than 50% of these cases relating to sea cucumber. The maximum penalty available for prosecuted offences under the Act is a fine of up to PGK 25,000 for a crew member, PGK 500,000 for a natural person, and PGK 5 million for a corporation. For repeat offences within a 24-month period, a court may impose a fine of twice the maximum amount for a natural person or four times the maximum amount for a corporation. Imprisonment of up to five years may additionally be ordered.

The NFA has one prosecutor within the Enforcement Unit who has worked with the agency since 2016. Prior to this, police prosecutors were used to bring cases to court, but this was found to be an ineffective arrangement due to their lack of specialised knowledge of fisheries laws and regulations. Fisheries matters are heard in a Grade 5 magistrate's court. If the defendant pleads guilty the matter will proceed quickly, but cases where defendants plead not guilty can face delays in the court system. According to the NFA, this is because fisheries cases are not prioritised compared to other police matters.

PNG conducts four regional patrols every year coordinated by the Pacific Islands Forum Fisheries Agency (FFA) in Honiara. These are joint-agency patrols including Police and Immigration as well as fisheries officers, involving sea surface patrolling and aerial surveillance managed through a command

centre. If any issues are detected, the relevant agency will handle their own cases. FFA member countries conduct their own patrols but share information with FFA.

In terms of training, fisheries investigators receive in-house training on how to handle exhibits, conduct interviews, and prepare case files through the NFA's National Fisheries College. External entities that provide other training include FFA, the University of the South Pacific, and Australia. NFA officers suggested that further training on intelligence collection and analysis, investigation and prosecution skills would be useful.

### **Fisheries crime issues**

Sea cucumber is considered to pose the highest threat for illegal harvesting and trade due to its high value and the complexity of managing this fishery. Under PNG law, local people can access marine resources from the beach to three nautical miles out from shore, with no commercial activities or foreign fishing vessels allowed to operate in this zone. It was reported that many cases come from violations of these rules. There is a management plan to guide the sea cucumber fishery (jointly developed with CEPA) and a moratorium on sea cucumber trade has been in place for the past two years, although it is set to reopen in 2023. NFA monitoring and compliance work increases when a moratorium is in place, to enforce the ban and ensure no illegal harvesting or trade is occurring. As was reported by NFA, more than 50% of fisheries cases prosecuted in court relate to sea cucumber.

A ban on targeted shark fishing by all commercial vessels fishing in PNG waters was introduced in 2014, although shark by-catch in the tuna fishery can be landed as whole carcasses and local fishermen are allowed to engage in artisanal shark finning where they extract fins from sharks and sell them as dried products to local buyers and exporters. The National Plan of Action on Sharks and Rays 2021-2024 was jointly developed by NFA, CEPA, and WWF with measures to move towards better management and conservation of sharks, including improved MCS and enforcement activities of sharks and shark-related products in the catching and processing sectors of the fishing industry.<sup>45</sup> The over-fishing of sharks was reported as a major issue, and two shark cases are currently before the courts involving foreigners. Concern was also raised about wild harvesting of the epaulette shark (*Hemiscyllium ocellatum*) by foreign-owned companies for the live aquarium trade.

Saratoga, also known as spotted barramundi (*Scleropages jardinii*), is a valuable freshwater aquarium fish with a limited distribution in southern New Guinea and northern Australia. Saratoga exploitation in PNG began in the early 1990s when wild-harvested juveniles were traded to merchants across the border in Papua province, Indonesia, and from there sold to dealers in other parts of Asia. Although saratoga is a protected species in Indonesia and subject to regulations in Australia, there are no controls on its exploitation in PNG. The Middle Fly district of the Western Province is believed to be the main area of saratoga exploitation, which was reported to be a "no man's land" with almost no presence of police or fisheries officers. Anecdotal evidence suggests that Indonesian traders across the border provide fuel to PNG fishermen to collect the saratoga juveniles and pay them in either Indonesian rupiah or basic goods.<sup>46</sup> NFA believes the trade of all kinds of species is going through this region, but they have no oversight, data, or intelligence to understand the extent of it.

NFA officers also mentioned the swim bladders of several species are in demand in the illegal trade, which mostly occurs in the Gulf and Western provinces and is also believed to be destined for Asian markets. Sawfish, river sharks and dolphins can also be by-catch of swim bladder fishers.

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<sup>45</sup> Government of Papua New Guinea (2021), *National Plan of Action on Sharks and Rays 2021-2024*. NFA, CEPA and WWF-PNG.

<sup>46</sup> <https://www.fisheries.gov.pg/fisheries-industry>

**Case of illegal harvesting of sea cucumbers, 2017: NFA v. Nguyen Van Phuc [NFA. 36/16]**

The defendant Nguyen Van Phuc was the captain of a fishing vessel with a total of 17 crew, who were all arrested in December 2016 for illegally harvesting sea cucumber in the waters of Milne Bay province. Nguyen Van Phuc was charged with three offences under the Fisheries Management Act for causing others to act on his behalf to illegally harvest sea cucumbers, fishing without a valid licence, and fishing without an access agreement.

Three illegal Vietnamese blue boats were first sighted by aircraft conducting aerial surveillance for illegal fishing, and a Defence Force patrol boat was dispatched to apprehend them. The first boat (captained by Nguyen Van Phuc) escaped as it saw the patrol boat approaching, and hot pursuit ensued. It eventually stopped when warning shots were fired and all persons on board were arrested and escorted back to shore. The patrol boat then went after and arrested the other two Vietnamese vessels.

On searching the three vessels, 54 x 200 litre containers full of sea cucumbers and 10 x 50 kg bags of salt for processing and preserving the sea cucumber were found, along with diving equipment and other supplies. The total dry weight of the catch was 3,158 kg and its estimated value was PGK 1,438,606 (USD 467,079).

The investigation identified there were originally four boats in the fleet that had travelled from Vietnam, but one had already been arrested in New Caledonia where they were previously illegally harvesting sea cucumber. The magistrate considered the route and long distance travelled to reach PNG to be an aggravating factor as it demonstrated the defendant's determination to conduct the illegal fishing activities, and the sentencing judgement rated the case eight out of ten on a scale of criminality and seriousness.

The defendant pleaded guilty to all three charges and was convicted on 27 January 2017. The magistrate ordered a total fine of PGK 150,000, or in default a prison term of four years minus the three months already served in custody, the destruction of the fishing vessel and forfeiture of all exhibits.

In addition to the court judgement, published media reports indicated a second captain was charged separately and fined PGK 50,000, and a total of 48 crew from the three vessels were also fined PGK 20,000 each.

*Source: PNG National Fisheries Authority and media articles.*

[https://www.fisheries.gov.pg/files/uqd/2c6676\\_f26d8e09dc164055bd69572c72011619.pdf](https://www.fisheries.gov.pg/files/uqd/2c6676_f26d8e09dc164055bd69572c72011619.pdf)

<https://postcourier.com.pg/vietnamese-fishermen-charged-for-illegal-fishing/>



## Papua New Guinea Customs Service

The PNG Customs Service is responsible for border security, community protection, trade facilitation, and revenue collection, and reports to the Minister for Treasury. In recent years it has been undertaking an organisation-wide process of restructure and modernisation to adopt international standards, fully computerised systems, and simplified documentation.

Customs is developing and implementing the ASYCUDA World system to strengthen compliance and risk management. ASYCUDA is the UNCTAD Automated System for Customs Data, an electronic reporting and data processing system for all imports, exports and excise entries lodged with Customs. The system has been fully implemented in Port Moresby and will eventually be rolled out in all declared ports.

The main legislation to control and authorise all movements of people and goods in and out of PNG is the Customs Act 1951 (as amended), which contains offences for smuggling and prohibited and restricted exports and imports. Under this law, smuggling offences are subject to a fine of PGK 5,000-50,000 and/or up to 10 years imprisonment. Other criminal offences under the Customs Act include bribery of officers, obstructing officers, rescuing seized goods, and collusion, all of which are punishable with up to five years imprisonment. Customs officers are also authorised officers under the International Trade (Fauna and Flora) Act 1979 with more specific powers and offences to respond to wildlife crime.

It was reported that the PNG Customs Service has a full staffing capacity of 1,100 officers but is currently under-resourced due to government budget constraints, with only around 600 staff across the country. The Enforcement Division is focused on illicit trade activities and should normally have between 90-100 staff but is currently operating with around half that amount. Enforcement staff have adequate basic equipment such as mobile phones and desktop and laptop computers.

