

# UNESCO 1970 Convention - Periodic Reporting Form 2019

## Respondent Information

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Organization/Agency :	Manatū Taonga Ministry for Culture and Heritage
Country :	New Zealand

## Policy and Legislative Framework

### 1. Did your country implement the 1970 UNESCO Convention, and if so, how?

	Civil Law
	Criminal Law
X	Specific Law

**Please describe the specific law(s) used by your country.**

The 1970 Convention has been incorporated in full as Schedule 2 to the Protected Objects Act 1975. Sections 10A to 10F of the Protected Objects Act 1975 implement New Zealand's obligations under the 1970 UNESCO Convention and the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects.

### 2. Does your country have an overall policy and/or strategy for fighting illicit trafficking of cultural property (i.e., a document that describes the country's overall vision for fighting illicit trafficking)?

	Yes
X	No

### 3. Please provide the name and year the policy was passed (and web link to the policy/strategy if available).

□

### 4. Please describe your country's overall legal framework for protecting cultural property from illicit trafficking, referencing specific laws and years passed (including specific provisions on the return of cultural objects illegally exported from other States Parties to the Convention).

The Protected Objects Act 1975 regulates: • the export of protected New Zealand objects • the illegal import of protected foreign objects • the sale, trade and ownership of Māori artefacts. • section 10B provides for claims for return of unlawfully exported protected foreign objects. The Customs and Excise Act 2018 provides powers to seize protected New Zealand objects exported, or attempted to be exported, in breach of the Protected Objects Act; and protected foreign objects that have been illegally exported or stolen, and imported to New Zealand in breach of the Protected Objects Act. The Cultural Property (Protection in Armed Conflict) Act 2012 implements New Zealand's obligations under the Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict, and the First and Second Protocols to that Convention. It includes provisions making it an offence to deal in property unlawfully removed from occupied The Heritage New Zealand Pouhere Taonga Act 2014 makes it unlawful to modify or destroy an archaeological site without authorisation. The Reserves Act 1977 makes it unlawful to remove a protected New Zealand object from reserve land.

5. To what extent does your country's policy and legislation on this issue address the following topics (Please rate the degree of achievement in accordance to options available in the drop down boxes below).

5	Excellent
4	Very Good
3	Good
2	Satisfactory
1	Poor

3	Clear definition of cultural property
3	State ownership of undiscovered cultural heritage
2	Regulations on trade of cultural property
4	Export controls
4	Export certificates
3	Certificate of authenticity
4	Import controls
3	Establishment of national services
1	National inventory of cultural property
1	Inventory requirements for museums, public institutions, private collections
4	Protection of archaeological sites and regulation of archaeological excavations
2	Public education and awareness raising
3	Measures to prevent museums and similar institutions from acquiring illegally exported cultural property
4	Prohibition of import of cultural property stolen from a museum or religious/secular institution
4	Regulation of the diplomatic pouch
4	Provisions for the return of cultural objects stolen from a museum or other public institution

4	Sanctions (criminal and/or administrative and/or civil) of illicit activities related to destruction and illicit trafficking of cultural property
3	Requirement of register of sales for antique dealers, auction houses, dealers of cultural heritage and art galleries
3	Protection of underwater cultural heritage
1	Regulations regarding the use of metal detectors
2	Regulations regarding the trade of cultural artefacts on internet

**Other (please specify):** Some of the matters listed above apply only to objects that relate to the culture, history or society of New Zealand's indigenous Māori people. Māori objects that fit certain statutory criteria (including being over 50 years old) are referred to in the Protected Objects Act 1975 as 'taonga tūturu'. With regard to matters listed above: • There is no state ownership of all undiscovered cultural heritage. However, section 11(1) of the Protected Objects Act gives the New Zealand Government prima facie ownership of newly-found taonga tūturu. Māori groups may then claim the ownership of such taonga tūturu. • The trade in taonga tūturu within New Zealand is regulated under the Protected Objects Act. The Protected Objects Act also requires collectors of taonga tūturu to be registered, and auctioneers and secondhand dealers to be licensed to trade in taonga tūturu. These requirements apply only to taonga tūturu, and not to other cultural artefacts.

