



*Preventing  
the  
Illicit Traffic  
in  
Cultural Property*

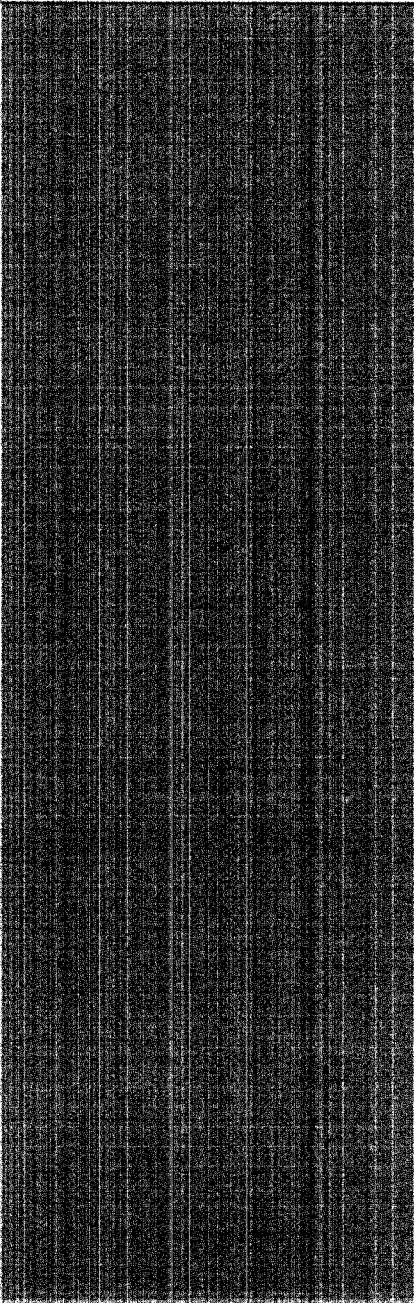
*a resource handbook  
for the implementation  
of the 1970 UNESCO CONVENTION*



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*a resource handbook  
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of the 1970 UNESCO CONVENTION*

*written and compiled by  
Pernille Askerud and Etienne Clément*



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## *preface*

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Over the past decades, illicit trafficking in cultural property has, unfortunately, grown into a problem of epidemic proportions. Every day, irreplaceable cultural treasures are taken from the places where they belong to enter the international art market where they are traded illegally or quite openly while the authorities concerned stand helplessly by. The trade in cultural heritage has reached proportions which can be compared with the international trade in drugs and they share other characteristics as well. This is a traffic which concerns all of the world but as usual it is those who can least protect themselves that are the great losers.

However, the practice of removing artefacts of significant importance to a culture's history and identity from their place of origin, is increasingly acknowledged by the international community as un-ethical, - even if this view is not always reflected in attitudes and legislation. Notions such as the inalienability of cultural property from its place of origin, and the idea that certain cultural artefacts are the property of the people of the place in which they are originate and hence should not be traded without permission by the official representatives of these people, are gaining recognition.

A palpable expression of this gradual but certain change in attitude is the adoption of professional codes of ethics by many museums and by fine art dealers which reflect a heightened awareness of the implications and problems connected with illicit traffic in cultural property. Whether or not we will succeed in protecting cultural property better in the future depends upon such wide-reaching changes in attitudes.

With the creation of many independent states and the waning of colonial power which has taken place all over the world during this century, the protection of cultural heritage has become yet another pressing issue for these young nations. Due to a widespread lack of awareness of the problem and a lack of priority given to the issue, many countries do not yet have laws and regulations to effectively protect their cultural heritage from excessive commercial trade, plunder and pillage. A great deal of the traffic in cultural property is not as yet covered by any legislation and is not, in the strictest sense of the word, illegal. The term illicit trafficking is, however,

used both to denote trade that from an ethical point of view should not take place and trade which is de facto illegal.

Essentially, illicit trafficking in cultural property is an international affair and only international co-operation, for instance through the adoption and adherence to international conventions, will ultimately allow a higher measure of control in this area. To curb illicit traffic in cultural property many more countries must ratify the 1970 UNESCO CONVENTION ON THE MEANS OF PROHIBITING AND PREVENTING THE ILLICIT IMPORT, EXPORT AND TRANSFER OF OWNERSHIP OF CULTURAL PROPERTY, as well as the UNIDROIT CONVENTION and other relevant multilateral and bi-lateral agreements.

Still, unless they are supported by adequate national legislation and a comprehensive programme for protection and preservation of cultural heritage, international conventions can have only limited effect. The implementation of these conventions is a relatively new and unproved area and there is a widespread need for training and training materials for the people who are responsible for the preservation and protection of cultural heritage in their countries and for people who in their daily lives come in contact with the problem of illicit trafficking.

UNESCO has spearheaded international efforts to prevent illicit trafficking in cultural property and generally to protect cultural property in its place of origin. Attention has been given foremost to the formulation of international agreements and conventions in this field and to the promotion of a general change in attitude towards the issue. Over the last couple of years UNESCO has, in addition, embarked upon a comprehensive technical assistance programme of regional and national training workshops. The present handbook has been developed to support activities such as these.

The text and training materials of this handbook are based on the notes and materials from regional and national training seminars, as well as on UNESCO documents and publications and documents from other sources. Without the experience and efforts invested by so many in these documents, this handbook would not be as comprehensive as it has become. We gratefully acknowledge this as well as the generous assistance we have received from the many organizations and individuals that have been involved in the preparation of this handbook.

It is our sincere hope that this handbook will prove to be a useful tool in mobilizing and empowering concerned parties all over the world in the fight against illicit traffic in cultural property.



*Lourdes Arizpe*  
*Assistant Director-General for Culture*



## *executive summary*

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### Objectives

This handbook primarily addresses national authorities that while they are facing a problem of illicit trafficking have also ratified the *1970 UNESCO Convention on The Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*. It is meant to provide assistance in the development of national institutional capacity to protect cultural heritage from illicit trafficking, and to facilitate international co-operation in this regard.

### Target group

In 1983 UNESCO published a technical reference manual by L. V. Prott and P. J. O'Keefe called *National Legal Control of Illicit Traffic in Cultural Property*. That manual is more specialized and written by lawyers in the field of cultural property. It provides an overview and discussion of the legal measures available to control illicit traffic in cultural property. This handbook is a more general presentation which aims to impart to a broader audience a deeper understanding of the various ways to curb and control illicit traffic in cultural property.

The handbook is intended primarily as a tool for the planning and execution of comprehensive national (training) programmes to protect and preserve cultural heritage. The handbook should, however, also be of interest to groups or individuals who are interested in doing something on their own about the problem. Mobilizing concerned individuals in line with an overall national policy for the area could lead to an invaluable source of support for the proposed activities.

### Contents

The available literature on illicit trafficking in cultural property is scattered and at times difficult to obtain. The text of this handbook is therefore first of all a presentation of the issue of illicit traffic and of the 1970 UNESCO CONVENTION. The text details the steps that must be taken at national level to implement the convention and to enable the provisions of the convention to come into force.

To facilitate understanding of the issues, the handbook contains a series of training materials which focus on key concepts and skills, and on the training of particular groups of people working on a day-to-day basis with the issue such as police and customs officers. Finally, the handbook contains a collection of the most important reference documents mentioned in the text. Together the three sections of the handbook provide a framework for discussion and a basis for training activities.

In summary, the contents of the handbook are laid out as follows:

SECTION 1 presents the main issues and problems concerning cultural property and illicit trafficking. In this text,

**Chapter One** introduces the term *cultural property* and explains how it is defined in the 1970 UNESCO CONVENTION. It then takes up the topic of *illicit trafficking in cultural property* and relates it to the ever growing international trade in such artefacts. The chapter also touches on how the notion of the inalienability of cultural property to its place of origin has brought with it a whole new way of viewing the role and moral obligations of especially western museums and art collectors.

**Chapter Two** focuses on the role and function of international co-operation in this context, especially in terms of the 1970 UNESCO CONVENTION ON THE MEANS OF PROHIBITING AND PREVENTING THE ILLICIT IMPORT, EXPORT AND TRANSFER OF OWNERSHIP OF CULTURAL PROPERTY.

In particular, Chapter 2 describes the requirements for implementation of the principles, rules and regulations stipulated in the convention, at national and international level respectively.

