

Stocktake of Existing and Pipeline **Waste Legislation:** **TUVALU**



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About this Report

Introduction and Acknowledgements

1. This report was prepared by the University of Melbourne (UoM) consultancy team as part of the PacWastePlus Waste Legislative Review project. The UoM team reviewed laws on waste management in 14 Pacific region countries and Timor-Leste (the 'participating countries'). This research was commissioned by the Secretariat of the Pacific Regional Environment Programme (SPREP), with funding support from the European Union's Delegation to the Pacific.
2. The team acknowledges, with gratitude, the research assistance provided by Ms Rebekkah Markey-Towler and the extensive background legislative reviews undertaken by the MLS Academic Research Service under the stewardship of Ms Robin Gardner and with the assistance of Daniel Carlos Bennett-Spark, Ken Zhunwye Kiat and Luis Bogliolo.
3. The UoM team also gratefully acknowledges project assistance provided by Ms Astari Kusumwardini, as well as the assistance, guidance and contributions provided by the SPREP PacWastePlus team and in-country stakeholders in the participating countries, who generously shared their time and insights with the UoM team.

Methodology

4. The methodology used by the UoM team to prepare this report was primarily based on desktop research using publicly available online resources about waste management laws in the participating countries.
5. Particular databases drawn for the research included those maintained by PacLII, EcoLEX, SPREP, InforMEA and FAOLEX, as well as the websites of government departments and other agencies administering waste and other environmental laws in the participating countries.
6. Available online sources do not always contain the most up-to-date legislation or may be incomplete. Where possible, the UoM team drew on contacts with parliamentary libraries in the participating countries to source more recent legislation. However, it is not possible to say with certainty that all relevant legislation, or the most current versions, were identified in the desktop review.
7. For identifying proposed legislation, the UoM team relied on an online survey sent out to 110 in-country contacts in the participating countries (with a 21% response rate to date), as well as interviews with in-country contacts (in Vanuatu, the Solomon Islands, Federated States of Micronesia and Samoa only at the time of preparing this report). Further in-country trips and interviews are planned across the remainder of the project period.

Outline of Report

8. This report contains the UoM team's findings relating to:
 - A **stocktake of the existing legislative environment for waste management** in the participating countries, focusing on the PacWastePlus priority waste streams of healthcare waste, asbestos, e-waste, plastic waste, recyclables, organics, disaster waste, bulky waste and wastewater, and including implementing legislation for the following multilateral environmental agreements (MEAs): Waigani, Basel, Stockholm, Rotterdam, and Minamata.
 - A **stocktake of pipeline legislative initiatives** in the participating countries, including an assessment of their impact and approximate timeframe for development.

9. For the pipeline stocktake, the UoM team noted that additional information on pipeline legislative initiatives is likely to be gathered during later in-country visits and ongoing data collection through the survey and interviews with in-country stakeholders. The information in this report on pipeline initiatives is therefore preliminary, and any updated information will be incorporated in later deliverables for the project.
10. The following sections of the report contain the stocktakes for each participating country. Reviews for each participating country include;
 - A brief overview of the legal system and relevant sources of law;
 - A legislative summary providing details of laws, regulations, policies and government responsibilities relevant to waste management and governance; and
 - A summary of available information on pipeline legislative initiatives.
11. The final section of the report provides details of participating countries' membership and implementation of relevant multilateral environmental agreements (MEAs), focusing on the Waigani, Stockholm, Basel, Rotterdam and Minamata Conventions.