**6. Did your country's legal framework regarding illicit trafficking of cultural property change as a result of ratifying the 1970 Convention?**

X	Yes
	No

**7. What laws were passed or changed as a result of ratification? (Please provide the name of the law and the year it was passed)**

The Protected Objects Amendment Act 2006 introduced new sections 10A to 10F of the newly-named Protected Objects Act (superseding the Antiquities Act 1975), dealing with stolen or unlawfully exported protected foreign objects. The name of the Act had to change as the term 'antiquities' was replaced with categories of 'protected objects'. A new Schedule 2 to the Protected Objects Act was also inserted, setting out the 1970 Convention in full, while a new Schedule 3 sets out the full UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects.

**8. Please add any additional comments on the legislative/policy framework**

□

**9. Has your country implemented a policy to prevent the illicit export of cultural property?**

X	Yes
	No

**Please specify :**

Under section 5 of the Protected Objects Act, a person must not export a protected New Zealand object from New Zealand without permission of the chief executive of the Ministry for Culture and Heritage. Any person who exports or attempts to export a protected New Zealand object without permission and without reasonable excuse commits an offence.

10. Does the implemented policy include the requirement of a legally issued export certificate of the country of origin and/or transit?

X	Yes
	No

Please specify :

According to section 6 of the Protected Objects Act, an export permission certificate is required for any protected New Zealand objects leaving New Zealand. This requirement does not apply to any object lawfully taken and ordinarily kept outside New Zealand but temporarily within New Zealand.

11. Has your country encountered difficulties in returning/restituting cultural property to its place of origin due to incompatibilities with national judicial decisions?

	Yes
X	No

## Implementation and operative framework

### Institutional Framework

12. Does your country have a specialized service for the protection of cultural property (as described in Article 5 of the Convention) whose functions may include drafting laws and legislation, establishing national inventory, promoting establishment/development of scientific and technical institutions, organizing the supervision of archaeological sites, establishing rules for curators, antique dealers, etc., developing educational activities and/or publicizing the disappearance of cultural property?

X	Yes
	No

13. Please describe this service's major roles and responsibilities.

The Ministry for Culture and Heritage is the New Zealand Government department responsible for policy work on relevant legislation, and for administering the provisions of the Protected Objects Act 1975. Heritage New Zealand Pouhere Taonga is the entity responsible for authorizing, or declining to authorize, modification or destruction of archaeological sites.

14. Please indicate which of the following departments/ministries/agencies also have specialized services for the protection of cultural property against illicit trafficking (mark all that apply).

	Magistrates and/or judges
	Police, gendarmerie, and/or Department of Interior
	Public prosecutor

	Customs
X	None
	Other (please specify):

15. Please describe the roles and responsibilities of these specialized services in more detail.

□

16. How do relevant stakeholders (Ministry of Culture, police, customs, etc.) coordinate regarding the protection of illicit trafficking? Mark all that apply

	Formal coordinating committee, working group, etc.
	Coordination lead by specialized service (as described in Article 5), antenna or focal point
X	Communication and meetings as necessary (i.e., for specific cases)
	Cross-trainings (i.e., trainings for police from Ministry of Culture staff)
	No Coordination
	Other (please specify) :

17. Please provide more detail on this coordination, including how it functions and who is involved.

Ministry for Culture and Heritage staff administering the Protected Objects Act liaise regularly with the New Zealand Customs Service, particularly the Border Protection and Enforcement Policy branch of the Service. Coordination takes place on an ad hoc basis as required. New Zealand Police are linked into this coordination if investigation and enforcement support is required.