**Chapter Three** deals with the procedures for seeking return or restitution of cultural property in cases where the 1970 UNESCO CONVENTION does not apply.

**Chapter Four**, sums up the feasibility and role of international co-operation in the protection of cultural property.

SECTION 2 of the handbook is devoted to human resource development and training issues. The section includes some overview articles which together with the main text of the handbook provide good material for discussion of some of the key issues, and a series of model training materials which can be adapted to suit a specific national context.

Finally, SECTION 3 of the handbook is a collection of all the most pertinent source texts in this field which are collected and reprinted here for easy reference.

Throughout the handbook, emphasis is given to the need for and problems involved in establishing sufficient documentation, inventories and lists of protected property, to identify objects of cultural property and establish their ownership; and to international efforts to facilitate exchange of such information.



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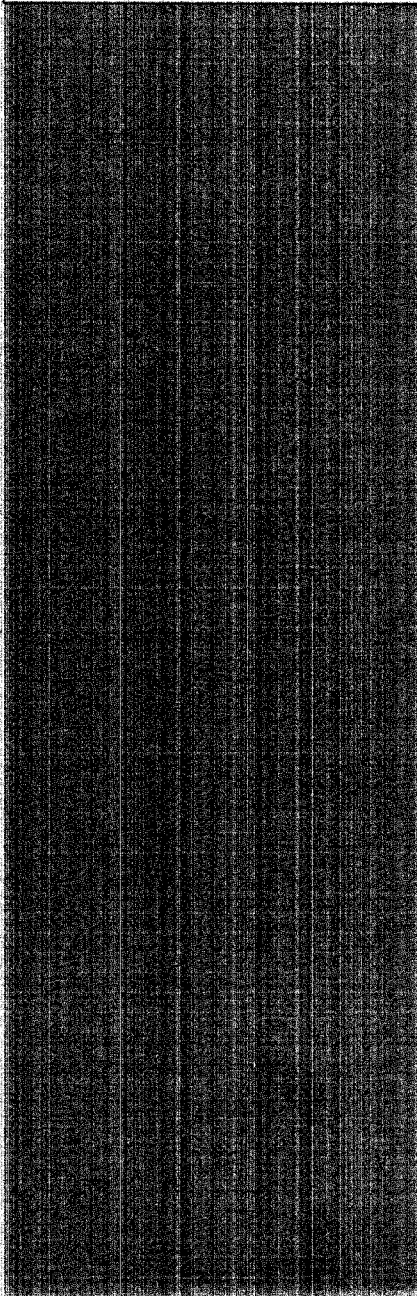
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# Section 1

## illicit traffic in cultural property – an overview

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*photo overleaf:*

*French sinologist Paul Pelliot in the secret chamber of manuscripts at the Thousand Buddha Caves near Dunhuang (China, 1908). Pelliot and his English counterpart, Sir Aurel Stein, virtually emptied this and scores of other caves of their treasures, which are now to be found in the museums of France and England.*

*(Photo © R. M. N., Musée National des Arts Asiatiques/ Guimet, Paris)*

**note:**

*traffic, trafficking, trafficked, :*

...

2. *Traffic* (noun) in something such as drugs or stolen goods is illegal trade in it, involving buying and selling and transporting it from one place to another

3. *Traffic* (verb) someone who traffics in something such as drugs or stolen goods buys and sells them even though it is illegal to do so (trafficking is the act of doing so)

## CHAPTER ONE

### PROBLEMS AND SCOPE

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APPEAL launched in 1994 by Federico Mayor, Director General of UNESCO:

*Information is reaching UNESCO of increasing illicit traffic in cultural objects. Recent examples include voluminous traffic in icons from Eastern European countries since the opening of borders there, the looting of the National Museum in Kabul, Afghanistan, the illegal conversion of sacred textiles from Bolivia for commercial purposes, and pillaging of ceramics from unresearched sites in Mali.*

*For many countries the situation has become desperate, and UNESCO has increased its activities to assist them. In the last four years, regional workshops for national authorities have been held in Jomtien (Thailand), in Keszthely (Hungary), in Arusha (Tanzania) and in Bamako (Mali). Yet another will be held early next year in Cuenca (Ecuador), and the issue will be taken up in a conference on general humanitarian law to be held in Central Asia next year. In Cambodia, a country which has had an appalling loss of its heritage over the last 25 years, UNESCO has arranged national workshops to train police, customs officers and site guardians. Experts have been sent to many countries to help them improve their legislation on this subject.*

*It is very clear that the "victim" countries, try as they may, cannot solve the problem of their disappearing heritage on their own. That is why the General Conference of UNESCO in 1970 adopted the CONVENTION ON THE MEANS OF PROHIBITING AND PREVENTING THE ILLICIT IMPORT EXPORT AND TRANSFER OF OWNERSHIP OF CULTURAL PROPERTY, which remains the only universal legal instrument designed to control this illicit trade. There are eighty-one States Party to the Convention. But most of these are "victim" States. Of the States which have a substantial market in cultural objects of foreign origin, only a few have become Party.*

*This Convention requires States Parties to co-operate in the return of cultural property to those States Parties from which it has been stolen or illegally exported. The strength of the art market in the industrialized countries acts as a magnet to the*



*flow of trade, licit and illicit. Only the utmost diligence on the part of collectors and dealers in those countries will therefore prevent traffickers and speculators in illegally gotten goods from passing them into the legitimate market.*

*The UNESCO Convention provides for considerable flexibility in the ways in which it can be implemented by the States Parties. "Market" States which have become Party have each chosen their own route, and each has developed legislation which is adapted to their particular circumstances. At present many of the European States, following the Directive and Regulation on the return of cultural property within the European Community, are now rethinking their approach to the illicit trade.*

*I therefore solemnly appeal to all those States which have not yet become Party to the UNESCO Convention to join in this great international collaborative effort to prevent the dispersion and spoliation of the world's cultural treasures, which also constitute precious symbols of national identity. We are involved in a race against time, and I invite those States concerned to accede without delay to the 1970 CONVENTION ON THE MEANS OF PROHIBITING AND PREVENTING THE ILLICIT IMPORT, EXPORT AND TRANSFER OF OWNERSHIP OF CULTURAL PROPERTY.*

Federico Mayor,  
Director-General, UNESCO  
Paris, 31 December 1994

## What is Cultural Property ?

Like intellectual property, cultural property is a term which it is difficult to describe definitively, and it is a fact that with the growing international interest in anthropology and ethnography over the last decades, our understanding of the term and the topic itself has broadened considerably.

In general, cultural property are all those diverse and manifold artefacts that are an expression of a specific culture and which stand out either because there are not many others like them, because of the superior artistry with which they are fashioned, or because they are uniquely characteristic to that culture. We consider pieces of fine art and handicraft cultural property as well as archaeological finds, architecture, boats and books - just to mention a few examples.

In the context of illicit trafficking, cultural property is defined with a specific view to controlling the export of cultural artefacts which are specified as such according to the law in force or deemed to be essential to the understanding or preservation of a unique heritage.

In other contexts we may understand the term differently.

It is inconceivable that all illegally exported cultural property will necessarily be returned to its country of origin. However, UNESCO's and ICOM's concern is always to see that each country has an adequate representative national collection of its own cultural heritage.

In the 1970 UNESCO CONVENTION ON THE MEANS OF PROHIBITING AND PREVENTING THE ILLICIT IMPORT, EXPORT AND TRANSFER OF OWNERSHIP OF CULTURAL PROPERTY, cultural property is thus defined as follows:

### Article 1

*For the purpose of this Convention, the term "cultural property" means property which, on religious or secular grounds, is specifically designated by each State as being of importance for archaeology, prehistory, history, literature, art or science and which belongs to the following categories:*

- a) *Rare collections and specimens of fauna, flora, minerals and anatomy, and objects of paleontological interest;*
- b) *property relating to history, including the history of science and technology and military and social history, to the life of national leaders, thinkers, scientists and artists and to events of national importance;*

Cultural property found in one country and in one culture is not the same as in another, but cultural property is those things which bear witness to the history and identity of a particular culture.

*Paleontology*: the science of the forms of life existing in former geological periods, as represented by fossilized animals and plants.