Legislative Summary

Overview of the legal system

1. Tuvalu is one of the world's smallest independent nations. It comprises nine low-lying coral atolls with a total surface area of 26 square kilometres dispersed over 1.3 million square kilometres of the central Pacific. The population of Tuvalu is 11,052 (2020 Tuvalu Country Review estimate). The official languages are English and Tuvaluan.
2. Tuvalu was formerly known as the Ellice Islands when it was administered as a British Protectorate from 1892 to 1916 as part of the British Western Pacific Territories (BWPT). From 1916 until 1976 the Gilbert and Ellice Islands were under British colonial administration, although most were self-governing.
3. In 1975 the Ellice Islands became the separate British colony of Tuvalu with its own government and legislature, the House of Assembly. Tuvalu attained full independence in 1978, joining the Commonwealth in 1978 and the United Nations in 2000.
4. Tuvalu is a constitutional monarchy with a parliamentary democracy. The Head of Government is the Prime Minister, supported by a cabinet of Ministers. The legislative branch is unicameral and known as the House of Assembly / Fale I Fono. The court system includes both superior and inferior courts. Courts established by legislation include Land Courts, with jurisdiction to hear all customary land disputes, and Island Courts that have summary criminal and civil jurisdiction within the boundaries of the island on which they were established.
5. The Falekaupule Act (as amended to 2008) regulates the composition, operation, and functions of local governance. All islands are governed by a traditional council of elders: the Falekaupule. The Falekaupule is a law-making body with powers to make by-laws. The Kaupule is the executive arm of the Falekaupule. It is made up of six elected members, and a Pule Kaupule (Head Kaupule) is elected by the Falekaupule. The Kaupule generally administer island affairs on behalf of the Falekaupule and have powers to levy rates for operating costs and capital developments.
6. Tuvalu has a mixed legal system of English common law and local customary law. Sources of law are the Constitution (as the supreme law), Acts and subsidiary legislation, English statutes that are 'applied law' for Tuvalu, the common law of Tuvalu, judicial precedent and customary law. Customary law has effect as part of the law of Tuvalu, except to the extent that it is inconsistent with an Act or an applied law and its subsidiary legislation.
7. Under s 75(1)(a) of the Constitution, the Governor-General, as the representative of the Head of State (the English Crown), assigns responsibilities for government business to various Ministers. These include the following:
 - The Ministry of Natural Resources and Environment has responsibility for environment;
 - The Ministry of Home Affairs has responsibility for waste management; and
 - The Ministry of Health has responsibility for sanitation and environmental health.

Legislation impacting waste governance

8. Tuvalu has had dedicated waste-related legislation in place since 2009. It appears that a dedicated Waste Management Act was enacted in 2017 but this legislation is not available online. The UoM team will seek to source this legislation from in-country contacts.
9. An analysis of the national waste situation has been undertaken in the Integrated Waste Policy and Action Plan 2017-2026 with articulation of key strategic goals, actions and targets. The intention of the policy's integrated approach is for a 'national or coordinated approach, focusing on the work across all relevant sectors and complementing current programs and activities in the waste sector'.
10. The following tables provide a stocktake of the existing legislative environment for waste management in Tuvalu located in the UoM desktop review. Each table includes hyperlinks (current as of the date of this report) to electronic versions of these instruments.
 - Table 1 details the primary legislation and regulations (subordinate legislation) relevant for waste governance in Tuvalu found through the UoM's stocktake research.
 - Table 2 lists the key policy instruments and reports.
 - Table 3 notes the relevant departments with waste management responsibilities.

Table 1: Legislation impacting waste governance in Tuvalu

Legislation	Regulations
<p>Waste Operations and Services Act 2009 Waste Management Act 2017</p> <p><i>N.B. The information below relates to the 2009 legislation. There are references in various reports to the 2017 legislation but the UoM team has been unable to locate a copy online. It is likely that the 2017 legislation significantly updates the earlier legislation.</i></p> <p>The Waste Operations and Services Act 2009 outlines the roles and responsibilities for waste management in Tuvalu and provides for the collection and disposal of solid wastes and other waste-related operations and service in designated areas of Tuvalu.</p> <p>The Act defines specific categories of waste that need to be disposed in defined ways, including bulk waste, hazardous waste and solid waste.</p> <p>Section 4 outlines the responsibilities of various departments and agencies for different types of waste, and other relevant Acts.</p> <p>Section 5(1) makes local councils (Kaupules) responsible for general residential and commercial waste management. The remaining sub-sections provide for support from other agencies (including the Solid Wastes Agency and Ministry of Health) where necessary.</p> <p>Section 6 gives the Solid Wastes Agency (SWA) responsibility for national waste management planning, including through a National Wastes Strategy.</p> <p>Section 7 relates to environmental and public health standards, to be monitored and enforced by the Department of Environment and of Health, respectively.</p> <p>Section 8 allows the SWA to undertake audits of waste generation and disposal.</p> <p>Part III (ss 9–13) outline general powers, including waste designation, levies, controls, registration and licencing, and requirements to provide information.</p> <p>Part IV (ss 14–30) relates to waste management operations, including designations, functions and powers of waste management operators as well as fees and operating procedures.</p> <p>Section 37 allows for the making of regulations. Section 38 amends the Public Health Regulations 1926 to prevent incineration of rubbish.</p>	<p><u>Waste Management (Levy Deposit) Regulation 2019</u></p> <p>These regulations are made under s 10(1) of the Waste Management Act 2017.</p> <p>The regulations establish a system of levies charged and refunds provided to encourage the recycling of certain imported goods. They also create offences for wrongfully collecting or disposing of waste, or interfering with work at the facility, as well as the dumping of waste.</p> <p><u>Waste Management (Prohibition on the Importation of Single-Use Plastic) Regulation 2019</u></p> <p>These regulations are made under s 11(1)(A) of the Waste Management Act 2017.</p> <p>Regulation 4 prohibits the importation of certain single-use plastics. Under r 4(2), contravention is an offence liable to a maximum \$5,000 fine or 2 months’ imprisonment for an individual, or maximum \$10,000 fine or 3 months’ imprisonment for a corporation.</p> <p><u>Waste Management (Litter and Waste Control) Regulations 2018</u></p> <p>These regulations are not available online.</p>