18. Does your country use a database of stolen cultural objects?

	Yes, we have our own national or/and regional database that is not linked with the INTERPOL database
	Yes, we have our own national or/and regional database that is linked with the INTERPOL database
	Yes, we use the INTERPOL database (and do not have our own national database)
X	No, we do not currently have a national database or use the INTERPOL database
	We would request assistance to establish such a database

19. Please provide additional details on how your country uses such a database.

□

## Protection and Prevention Systems

20. **To what extent do museums and religious or secular public monuments have their own specific inventories of their cultural property/collections?**

	All/almost all cultural property is inventoried
X	Most, but not all, cultural property is inventoried
	Some cultural property is inventoried, but significant gaps remain
	Very little cultural property is inventoried
	No/almost no cultural property is inventoried

21. **Please provide additional details on these inventories, specifying whether they are digitized, and including any challenges in creating/maintaining them.**

Public museums have their own inventories of objects in their collections. Museums are increasingly making information about their collections, and digitised images of objects, available online.

22. **To what extent does your country have a centralized national inventory of cultural property?**

	All/almost all protected cultural property is inventoried
	Most, but not all, protected cultural property is inventoried
X	Some protected cultural property is inventoried, but significant gaps remain
	Very little protected cultural property is inventoried
	No/almost no protected cultural property is inventoried

23. **Please provide additional details on this inventory, including any challenges in creating/maintaining it.**

Under section 7F of the Protected Objects Act, the Chief Executive of the Ministry for Culture and Heritage is required to maintain a register of objects, or categories of objects, of national significance. The register must include any protected New Zealand object for which permission to export has been refused. It may also include other objects of national significance. At present, the register consists only of objects for which an application to export has been made and refused, and a small number of objects which have been included in the register following application by their owner. Section 15(2)F of the Protected Objects Act requires the Museum of New Zealand Te Papa Tongarewa to form and maintain a central register of ngā taonga tūturu (Māori cultural artefacts) that are traded within New Zealand. Under section 11(3) of the Protected Objects Act, every person who finds any taonga tūturu within New Zealand or its territorial waters must advise the Ministry for Culture and Heritage within 28 days of the finding. The details of the taonga, and the location and circumstances of its finding, are recorded in a central database maintained by the Ministry. That database also contains information on every protected New Zealand object for which export permission has been sought since the implementation of the amended Act in 2006.

24. **Please describe the extent to which looting/pillaging/illegal excavations of archaeological and ethnological objects is a challenge, including actions taken to combat it.**

It is not possible to provide a figure for the number of sites that have been disturbed and archaeological material taken. However, Heritage New Zealand (the relevant New Zealand authority) does follow up on every report of site modification and damage. In the majority of cases in which archaeological sites are modified or damaged without the permission of Heritage New Zealand under the Heritage New Zealand Pouhere Taonga Act 2014, the purpose of the modification was not for looting/pillaging or excavating for artefacts. In many of the cases where sites are modified, the archaeological material extracted is not identified with sufficient certainty to establish the value of the material. It is the fact of the illegal disturbance that is Heritage New Zealand's focus under the Heritage New Zealand Pouhere Taonga Act. Where a person who has undertaken illegal disturbance is identified, Heritage New Zealand speaks with them. Heritage New Zealand then assesses whether a prosecution is warranted or if a prosecution can be successful. If Heritage New Zealand cannot take formal steps, other informal actions follow such as issuing warnings, education material and the like. Heritage New Zealand has successfully prosecuted two bottle collectors in the last 20 years, otherwise no prosecutions related to illegal fossicking of archaeological sites have occurred. Heritage New Zealand cannot recall any reports of deliberate fossicking for Māori artefacts. Heritage New Zealand has some evidence to suggest that an individual was fossicking an archaeological site for moa bones (the bones of an extinct New Zealand bird) several years ago.