*Incunabula*: the earliest stages or traces of anything

- c) *products of archaeological excavations (including regular and clandestine) or of archaeological discoveries;*
- d) *elements of artistic or historic monuments or of archaeological sites which have been dismembered;*
- e) *antiquities more than one hundred years old, such as inscriptions, coins and engraved seals;*
- f) *objects of ethnological interest;*
- g) *property of artistic interest, such as:*
  - i) *pictures, paintings and drawings produced entirely by hand on any material (excluding industrial designs and manufactured articles decorated by hand);*
  - ii) *original works of statuary art and sculpture in any material;*
  - iii) *original engravings, prints and lithographs;*
  - iv) *original artistic assemblages and montages in any material;*
- h) *rare manuscripts and incunabula, old books, documents and publications of special interest (historical, artistic, scientific, literary, etc.) singly or in collections;*
- i) *postage, revenue and similar stamps, singly or in collections;*
- j) *archives, including sound, photographic and cinematographic archives;*
- k) *articles of furniture more than one hundred years old and old musical instruments.*

The 1970 UNESCO CONVENTION brought with it a wide recognition that cultural property includes not only buildings, monuments and fine art but also flora, fauna, mineral and paleontological specimens, archaeological and ethnological artefacts, decorative art, manuscripts, books and incunabula, as well as sound, photographic and cinematographic archives. It also made way for a recognition of the fact that cultural property must be protected at all times.

A definition of cultural property like the one given above is, however, so wide and normative that it is only useful if national Governments specifies what national cultural property should be

protected by their legislation by designating the items which are to be considered so. It is therefore a requirement of each State party to the 1970 UNESCO CONVENTION, that they establish and up-date a list of protected property whose export would constitute *an appreciable impoverishment of the national cultural heritage*<sup>1</sup>.

Not all objects can be mentioned in such a list (e. g. archaeological objects which have been plundered from illegal excavations and therefore not registered) and objects can belong to more than one national heritage. To deal with objects which for one reason or another are not mentioned in the list, the 1970 UNESCO CONVENTION stipulates that a State, in addition to the objects mentioned in Article 1, is entitled to consider an object as part of its cultural heritage if it falls in the categories provided by the Convention's Article 4:

#### Article 4

*The States Parties to this Convention recognize that for the purpose of the Convention property which belongs to the following categories forms part of the cultural heritage of each State:*

- a) Cultural property created by the individual or collective genius of nationals of the State concerned, and cultural property of importance to the State concerned, created within the territory of that State by foreign nationals or stateless persons resident within such territory;*
- b) cultural property found within the national territory;*
- c) cultural property acquired by archaeological, ethnological or science missions, with the consent of the competent authorities of the country of origin of such property;*
- d) cultural property which has been the subject of a freely agreed exchange;*
- e) cultural property received as a gift or purchased legally with the consent of the competent authorities of the country of origin of such property.*

While the definition in the UNESCO CONVENTION is also aimed at harmonizing definitions of cultural property, a high degree of conformity cannot be expected. Different cultures employ different

The preparation of national lists of protected property, inventories and other documentation, and the use that can be made of such documentation, are issues that will be taken up time and again in this handbook in connection with almost every aspect of the protection of cultural property.

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<sup>1</sup> 1970 UNESCO Convention .. - Article 5

The fact that what is considered cultural property is not the same everywhere and that it covers such a diversity of artefacts is exactly the reason why it is so important that cultural property is listed and documented well enough to identify it and its ownership. Because how can you protect what you do not know?

modes of expression and what is considered cultural property reflects this diversity.

Thus African and Pacific States, for example, are often especially concerned with native craft work and objects used for ritual purposes; Mediterranean States with antiquities; and European States with fine art treasures. The emphasis in their respective lists of protected property will, naturally, reflect this.<sup>2</sup>

Failure to identify objects conclusively is, indeed, one of the major obstacles in the protection of cultural property. Without photographs and detailed descriptions, it is almost impossible for police to recover such objects. In cases where the police may come across collections of obviously stolen objects, the lack of objective descriptions and documentation for ownership can make it almost impossible to trace the legitimate owners and impossible even to prove that the objects were stolen in the first place.

Documentation and inventories are of course important for well known and unique national treasures but they may be even more crucial when it comes to protecting less distinctive objects.

At the international level, the importance of documentation has long been recognized as a vital component in the fight against illicit traffic in cultural property. Many efforts are currently aimed at facilitating the documentation and inventorying of cultural property everywhere. Hence there is a growing awareness of the importance of developing administrative, political, and technical mechanisms (such as standard formats for core information) to enable information about stolen and illegally exported cultural exports to be shared between organizations and nations.<sup>3</sup>

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<sup>2</sup> See also L.V. Protts and P. J. O'Keefe, *National Legal Control of Illicit Traffic in Cultural Property* (page 15). UNESCO 1983.

<sup>3</sup> For more information please refer to: R. Thornes, *Protecting Cultural Objects Through International Documentation Standards. A Preliminary Survey*. The Getty Art History Information Program, USA 1995.

## What is Illicit Trafficking in Cultural Property?

Over the last decades the world has become a much smaller place and today even the remotest places are, for good and for bad, open to almost any determined traveller. Film and photography have brought images of foreign lands and customs to all of us at a scale totally unmatched ever in history. And many people would like to have an image or a token of these wonders for themselves. Especially a token which captures the very essence of the culture or in other words: an object of cultural property.

With the opening of the world, the interest in other peoples and other cultures, and perhaps especially in the artefacts and styles of these cultures, has been steadily increasing among many people in the West. It is an interest which is reflected in fashion and design which make use of an eclectic combination of foreign and exotic style elements. It has also brought with it a broadening of the definition of fine art, which has come to include many items made by artisans from other times and cultures, alongside the works of individual artists from western civilisations. This phenomenon has again led to a booming demand and trade in such artefacts among ordinary people and among collectors and art connoisseurs, especially, in the western world.

At the same time, the interest for museums has grown. Where collecting was in earlier times a favoured pastime of the few wealthy who had the connections to get hold of items from all over the world, increased mobility and affluence have made modern collectors innumerable.

However positive the recognition of cultures and art-forms which are different from the norms and standards of western art, the demand especially in the west for exotic cultural artefacts is in fact threatening to deplete whole societies of their cultural heritage. It is a serious problem, especially in many developing countries which often lack appropriate legislation and policies, sufficient resources, and skilled personnel, to counter and control the trafficking.

Trade in cultural property has become a major international business and so has, unfortunately, what we have come to call *illicit traffic or illicit trafficking* in cultural property. Prices of objects of cultural property may fluctuate but is ultimately always rising and international demand seems insatiable. Works of art, handicrafts, antiques, and archaeological finds, are increasingly taken from the places where they originated to end up in the international art market. There are far too many examples of vast archaeological or other cultural riches which have been taken away by stealth or force

Illicit traffic in cultural property has become a problem of epidemic proportions but not all countries have laws and regulations in place to protect their cultural property. A change in attitude internationally recognizes that a lot of the trade is illicit. This is why we can use the term *illicit traffic* about trade that from an ethical point of view should not take place, as well as about trade which is illegal. This handbook uses the term in line with this common usage.

or just by money, from their place of origin to end up in museums or private collections in the west.

Some so-called 'exporting countries' still have great cultural riches while others have already been totally exploited (e. g. Nauru), and some fight to preserve small distinctive cultures for which they need to establish an adequate national collection (e.g. small Pacific Island States, or Bhutan).

Mediterranean countries with a rich archaeological heritage such as Egypt, Italy, Greece and Turkey, many countries in the Arab world and in Central and South America suffer from extensive tomb robbing. Archaeological sites are prime targets for traffickers; the risk of capture is relatively small and objects which have not yet been inventoried are much more easily traded on the international market. The losses caused by such pillage are inestimable.

In both Latin America and Western Africa archaeological sites are looted and to delete evidence of the looting at times purposefully destroyed, thus suppressing for ever any possibility for archaeologists to study remains of ancient civilisations. In El Salvador, for example, looters dug some 5,000 pits in the historic Cara Sucia region, damaging or destroying some of the earliest known Mesoamerican pottery, burial sites, structural remains and other archaeological features dating back to 1500 B. C. Similarly, clandestine excavations in Mali led to loss of information about a flourishing urban civilization which existed over 1,000 years ago in the inland Niger Delta.