There are two staff in the intelligence section who are responsible for conducting risk profiling of container movements, but they do not have specific targeting capability for CITES species. The intelligence section does not have access to any specialised intelligence analysis software. It maintains the Customs case management information system with records of cases detected and handled by frontline officers and information on trends, risks, and threats. However, Customs officers acknowledged that there could be many cases detected at the borders and points of entry that are not reported back to the intelligence section to record in the system.

There are approximately 20 seaports handling imports and exports in PNG, but only one container x-ray scanner which is located at Port Moresby seaport. There is one international airport, in Port Moresby, which has small x-ray scanners for luggage but no scanners for air cargo/crates. There is only one official land border crossing with Indonesia, which is between Vanimo and Jayapura in the north, but people regularly cross unofficially between the two countries along the length of the border. Customs has offices located at Kiunga and Tabubil close to the mid-section of the border, but the southern section is approximately 300-400 km of unmanned border and was said to be a major risk area for smuggling. Furthermore, media reports have noted there is a network of 40 private logging ports around the country that are outside of Customs control and are known to be used for other criminal activity including people smuggling, wildlife smuggling, and money laundering.<sup>47</sup>

It was noted that there is a special permit for people living near the land border which allows them to cross into Indonesia without a passport, visa, or any checks. The permit recognises the close links

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<sup>47</sup> <https://pina.com.fj/2021/09/08/png-logging-industry-a-major-money-laundering-risk-report/>

between tribal groups living on both sides of the PNG-Indonesia border, but it could also present a potential vulnerability that could be exploited by smugglers.

Customs conducts joint maritime and cross-border patrols in collaboration with Police, NFA, Defence, and other border and law enforcement agencies. However, it faces significant challenges to effectively manage border security with its limited human resources and capacity spread thin across hundreds of islands, rugged and porous land border, and vast ocean territory.

Customs can prosecute its own cases, and the prosecution section currently has two prosecutors. There were reported to be 150-200 cases pending prosecution, but because of a lack of prosecution capacity administrative penalties and fines were usually issued. Sometimes Customs engages with Police for serious cases, and the Police would then submit those cases to the public prosecutor for prosecution.

According to Customs, it mainly facilitates trade and does not deal directly with wildlife and forest crimes. If an issue was detected while processing an import or export, such as a shipment lacking the proper permits, misdeclaration of goods, detection of illegal wildlife, or any other issue, the shipment would be detained and the case handed over to the relevant technical agency to handle such as CEPA, PNGFA or NFA. Customs does not physically inspect fisheries or timber exports, as NFA and SGS respectively are responsible for conducting those checks. When Customs receives these shipments, it processes them as ready for export. However, it was reported that Customs Boarding Officers used to board all logging ships for the duration of loading to inspect timber shipments and give final clearance, and officers suggested this policy should be revived.

The Customs Tariff Act 1990 bans 15 timber species from export in round log form due to their scarcity in the natural forest, although they may be exported as processed products.<sup>48</sup> Customs officers reported that no seizures had been made under this provision.

It was reported that PNG used to provide transit permits for bird shipments from the Solomon Islands, but the government banned the live pet trade and stopped allowing transshipment of birds around 2010. Prior to this, live birds were caught in PNG (often by using a sticky substance applied to tree branches or other perching sites so they would get stuck), shipped to Solomon Islands, then back through PNG to elsewhere. Parrots, parakeets, or other birds of the Psittacidae family are absolutely prohibited from import into PNG under the Customs (Prohibited Import) Regulation 1973.

Training for customs officers is mostly provided in-house on topics directly related to the nature of Customs functions, such as import and export clearance procedures and tariff evaluation. Customs occasionally requests training support on specialised topics from external partners such as World Customs Organisation, Oceania Customs Organisation, Australia, and others. PNG Customs Service suggested that training on CITES species identification and risk profiling would be useful to improve detections of wildlife smuggling.

### Royal Papua New Guinea Constabulary

The Royal Papua New Guinea Constabulary (RPNGC) is staffed with around 5,000 officers across the country, which according to media reports and several stakeholder interviews, represents a shortage of police officers. A report released in 2020 found there is currently a ratio of one police officer to

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<sup>48</sup> The 15 timber species include kauri pine, hoop pine, klinkii pine, celery-top pine, Cordia, Dacrydium, ebony, kerosene wood, Libocedrus, Podocarp, brown podocarp, highland podocarp, rosewood, balsa, and blackbean.

every 1,145 people in PNG, far from the UN's recommended ratio of one officer for every 450 people.<sup>49</sup> Under-resourcing is believed to be an important contributing factor impacting police service delivery, and aside from insufficient human resources, the RPNGC receives a low level of government funding and has a lack of equipment, infrastructure, and training. Inadequate capacity and resources for investigations and prosecutions for general crime are a cause for concern, with many high-profile cases still pending prosecution.<sup>50</sup>

There is currently no dedicated unit within RPNGC that handles environmental matters, and neither CEPA, PNGFA, nor NFA reported ever requesting police assistance with investigations or referring cases to police. RPNGC reported that if a case was received, either the Criminal Investigation Division (CID) or the Transnational Crime Unit (TCU) would investigate. However, it was noted that that police do not have the authority to investigate under the Forestry Act, and although MOUs are in place, it would be better to be empowered to act under the legislation. It was suggested that creating criminal offences for wildlife and forest crimes under the Criminal Code Act could be a suitable approach to give police investigation responsibilities for serious cases.

The TCU is staffed with 33 officers, 12 based in Port Moresby and around 21 officers in the provinces. The unit receives intelligence through the Pacific TCU network relating to various types of cross-border crimes, but it has not received any intelligence on environmental matters or information when seizures of PNG species are made in other countries. The TCU does not conduct undercover investigations due to a lack of funding for protracted activities, and it was reported that the CID faced similar issues.

The lack of resourcing extends to basic equipment, with police officers using their personal phones for work and operational matters. Desktop computers are provided at the office but there are only a handful of laptops available for field work which are shared across the force. The RPNGC uses a manual, paper-based system for intelligence records and case management. It was reported that a database and online systems were previously established with external assistance, but they are no longer used because an ongoing server problem has remained unaddressed due to funding issues.

RPNGC recently received two Cellebrite machines and a training course was provided for a small group of officers, including two officers from the TCU. However, as this is a new capability, it was reported that the RPNGC is still confirming the legal aspects of whether a court order is needed to seize and analyse devices, and the admissibility of digital evidence in court.

The Prosecution Directorate of the RPNGC has around 25 prosecutors and deals with all prosecutions of simple and serious criminal offences. It has established offices in the provinces and also assists in the prosecution of cases from other agencies, such as NFA and Customs.

In terms of interagency cooperation, the RPNGC is part of the Technical Working Group under the National Coordination Committee on AML/CFT, which is joint taskforce with all other PNG law enforcement agencies covering all types of serious crimes. The Water Police unit is engaged with Customs, Immigration and Defence to conduct joint agency patrols and rescues at sea. RPNGC also participates in regular border patrols with PNG Customs, Australian Federal Police (AFP), and Indonesian authorities.

The RPNGC has a close working relationship with the AFP and discussed the case relating to an Australian drug trafficker who was successfully convicted and sentenced to 18 years imprisonment in

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<sup>49</sup> <https://postcourier.com.pg/police-need-k3-9b-to-conduct-mandated-duties-study-finds/>

<sup>50</sup> <https://www.looppng.com/png-news/police-need-funding-and-manpower-100785>

October 2022.<sup>51</sup> The case involved an Australian pilot who travelled to PNG illegally in July 2020 in a private light aircraft to collect a shipment of 611 kg of cocaine, but he crashed the plane when attempting to take off for the return trip. The offender was charged with money laundering through the receipt of criminal property (cocaine), as the new Controlled Substance Act 2021 with stronger penalties was not yet in effect, while offences under the old Dangerous Drugs Act 1952 only allowed for a maximum of two years imprisonment. International cooperation with the AFP was carried out through mutual legal assistance via the Attorney General's Office, with Australia providing support to conduct intelligence analysis and collect evidence. Intelligence also revealed the same offender had been previously convicted and sentenced to nine months prison for smuggling birds from Australia to New Zealand by private light aircraft in 1995.<sup>52,53</sup>

