

CLIMATE CHANGE LEGISLATION IN

VANUATU

AN EXCERPT FROM

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A Review of Climate Change Legislation in 99 Countries



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Vanuatu

Legislative Process

The legal system of the Republic of Vanuatu combines English common law, French civil law and indigenous customary law. The Parliament of Vanuatu is a unicameral legislative body that comprises 52 members, directly elected for four-year terms. The republic was formed in 1980, after 74 years of joint British and French administration. The constitution allows for three arms of government: the executive (Prime Minister and cabinet, also known as the Council of Ministers), the legislature (members of parliament) and the judiciary (judges of the courts).

The Republic of Vanuatu comprises seventeen multi-member constituencies, with the most recent general election held in 2012. The next general election is expected in October 2016. The parliament is derived from the Westminster system and includes a President, elected for a five-year term by members of parliament and the presidents of Vanuatu's local government councils (who together comprise the Electoral College). The President is largely a figurehead, and may not veto parliamentary legislation unless the Supreme Court considers it to be contrary to the constitution. Parliament elects the Prime Minister from among its members. The cabinet may not number more than 13 (a quarter of the members of parliament), including the Prime Minister. The Malvatumauri (National Council of Chiefs) acts as a formal advisory body to the parliament on issues related to culture and language. Members of this council are elected from district councils of chiefs.

Proposed laws may be private bills (presented by members of parliament who are not ministers) or government bills (presented by ministers). Bills pass through three stages. At the first reading, the bill is presented as a motion to be agreed to in parliament and a debate is held about the principles and merits of the bill. In the second stage, it is automatically passed to a committee of the whole house, unless it is decided to refer it to an ad hoc committee. Ad hoc committees consist of a maximum of seven members of parliament, proportionally representative of the political parties represented in parliament, and follow the same procedures as a committee of the whole house. At the committee stage, the bill is considered and voted section by section. Once a bill has been considered by the committee of the whole house it passes into the third and final stage, known as the second reading. At the second reading, after Parliament reads the bill as amended, a motion is put forward to pass the bill into law at which a final vote is held. All laws are published in English and French. Relevant government departments write roadmaps, action plans and other strategies, which become guiding documents for policy once officially launched by the government.

Approach to Climate Change

Vanuatu ratified the UNFCCC in 1993 and the Kyoto Protocol (as a non-Annex I country) in 2001. It made its first national communication to the UNFCCC in October 1999 and the country's Climate Change Office within the Vanuatu Meteorological Service has participated in workshops to prepare its second national communication. A National Action Plan on Adaptation was submitted in 2007. Vanuatu is a member of the Alliance of Small Island States.

The United Nations Population Fund classes Vanuatu as one of the nations most vulnerable to natural hazards and says it faces significant hurdles because it is trying to eradicate widespread poverty at the same time as addressing climate change. Particular areas of potential impact from climate change include agriculture, water, coastal and marine resources, infrastructure and tourism. Numerous documents have been published that aim to help Vanuatu prepare for potential climate change impacts. A National Adaptation Programme for Action (NAPA) was published in June 2007, and in 2006, a Disaster Risk Reduction and Disaster Management National Action Plan 2006-2016, and a Priorities and Action Agenda 2006-2015 were released. The government published a draft National Climate Change Adaptation Strategy for Land-Based Resources (2012-2022) in July

2011 with the support of GIZ and the Secretariat of the Pacific Community, which builds on the aforementioned publications and aims to provide practical adaptation strategies for government and civil society. Its eight key objectives include achieving widespread recognition that climate change adaptation is much broader than an exclusively environmental issue, as well as recommendations to enhance Vanuatu's climate change-related institutional arrangements.

In 2012 a National Advisory Board on Climate Change and Disaster Risk Reduction (NAB) was established (merging the previous National Advisory Committee on Climate Change and the National Task Force on Disaster Risk Reduction). The NAB, comprising both governmental and non-governmental members, is Vanuatu's supreme policy-making and advisory body for all climate change and disaster risk reduction programmes, projects, initiatives and activities. It has three areas of priority: strategic governance and policy (e.g. to implement national obligations, develop positions for international summits); technical advice, project monitoring and co-ordination; and project management. Projects co-ordinated by the NAB include the University of the South Pacific/European Union/Global Climate Change Alliance Climate Change Adaptation Project and a World Bank Professional Human Resources Development project. The Department of Environmental Protection and Conservation within the Ministry of Lands and Natural Resources also contributes towards climate change policy-making.