In Asia especially, parts of monumental sculpture are being cut off and stolen from temples and then smuggled abroad. Among other countries Thailand, Cambodia and Myanmar have been and are still struggling to prevent this from happening. In Cambodia this kind of practice was so rampant that it was possible for anyone visiting the sites of Angkor to see how unknown thieves were in the process of cutting loose reliefs etc.. Every week a new monument would be missing and the authorities were almost helpless to stop it.

Organized gangs plunder the castles and churches of Europe and subsequently offer the plunder for sale on the international art market. France and Italy has suffered particularly from this but many other countries are hit hard as well. The opening of borders between Eastern and Western Europe has brought with it voluminous trafficking in art objects, especially icons from Russia.

The problems of exporting countries - among them many poor developing countries - are frequently exacerbated by civil strife or war. Looting has always been a feature of wars and modern warfare

is no exception. During the recent wars in Afghanistan, Iraq and Kuwait, invaluable collections of the museums were thoroughly looted and many objects have gone missing.

Not only are objects of fine art or historical value threatened, indigenous crafts are also endangered. Collectors travel from one village to another persuading the village chiefs to sell their sacred relics and finest handicrafts. The sacred textiles from Coroma, Bolivia, of which some are dating from the pre-Columbian period, have been illegally converted for commercial purposes; and ceramics and terra-cotta pillaged from unresearched sites in the Niger River Valley in Mali represent, unfortunately, not even the tip of the iceberg of this flourishing trade.

The list of examples of licit and illicit trade in cultural property is as endless and varied as the trade itself, but for many countries the situation has in fact become desperate if they are to salvage and keep an adequate representation of their cultural past with themselves - that being in itself a prerogative for self-reliance.

### The International Market for Cultural Property

The international art market is clearly located in the industrialized countries of the world as indicated in the map on the following pages. All of the world's major auction houses are found in a handful of wealthy countries, and so are the world's major archaeological and ethnological museums.

The increase in prices for art and cultural property that has occurred in recent decades is quite dazzling. A look at the turnover figures for the world's two top auction houses, Sotheby's and Christies, tells the story. In the financial year 1979-80, Sotheby's had a turn-over of more than £ 241,800,000; in 1989-90 this had increased by more than 800 % to £ 1,96 billion. Similarly, Christies turnover jumped from £ 24,840,000 in 1979 to £ 167,773,000 in 1990. A breakdown of Christies' figures for 1990 shows that the majority of sales were recorded in the US, the UK and Switzerland.<sup>4</sup>

When a few numbers for the theft of cultural property is added to these figures, the scale of the problem is easy to recognize. In 1993, the Czech Republic claimed that thefts and illicit export of cultural property may amount to an annual loss of up to ten per cent of the cultural heritage. The thefts of religious objects are especially

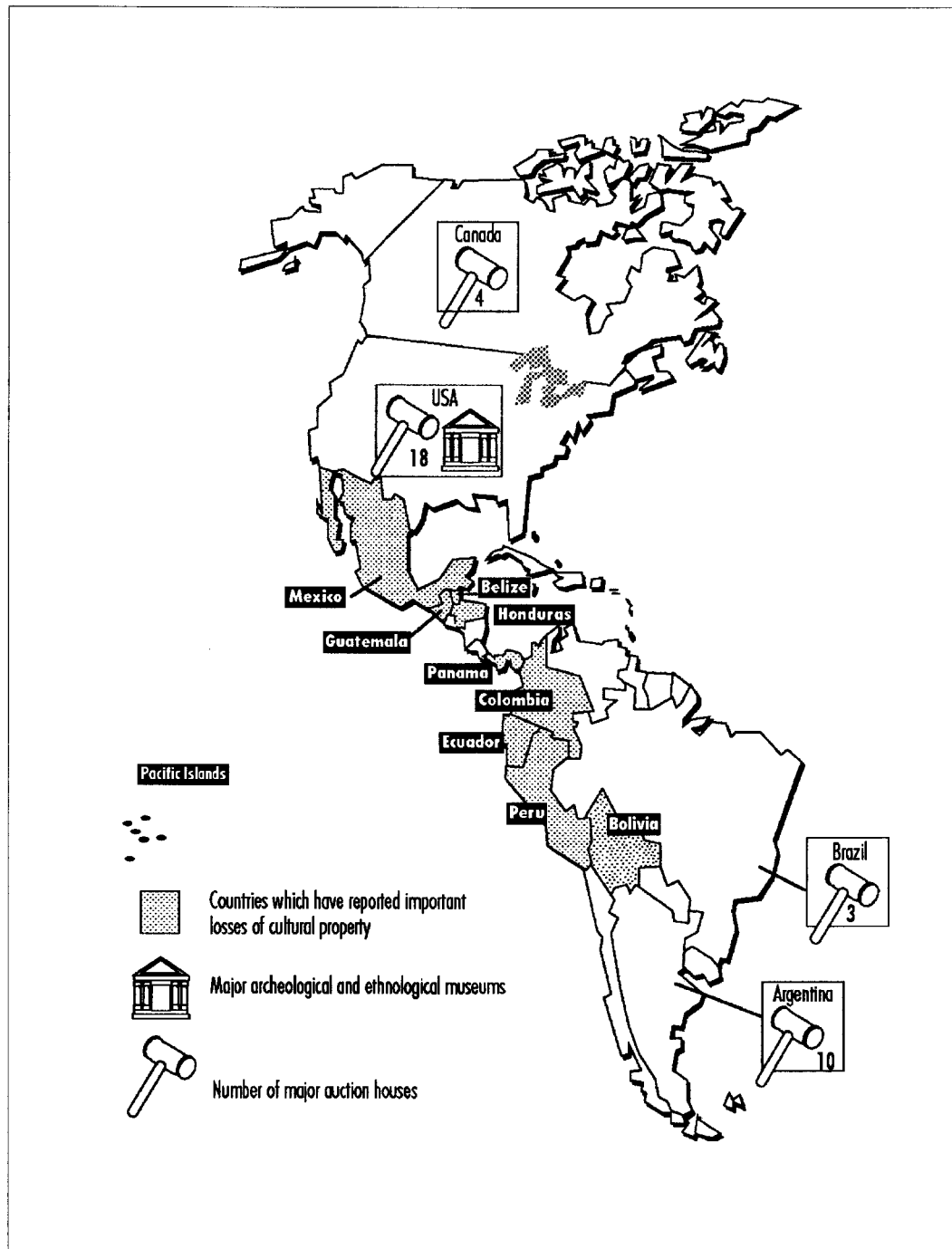
A UNESCO/ICOM study carried out in Bangladesh, Mali and Western Samoa showed that while the handicrafts from these countries were greatly appreciated in western countries, examples of these crafts could hardly be found in the countries themselves. Thus the study found that no good or even mediocre examples of lost or dying crafts such as muslin weaving and quilt embroidery were to be found in Bangladesh, and that while ethnological items from Mali are displayed in art galleries all over the United States and Europe, collections in Mali were minimal. In Samoa it was found that important manifestations of the Samoan culture such as royal bowls, double canoes and boats that would carry up to 300 people for sailing on the high seas, just as ceremonial armour of wood, shell or stone - all had completely vanished from Samoa which would not even have examples of these ritual objects to display in a national museum.