PNG does not have a tradition of strong local police authorities, and there have been reports of local police forces working with logging companies to provide "protection" in exchange for transport, accommodation, and allowances. Various Police Commissioners have ordered police to withdraw from logging sites over the years, but it is reported that these practices continue to occur.<sup>54</sup> In a recent case in January 2022, two landowners and a policeman were killed, and others injured, during a clash between landowners concerned with illegal logging and police who were allegedly privately engaged and used by the logging company against the landowners.<sup>55</sup>

In September 2020, the Police Commissioner admitted there were "criminals in uniform" in the RPNGC and he is committed to exposing and removing them. He has instituted a "one strike and you're out" policy, stood down all police reservists nationwide in response to widespread reports of abuse, and planned to criminalise certain disciplinary offences within the police disciplinary process to deal with serious behaviour issues within the force.<sup>56</sup>

Also in September 2020, the Police Minister publicly stated that "the very organisation that was tasked with fighting corruption had become the leading agency in acts of corruption," alleging that some senior officers were implicated in organised crime, misusing police allowances, smuggling firearms, among other serious accusations.<sup>57</sup>

Police misconduct is a longstanding, systemic problem in the RPNGC, and the Police Administrative Review in 2004 recommended establishing a Police Ombudsman. As an interim measure, in 2006 the PNG Ombudsman Commission established the Police Oversight Programme with the aim of restoring accountability, integrity and discipline to the RPNGC. It was reported that a large number of police personnel were arrested and charged, some dismissed, and some prosecuted and imprisoned through the efforts of the programme, although it is evident that this has not resulted in any sustained improvements in police conduct.

The RPNGC is responsible for investigating relevant predicate offences and money laundering. Key offences under the International Trade (Fauna and Flora) Act and the Forestry Act meet the penalty

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<sup>51</sup> <https://pina.com.fj/2022/10/31/australian-pilot-sentenced-to-18-years-in-png/>

<sup>52</sup> <https://www.abc.net.au/news/2022-09-27/accused-png-drug-syndicate-black-flight-committal-hearing/101479602>

<sup>53</sup> <https://pngicentral.org/reports/key-facts-behind-mysterious-plane-crash>

<sup>54</sup> <https://actnowpng.org/blog/blog-entry-illegality-and-human-rights-abuses-png%E2%80%99s-logging-industry>

<sup>55</sup> <https://postcourier.com.pg/engagement-of-police-in-logging-sites-questioned/>

<sup>56</sup> <https://postcourier.com.pg/manning-to-rid-constabulary-of-criminals-in-uniform/>

<sup>57</sup> <https://www.theguardian.com/world/2020/sep/18/papua-new-guinea-police-accused-of-gun-running-and-drug-smuggling-by-own-minister>

threshold to be considered predicate offences for money laundering<sup>58</sup> and for recovery action under the Proceeds of Crime Act;<sup>59</sup> however, offences under the Fisheries Management Act do not. Despite this, there have been no money laundering or proceeds of crime investigations relating to wildlife or forestry offences in PNG.

### National Agriculture Quarantine and Inspection Authority

The National Agriculture Quarantine and Inspection Authority (NAQIA) provides quarantine and trade facilitation services to protect animals, plants and people from pests and diseases. NAQIA's main responsibilities include providing quarantine inspection for international passengers, cargo, mail, animals, and plants arriving in PNG, inspecting exports to ensure compliance with international quarantine standards, undertaking quarantine surveillance and monitoring at borders and within PNG, and testing and analysis of pests and diseases.

The agency is mandated under the NAQIA Act 1997, which provides powers of inspection, boarding aircraft and sea vessels, and conducting inquiries. Offences under the Act include importation contrary to notices and importation of prohibited animals, which are subject to a maximum fine of PGK 4,000.

The corporate division is based in Port Moresby and the operations division has staff based at all registered ports of entry in PNG (seaports and airports) to provide inward and outward clearance. NAQIA has the responsibility to inspect all craft entering PNG, including private yachts, fishing boats, and cruise ships. NAQIA prioritises monitoring surveillance for targeted diseases such as African swine fever in pigs, which is currently a major focus, and it also conducts routine inspections. The authority also issues phytosanitary certificates for timber and is the last check before timber shipments leave PNG.

NAQIA cooperates with technical agencies (CEPA, PNGFA, NFA) and border authorities (Immigration, Customs) on an ad-hoc basis as required during its work. It noted there is no joint task force or working group among the border authorities. NAQIA has dialogue with the security agencies (such as Police and Defence), but it is not functionally connected.

In general, NAQIA officers ensure documentation is correct and legitimate before signing off on export permits, including checking CITES permits for shipments involving CITES-listed species. If an incoming shipment by boat was identified as being suspicious, NAQIA officers would advise the captain and make sure the goods remained on the boat. If the shipment has documentation, officers will go through the relevant checks to try to identify the vessel's last port of call to determine where the shipment may have originated. For shipments involving wildlife, NAQIA would report the case to CEPA. It was noted that while actions may be taken or incidents observed on the ground, they are typically not recorded anywhere at NAQIA, on paper or electronically. It was agreed that it would be useful to start documenting these issues and sharing the information with CEPA more formally.

It was also discussed that although NAQIA officers are cautious about animal and wildlife cases from a disease and biosecurity perspective, they need to develop more capacity on CITES requirements including species identification, CITES permits, and legislation. During the interview, an example was provided of a blue-eyed cockatoo that was detected on a logging ship at Kimbe port some years ago.

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<sup>58</sup> Criminal conduct is a key element of the money laundering offence under the Criminal Code, defined as an offence attracting a penalty of at least six months imprisonment.

<sup>59</sup> An indictable offence under the Proceeds of Crime Act is defined as an offence that is subject to a penalty of at least one year imprisonment.

It was deemed likely that the bird was caught locally, but because they were unable to prove it, the bird was euthanised as a precaution to prevent disease spread.

In terms of routine surveillance for pests and diseases, NAQIA officers also work with the provincial authorities who are their eyes and ears on the ground and can assist the authority to detect unusual events or large quantities of animals or plants. Provincial authorities may report these incidents to NAQIA, and a NAQIA officer will inspect further.

NAQIA has a biosecurity MOU with Indonesia that was signed in 2018, but not much cooperation has occurred since the COVID-19 pandemic began. Sharing information with Indonesia is important because PNG is the gateway between Asia and the rest of the Pacific. NAQIA has close collaboration with the Australian Border Force and deals with regional biosecurity issues via the Pacific Community.

NAQIA is the process of strengthening its biosecurity arrangements, with a new biosecurity policy launched in June 2022 and a new Biosecurity Bill expected to be tabled in Parliament in the coming year.

### Financial Analysis and Supervision Unit

The Financial Analysis and Supervision Unit (FASU) is established by the Anti-Money Laundering and Counter-Terrorist Financing (AML/CTF) Act 2015 and housed within the Bank of Papua New Guinea. FASU is an administrative financial intelligence unit (without law enforcement capabilities). Its main functions include carrying out financial intelligence and analysis, monitoring and enforcing compliance with the AML/CTF Act, developing risk assessments and typology reports, and supervising financial institutions and other designated non-financial entities. FASU currently has 27 staff but is aiming to double the size of the organisation and is in the process of recruiting more staff.

FASU has powers to request documentation and records either as a one-off request or as a continuing obligation, to conduct on-site inspections, compel the production of documents, and answer questions pursuant to a warrant. FASU disseminates intelligence reports to Police, Customs, Internal Revenue Commission, and the Ombudsman Commission for further investigation. It also receives information requests from PNG agencies to support their investigations and from international counterparts, and it has signed a number of MOUs for information sharing, cooperation, and collaboration. However, FASU reported that PNG law enforcement agencies have a low understanding of financial intelligence reports and how to use them in investigations, and they do not receive feedback on any outcomes from their disseminations.

FASU is involved in several projects with international organisations including working with INTERPOL to provide training for PNG's law enforcement agencies on financial crime related to the forestry sector, with UNODC on training for law enforcement agencies to conduct financial intelligence analysis related to forestry crimes, and with the UN-PRAC project on asset recovery efforts.