In 2013, new Prime Minister Moana Carcasses Kalosil (the first from Vanuatu's Green Confederation political party), created a new Ministry of Climate Change Adaptation, Meteorology, Geo-Hazards, Environment, Energy and Disaster Management. In May 2014 following a further change of government, the ministry was renamed as the Ministry of Climate Change. It houses the NAB secretariat, as well as the Vanuatu Meteorological and Geo-Hazards Department and the National Disaster Management Office.

A Meteorological, Geological Hazards and Climate Change Act is under development and will provide the legal mandate for the operation of the NAB; however, it is pending the official release of an associated National Climate Change and Disaster Risk Reduction Policy and Action Plan.

Energy supply

Vanuatu is largely dependent on imported fossil fuels. In 2008, petroleum comprised nearly two-thirds (64%) of total primary energy supply with the remainder from biomass (36%), and less than 1% supplied by other renewable energy resources. Over 85% of the population regularly uses some form of solid fuel (e.g. wood for stoves) as only about a quarter of the population is connected to grid electricity (largely in the urban centres of Port Vila (the capital) and Luganville). Electricity is supplied by two private companies that effectively hold monopoly positions, and as there are no government subsidies, prices are high. A National Energy Roadmap (NERM) published in 2014 includes the goal of providing electricity to 20% of the rural population by 2017 (at present about 7% of rural households are electrified).

In recent years the share of renewable energy in total electricity supply has increased significantly (estimated at 15% in 2013). UNELCO, one of Vanuatu's private concession holders, aims to provide 23%-33% renewable energy provision by 2014, divided between wind, coconut oil (for biofuel) and solar energy. A 3MW wind farm, connected to the grid in Port Vila, is operational with a second 3MW wind farm also planned. Coconut oil is used in conjunction with diesel fuel (the UNELCO generators at the capital, Port Vila, are run on a 20% blend of coconut oil with diesel, and coconut oil replaces diesel in other, smaller power grids). A private geothermal energy project with maximum 8MW capacity on the main island of Efate is at the exploration and environmental impact assessment phase. Solar power is available through solar home systems, supplied by private companies as well as via initiatives funded by the Japanese International Co-operation Agency and the Global Partnership on Output-Based Aid.

As part of the Pacific Islands Greenhouse Gas Abatement through Renewable Energy Project (PIGGAREP), Vanuatu is investing in four key initiatives: a 600kW hydraulic turbine generator to

enhance the existing 600kW provided by hydropower to 20,000 residents in Luganville on the island of Espiritu Santo; multiple coconut oil projects jointly funded by the European Commission; a wind energy project also jointly funded by the European Commission; and, a USD1m project in conjunction with Italy to develop solar and hydropower energy provision, and to install wind monitoring equipment.

Energy demand

Estimates of energy demand suggest that petroleum fuel use will grow at 3.5% annually. The NERM promotes energy efficiency (particularly in terms of petroleum use) and improvements in demand side management.

As part of the wind energy project, an island-focused Renewable Energy Service Co-operative (RESCoop) is being established on the islands of Futuna and Aneityum. In order to sustain RESCoop, energy efficient lighting kits are being rented to local populations, and rechargeable battery ‘banks’ are being set up so that community participants can recharge batteries to provide energy during periods of low supply.

REDD+ and LULUCF

Extensive deforestation of Vanuatu’s indigenous forests for timber exports occurred in the 1980s and 1990s. In 1998, the government banned the export of whole round logs and expelled international loggers. There are presently no active industrial logging activities in Vanuatu, but forest harvesting is still reportedly occurring at a faster rate than replanting. 74% of land in Vanuatu (approximately 900,000 ha) is forested, with 98% of this land under customary land ownership (i.e. there is no government-owned forest land). Under the constitution, customary land owners have the unalienable right to do as they wish with their land, therefore consultation and community involvement is a particularly critical step in forest management initiatives in Vanuatu.

A Vanuatu Carbon Credits Project (VCCP) ran from 2006-2009, in two phases. Phase 1 identified the capacity building needs for national and project-based carbon monitoring; created a national forest area change assessment; identified REDD activities to address the drivers of deforestation and forest degradation in Vanuatu; designed potential incentive mechanisms to be incorporated into REDD projects of programmes; and, consulted with landowners to improve understanding of community development and to establish a set of Socio-Economic Good Practice Guidelines for REDD+ activities in the project’s second phase. Phase 2 was hindered by a lack of funds; however, a workshop with key stakeholders provided the mandate to develop Vanuatu’s Readiness Plan Idea Note, which was submitted to the Forest Carbon Partnership Facility (FCPF) of the World Bank and endorsed in 2009. This endorsement enabled Vanuatu to access funding to develop its Readiness Preparation Proposal.