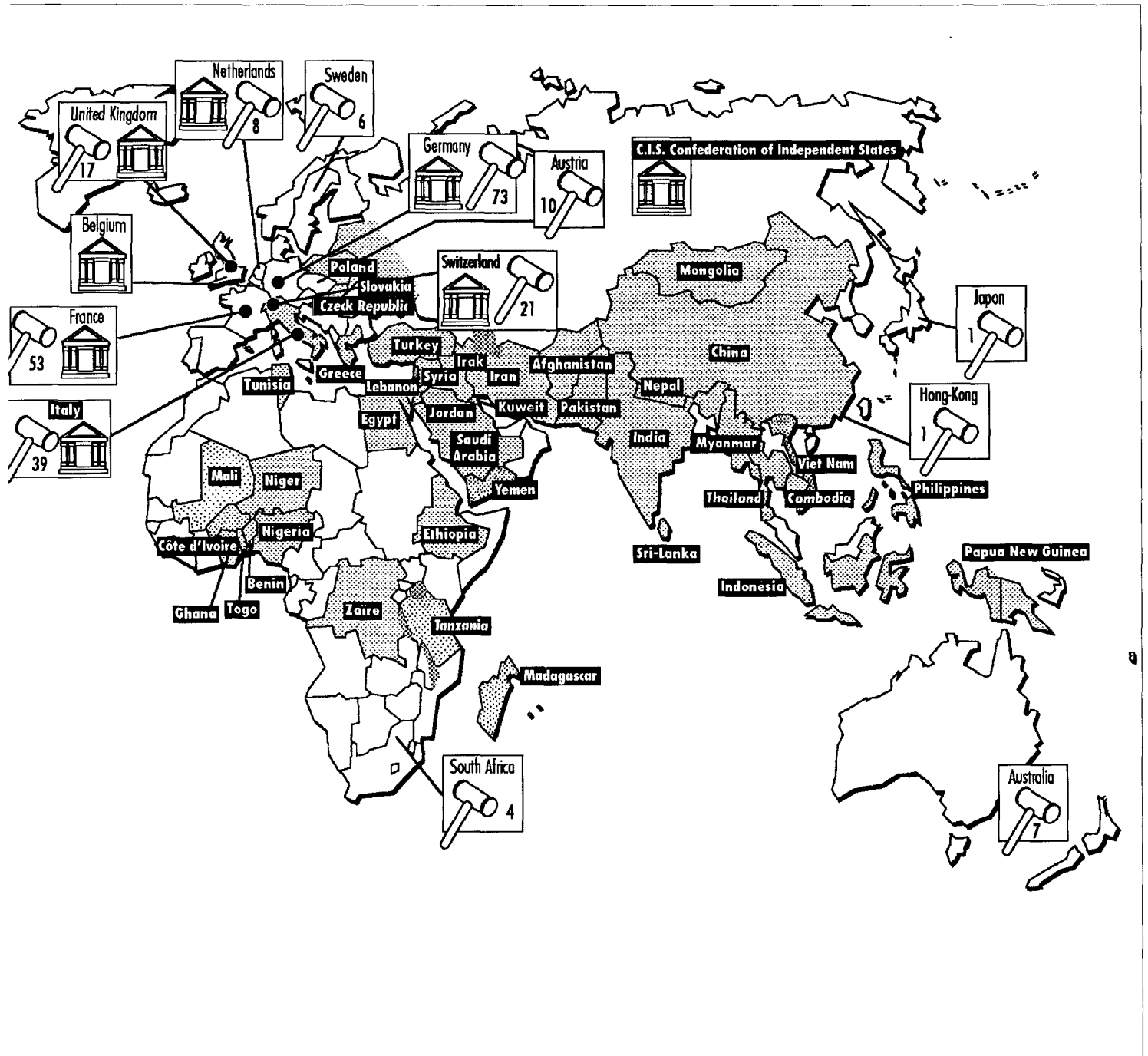
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<sup>4</sup> These figures are based on information processed by UNESCO, Division of Cultural Heritage.



# The international art market





alarming: during the first eleven months of 1993, 767 churches, 171 chapels, 11 parsonages, 222 monasteries, and 384 graveyards were robbed for about 2000 objects. In Italy 253,000 art thefts was recorded for the period 1970-90 and in United Kingdom alone the losses of insured fine art and antiques are estimated to somewhere on the order of \$600 million to \$750 million per annum with uninsured losses bringing the total to around \$1.5 billion.<sup>5</sup>

There is no doubt that thefts and clandestine excavations are encouraged by the high prices works of art and antiquities command in the international art market. The promise of such enormous and continually increasing returns can only provide greater incentive to traffickers to increase their activities, to take greater risks, taking advantage of the insufficient and inconsistent national and international legislation now governing sales, imports and exports of art and other cultural property. It has been estimated that illicit trafficking in cultural goods is worth more than a billion dollars a year. However, taking the exact measure of this still growing industry is extremely difficult. Because of the many 'vested interests' in items of cultural property it is reasonable to assume that neither the volume of the trade nor the money involved is publicly known. It is a sad and well-known fact that pieces are stolen and that they simply 'disappear' from view. We can only surmise that these pieces are for the time being kept in secret collections. It is also well known that the international art-market provides ample opportunities for money-laundering.

Museums are often reluctant to report thefts, for reasons ranging from fears that donors may stop donating money to them to fears that the insurance premiums on their collections will increase more than the museums can afford to pay. Clandestine excavations present one of the worst scenarios: while it may be easy to see that a tomb has been robbed, it is almost impossible to know what has been taken if there is no previous record of the contents.

However, in contrast to the uncertainty surrounding the volume of and contents of the trade, tracing the direction cultural property generally takes, and has taken in the past, be it by legal or illegal means, is less difficult. As illustrated in the map above, items of cultural property move in great quantity from developing countries to the international art market in the rich countries of the West which acts as a magnet to the flow of both licit and illicit trade.

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<sup>5</sup> For more information please refer to R. Thornes, *Protecting Cultural Objects Through International Documentation Standards. A Preliminary Survey*. The Getty Art History Information Program, USA 1995.

## CHAPTER TWO :

### The 1970 UNESCO CONVENTION

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#### The Use and Function of International Conventions

Most countries in the world have adopted laws to protect their cultural heritage. However, in many cases that legislation is not sufficiently sophisticated to deal effectively with the problem of illicit trafficking. Another problem is that a great number of the countries do not have resources to ensure adequate implementation of their laws when cultural objects are increasingly threatened by thefts and illegal exportation.

Countries which are the victims of excessive export should especially make sure that national legislation is adequate in terms of <sup>6</sup>:

- a definition of cultural property and the ownership of the national cultural heritage;
- the establishment of an inventory system;
- controlling clandestine archaeological excavations;
- controlling and regulating trade - among other means through the introduction of an export licensing system which is effective;
- sufficient manpower and resources to enforce the legislation, including adequate sanctions and penalties.

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<sup>6</sup> For detailed description of these legal measures see L. V. Pratt and P. J. O'Keefe *National Legal Control of Illicit Traffic in Cultural Property*. UNESCO 1983.

Many countries have adopted measures to reduce or even prohibit export of cultural property. However, in spite of such measures there is a more than lively trafficking of cultural property across international borders. Once the property has left its country of origin the options for recovery are rather limited. This is why the establishment of well functioning mechanisms for international co-operation is so essential an element in the prevention of illicit traffic in cultural property. Illicit traffic in cultural property is already a major problem and it is a field in which States must co-operate to bring about any change of the situation.

Since its creation, UNESCO has assisted Member States in the protection of their cultural heritage by:

- promoting exchange of information on the safeguarding of that heritage;
- providing assistance to specific conservation activities; and
- undertaking normative action.

The normative action of UNESCO consists in the preparation of international conventions - that is: international agreements that aim at reinforcing international solidarity and facilitate co-operation. International conventions oblige States that become signatories to them, to follow the agreement in their dealings with a specific subject matter.

The *raison d'être* for any UNESCO convention is to propose international standards or norms for a certain area which can work as a guide for national legislation and regulations. Such standards are not binding unless a country expressly has declared its wish to be so bound by on one hand, acceding to or ratifying the convention, and on the other, making the standard national law.

To assist member states in the protection of cultural heritage, UNESCO has developed and adopted three corresponding conventions:

1. The Convention for the Protection of Cultural Property in the Event of Armed Conflict - also called the HAGUE CONVENTION of 1954, and its PROTOCOL.
2. The 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property - often called the 1970 UNESCO CONVENTION (ON ILLICIT TRAFFIC).
3. The 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage - known as the WORLD HERITAGE CONVENTION.

In the context of this training handbook we are most interested in the second of these conventions. The 1970 UNESCO CONVENTION ON ILLICIT TRAFFIC is an international legal agreement containing rules and regulations pertaining to the status of and trade in cultural property. It contains and describes a number of measures which States are invited to adapt to their situation and implement to control export and curb illicit trafficking in cultural property.

When becoming parties to the 1970 UNESCO CONVENTION, the States are obliged to set up national services for the protection of cultural heritage with a qualified staff sufficient in number to carry out the various functions stipulated in the Convention. The measures described in the convention must be adopted by individual countries, and provisions and national legislation must be brought in line with the Convention. It is, however, the responsibility of each country to decide in full sovereignty which measures to adopt and to ensure that the measures adopted are, indeed, compatible with the country's internal legal system.