## Knowledge, Skills and Values of Stakeholders and the Public

25. **Has your country undertaken any public awareness campaigns related to the protection of cultural property in the past five years?**

	Yes
X	No

26. **Please describe, including methods, target audience, etc.**

□

27. **To what extent is the public in your country engaged in the protection of cultural property? Examples of engagement may include :**

5	Excellent
4	Very Good
3	Good
2	Satisfactory
1	Poor

3	Protection of local archaeological and heritage sites by the public (eg. assistance in monitoring of sites, support in documenting etc.)
4	Return of objects to relevant authorities
2	Sharing information on stolen objects with authorities
2	Placing pressure on museums to change acquisition policies
2	Advocating for policy change

28. Overall, to what extent do police and/or gendarmerie have the necessary resources and knowledge to address cultural property crime?

	To a great extent
X	To a considerable extent
	To some extent
	To no extent

29. Overall, to what extent do customs officers have the necessary resources and knowledge to address cultural property crime?

	To a great extent
X	To a considerable extent
	To some extent
	To no extent

30. What type of training do police receive on cultural property crime?

X	No specific training on this issue
	Training has occurred in the past, but is not ongoing
	Training occurs periodically
	In-depth, specialized training for officers working on this issue
	Assistance is required from UNESCO and its partners
	Other

31. Please provide additional details on the content and frequency of these trainings.

□

32. What type of training do customs officers receive on cultural property crime?

	No specific training on this issue
	Training has occurred in the past, but is not ongoing
X	Training occurs periodically
	In-depth, specialized training for officers working on this issue



	Assistance is required from UNESCO and its partners
	Other

33. **Please provide additional details on the content and frequency of these trainings.**

Information on the regulatory regime controlling the import and export of cultural property is provided to officers of the New Zealand Customs Service as part of regular induction training.

34. **To what extent have museums in your country adopted a code of ethics, such as the ICOM Code of Ethics, that is in line with the principles of the 1970 Convention?**

	All or almost all have adopted such a code of ethics
X	Most have adopted such a code of ethics
	Some have adopted such a code of ethics
	None/only a few have adopted such a code of ethics
	Other (please specify) :

35. **Please provide additional details on the degree to which museums adhere to such a code of ethics.**

Museums Aotearoa is the national professional association for New Zealand's museums and galleries, and those who work in them. Most of New Zealand's publicly-funded museums and galleries are the member of Museums Aotearoa. Museums Aotearoa adopted Code of Ethics and Professional Practice (2013), which cites the ICOM's Code of Ethics and the 1970 Convention as reference points, and established the Code of Ethics committee.

36. **To what extent do dealers and auction houses in your country follow practices that are in line with the principles of the 1970 Convention, such as those outlined in the UNESCO International Code of Ethics for Dealers in Cultural Property and the Operational Guidelines of the 1970 Convention?**

X	All or almost all follow such practices
	Most follow such practices
	Some follow such practices
	None/only a few follow such practices
	Other (please specify) :

37. **Please provide additional details on the policies and practices of dealers and auction houses in your country.**

The professional associations for auctioneers and second-hand dealers have codes of ethics. The auctioneers' code of ethics requires them to be familiar with the laws relating to the classes of goods they deal with in their business. The registration of auctioneers and related matters are governed by the Auctioneers Act 2013. The code of ethics for licensed second-hand dealers prohibits them from dealing in goods they know, or should reasonably know, to be illegally obtained. The licensing and operation of second-hand dealers are regulated under the Secondhand Dealers and Pawnbrokers Act 2004. As noted above, a licence is required for auctioneers and second-hand dealers to trade in taonga tūturu. Sections 13, 15 and 16 of the Act deal specifically with the obligations placed on auctioneers and second-hand dealers when dealing in taonga tūturu. The Ministry for Culture and Heritage has produced operational Guidelines for Licensed Traders in Taonga Tūturu.

38. **How has your country engaged art and antiquities dealers around the issue of illicit trafficking of cultural property?**

Before the current legislation took effect in 2006, the Ministry for Culture and Heritage was in contact with the professional associations for auctioneers and second-hand dealers, as well as with known individual auction houses and dealers, to provide information about the contents of the amended Act and the requirements it placed on dealers. The Ministry regularly engages with individual auctioneers and second hand dealers on an ad-hoc basis, as questions or issues arise.