According to PNG's Money Laundering and Financing of Terrorism National Risk Assessment, illegal logging and fishing are the two forms of environmental crimes that are believed to produce the largest amount of criminal proceeds. However, unlike most other types of crime in PNG, the proceeds of illegal logging and fishing accrue in other countries due to the heavy involvement of foreign companies and exported goods in these sectors. The money laundering risk from both crimes is assessed to be



very high, with illegal logging considered to be second to corruption as the highest proceeds-generating offence in PNG.<sup>60</sup>

The National Risk Assessment also highlights that offences under the Fisheries Management Act do not meet the penalty threshold to be considered predicate offences for money laundering<sup>61</sup> or for recovery action under the Proceeds of Crime Act.<sup>62</sup> Considering the high money laundering risk related to fisheries crimes, the Fisheries Management Act should be amended to introduce imprisonment terms for individuals found guilty of committing offences.

PNG commenced an AML/CFT sectoral risk assessment of the forestry sector in 2019 supported by UNODC, which is expected to be published before the end of 2022. The assessment was pursued given that the forestry sector was identified in the top five highest risk sectors for money laundering. The banking sector in PNG is starting to apply pressure to the forestry industry, with several commercial banks instituting policies of not dealing with companies involved in the logging industry due to the risks of illegal logging and corruption.<sup>63</sup> FASU reported that this has catalysed improved engagement and cooperation with PNGFA.

FASU coordinates the National Coordination Committee (NCC) on AML/CFT, which is a policy-level coordination mechanism with quarterly meetings to discuss AML/CFT and related crime issues. As part of the NCC structure there is also a Technical Working Group, which is an operational-level coordination mechanism for all the law enforcement agencies to share cases and work together on investigations. The NFA and PNGFA are members of the NCC, but CEPA and NAQIA are not. FASU suggested that including CEPA and NAQIA as members of the NCC and the Technical Working Group could be useful to facilitate a more collaborative approach with other agencies to detecting and investigating wildlife trafficking cases at the border or in the provinces.

### Office of the Public Prosecutor

The assessment team was unable to interview representatives from the Office of the Public Prosecutor (OPP), so the information in this section is collected from publicly available reports and responses during interviews with other PNG agencies.

The OPP sits within the Department of Justice and Attorney General, along with the courts and various other legal bodies. Its primary function is to perform the prosecution function of the State, to prosecute persons charged with any criminal offence at their trial before the National Court, and to appear on behalf of the State in any criminal appeal before the National or Supreme Court. The OPP currently has 44 officers, of which 32 are State Prosecutors.<sup>64</sup>

It was reported that the PNG government has never successfully prosecuted a timber operator or an individual associated with the timber industry, despite serious concerns with illegal logging documented by both official government reports and NGO reports.<sup>65</sup> However, some successful

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<sup>60</sup> Bank of Papua New Guinea (2017), *Money Laundering and Financing of Terrorism National Risk Assessment*, p.89

<sup>61</sup> Criminal conduct is a key element of the money laundering offence under the Criminal Code, defined as an offence attracting a penalty of at least six months imprisonment.

<sup>62</sup> An indictable offence under the Proceeds of Crime Act is defined as an offence that is subject to a penalty of at least one year imprisonment.

<sup>63</sup> <https://pina.com.fj/2021/09/08/png-logging-industry-a-major-money-laundering-risk-report/>

<sup>64</sup> <https://postcourier.com.pg/the-role-of-the-public-prosecutor/>

<sup>65</sup> Bank of Papua New Guinea (2017), *Money Laundering and Financing of Terrorism National Risk Assessment*, p.91.

prosecutions have been secured by NGOs acting on behalf of landowners and communities.<sup>66</sup> This reflects the lack of investigations into reported complaints of illegal logging or other forestry crimes by either the PNGFA or the Police. Similarly, CEPA reported that no wildlife crime cases have been prosecuted in PNG also due to the lack of investigations.

In contrast, a large number of fisheries cases are prosecuted in court, more than 50% of which were said to involve illegal harvesting and trade of sea cucumber. According to the sentencing judgement of a sea cucumber case in 2017, the Magistrate found that there were 92 fisheries cases heard by District Courts in PNG in 2015, and 202 cases in 2016, representing an increase of 110 fisheries matters within a year. While the Magistrate commented that this data shows that contraventions of the provisions of the Fisheries Management Act are increasing exponentially in PNG,<sup>67</sup> when compared to the lack of prosecutions of wildlife and forest crimes, it also indicates the NFA's willingness to pursue criminal prosecutions for fisheries crimes.

### PNG Independent Commission Against Corruption

In November 2020, the PNG Parliament passed a new anti-corruption bill that established the Independent Commission Against Corruption (ICAC). The Organic Law on the Independent Commission Against Corruption 2019 was almost a decade in the making and represents important progress in PNG's anti-corruption agenda. Under the new law, the ICAC will be fully independent from the PNG government with strong investigation powers (including the use of interception devices) to examine corrupt conduct in the public and private sectors, which is an important difference from the country's existing anti-corruption mechanisms. Both individuals and corporations could be held liable for corrupt conduct, which is broadly defined as misconduct that could amount to a disciplinary or a criminal offence under PNG law.<sup>68</sup>

An Interim Chairman has been appointed to lead the establishment of the ICAC, with the support of a skeleton staff. At the time of the interview, the team was in the process of recruiting for the Commissioner and Deputy Commissioner positions, who will likely be candidates from Australia or New Zealand for the first term to ensure the independence of the agency. It was anticipated that the ICAC may begin to be operational in 2023. There will be 82 positions when it is fully formed, including administrative and operational staff. When fully operational, the ICAC will be able to receive and consider complaints, conduct investigations, make arrests, hold public hearings, prosecute offences relating to corrupt conduct, and undertake corruption prevention measures and awareness programmes.

The interim team is in the process of drafting regulations, code of ethics, procedure manuals, etc. It has developed a National Anti-Corruption Action Plan which has been endorsed by the National Executive Council.<sup>69</sup> The ICAC has also already started receiving complaints even though it is not yet operational, but it has referred these to the Ombudsman Commission or Police to handle, depending on the nature of the issue.

The ICAC representatives stated that wildlife and forest crime investigations in PNG are rare, and only a few cases have been reported. There is a lot of crime and corruption in the forestry sector that is not formally reported or investigated, but much less is known about the wildlife sector. Under-pricing,

<sup>66</sup> For example, <https://ejatlas.org/conflict/uncontrolled-illegal-logging-papua-new-guinea>

<sup>67</sup> [https://www.fisheries.gov.pg/files/ugd/2c6676\\_f26d8e09dc164055bd69572c72011619.pdf](https://www.fisheries.gov.pg/files/ugd/2c6676_f26d8e09dc164055bd69572c72011619.pdf)

<sup>68</sup> <https://www.allens.com.au/insights-news/insights/2020/11/papua-new-guinea-votes-to-establish-an-independent-commission-against-corruption/>

<sup>69</sup> <https://pina.com.fj/2021/12/16/png-independent-commission-against-corruption-should-be-in-operation-by-2023/>

shipping of round logs, and improper payments to local landowners were said to be some of the major issues involving misconduct in the forestry sector.

In reaction to the passing of the ICAC law, the PNG Ombudsman Commission has raised concerns that the ICAC would duplicate responsibilities that it already has.<sup>70</sup> During the interview, it was noted that the Ombudsman is taking the ICAC to court over the new law with a claim that it affects their mandate and takes away their powers. The Interim Chairman's view is that the law provides the framework for MOUs and cooperation with other agencies and the different mandates are clear: ICAC should focus on very serious, systemic corruption issues, the Ombudsman Commission should focus on leadership issues, and the Police should handle criminal matters.