The Convention of course also deals directly with modalities for international co-operation to prevent illicit traffic in cultural property and with the obligations that countries that have become signatories to the Convention bear towards one another. Hence, each State whose cultural patrimony is in jeopardy from pillage of archaeological or ethnological materials can call upon other States party to the 1970 UNESCO CONVENTION that are affected, and these States undertake, in these circumstances, to participate in a concerted international effort to determine what would be the best action in a specific situation and to ensure that their competent services co-operate in facilitating the carrying out of such measures. A concrete example of such co-operation are the import restrictions imposed by the United States in accordance with its law adopted in 1983 to implement the 1970 UNESCO CONVENTION.<sup>7</sup>

The 1954 HAGUE CONVENTION FOR THE PROTECTION OF CULTURAL PROPERTY IN THE EVENT OF ARMED CONFLICT was been adopted together with a PROTOCOL concerning the return of cultural property illegally exported during an armed conflict (for the text, please see *Section 3: Reference Document 29*). Under this PROTOCOL, the export of cultural property from an occupied territory is prohibited. In case it would have been exported illegally, it must be returned to the territory where it came from. The Protocol also expressly forbids the appropriation of cultural property as war reparations. As of 15 June 1996, 75 States were parties to the PROTOCOL to the 1954 HAGUE CONVENTION. Among these, 24 are not parties to the 1970 UNESCO CONVENTION. This means that although they are not bound by the obligations of restitution under the conditions of the 1970 UNESCO CONVENTION, these countries may under the Protocol to the 1954 HAGUE CONVENTION have to return cultural objects that were exported in situations of occupation.

International conventions are especially used in connection with subject matters that almost by necessity stretch beyond the rules and legislation of one country. International co-operation is greatly facilitated if it can refer and confirm to a set common principles and formats. One could say that an international convention is an agreement to recommend the use of a certain standard format for legislation and interaction within a specific area. As such it often can function as a guide to national legislation in the subject matter.

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<sup>7</sup> For more information please refer to *Section 3: Reference Document 21*.

There is one other important convention in the area of illicit traffic in cultural property. In 1995, the UNIDROIT CONVENTION ON STOLEN OR ILLEGALLY EXPORTED CULTURAL OBJECTS was adopted (for the text, please see *Section 3: Reference Document 3*). The UNIDROIT CONVENTION presents an international framework to contest private sector transactions in stolen art and cultural property, that, among other things, allows claimants in countries that are party to the Convention to sue in the courts of other signatory countries for the return of stolen or illegally exported cultural property. Perhaps most significantly, the UNIDROIT CONVENTION unequivocally requires *all* objects shown to be stolen to be returned and limits the possibilities for compensation in the case of return to holders who have been diligent in searching the title. These measures alone force potential art buyers to seek accurate and full documentation on an object's past ownership and will make it much more difficult to claim good faith (*'bona fide'*) with regard to suspicious objects.

## How to implement the 1970 UNESCO CONVENTION

### Steps to be taken at National Level

International conventions stipulate a common set of rules and regulations as well as the principles which will govern the dealings between states in a certain area if these States have become parties to the Convention. To make the principles and rules stipulated in the Convention apply in a country it must ensure that these rules are made part of national legislation.

national legislation

Many countries which face serious problems with illicit traffic in cultural property do not have adequate legislation for the protection of their cultural heritage. The 1970 UNESCO CONVENTION invites, among other things, States to:

- draft and adopt appropriate national legislative texts;
- establish a national inventory system and a list of protected cultural property;
- promote and develop institutions such as museums, libraries and archives;
- establish protection services;
- monitor archaeological excavations and prevent illegal excavations;
- establish codes of ethics for curators, collectors, and antique dealers;
- adopt educational measures to stimulate and develop respect for cultural heritage;
- ensure appropriate publicity for the disappearance of items of cultural property;
- institute an export certificate which should accompany all items of cultural property exported; prohibit export without the certificate and publicize that prohibition - particularly among persons who are likely to export and import cultural property.

To be effective, all of the above needs to be considered within an appropriate legislative framework.



National legislation needs to be tailored for the jurisdiction concerned because the nature of the goods being trafficked varies, geographical constraints vary, and legislation and enforcement procedures differ from one country to another. What kind of export control system that will be most appropriate depends on the conditions in the individual country: the efficiency of border controls, the number of tourists and other travellers visiting the country, the number and variety of cultural objects being exported legally and illegally. Any unintended effects that measures adopted to curb illicit trafficking in cultural property might have on other export articles must also be considered.

Over the last years UNESCO has provided technical assistance to several countries in drafting national legislation including: Cambodia, Eritrea, Gabon, Laos, Maldives, Morocco, Namibia, Nepal, Niger, Romania, Russia, and South Africa.

States Party to the 1970 UNESCO CONVENTION are encouraged as necessary to seek the advice of UNESCO in drafting adequate national legislation. UNESCO has also published a series of booklets on the laws pertaining to cultural heritage protection in a number of countries. This series of law texts provide useful examples for heritage legislation.<sup>8</sup>

enforcement and national  
institutional capacity  
building

In order to apply legislative measures it is of course important to ensure that the variety of trained professionals needed to secure, maintain and research cultural property are employed to do so. Consistent and comprehensive policy development and planning is necessary to ensure that this can happen.

Further, States should survey their administrative practices and guidelines to ensure that proper motivation and priorities are established at all levels and in all sections of the administration. To enhance the protection of cultural heritage, national institutions dealing with all aspects of heritage management, protection, and development, should have their functions spelled out and their co-operation with other institutions explicitly prescribed. This can for example be done in training workshops.

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8 In 1984, UNESCO published two volumes entitled *The Protection of Moveable Cultural Property - Compendium of Legislative Texts* with extracts from the legislation governing the protection of moveable cultural property in force in 45 Member States. In addition, the publication of national laws and regulations in this field is being pursued in the form of a series of booklets each presenting the full text(s) of the legislation in force in one Member State. A list of the booklets which have already been published is attached in Section 3: Reference Document no. 25.

Customs control has traditionally been seen as the most important point of detection and enforcement of laws to prohibit illicit trafficking in cultural property. A serious problem in this regard is the fact that prevention of illicit trafficking of cultural property in many countries is given low priority by custom authorities that are pre-occupied with the detection of what is generally considered more serious crime, such as drug-trafficking, illegal immigration, and currency smuggling. Special training programmes are needed to raise awareness of the seriousness of the problem of illicit traffic in cultural property among police and custom officers.

To be able to prevent illicit traffic in cultural property police and customs officers must possess considerable knowledge so that they can in fact recognize protected objects. Training should be instituted whereby archaeologists and museum curators can pass detailed information to officers who are likely to come in contact with the problem. Some countries such as China have instituted such training for their officials who are then capable of distinguishing between objects which may be exported and those which may not.

Another possibility is to strengthen the co-operation between customs and cultural authorities e. g. by having an archaeologist or an art historian stationed at the customs.

Long-term planning - for instance in the form of a five year plan of action - is a very useful means of ensuring the development of national institutional capacity to protect cultural property.

Development of institutional capacity - especially in terms of human resource development - lends itself particularly well to external project support. A number of internationally recognized institutions have co-operated in such programmes.

Based on national legislation and policies for the protection of cultural property, the Ministry in charge of Culture should prepare a long-term plan of action complete with budgetary requirements. On the basis of this plan, sufficient funding must be identified.

resources and funding

Limited resources - of funds for salaries, policing, security equipment, training activities, acquisitions, etc. and of professionally trained personnel employed to secure, maintain and research cultural property - is of course a very real problem in many countries where many more pressing needs compete with protection of cultural property for scarce resources. It is important to stress that protection of cultural property is not a luxury but an element in preserving national identity and ensuring long-term social progress.

Long-term success in this area depend equally on national policies and planning for the area and the sufficient allocation of resources to enforce the policies. Without planning there can be no budgeting and without budgeting no funding. On the other hand, planning is also a pre-condition for optimizing scarce resources. Likewise, established policies and the elaboration of for instance a five-year plan is a strong argument for external funding.

A deficiency of trained staff employed to work for the protection of cultural property is essentially a question of whether or not adequate resources are identified and allocated for the purpose.