<p>Environment Protection Act (2008 Revised Edition), Cap 30.25 (as at 2008) Environment Protection (Waste Reform) Amendment Act 2017</p> <p><i>N.B. The information below relates to the 2008 legislation. There are references in various reports to the 2017 legislation but the UoM team has been unable to locate a copy online. It is likely that the 2017 legislation amends the earlier legislation in light of the introduction of the Waste Management Act 2017.</i></p> <p>General environmental protection legislation for Tuvalu. An objective of the Act is to facilitate compliance and implementation of obligations under MEAS to which Tuvalu has ratified or acceded.</p> <p>Part IV (ss 14–16) establish a National Environment Forum and Council to allow for the participation and education of the general community. Section 15(2) allows the Council to be designated as the competent or implementing authority of any Convention, while 15(3) makes the Council the competent authority where one has not been designated. Section 15(4) allows the Council to perform any function and exercise any power required in accordance with the relevant Convention. Tuvalu’s National Action Plan to Reduce Releases of Unintentional Persistent Organic Pollutants 2018-2022 suggests the Council is yet to be established.</p> <p>Part V (ss 16–17) details the environmental impact assessment (EIA) process.</p> <p>Part VI (ss 19–23) relate to pollution control and waste management. Section 19 requires the Department to ensure proper regulation and control of pollution, littering and wastes, and lists related functions of the Department. Sections 21, 22 and 23 allows for the making of regulations related to pollution control, waste management and hazardous waste and substances, respectively.</p> <p>Schedule 1 details a list of international conventions to which the Act applies. This includes the Waigani and Stockholm Conventions.</p>	<p><u>Environment Protection (Litter and Waste Control) Regulations 2013</u></p> <p>These regulations may have been superseded by the Waste Management (Litter and Waste Control) Regulations 2018 but the UoM team is unable to confirm this as the latter are not available online.</p> <p>The 2013 regulations provide for controls on litter and wastes and establish related offences. The regulations also contain provisions on enforcement and on the powers of environmental officers to issue notices.</p> <p><u>Environment Protection (Environmental Impact Assessment) Regulations 2014</u></p> <p>These regulations outline the EIA process. Regulation 4 allows the Minister to determine whether a full EIA is required for a development having regard to the likely increased pollution and generation of wastes or hazardous substances. Schedule 1 highlights that major waste disposal plants may require an EIA. Regulation 12(3)(f) requires a full EIA to undertake an analysis of the environmental consequences of the development proposal, which may include an assessment of the implications of the use of potential environmental pollutants.</p>
<p>Ozone Layer Protection Act (2008 Revised Edition), Cap 30.30</p> <p>Relevant prohibitions on the importation of plastic foam manufactured with substances controlled by the Montreal Ozone Protocol.</p>	<p><u>Ozone Depleting Substances (ODS) Regulations 2010</u></p> <p>Regulations 7, 10 and 12 prohibit the import, export and sale, respectively, of goods listed in Schedule IV, which includes plastic foam made using certain substances. Under regulation 11(ii), the manufacture of plastic foam using a controlled substance is prohibited. Part III (rr 14–24) details a permit system overseen by the Director of Environment. Part IV (rr 25–32) relates to enforcement and offences.</p>
<p>Public Health Act (2008 Revised Edition), Cap 28.36</p>	<p><u>Public Health Regulations</u> (as at 2008) amended by <u>Waste Operations and Services Act 2009</u></p>