The Readiness Preparation Proposal was submitted to the FCPF in 2013 and accepted by the FCPF Participants Committee, with implementation of the USD7m project estimated to last for five years from January 2014 to December 2018. The proposal outlines Vanuatu’s National REDD+ Scheme, which will implement subnational policies and activities (with funds gained via carbon off-setting invested into sustainable land use activities in different sectors in order to subsequently lower the rate of deforestation and forest degradation, and hence GHG emissions), rather than area-based REDD+ projects. A National REDD+ Co-ordinator, based at the Department of Forestry, acts as the central point of communication between the NAB and Vanuatu’s REDD Technical Committee.

In addition, Vanuatu is participating in a REDD+ pilot project implemented by the NGO Live & Learn Environmental Education Vanuatu. This pilot project, running from 2010-2015, involves a 400 ha area on the island of Santo where a mixture of forest regeneration and agroforestry is occurring. The latter involves clearing an invasive vine (*Merremia peltata*), which has overtaken disturbed forest in most of Vanuatu and planting agroforestry products such as *Canarium* nuts, food crops and timber.

Transportation

Transport accounts for approximately 52% of internal petroleum consumption (well above power generation at 33%) and 66.7% of GHG emissions. Accordingly, it has been identified as a good target for energy efficiency and conservation, and the use of alternative transport fuels such as biofuels is promoted in the NERM. AusAID is working with Vanuatu’s Public Works Department on the Roads for Development Program, and as a result of a USD65.69m compact the Government of Vanuatu signed with the Millennium Challenge Corporation in 2006, the country now has approximately 220km of paved roads, up from 70km in 2006 (a further 850km of unpaved road network exists).

Adaptation

Adaptation strategies in Vanuatu respond to the fact that approximately 80% of the population live subsistence lifestyles, while research predicts that both the dry and wet seasons, along with rainfall events such as cyclones, will become more extreme, that temperatures will increase, and that further increases in sea-level rise and ocean acidification are likely. The draft National Climate Change Adaptation Strategy for Land-Based Resources (2012-2022) lists 496 practical strategies for the country to adapt to climate change across the water, livestock, forestry, agriculture, and environment sectors. These range from preventing illness among animals, up to more complex strategies such as improving drought early warning systems to enable better forward planning.

‘Yumi stap redi long climate change’ (‘Together we’re prepared for climate change’) is an adaptation programme funded by AusAID and led by a consortium of NGOs including Oxfam and the Red Cross to support increased community resilience to climate variability and change in Vanuatu. Initiatives include water supply and hygiene promotion, natural resource management such as mangrove planting for erosion control, and agricultural adaptation to ensure better food security.

Vanuatu: Legislative portfolio

Name of law	The Environmental Management and Conservation Act No. 12 (2002) as amended by The Environmental Management and Conservation (Amendment) Act No. 28
Date	24 January 2011
Summary	<p>The 2002 Act forms the basis of environmental legislation in Vanuatu and focuses on four main areas:</p> <ul style="list-style-type: none"> • Administration • Environmental impact assessments • Biodiversity • Bio-prospecting laws and community conservation areas (CCAs) <p>The Amendment Act makes a number of important changes directly relevant to climate change. It includes a definition of climate change (“a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods”, page 3), adds the concept of ecosystem services and processes to the Act, and applies the precautionary principle to any decision made regarding the environment that may risk human health or threaten damage to the environment. It also specifies that any decision made under the terms of the Act must be guided by consideration of climate change adaptation and mitigation issues.</p> <p>The Act requires that the director of the department responsible for the environment must include in their Environmental Registry a climate change database in joint co-ordination with the National Advisory Committee on Climate Change. It also requires that the National State of the Environment Report, published at least once every 10 years, must include a description of national climate change activities, impacts and issues. It requires that climatic considerations and issues be incorporated into any National Policy for the conservation, sustainable development and management of the environment.</p>

Further, it specifically identifies climate mitigation as a critical ecosystem service that may be provided by sites of national biodiversity significance and enables the Minister to make any regulations necessary to uphold Vanuatu’s obligations under the UNFCCC for climate change adaptation and mitigation.

It establishes an Environmental Trust Fund, funded by penalties and bonds, which is to fund research, environmental rehabilitation, monitoring and analysis, management of community conservation areas, and as required for the protection and conservation of the environment. It also makes several amendments to enforcement provisions, environmental impact assessment procedures, bio-prospecting processes, and details of what constitutes an offence (and the associated punishments) under the 2002 Act.