The lack of resources to combat illicit trafficking in cultural property also include inadequate legal protection, and the means necessary to enforce existing laws. The deficiencies most often encountered in national heritage legislation are:

- a lack of precision in the terminology used to define cultural property;
- counter-productive leniency in the stipulated penalties for breach of regulations/laws regarding illicit trafficking in cultural heritage;
- inconsistency in laws and regulations and, not least, in enforcement;
- the absence of comprehensive rules and regulations for the implementation of these laws - that is the absence of an institutional framework.

The General Conference of UNESCO regularly invites its Member States to report on the application of the UNESCO Conventions. Hence the Member States has several times reported on the application of the 1970 UNESCO CONVENTION. The reports are published by UNESCO . For more information and for the latest issues contact UNESCO.

Whether funds will be made available to change the situation is very much a matter of awareness among politicians and the general public of the importance of cultural property and of the severity of illicit trafficking, and thus ultimately a question of the kind of priority given to the protection of cultural heritage.

Well defined legislation and the development of long-term plans should be important measures to better attract the attention from national and international decision-makers. International co-operation will also help to raise the profile of the problem.

Article 5 of the 1970 UNESCO CONVENTION requires that each State that has become Party to the Convention: .. *set up within their territories one or more national services .. for the protection of cultural heritage, with a qualified staff sufficient in number for the effective carrying out of the following functions:*

...  
*b) establishing and keeping up to date, on the basis of a national inventory of protected property, a list of important public and private cultural property whose export would constitute an appreciable impoverishment of the national heritage.*

An inventory consists of the basic collections management information about each object in a collection, including the details that are essential for accountability and security. Inventory cards give information on the name of the objects, where it is placed, place of origin, inventory number(s), a description of the object, a brief history, what it is made of and the dimensions, plus references to more information about the object.

While national inventories aim at listing *all* property considered, lists are much less exhaustive. In Article 5 (quoted above) of the 1970 UNESCO CONVENTION, the existence of a national inventory of protected property is implicitly assumed as the basis for a list of important cultural property.

However, some countries have no inventories at all or only a very limited national inventory. If this is the case, one way of meeting the requirement for a list of important public and private cultural property, would be to use the records of existing public, semi-public and private collections as the basis for such an inventory. Other objects could then be added to this list.

The importance and usefulness of establishing extensive and detailed documentation of objects which are considered cultural property can, however, not be over-emphasized. The existence of such documentation is closely linked with the definition and successful protection of cultural property in a country.

Many countries have definitions of cultural property that do not adequately cover all the cases where export should be controlled. Much early legislation on the cultural heritage was concerned with 'antiquities' and countries whose legislation is based on some of the earliest laws in this field continue to concentrate on this aspect.

inventories and other lists  
of cultural property

Many different organizations working in the field of cultural property need documentation on cultural property in their work: museums and galleries, documentation centres (organizations which document cultural objects but do not own or have curatorial responsibility for those objects), law-enforcement agencies and customs agencies, insurance companies, and of course the art trade. Their focus and need for particular information vary but all of them need the information that enable objects to be identified.

three methods for making a list of important property

There are three schools of thought concerning the definition of cultural property. While some countries operate with a system which is a combination of the three, most national inventories or lists of important protected property generally conform to one of the three basic methods of defining cultural property. As far as export control is concerned, advantages and disadvantages attach to all three methods of definition.

The categorization method uses a very general description to establish what is protected: “.. all moveable property which has an interest because of pre-history, history, philosophy, art and archaeology which exists on or in the soil of the property of the public and private domain of the State, of territorial units or of public institutions”.

While the categorization method make use of general descriptions (as the one quoted above) covering a broader class of items to establish what is and is not included,

the enumeration method describes each kind of item included and protected. For example: “.. *any statue, carving, religious mask, music instrument, pottery, ..(and the list can be very long) which were made before a given date (1945, for instance)*”.<sup>9</sup> The enumeration system is widely used in English language legislation.<sup>10</sup>

With the classification method, descriptions are even more specific: an object is protected only when an administrative decision is taken by a person designated to do so to protect a specific object. Once such a decision is taken, a whole range of protections (including export prohibition) is attached to the item concerned.

Classification of cultural property is used as a basis for cultural protection legislation inspired by French legislation.

Establishing and maintaining a list of important public and private cultural property cause little difficulty to those States whose cultural heritage protection law is already based on a classification system but it may be difficult for countries which do not have such a system in place.

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<sup>9</sup> UNESCO recommends the use of a ‘moving date system’. Indeed, the criterion based on preserving all objects before a certain date should be abandoned and replaced by one whereby protection is extended to all objects belonging to a given period or of a minimum age fixed by law. For more information please refer to the *1956 UNESCO Recommendation On International Principles Applicable To Archaeological Excavations* (Article 3) - reprinted in *Section 3: Reference Document 4*.

<sup>10</sup> For more details and for examples please refer to L. V. Prott and P. J. O’Keefe, *National Legal Control of Illicit Traffic in Cultural Property* (page 6ff). UNESCO 1983.

In the event of theft, inventories can be used to provide descriptions and evidence of ownership of particular objects and they can be used to maintain information about the status of the stolen objects. But there are other important arguments for keeping inventories and documenting cultural property: inventories can be used to maintain information on production, collection, ownership, and the use of specific objects. At the same time, it is a means to ensure accountability for objects in terms of ownership, identification, and a record of their location. Most important of all is perhaps the argument that the availability of good documentation ensures that knowledge about objects extends beyond the objects themselves. As such it provides a foundation for the use of a collection by curators, researchers, and the public.

To promote the extent of co-operation which is needed to curb the illicit trade in cultural property, there has been much work done to establish an international documentation standard (in terms of format and terminology) as well as the networks that would make exchange of core information and enable identification of cultural property, feasible.

At present, no model has been accepted as an international documentation standard for inventory cards or entries but with growing international co-operation and the spread of international databases the need for such standards have become evident and much work has gone into discussing such information standards.

CIDOC (the ICOM International Committee for Documentation of the International Council of Museums) is the international focus for the documentation interests of museums and similar organizations. In June 1995, they published a proposal for such a minimum information standard: *International Guidelines for Museum Object Information: The CIDOC Information Categories*.

In September 1996, ICOM published a *Handbook of Standards - Documenting African Collections* which is based on these guidelines. It is the result of a four-year cooperative effort involving professionals from six African museums and CIDOC members. The publication aims at encouraging African museums to update their inventories but it should also serve as a model for the preparation of similar handbooks in other regions of the world. The introduction to the *Handbook of Standards* contains a list of different fields which are recommended for the inventories of African collections.

"Core information may be defined as those categories of essential information (textual and pictorial) common to a broad array of documentation projects which make it easier to record, use, and exchange information. It has been described as an enabling mechanism that represents a way of indexing, ordering and classifying information, independently of whether that information is on paper, card index, or database. Agreement on core information in no way limits the further information an individual organization's database may hold: It is not something which is seeking to make organizations conform to systems which are incompatible with their own needs. Examples of core information used in the documentation of cultural objects might include a unique identification number, the materials the object consists of, the date of its creation, its measurements, the subject depicted, and the name of the artist who created it. The choice of information categories is less difficult than the securing of broad agreements as to their clear definition and use."<sup>11</sup>

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<sup>11</sup> Quoted from: R. Thornes, *Protecting Cultural Objects Through International Documentation Standards. A Preliminary Survey* (p.15f). The Getty Art History Information Program, USA 1995.

(The text of the introduction to the *Handbook of Standards* is reproduced in *Section 3: Reference Document 19*; for more information please contact ICOM Secretariat - the address is listed in *Appendix 1*).

INTERPOL has also developed standardized forms for documentation of stolen objects; these forms are known as the CRIGEN ART FORMS and they are primarily designed to assist police officers with only limited knowledge of works of art to describe stolen cultural property (for more information on these forms please refer to *Section 3: Reference Document 20*).

The attempts to reach consensus on an information standard and at the same time facilitate the necessary exchange of information continues, among other under the auspices of the *International Core Documentation Standards for the Protection of Cultural Object Project* which has the support from such diverse organizations as the Council of Europe, the Getty Information Institute, the International Council of Museums (ICOM), UNESCO, and others. As a result of this common effort a list of categories has been drawn up (please see *Section 3: Reference Document 21*).