<p>Section 3(1) allows the Minister to make regulations regarding (a) latrines, dustbins and drains; (b) scavenging, cleaning and disinfecting; (c) the removal and disposal of night-soil and house refuse; (d) the abatement of nuisances injurious to public health; (h) securing the cleanliness and freedom from pollution of tanks, vats, cisterns and other receptacles for storing water; and (i) regulating or prohibiting the use of any rain, stream, well or other water supply and for the prevention of pollution thereof.</p>	<p>Regulation 2 requires premises to be kept clean. Regulation 4 prohibits tins, bottles or other receptacles capable of holding water to be allowed to remain on any premises. Regulation 10 prohibits the depositing of any empty tin, bottle or other receptacle in any street, road or other public place. Regulation 11 requires owners to provide latrine accommodation approved by a sanitary inspector. Regulation 12 requires the cleaning of these latrines. Regulation 14 required the destruction by fire of garbage and rubbish but was repealed by s 38 of the Wastes Operations and Services Act 2009.</p>
<p>Pesticides Act (2008 Revised Edition), Cap 28.28</p> <p>Section 7(1) prevents sale and use of any pesticide not registered under the Act. Section 7(2) requires an import permit for import of any pesticide. Section 10 provides for an import permit system.</p>	<p>None identified.</p>
<p>Customs Revenue and Border Protection Act 2014</p> <p>Lists goods which are prohibited from import in Sch 2. Under cl 14 this includes those goods for which importation is prohibited by any Tuvalu law in force. This would include plastics and hazardous wastes prohibited by regulations under the waste and environmental legislation described above.</p>	<p>None identified.</p>
<p>Falekaupule Act/Local Government Act (2008 Revised Edition), Cap 4.08</p> <p>The functions of the Falekaupule are listed in Schedule 3 of the Act. Under 8: Public Health the following responsibilities are listed:</p> <ul style="list-style-type: none"> • to establish, maintain and carry out services for the removal and destruction of, or otherwise dealing with, all kinds of rubbish, refuse or excreta and by by-laws to require householders to contribute to such services; • to prohibit through by-laws activities detrimental to the sanitary condition of the Falekaupule area or any part of it. 	<p>None identified.</p>
<p>Penal Code (2008 Revised Edition), Cap 10.20 Criminal Procedure Code (2008 Revised Edition), Cap 10.05 (enforcement)</p> <p>Under s 172 of the Penal Code, polluting or obstructing watercourses is a misdemeanour liable to a maximum \$400 fine or three months' imprisonment. All powers of arrest, detention, and powers of the court to enforce judgments and orders are provided for in the Criminal Procedure Code.</p>	<p>None identified.</p>