39. **Do you regulate the trade of cultural objects on internet?**

X	Yes
	No

40. **Have you entered into a specific agreement with an internet platform?**

X	Yes
	No

## International Cooperation

41. **Please list any bilateral agreements your country has regarding the protection of cultural property, including the years for which the agreement is in effect.**

Nil.

42. **Please indicate how the 1970 Convention helped with return/restitution cases your country has been involved in?**

	To no extent	To some extent	To a considerable extent	To a great extent
Provided a legal framework for return/restitution		X		
Provided a moral framework				

for return/restitution		X		
Provided a diplomatic framework for return/restitution		X		
Other (please specify):				

**43. Please provide additional details on or examples of how the 1970 Convention has facilitated return/restitution cases**

In a 2009 case, a 19th century artefact (a feeding funnel carved by James Edward Little) was exported from New Zealand to Australia. As the object was a protected New Zealand object under the Protected Objects Act 1975, the exporter was required to obtain a certificate of permission from the Ministry's chief executive to export the it. they had not however done so, and there was a prima facie breach of the Act. On the request of the New Zealand Government, the Australian Department of Environment, Water, Heritage & Arts seized the feeding funnel in June 2009 under the Australian Protection of Movable Cultural Heritage Act 1986. The feeding funnel was deemed under Australian law (the Protection of Movable Cultural Heritage Act 1986) to have been illegally imported into Australia, and became forfeit to the Australian government. The Australian authorities subsequently gifted the feeding funnel to the New Zealand government. The chief executive of the Ministry for Culture and Heritage subsequently decided to gift the feeding funnel to the Museum of New Zealand Te Papa Tongarewa.

**44. Does your country have a system in place to facilitate international cooperation (e.g. single points of contacts and easily accessible information) in cases of illicit trafficking of cultural property?**

	Yes
X	No

**45. How has your country promoted this system and ensure the international community is aware of it?**

## Overall

**46. Yearly statistics**

### Thefts

1st Year reporting	0	Number of objects
Additional information :		
2nd Year reporting	0	Number of objects
Additional information :		
3nd Year reporting	0	Number of objects
Additional information :		
4nd Year reporting	0	Number of objects
Additional information :		

## Illegal Excavations

1st Year reporting	0	Number of objects
Additional information :		
2nd Year reporting	0	Number of objects
Additional information :		
3rd Year reporting	0	Number of objects
Additional information :		
4nd Year reporting	0	Number of objects
Additional information :		

## Seizures (cultural objects originating from own country)

1st Year reporting	0	Number of objects
Additional information :		
2nd Year reporting	0	Number of objects
Additional information :		
3rd Year reporting	0	Number of objects
Additional information :		
4nd Year reporting	0	Number of objects
Additional information :		

## Seizures (cultural objects originating from another country)

1st Year reporting	0	Number of objects
Additional information :		
2nd Year reporting	0	Number of objects
Additional information :		
3rd Year reporting	0	Number of objects
Additional information :		
4nd Year reporting	0	Number of objects
Additional information :		

## Restitutions

1st Year reporting	0	Number of objects
Additional information :		
2nd Year reporting	0	Number of objects

Additional information :	
3rd Year reporting	0
Additional information :	
4nd Year reporting	0
Additional information :	

47. Please rate the extent to which each of the following is a challenge your country faces in preventing theft and illicit exportation of its cultural property.

	Not a challenge	Somewhat of a challenge	A considerable challenge	A major challenge
Gaps in national legislation to protect cultural property	X			
Lack of police capacity related to cultural property	X			
Lack of customs capacity related to cultural property	X			
Lack of coordination between relevant stakeholders	X			
Lack of inventories and databases in museums	X			
Inadequate security systems in museums and places of worship	X			
Inadequate security of archaeological sites	X			
Lack of cooperation from the art market	X			
Lack of expertise/capacity in the legal field (lawyers, judges, prosecutors, etc.)	X			
Lack of regulation on the internet	X			
Lack of public awareness		X		
Other (please specify):				

48. If applicable, please describe the three biggest barriers your country faces in securing the return/restitution of cultural property that has been stolen/illegally exported (e.g., cost of legal proceedings in other countries, lack of communication with counterparts in other countries, etc.).