According to its website, the PNG Ombudsman Commission's primary functions are to investigate alleged misconduct and defective administration by government bodies, alleged discriminatory practices by any person/body, and alleged misconduct in office under the Leadership Code. It operates under two main laws, the Organic Law on the Ombudsman Commission and the Organic Law on the Duties and Responsibilities of Leadership. It cannot investigate private individuals or organisations, or criminal matters.<sup>71</sup>

The ICAC Interim Chairman acknowledged the challenges in establishing the ICAC, particularly with the characteristics of the wantok system, which poses corruption risks.<sup>72</sup> The wantok system is a key feature of social organisation throughout PNG. It is a network of relationships and obligations between people connected by common origin, geographic area, kinship, and language. It is an extended family or clan, which can range in size from a few people to several hundred. In politics, public service, and the business environment, wantok can be misused for personal gain through corrupt and unethical practices, as people may direct resources or favours to members of their wantok or exclude people from outside their wantok.<sup>73</sup>

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<sup>70</sup> <https://www.abc.net.au/radio-australia/programs/pacificbeat/anti-corruption-body-welcomes-passing-of-png-icac-bill/12879908>

<sup>71</sup> <https://www.ombudsman.gov.pg/about-us/rolesfunctions/>

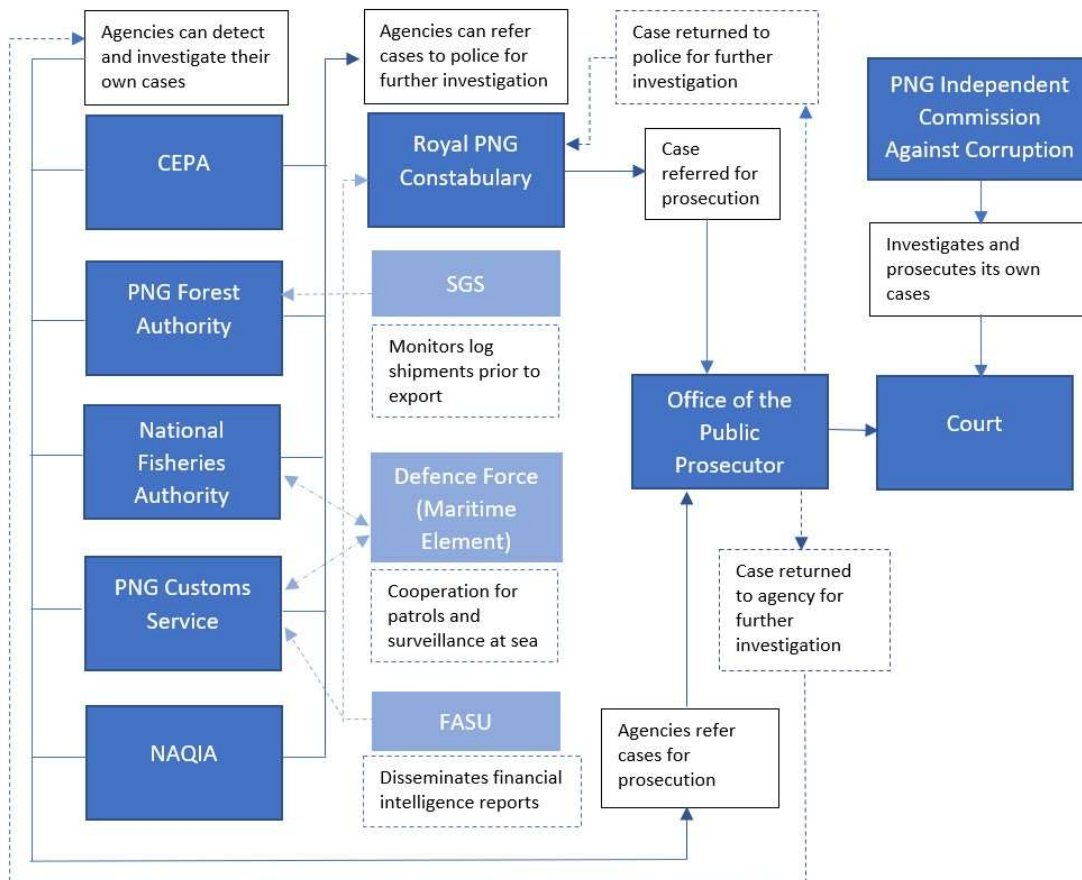
<sup>72</sup> <https://pina.com.fj/2021/12/16/png-independent-commission-against-corruption-should-be-in-operation-by-2023/>

<sup>73</sup> <https://www.u4.no/publications/reciprocity-networks-service-delivery-and-corruption-the-wantok-system-in-papua-new-guinea>

## Interagency cooperation

Each of the technical agencies in PNG has the mandate to detect and investigate their own cases, and most agencies have the power to prosecute their own cases. However, agencies can also opt to refer cases to RPNGC for investigation and to the OPP for prosecution. If the OPP determines there is insufficient evidence for prosecution, it can return the case to either the RPNGC or the investigating agency for further investigation. This process is illustrated below in Figure 3.

*Figure 3: PNG interagency cooperation for wildlife and forest crime cases*



In this framework, each agency has the ability to work independently and manage cases almost entirely within their own agency. While this may appear to be an efficient process for handling cases, it also means there is little incentive for cooperation between agencies at the operational level, particularly in terms of intelligence sharing. No agencies reported referring cases to the RPNGC for investigation or requesting assistance with investigations, and no wildlife or forest crime cases have been referred to the OPP for prosecution through the courts.

Although there are some policy coordination mechanisms such as the NCC on AML/CFT coordinated by FASU, there is no national mechanism specifically designated for sharing wildlife and forest crime intelligence between agencies in PNG. A specific MOU agreed between the key agencies for sharing intelligence and working collaboratively and a dedicated taskforce or working group focused on wildlife and forest crimes could be useful to strengthen intelligence sharing and better information flow between agencies. In turn, such a mechanism could also raise awareness for better targeting of law enforcement resources and interagency cooperation to address any issues identified. It was suggested that wildlife and forest crimes could potentially be integrated into the operational-level

Technical Working Group of the NCC, to utilise an existing structure that already brings all the key law enforcement agencies together.

## International cooperation

Law enforcement challenges across the Pacific are exacerbated by the vast expanses of ocean and the limited resources available to patrol it, so by the nature of this shared geography, cooperation in the region is crucial.

In this regard, there is a good level of cooperation between Pacific countries facilitated by several well-established and well-respected regional organisations. For instance, the Oceania Customs Organisation (OCO) assists Pacific customs administrations to enhance coordinated border management to combat transnational organised crime;<sup>74</sup> the FFA supports countries to prevent and control IUU fishing and conduct regional surveillance operations;<sup>75</sup> and the Pacific Transnational Crime Network (a mandated programme under the Pacific Islands Chiefs of Police) consists of 28 transnational crime units in 20 countries across the region, coordinated by a central hub based in Samoa.<sup>76</sup> The Pacific Islands Forum also fosters collaboration and cooperation between countries at the political and policy level, and Forum leaders signed the Boe Declaration on Regional Security in 2018 which declares an increasing emphasis on environmental and resource security and transnational crime, among other commitments.<sup>77</sup>

Although wildlife and forest crime issues are not a significant focus of any of the major regional bodies, good infrastructure exists for sharing intelligence and information between countries and conducting joint operations should the need arise.

Based on interviews with the different agencies, PNG authorities have their closest working relationships with counterparts in Australia, New Zealand, and Solomon Islands, as well as other Pacific countries. There appears to be limited cooperation with Indonesia, despite sharing a land border, although PNG tries to meet with its counterparts (fisheries and environment ministers) in the Coral Triangle Initiative every year (the other member countries are Indonesia, Malaysia, Philippines, Solomon Islands, and Timor-Leste). There is otherwise little direct contact with counterparts in other regions, and if cooperation was needed with a jurisdiction outside the Pacific region, it is likely that assistance would be sought via the relevant regional organisation or one of the larger bilateral partners in Australia or New Zealand.

PNG is a member party of several relevant international bodies and conventions, including CITES (acceded in 1975) and the United Nations Convention Against Corruption (ratified in 2007), and it has been an INTERPOL member since October 1976 and World Customs Organization member since March 2002. PNG has not yet acceded to the United Nations Convention against Transnational Organised Crime.

## Advanced investigation capabilities

Advanced investigation methods enable law enforcement agencies to covertly collect intelligence and evidence used to investigate and prosecute organised crime. They generally require specific legal

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<sup>74</sup> <https://www.ocosec.org/about/strategic-plan/>

<sup>75</sup> <https://www.ffa.int/>

<sup>76</sup> <https://picp.co.nz/our-work/pacific-transnational-crime-network/>

<sup>77</sup> <https://www.forumsec.org/2018/09/05/boe-declaration-on-regional-security/>

authority and the use of specialist equipment or training. Figure 4 indicates those agencies in PNG that are mandated and have the capacity to undertake advanced investigation techniques.