Table 2: Policies and reports impacting waste governance in Tuvalu

Policy	Description
Annual Action Programme 2017 in Favour of Tuvalu (Commission Decision) and Annual Action Programme 2017 in Favour of Tuvalu (Annex)	Commission decision approving funding for a sustainable waste programme in Tuvalu. The annex contains detail on the context, a description of the action and its implementation (pp 18–23).
Infrastructure Strategy and Investment Plan 2016-2025	This plan prioritises the consolidation of Funafuti and outer island landfills. Considering waste management in the design and planning of infrastructure investments is identified as key to climate proofing and increasing resilience.
Integrated Waste Policy and Action Plan 2017 -2026	Part One discusses context, including the current waste management system and Part Two discusses the policy, with key strategic goals, actions and targets. Compliance with international obligations is highlighted as a goal and purpose of the Policy and Plan. The Department of Environment is identified as having responsibility for the implementation of conventions in accordance with Part VII of the Environment Protection Act (2008). A guiding principle of the policy on p 29 is adherence to regional and international conventions.
National Action Plan to Combat Land Degradation and Drought 2006	Uncontrolled waste disposal is identified as a cause of land degradation. The prevention of land degradation through the promotion and support of proper solid waste management practices and the rehabilitation of degraded land through rehabilitating improper solid waste disposal sites are identified as priority activities.
National Action Plan to Reduce Releases of Unintentional Persistent Organic Pollutants 2018-2022	Includes a situational context, including policy and legislative framework, relating to POPs in Tuvalu.
National Biodiversity Strategy and Action Plan 2012-2016	Waste and pollution management are identified as a thematic area. Non-degradable waste as a biosecurity concern prioritised per island and priority themes, goals, objectives and actions for waste and pollution management are included.
National Environment Management Strategy 2015-2020	Waste management is identified as ‘one of the most pressing environment problems’. Waste management and pollution control is a thematic area of the policy. Goals, strategies, targets and implementation of appropriately minimised and managed waste levels are discussed.
National Implementation Plan for the Stockholm Convention on Persistent Organic Pollutants 2008	Includes list of pollutants, and country baseline including institutional, policy and regulatory framework (from 2008), assessment of issues and action plan.
National Strategic Action Plan for Climate Change and Disaster Risk Management 2012-2016	Under Goal 5 Ensuring Energy Security and a Low Carbon Future for Tuvalu, Strategy 5.4 is to implement mitigation plans for the agriculture and waste management sectors to reduce greenhouse gas emissions. The Ministry of Public Utilities is identified as the lead agency.
National Strategy for Sustainable Development 2016-2020	Included among the goals of strategy are the upgrading of waste management infrastructure and operations, particularly on the outer islands, and the development of a national waste management policy.
Sustainable and Integrated Water and Sanitation Policy 2012-2021	Goal 1 is to provide a safe, reliable, affordable and sustainable water supply. An identified risk factor is contamination by human waste. A strategy for its achievement is the implementation of measures to reduce the pollution of ground water.

Reports	Description
3R Progress Country Report (Draft)	Draft document submitted to the Seventh Regional 3R Forum in Asia and the Pacific. Progress related to the 3R goals.
National Report to the Third International Conference on Small Island Developing States 2014	A priority in Strategy 4 (to stop unregulated development and degradation of the environment especially on Funafuti) of Strategic Area 7 (Natural Resources) is to improve waste management on Funafuti with the development of an urban waste management plan.
Profile in the Solid Waste and Recycling Sector: Tuvalu 2018	Data on solid waste and recycling in Tuvalu.
Review of Natural Resource and Environment-Related Legislation: Tuvalu 2018	Overview of environment-related legislation in Tuvalu as of January 2018. Includes section on waste management and pollution.
Second National Communication to the UNFCCC 2015	Outlines national circumstances relating to various sectors, a greenhouse gas inventory, a vulnerability and adaptation assessment as well as mitigation analysis. Waste management is included in the executive summary. Potential mitigation measures for the waste sector include the implementation of the Waste Management Strategy and improving solid waste disposal and domestic wastewater handling.
Solid Waste Management in the Pacific: Tuvalu Country Snapshot 2014	Asian Development Bank overview of solid waste management in Tuvalu as part of wider Pacific project.
Waste Policy Performance Review 2019	<p>Tables under Section 2.1 ‘Current Progresses and Achievements’ list the various goals, activities and their status. Section 2.3 highlights emerging issues of importance, including healthcare waste, asbestos and sewage.</p> <p>Key challenges identified in Section 2.4 include weak enforcement of laws, inadequate supporting resources, land difficulties, inadequate information and limited technical waste management capability.</p> <p>The creation of the Waste Management Act 2017 is mentioned as an achievement.</p>

Table 3: Government departments with waste responsibilities in Tuvalu

Government departments	Responsibilities
Department of Waste Management, Ministry of Home Affairs	Administers the Waste Operations and Services Act 2009
Ministry of Natural Resources and Environment	Natural Resources and Environment Ministry administers the Environment Protection Act 2008, the Pesticides Act and the Ozone Layer Protection Act 2008
Ministry of Home Affairs	Ministry of Home Affairs has responsibility for waste management
Ministry of Health	Ministry of Health has responsibility for sanitation and environmental health
Customs Revenue and Border Protection Service, Ministry of Finance and Economic Planning	Created by the Customs Revenue and Border Protection Act 2014
Ministry of Public Utilities & Infrastructure	Lead agency for implementation of policies and plans relating to provision of infrastructure.