Name of law	Forestry Rights Registration and Timber Harvest Guarantee Act No. 28
Date	09 October 2000
Summary	<p>The Act regulates the definition, granting, transfer and registration of forestry rights in Vanuatu, and the harvesting and accreditation of timber plantations. It enables a proprietor of a lease (as registered under the Land Leases Act) to grant a forestry right over the land covered by the lease.</p> <p>The definition of forestry right includes a carbon sequestration right which is defined as ‘a right conferred by agreement or otherwise to the legal, commercial or other benefit (whether present or future) of carbon sequestration by any existing or future tree or forest on the land’. The Act therefore establishes a separate property right that enables carbon rights to be decoupled from land rights (and thus provides for the allocation of carbon rights). However, while almost all land in Vanuatu is held under customary tenure, only approximately 9% is leased, with a further 90% unleased. Therefore the majority of landholders will not be able to exercise similar rights to forest carbon.</p> <p>The Act was amended in 2012 (the Forestry Rights Registration and Timber Harvest Guarantee (Amendment) Act No. 8 of 2012) to include reference to sandalwood products.</p>

Vanuatu: Executive portfolio

Name of Policy	Vanuatu National Energy Roadmap
Date	June 2013
Summary	<p>The National Energy Roadmap, published by the Department of Energy with assistance from the Australian government and the World Bank, proposes a long-term development plan for the energy sector to reduce its reliance on imported petroleum fuels and focuses on five energy sector priorities, each with specified targets and associated strategic directions for action (note that some targets are included in several different areas but are each included here once for brevity):</p> <ul style="list-style-type: none"> • Access to secure, reliable and affordable electricity for all citizens by 2030 <ul style="list-style-type: none"> ○ Within concession areas; 75% household connected by 2015, 90% by 2020 and 100% by 2030 ○ Close to concession areas; 33% household connected by 2015, 90% by 2020 and 100% by 2030 ○ Off-grid grid areas; 100% households having access to modern electricity via individual homes systems and basic power products by 2020 ○ Public Institutions; 90% having access by 2015 and 100% by 2020 • Reliable, secure and affordable petroleum supply throughout Vanuatu <ul style="list-style-type: none"> ○ Reduce the cost of distributing all petroleum products in Vanuatu by 5% in 2015 and 10% in 2020 ○ Improvements in Health, Safety and Environmental Standards. All Operators to meet new standards by 2020 • A more affordable and low cost of energy services in Vanuatu <ul style="list-style-type: none"> ○ 40% renewable energy generation by 2015 and 65% by 2020 • An energy secure Vanuatu at all times <ul style="list-style-type: none"> ○ 10% improvement in diesel efficiency by 2015 and 20% by 2020 • Mitigating climate change through renewable energy and energy efficiency <ul style="list-style-type: none"> ○ Comprehensive data collection established to set realistic targets and begin energy efficiency initiatives.

Name of Policy	Disaster Risk Reduction and Disaster Management National Action Plan 2006-2016
Date	May 2007
Summary	<p>The Plan, prepared by the Pacific Islands Applied Geoscience Commission in partnership with the Government of Vanuatu and The Pacific Disaster Risk Management Partnership Network, details 11 key guiding principles for disaster risk management including that it is a sustainable development issue and that it requires a strong governance framework with clear policies and legislation. The plan is structured around eight main themes:</p> <ul style="list-style-type: none"> • Governance and Policy Context; • Mainstreaming Disaster Risk Reduction and Disaster Management in National Planning and Budgetary Processes; • Mainstreaming Disaster Risk Reduction; • Strengthening Disaster Management; • Information, Information System and Knowledge Management; • Capacity Building; • Monitoring, Evaluation and Reporting; and • Implementation of the National Action Plan. <p>Each theme has an associated set of key actions, expected results, identification of a responsible agency or agencies, indicators, and completion dates.</p>

Name of Policy	Priorities and Action Agenda 2006-2015
Date	June 2006
Summary	<p>The Agenda, prepared by the Department of Economic and Sector Planning within the Ministry of Finance and Economic Management, focuses on achieving the national vision of an educated, healthy and wealthy Vanuatu. It outlines seven areas of priority, namely:</p> <ul style="list-style-type: none"> • Private Sector Development and Employment Creation; • Macroeconomic Stability and Equitable Growth; • Good Governance and Public Sector Reform; • Primary Sector Development (natural resources and the environment); • Provision of Better Basic Services, especially in rural areas; • Education and Human Resource Development; and • Economic Infrastructure and Support Services. <p>Within primary sector development, climate change is identified as a key issue and challenge under the area of the environment and disaster management, and the agenda notes that lack of resources is constraining the full implementation of the Environmental Management and Conservation Act. Climate change is also noted as a factor under the need to provide adequate support services (infrastructure and utilities), and the need to build climate change issues into National Development Plans is specifically noted.</p>

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