*Figure 4: Advanced investigation capabilities in PNG by organisation*

Agency	Undercover investigations	Surveillance	Telecom interception	Controlled deliveries	Listening devices
RPNGC	Yes	Yes	Yes	Yes	Yes
Customs	Yes	Yes	No	Yes	No
CEPA	-	-	-	-	-
PNGFA	-	-	-	-	-
NFA	-	-	-	-	-
NAQIA	-	-	-	-	-
PNG ICAC	No	Yes	Yes	No	Yes

## Strengths and challenges of environmental law enforcement agencies

Despite being a country rich in natural resources, PNG faces significant challenges to enforce its laws and regulatory systems to effectively protect these resources. The key technical agencies (CEPA and PNGFA, and to a lesser extent the NFA) lack the human and technical capacity to detect and investigate organised wildlife and forest crimes and low penalties in the legal framework fail to deter criminal activity. Although many agencies in PNG recognise the seriousness of these crimes and the need for a stronger criminal justice approach, the current system relies on the technical agencies to initiate and handle their own cases.

The primary area of concern is the forestry sector due to its size and the extent of problems reported within the sector. Open-source research identified allegations of widespread corruption and illegal logging,<sup>78,79,80</sup> while PNGFA has no intelligence capacity and limited law enforcement capacity to address these issues. Illegal logging is a complex problem that requires a coordinated effort by PNGFA, police, revenue agencies, and the public prosecutor to pursue criminal prosecutions, imprisonment, and recovery of the proceeds of crime, as provided for in the legislation. To date, a coordinated approach has not been implemented, and until now the PNGFA has demonstrated little willingness to investigate and prosecute the criminality that allegedly plagues the sector. However, the recent expansion of PNGFA's legal team, its intention to strengthen the penalties in the Forestry Act, and engagement with FASU to address financial crime in the sector are positive signs that this may be beginning to change. Furthermore, the Internal Revenue Commission's current investigations into tax evasion in the industry could also result in important prosecutions and penalties for offending companies.

<sup>78</sup> <https://actnowpng.org/blog/blog-entry-illegality-and-human-rights-abuses-png%E2%80%99s-logging-industry>

<sup>79</sup> <https://www.rnz.co.nz/international/pacific-news/353951/illegal-logging-highlights-corruption-in-png>

<sup>80</sup> <https://www.theguardian.com/world/2021/jun/01/lush-forests-laid-to-waste-how-pacific-islands-got-hooked-on-logging>



In respect to wildlife, there have been few effective enforcement or compliance activities carried out by CEPA, which has minimal capacity to address wildlife crime. It has only two staff responsible for enforcement and compliance of PNG's wildlife laws, no intelligence or investigation capacity, and no presence in the provinces or at the borders. No illegal wildlife trade cases have been investigated or prosecuted, there is no data available on the extent of illegal trade, and minimal monitoring carried out in the field, yet PNG species are being reported and seized in the international illegal wildlife trade.

In respect to the fisheries sector, the NFA is taking efforts to address fisheries crimes in PNG. Joint operations with Defence and other agencies have been successful in catching vessels engaged in illegal fishing and cases have been successfully prosecuted at court. Despite these successes, enforcement and compliance efforts are impacted by financial constraints and limited human resources, alongside the immense challenges of adequately patrolling the country's vast ocean territory.

Most of the respondents who were interviewed for this report were passionate and committed to protecting the natural environment of their country and saw the need for better coordination and a stronger criminal justice approach to address wildlife and forest crimes. They all identified a need for awareness training, capacity building, and ongoing support as requirements to enhance and improve the current system.

## Conclusions and recommendations

The incidence and scale of wildlife crime in PNG is yet to be fully understood, with the lack of data being the major impediment to determining the prevalence of these crimes. As a result, the capacity for PNG authorities to identify and act against wildlife crimes is completely reactive and restricted to potential seizures at air and seaports. While the incidence of forestry crime in PNG is better understood to be large scale with a high risk of illegality, it has remained largely unaddressed from a criminal justice perspective for decades.

There is an absence of specialised systems to enable and enhance the collection, analysis, and dissemination of intelligence on both wildlife and forestry crimes. Legislation has not been enforced on the ground and the penalties available in the International Trade Act and Forestry Act are insufficient to represent any form of deterrent.

Accordingly, the recommendations of this report are focused on raising awareness, increasing capacity, enhancing interagency cooperation, and developing the systems to promote a greater understanding of the wildlife and forestry crime issues in PNG through the development of an improved intelligence capacity.

## Recommendations

### **Building national capacities**

- Strengthen data collection to enable an understanding of the size and scale of wildlife and forestry crimes within PNG.
- Develop a specific Memorandum of Understanding and a formalised intelligence sharing mechanism between the RPNGC, Customs, IRC, FASU, ICAC, PNGFA, NFA, CEPA and NAQIA.
- Recruit a group of international law enforcement and forestry compliance experts to undertake a review of the current PNGFA systems with the objective of identifying potential deficiencies, recommending current best practices and new systems, provide advice and guidance to improve transparency and accountability.

- Recruit an intelligence analyst and data entry operator in both CEPA and PNGFA, whose roles it will be to collect, analyse and disseminate intelligence within their own organisations and to share with other relevant stakeholders.
- Acquire an intelligence database for CEPA and PNGFA. This database could be shared, with different security layers or even partitioned databases on the same system.
- Provide basic and advanced intelligence analysis training to the new analysts and data entry operators within CEPA and PNGFA.
- Provide advanced intelligence analysis training to the RPNGC and Customs.
- Provide awareness training to senior managers in CEPA and PNGFA on the value of intelligence analysis.
- Provide training to CEPA in managing and conducting online investigations.
- Provide basic and advanced investigation skills training to investigators from CEPA, PNGFA, NFA, RPNGC, and Customs.
- Provide awareness training to prosecutors from the OPP, RPNGC, PNGFA, NFA, and CEPA.

#### **Strengthening interagency cooperation**

- Consider the establishment of a PNG Wildlife Enforcement Network made up of representatives of RPNGC, Customs, IRC, FASU, ICAC, PNGFA, NFA, CEPA and NAQIA, with regular quarterly meetings for information and intelligence exchange. This network would have an operational law enforcement focus rather than a policy focus.

#### **Focusing on international cooperation**

- Consider establishing a regional forum for operational practitioners that meets annually or bi-annually to discuss emerging wildlife and forest crime issues within the Pacific region and promote the sharing of intelligence amongst agencies.
- Increase the use of international information sharing mechanisms with foreign law enforcement agencies especially at regional level, through the use of INTERPOL and World Customs Organisation channels and the various specialised fora provided by the international aid and technical assistance providers (UNODC, USFWS, INL, CITES, etc).

#### **Addressing corruption**

- Once it is fully operational, the ICAC could lead the development of an anti-corruption strategy that included wildlife and forestry crimes. ICAC could assist the stakeholders to undertake a corruption risk assessment to identify corruption risks across the supply chain, including the issuance of licences, permits, and the potential exploitation of the wantok system.

#### **Addressing the Legal Framework**

- The current penalties in the relevant legislation that deal with natural resources in PNG are insufficient to pose a deterrent to offenders who would exploit those natural resources. There is also a need to review the powers of agencies mandated to protect scarce resources to ensure they are fit for purpose and can maintain pace with the increasing sophistication of crime.
- Consideration should be given to introducing provisions into the International Trade Act and/or the Fauna Act that can provide full protection to designated threatened species including the prohibition from any trade or commercial captive breeding.
- Consideration should be given to creating criminal offences for wildlife and forest crimes under the Criminal Code Act to give police investigation responsibilities for serious cases.
- The Fisheries Management Act should be amended to introduce imprisonment terms for individuals found guilty of committing offences so that it meets the penalty threshold to be considered a predicate offence for money laundering.