Pipeline activities

1. The following sections provide details of identified pipeline legislative activities for waste management and governance in Tuvalu, summarised in Table 4 below.
2. Limited information was available on pipeline activities through the desktop review. The UoM team will seek to obtain further information through interviews with in-country stakeholders and from data in the online survey.
3. Tuvalu appears to have recently introduced new waste management legislation in the form of the Waste Management Act 2017. The UoM team have been unable to locate this legislation online but note that regulations suggest several activities are progressing under this legislation such as controls on single-use plastic. Another recent regulation puts in place a container deposit scheme to promote recycling.
4. As described further in the table on MEAs and implementing legislation at the end of this report, Tuvalu is a party to the Stockholm, Minamata and Waigani Conventions. It only recently ratified the Minamata Convention and so is yet to develop specific implementing legislation. Tuvalu is also in the process of completing its accession to the Basel Convention.
5. According to news reports, the Department of Waste Management is presently working on a waste tax to reflect the cost of taking items at the end of their life from Tuvalu to a suitable recycling destination. This tax proposal is in addition to the Department's efforts to establish a recycling station, clean-up campaigns on islands and awareness and education programs with community and schools.

Table 4: Pipeline activities for Tuvalu

Pipeline activities	Description	Timeframe
Implementation of new waste management legislation and container deposit scheme	Waste Management Act 2017 in place and new 2019 regulation for implementation of a container deposit scheme.	Ongoing.
Accession to Basel Convention	Tuvalu finalising process for ratification of the Basel Hazardous Wastes Convention.	In progress.
Waste tax	Mechanism to internalise costs for items that need to be transported elsewhere for recycling.	<u>News reports</u> detailed this proposal from 31 May 2019.

Stocktake of Relevant Multilateral Environmental Agreements

1. The relevant multilateral environmental agreements for the stocktake were the:
 - Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention);
 - Stockholm Convention on Persistent Organic Pollutants (Stockholm POPs Convention);
 - Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention);
 - Minamata Convention on Mercury (Minamata Convention); and
 - Convention to ban the Importation of Hazardous and Radioactive Wastes into Forum Island Countries and to Control the Transboundary Movement and Management of Hazardous Waste within the South Pacific Region (Waigani Convention).
2. The Table below provides details of the membership of Tuvalu in these MEAs. Specifically, it lists:
 - The relevant MEAs to which Tuvalu is party and the date the MEA was in effect;
 - Details of designated national authorities (DNAs) or national focal points for these MEAs; and
 - Details of any implementing legislation or policies for the relevant MEA.

Table 5: MEAs and implementing legislation

MEA	In effect for country	Designated National Authority or National Focal Point	Implementing legislation
Stockholm Convention	17 May 2004	Not specified	<p>Environment Protection Act (2008 Revised Edition), Cap 30.25</p> <p>Environment Protection (Litter and Waste Control) Regulations 2013</p> <p>See also National Implementation Plan for the Stockholm Convention on Persistent Organic Pollutants 2008 and</p> <p>National Action Plan to Reduce Releases of Unintentional Persistent Organic Pollutants 2018-2022.</p>
Minamata Convention	5 Sep 2019	Mr. Soseala Saosaoa Tinilau Director Ministry of Public Works, Infrastructure, Environment, Labour, Meteorology & Disaster Government Office Building, Vaiaku, Funafuti, Tuvalu	No specific implementing legislation.

		Phone: (688) 20060 Email: butchersn@gmail.com	
Waigani Convention	21 Oct 2001	Assistant Secretary Ministry of Foreign Affairs, Trade, Tourism, Environment and Labour. Government of Tuvalu Funafuti Tuvalu Tel: +688 20 117 Email: ptuaga@gov.tv or marx.prince@yahoo.com Director of SWAT Ministry of Home Affairs Funafuti Tuvalu Tel: +688 20 164 Email: swat@gov.tv	<u>Environment Protection Act (2008 Revised Edition), Cap 30.25</u> <u>Environment Protection (Litter and Waste Control) Regulations 2013</u>
Basel Convention	Not party.		
Rotterdam Convention	Not party.		

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