□

49. If applicable, please describe the most common reasons why your country is not able to fulfill requests for return/restitution made by other countries (e.g., requests made outside parameters of existing legal framework, lack of evidence for claims, etc.).

□

## UNESCO Support for the Implementation of the 1970 Convention

### General awareness raising and communication strategies

50. UNESCO and its partners have developed a number of tools to help State Parties implement the 1970 Convention. Please rate how helpful these tools have been to your country :

	Not helpful	Somewhat helpful	Very helpful	Extremely helpful
Object ID Standard (ICOM, the Getty, and UNESCO)		X		
UNESCO International Code of Ethics for Cultural Property Dealers		X		
ICOM Code of Ethics for Museums			X	
UNESCO Database of National Cultural Heritage Laws	X			
Basic Measures Concerning Cultural Items Offered for Sale on the Internet (INTERPOL, UNESCO, ICOM)	X			
Model Provisions Defining State Ownership of Undiscovered Cultural Property (UNESCO and UNIDROIT)	X			
Model Export Certificate for Cultural Objects (UNESCO and WCO)		X		

51. Please provide additional details on how your country has used UNESCO's tools.

Museum Aotearoa's Code of Ethics refers to ICOM Code of Ethics for Museums. Model Export Certificate for Cultural Objects was used to help develop the system of certificates issued under the Protected Objects Act 1975.

52. Please indicate whether your country has uploaded relevant national laws to the UNESCO Database of National Cultural Heritage Laws.

The versions of New Zealand's relevant national laws currently on the UNESCO Database are out of date. We will provide updated versions of the relevant national laws currently in force.

53. What additional tools would be helpful for UNESCO to develop ?

None.

54. **Have you or other stakeholders in your country participated in any of UNESCO's capacity building workshops or projects related to preventing illicit trafficking of cultural property in the past five years?**

X	Yes
	No

55. **How did these workshops or projects contribute to the implementation of the 1970 Convention in your country? Please provide specific examples where possible.**

Two New Zealand representatives attended the Workshop on the Fight Against the Illicit Trafficking of Cultural Property in Melanesia, which took place in Vanuatu in 2015. The focus of the workshop was on capacity-building in Melanesian countries of the Pacific, so it did not contribute significantly to implementation of the 1970 Convention within New Zealand.

56. **There are a number of ways the UNESCO Secretariat could support State Parties in the implementation of the 1970 Convention in the future, in addition to servicing the governing bodies of the Convention. Please indicate the extent to which the Secretariat should give priority to the following activities :**

	No priority	Low priority	Somewhat of a priority	High priority
Support in reforming national policies and legislation		X		
Promoting policy dialogues between countries		X		
Support for inventorying projects	X			
Specialized trainings for police	X			
Specialized trainings for customs	X			
Specialized trainings for museum staff	X			
National workshops to bring together stakeholders across departments, ministries, etc.	X			
Regional workshops to bring together stakeholders from across the region across departments, ministries, etc.		X		
Awareness raising activities (press releases, video clips, etc.)		X		
Development of more legal and practical tools such as the WCO model export certificate, the Database of National Cultural Heritage Laws, etc.		X		
Facilitating the sharing of best practices between countries (e.g., online or through a newsletter)		X		
Other (please specify):				

57. **Please provide any additional suggestions for how UNESCO should focus its work on this topic going forward.**

□

58. **What difficulties did you State encounter while implementing the Convention during the last reporting cycle period ?**

None.

59. **How has your country used the Operational Guidelines of the 1970 Convention adopted in UNESCO during the Third Meeting of States Parties (2015)?**

It has not used the Guidelines.

60. **Any other additional issues or comments you would like to share.**

□