## Annex I: Selected provisions from key laws

International Trade (Fauna and Flora) Act 1979 (as amended)	
Section	Provision
13E	<p><u>Offences of import, export, etc.</u></p> <p>(1) A person who imports, introduces from the sea, exports or re-exports a Schedule 1 specimen without being the holder of valid permit or certificate in respect of that import, export or re-export, as the case may be, is guilty of an offence.  Penalty: in the case of a corporation –a fine not exceeding K10,000; or in the case of any other person –a fine not exceeding K5,000 or imprisonment not exceeding five years, or both.</p> <p>(2) A person who –  (a) exports or re-exports a Schedule 2 specimen or a Schedule 3 specimen without –  (i) being the holder of a valid permit in respect of that export, or reexport, as the case may be; or  (ii) the export of that specimen being authorised under and in accordance with an export licence in respect of that export, or reexport, as the case may be; or  (b) exports a controlled native specimen without –  (i) being the holder of a valid permit in respect of that export; or  (ii) the export of that specimen being authorised under and in accordance with a valid export licence in respect of that export; or  (c) exports a Schedule 2 specimen to which the <i>Crocodile Trade (Protection) Act 1974</i> applies, without complying with any of the requirements imposed by or under that Act in respect of the export of that specimen; or  (d) imports a living exotic specimen without the approval of the Management Authority in respect of the import of that specimen, is guilty of an offence.  Penalty: in the case of a corporation –a fine not exceeding K10,000; in the case of any other person –a fine not exceeding K5,000 or imprisonment not exceeding five years, or both.</p> <p>(3) A person who imports, introduces from the sea, exports or re-exports any specimen otherwise than in accordance with any of the conditions of an authorization under this Act is guilty of an offence.  Penalty: in the case of a corporation –a fine not exceeding K10,000; in the case of any other person –a fine not exceeding K5,000 or imprisonment not exceeding five years, or both.</p> <p>(4) In proceedings for an offence against Subsection (1), (2) or (3), the onus of proving –  (a) that a valid authorization was issued in respect of the import, export, re-export or introduction from the sea, as the case may be; or  (b) that the circumstances of the import, export, re-export or introduction from the sea were in accordance with the conditions of the authorization,  lies on the person charged.</p>
13F	<p><u>Offences relating to possession.</u></p> <p>1) A person who, without reasonable excuse (proof of which is on him) –  (a) conveys; or  (b) has in his possession; or  (c) has under his control,  any specimen of a specimen for which an export permit, re-export permit, or export licence is required and in respect of which no export permit, re-export permit or export licence has been issued, with intention to export or re-export that specimen, is guilty of an offence.  Penalty: in the case of a corporation –a fine not exceeding K10,000; in the case of any other person –a fine not exceeding K5,000 or imprisonment not exceeding five years, or both.</p>

	<p>(2) For the purpose of Subsection (1), a person is presumed in the absence of proof to the contrary to have a specimen under his control or in his possession with intention to export or re-export that specimen if the specimen is –</p> <p>(a) packaged or otherwise prepared for transportation; and</p> <p>(b) bears on itself or on its package or container an address of a place outside Papua New Guinea.</p> <p>(3) A person who is in possession of a Schedule 1, 2 or 3 specimen or an exotic specimen which has been imported or introduced from the sea without the relevant authorization issued by the Management Authority is guilty of an offence.</p> <p>Penalty: in the case of a corporation –a fine not exceeding K10,000; in the case of any other person –a fine not exceeding K5,000 or imprisonment not exceeding five years, or both.</p> <p>(4) The onus of proving that a specimen referred to in Subsection (3) was lawfully imported or introduced from the sea lies on the person asserting that fact.</p>
13H	<p><u>False information.</u></p> <p>A person who, for the purpose of this Act, provides to the Management Authority, a Scientific Authority or an inspector information –</p> <p>(a) that is false or misleading in a material particular; or</p> <p>(b) that he does not have reasonable cause to believe is correct,</p> <p>is guilty of an offence.</p> <p>Penalty: in the case of a corporation –a fine not exceeding K10,000; in the case of any other person –a fine not exceeding K5,000 or imprisonment not exceeding five years, or both.</p>
Schedule I	Species included in Appendix I of the CITES Convention.
Schedule II	Species included in Appendix II of the CITES Convention.
Schedule III	Species included in Appendix III of the CITES Convention.
Schedule IV	Species naturally occurring in Papua New Guinea which are exempt from the provisions of this Act.
Schedule V	Exotic specimens which are exempt from the provisions of this Act.

### Forestry Act 1991 (as amended)

Section	Provision
122	<p><u>Offences.</u></p> <p>(1) A forest industry participant, and any person acting in the capacity of an employee, servant or agent of a forest industry participant, who engages in forest industry activities except under and in accordance with a timber permit, timber authority or licence, held by the forest industry participant, is guilty of an offence.</p> <p>Penalty: A fine not exceeding K100,000 or imprisonment for a term not exceeding five years, or both.</p> <p>Default penalty: fine not exceeding K10,000.</p> <p>(2) A person who–</p> <p>(a) without lawful authority, fells, cuts, injures, destroys, obtains or removes any forest produce in, on or from–</p> <p>(i) a National forest or other Government land; or</p> <p>(ii) land held under lease from the Government; or</p> <p>(iii) land the subject of a Forest Management Agreement; or</p> <p>(iv) a timber rights purchase area; or</p> <p>(v) the project area of a timber authority; or</p>

	<p>(b) counterfeits or unlawfully affixes to any forest produce a mark used by Forest Officers or Forest Inspectors; or</p> <p>(c) without due authority—</p> <p>(i) makes or causes to be made; or</p> <p>(ii) uses or causes to be used; or</p> <p>(iii) has in his possession, a brand or stamp usually used by Forest Officers or Forest Inspectors; or</p> <p>(d) unlawfully alters, obliterates, defaces, pulls up, removes or destroys a boundary mark or any stamp, mark, sign, timber permit, timber authority, licence or order, used or issued by the Minister, Chairman of the Provincial Forestry Committee, Managing Director or a Forest Officer or Forest Inspector; or</p> <p>(e) unlawfully—</p> <p>(i) cuts, breaks, throws down or otherwise destroys or damages any building, fence or gate in or enclosing a National forest; or</p> <p>(ii) cuts through, breaks down or otherwise destroys the bank, dam or wall of any part of any natural or artificial reservoir or pond of water within or partly within and adjoining any National forest; or</p> <p>(f) for the purpose of obtaining—</p> <p>(i) a favourable report, recommendation, certificate, valuation or royalty assessment, whether in respect of any place, employment, sale, auction, timber permit, timber authority, licence, lease or any other benefit; or</p> <p>(ii) any abstention on the part of a Forest Officer or Forest Inspector or any member of the National Forest Service from any act which forms part of his duties, exercises compulsion on a Forest Officer or a Forest Inspector or any member of the National Forest Service by violence or threats, or corrupts or attempts to corrupt him by promises, offers, gifts or presents; or</p> <p>(g) refuses or fails to comply with a lawful direction of a Forest Officer or Forest Inspector; or</p> <p>(h) knowingly furnishes the Minister, Chairman of the Provincial Forestry Committee, Managing Director, Forest Officer or Forest Inspector with a false or incorrect statement of any forest produce felled, cut, split, sawn or removed by the person or by an agent or employee of the person and on which fees, royalties, levies or charges are payable to the State or to the Authority; or</p> <p>(i) knowingly makes or causes to be made any entry or writing that is false in any material particular, in any book, return, declaration or statement required by this Act to be kept or made; or</p> <p>(j) unlawfully occupies land for the purpose of carrying out forest industry operations; or</p> <p>(k) ignites or maintains an open fire in a restricted area except under and in compliance with a burning permit issued to him, unless the fire is used only for cooking or warmth; or</p> <p>(l) ignites or maintains an open fire in or near a forest and who—</p> <p>(i) leaves the fire unattended; or</p> <p>(ii) fails to extinguish the fire before leaving it,</p> <p>is guilty of an offence.</p> <p>Penalty: A fine not exceeding K50,000 or imprisonment for a term not exceeding three years, or both.</p> <p>(3) <i>[Repealed.]</i></p> <p>(4) A person who—</p> <p>(a) by intimidation or threat hinders or prevents a person from making an application for a timber permit, timber authority, licence or registration under this Act; or</p> <p>(b) for an improper purpose threatens to make an application for a timber permit, timber authority, licence or registration under this Act; or</p> <p>(c) participates in or is a party to an agreement or arrangement among two or more persons, under which—</p> <p>(i) one or more of the persons agrees or undertakes not to make an application for a timber permit, timber authority, licence or registration under this Act; or</p>
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	<p>(ii) particulars of an application made for a timber permit, timber authority, licence or registration under this Act, or the amount of an offer to pay royalty or bonus to the State or to the Authority are arrived at, is guilty of an offence. Penalty: A fine not exceeding K5,000 or imprisonment for a term not exceeding three years, or both.</p> <p>(5) Subsection (4) does not apply to— (a) an agreement or arrangement made only among two or more related corporations within the meaning of the <i>Companies Act 1997</i>; or (b) an application for a permit or licence made jointly by two or more persons.</p> <p>(6) Where a person is convicted of an offence under Subsection (4), that person, and any corporation controlled by him, is disqualified from making an application for a timber permit, timber authority, licence or registration under this Act, either by himself or through an agent, for a period of five years commencing on and from the date of his conviction.</p>
124	<p><u>Unlawful possession of forest produce.</u> (1) A person who— (a) is found within— (i) a National forest or other Government land; or (ii) land held under lease from the State; or (iii) an area covered by a timber permit or timber authority, or in the vicinity of any such forest, land or area; and (b) has in his possession any forest produce; and (c) on being required to do so by a Forest Officer or Forest Inspector, refuses or fails to give an account to the satisfaction of the officer of the manner in which he came into possession of the forest produce, is guilty of an offence. Penalty: A fine not exceeding K2,000 or imprisonment for a term not exceeding two years, or both.</p> <p>(2) Subject to Subsection (3), any forest produce in respect of which an offence against Subsection (1) has been committed is forfeited to the Authority.</p> <p>(3) Where the owner of forest produce in respect of which an offence has been committed under Subsection (1) and which has been forfeited to the Authority under Subsection (2)— (a) is a person other than the person who committed the offence; and (b) is known to the Authority, the Authority shall give possession of the forest produce to the owner, or shall pay to the owner the net proceeds realized from a sale of the forest produce.</p>
125	<p><u>Receiving forest produce unlawfully obtained.</u> A person, who receives any forest produce knowing it to have been unlawfully obtained, is guilty of an offence. Penalty: A fine not exceeding K2,000 or imprisonment for a term not exceeding two years, or both.</p>

#### **Fisheries Management Act 1998 (as amended)**

<b>Section</b>	<b>Provision</b>
58	<p>Offences, penalties and costs. (1) A person commits an offence who - (a) does not maintain or furnish information as required under Section 29(1), or who maintains or furnishes information which is false, misleading or inaccurate; or (b) commits an offence as specified under Section 31 in relation to breach of prohibitions; or (c) commits an offence as specified under Section 32 in relation to the use of poisons or explosives; or</p>



	<p>(d) being an operator of a foreign fishing vessel, uses such vessel for fishing otherwise than under an access agreement and in accordance with a valid and applicable licence in contravention of Section 33; or</p> <p>(e) being an operator of a foreign fishing vessel, contravenes or does not comply with any condition of an access agreement described in Section 35; or</p> <p>(f) being an operator of a foreign fishing vessel, contravenes or does not comply with the requirements of gear stowage in Section 38; or</p> <p>(g) being an operator of a foreign fishing vessel, contravenes or does not comply with transshipment requirements or fails to provide such notice and reports in contravention of Section 39; or</p> <p>(h) commits an offence as specified in Section 46 in relation to engaging in any activity for which a licence is required, without a licence; or</p> <p>(i) being a Fishery Officer, fails to produce identification as required under Section 48(4); or</p> <p>(j) being an observer, fails to produce identification as required under Section 51(3); or</p> <p>(k) contravenes or does not comply with duties owed to observers specified under Section 52; or</p> <p>(l) being an owner or operator of any vessel, contravenes or does not comply with requirements in relation to conditions for observers specified under Section 53; or</p> <p>(m) being an operator of a vessel, contravenes Section 54(2) in relation to failure to have on board any observer as required; or</p> <p>(n) commits any offence specified under Section 55 in relation to obstruction; or</p> <p>(o) commits any offence specified under Section 65(8) and (9) in relation to undertaking fishing or other activities while prohibited from doing so or violation of a valid order; or</p> <p>(p) commits any offence specified under Section 72 in relation to interfering with evidence, etc.; or</p> <p>(q) commits any offence specified under Section 73(7) in relation to a duty of confidentiality; or</p> <p>(r) contravenes or does not comply with the requirements of Section 74 in relation to activities contrary to the laws of another State; or</p> <p>(s) knowingly makes a statement or otherwise gives information required for the purposes of this Act that is false, incorrect or misleading in any particular for any purposes under this Act; or</p> <p>(t) knowingly makes a statement or otherwise gives information required for the purposes of this Act that is false, incorrect or misleading in relation to any fish taken, bought, sold, processed, exported or otherwise dealt with by such person or by an agent, employee or other representative of the person; or</p> <p>(u) knowingly makes or causes to be made any entry or writing that is false, incorrect or misleading in any material particular, in any book, log, record, return, declaration or statement required by this Act to be kept, made or given; or</p> <p>(v) refuses to provide any information, report or return required by this Act; or</p> <p>(w) falsely represents himself to be a person lawfully licensed under this Act; or</p> <p>(x) knowingly interferes with or alters any radio or other electronic transmission made or given as required or permitted under this Act; or</p> <p>(y) knowingly divulges, or tampers with information transmitted in connection with a vessel monitoring system, except in the course of his duty and to a person who is authorized in the course of his duty to receive the information; or</p> <p>(z) anywhere in fisheries waters or in Papua New Guinea, transships, offloads or imports, or permits the transshipment, offloading or import of, any fish, fish product or other catch which he knows or reasonably suspects has been taken with the use of a driftnet; or</p> <p>(aa) stores, processes, sells, displays for sale or exports fish intended for human consumption which is adulterated, contaminated with or contains a poisonous or harmful substance or pathogenic micro-organisms, has not met lawful inspection standards or is otherwise injurious to human health; or</p> <p>(bb) except with the authority of a Fishery Officer, removes, alters or interferes with a trade description, seal, stamp or other mark applied to fish, a container of fish or a container system unit containing fish that has been inspected by a fishery officer; or</p> <p>(cc) otherwise contravenes or does not comply with the provisions of this Act, and is liable for the penalties set out in Subsections (5), (6), (7), and (8); and</p> <p>(dd) commits an offence as specified in Sections 63A and 63B in relation to port state measures.</p>
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	<p>(2) Notwithstanding the penalties provided under this Act, where by the terms of an agreement with another State the imposition of a penalty of imprisonment on nationals of that state is permitted, the penalties shall be deemed to include an alternative of a term of imprisonment for a period not exceeding the years which may be imposed upon a national of such State.</p> <p>(3) The owner or charterer shall bear any cost or expenditure incurred by the State, as determined by the Court in accordance with law upon conviction and by application of the State, in connection with -</p> <p>(a) the seizure of a foreign vessel for an offence against this Act; and</p> <p>(b) the prosecution for an offence in accordance with this Act.</p> <p>(4) Each day of a continuing offence may be considered a separate offence.</p> <p>(5) The following penalties shall apply in respect of offences described in Subsection (1)(b), (c), (d), (e), (f), (g), (h), (n), (p), (r), (x), (y), (z), (bb), (cc), and (dd):-</p> <p>(a) in respect of a crew members, a fine not exceeding K25,000; and</p> <p>(b) in respect of a natural person, a fine not exceeding K500,000; and</p> <p>(c) in respect of a corporation, a fine not exceeding 5000,000.</p> <p>(6) The following penalties shall apply in respect of offences described in Subsection (1)(a), (i), (j), (k), (l), (m), (o), (q), (s), (t), (u), (v) and (aa):-</p> <p>(a) in respect of a crew member, a fine not exceeding K10,000; and</p> <p>(b) in respect of natural person, a fine not exceeding K250,000; and</p> <p>(c) in respect of a corporation, a fine not exceeding K500,000.</p> <p>(7) In addition to the penalty determined under Subsection (5) or (6), and any other amount as may be provided under this Act, or where the penalty is not paid, the court may order imprisonment for a term not exceeding five years, except where the offence involves a weapon or threatens a Fishery Officer or observer in which case a term of imprisonment shall not exceed 10 years.</p> <p>(8) In addition to the penalty determined under Subsection (5) or (6), the court may order a default penalty for non payment of fines, not to exceed K5,000 per day.</p> <p>(9) Where a natural person is found guilty of committing the same offence within 24 months, a court may impose a penalty not exceeding twice the maximum amount provided for the first offence.</p> <p>(10) Where a corporation is found guilty of committing the same offence within 24 months, a court may impose a penalty not exceeding four times the maximum amount provided for the first offence.</p> <p>(11) In determining the level of penalty in a particular case, a court or summary administrative panel may have regard to the need to ensure that any penalty imposed should be adequate in severity to discourage further offences, and where possible should deprive the offenders of the benefits accruing from their unlawful activity.</p>
106	<p>(1) If a body corporate is convicted of an offence against this Act, a fine of up to three times the maximum fine specified for the offence may be imposed.</p> <p>(2) The Court shall, in imposing a fine pursuant to subsection (1), report fully in writing on details of the expert evidence upon which its judgment was based.</p>