The establishment of inventories are resource demanding and may be difficult to achieve in countries with limited resources but external assistance may be sought for this for instance through UNESCO or ICOM. In *Section 2* training activities related to inventories are described in more detail.

some examples of  
the use of inventories

The establishment of detailed inventories (preferably including photographic documentation) has great bearing on many aspects of the protection of cultural heritage. Inventories are invaluable because they enhance awareness of cultural property and form a basis for further research, but the most immediate purpose is perhaps the effect inventories have in regard to theft and illicit exportation.

It is very difficult to obtain a precise idea of the number of thefts of cultural property which occur throughout the world, and it is highly unlikely that accurate statistics will be available in the future. Considering the volume of trade in the international art market, the number of offences which are being internationally notified is, however, absurdly low and this, among other, testifies to lacking inventories.

To take some examples: INTERPOL, which in effect functions as a clearinghouse for information using a network of reciprocal links

among its 176 members countries, publishes some 3000 notices a year (each containing on average five items) on cultural objects which have been reported to member police forces as stolen or as property found in suspicious circumstances. However, from the first of January 1992 to October 1994, INTERPOL was only able to open 18 files on theft of cultural property committed in African countries. For these only 12 could be circulated in international notices as sufficient inventory information (descriptions of the property, photographs or drawings) did not exist for the rest of the cases (about 30 %) and it was therefore not possible to prepare the descriptions required for a notice.

In 1993, INTERPOL requested its member states to provide statistics for the number of arts thefts committed, the types of objects stolen, and the places where the thefts occurred. The request was addressed to 174 member states of INTERPOL but only 35 replies were received; among the replies were six from countries which regretted to report that statistics were not available.

The numbers quoted above are indicative of the enormous need for wider awareness of this problem and for regular training programmes for the people who are assigned to deal with it. 18 files is in any case an extremely low number of notices in view of the actual number of thefts committed in Africa. More than anything else it reflects the prevailing feeling of helplessness vis-a-vis the problem of illicit traffic in cultural property. With the establishment of international legal instruments as the 1970 UNESCO CONVENTION and strengthened international co-operation there is, however, reason to believe that this feeling can change.

It is of course very difficult to protect all valuable cultural objects from risk of theft. Objects in private collections may not be fully catalogued, recorded or photographed, and unless the country requires private collections to be registered, as some countries do, the State may not even be aware of the existence of many objects.

If museums and similar institutions have well-documented inventories of their holdings this will greatly improve their chances of publicizing thefts, identifying stolen property, and proving their ownership - all of which is essential in seeking international assistance in the return of stolen goods. It will also greatly assist in export control. The lack of such descriptions has, unfortunately, proven a serious obstacle to the return or restitution of stolen objects.

The most serious problem of all concerns objects in the hands of religious institutions. Many churches and temples have virtually no

Detailed documentation in term of inventories and photographs is essential for recovery of stolen or illegally exported cultural objects circulating in the international market. Without sufficient documentation to clearly identify objects it is almost impossible to restore stolen cultural property.



security and at times only little idea of the value of the cultural treasures they harbour. It is probably due to such ignorance that thieves at times have been able to get away with replacing valuable objects with fake replicas thus preventing immediate discovery of the thefts. To prevent such incidents Belgium has undertaken an emergency photographic inventory of all the moveable objects in all the churches of the country but this is, unfortunately, not yet happening as a general rule.

#### security at museums and cultural sites

Ensuring protection by strengthening security measures in museums, around monuments and around excavation sites is of course important. Training is also essential in this regard.

Pieces kept in museums are normally catalogued and the risk in this case is mainly one of security. Small provincial museums are particularly at risk but even the largest metropolitan museums have suffered daring thefts. Without precise and detailed inventories protection of objects of cultural heritage becomes a much more difficult undertaking. The establishment and subsequent updating of a national inventory must therefore be a priority in any successful programme for the protection of cultural property. Establishing a national inventory is, nevertheless, a time-consuming and resource demanding task which requires the involvement of highly qualified personnel.

While some museums have functional inventory systems which serve to identify, catalogue and describe objects of national heritage, many museums have incomplete catalogues. Collection files help to positively identify museum objects and can be used as proof that an object indeed belongs to a collection.

As far as private collectors are concerned, Scotland Yard now has a Special Art Squad to advise private collectors on security measures.

National States need to observe the provisions of the 1968 UNESCO RECOMMENDATION FOR THE PROTECTION OF MOVEABLE PROPERTY<sup>12</sup> and the technical standards recommended by national and international organizations such as those recommended by ICOM<sup>13</sup>. Despite the increasing sophistication of security

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<sup>12</sup> See Section 3: Reference Document 6.

<sup>13</sup> *International Committee on Museum Security: Museum Security Survey*. Based on a document by G. H. H. Schröder edited by D. Menkes and translated by M. de Moltke. Paris, ICOM, 1981 (116 p.); *A Manual of Basic Museum Security*, edited by Burke, Robert B. and Sam Adeloyle, Leicester: ICMS, Leicester Museums, 1986 (125 pp. ill.).

equipment, collections will still be at risk because museums cannot afford electronic monitoring systems, or because such systems interfere with legitimate activities and are therefore switched off at certain times. Religious institutions especially may need assistance in the recording and protection of art treasures. A special problem here is that some objects are items of veneration which need to be accessible to the worshippers. One risk factor can, however, be minimized by heightening the motivation or alertness of the curatorial staff.

ICOM has established an International Committee for Museum Security which offer assistance to museum professionals.

Article 10 requires States parties to the 1970 UNESCO CONVENTION to undertake:

education and awareness  
building

*Article 10 ..*

- a) to restrict by education, information and vigilance, movement of cultural property illegally removed from any State party to this Convention ..*
- b) to endeavour by educational means to create and develop in the public mind a realization of the value of cultural property and the threat to the cultural heritage created by theft, clandestine excavations and illicit exports.*

Educational and public information campaigns to promote a sense of appreciation of cultural property among the general public include such different measures as exhibitions and development of museums; distribution of posters and brochures; support to research and publications related to cultural heritage; training of police and customs officers; use of mass media; and development of curriculum materials for use in schools (please refer also to *Section 2* of this handbook).

Generally, there has, since 1970, been more debate and a higher level of awareness of the seriousness of the problem of illicit trafficking in cultural property, especially in importing countries. But while most of the importing countries have school visits to museums included in their educational activities, the problem of illicit trafficking in cultural property is not given sufficient emphasis. Some exporting countries have, however, taken this educational task upon themselves and are distributing brochures and leaflets to tourists

explaining, among other, the destruction caused by “souveniring” and collecting illegally exported goods.

The building of awareness and changing of attitudes may seem a slow procedure but it is ultimately perhaps the most important means to protect a nation’s cultural heritage against illicit traffic in cultural property.

#### control and regulation of trade and export

Articles 6 and 10 require States parties to the 1970 UNESCO CONVENTION to undertake:

##### *Article 6 ..*

- a) *to introduce an appropriate certificate in which the exporting State would specify that the export of the cultural property in question is authorized. The certificate should accompany all items of cultural property exported in accordance with the regulations;*
- b) *to prohibit the exportation of cultural property from their territory unless accompanied by the above-mentioned certificate;*
- c) *to publicize this prohibition by appropriate means among persons likely to export or import cultural property.*

##### *Article 10 ..*

- a) *to restrict by education, information and vigilance, movement of cultural property illegally removed from any State party to this Convention and as appropriate for each country, oblige antique dealers, subject to penal or administrative sanctions, to maintain a register recording the origin of each item of cultural property, name and addresses of the supplier, description and price of each item sold and to inform the purchaser of the cultural property of the export prohibition to which such property may be subject;*

When a State has decided what cultural property is subject to export control, the kind of control mechanisms to be installed must be decided. Different forms of control are in use in different countries. Some countries simply prohibit export of protected items while other countries make use of export licensing.

Export licenses are normally obtained through the submission of an application by the person who intends to export an object. While export licenses allow the authorities opportunity to pre-empt export of a given object or to raise revenue, it also provides the State with some knowledge of where the objects are being sent. Exporting an object to a respected professional institution for educational use or for public display may be regarded differently from its acquisition by a private collector or a dealer for resale. The description given in the application of the way in which the objects have come into the holder's possession gives a clue to the trustworthiness of the intending exporter and a picture of the sources in the country which are offering cultural property for sale. Finally, clear identification of the object sought to be exported through descriptive details allows a record to be made which may be useful if the object is lost after it leaves the country of origin.

Dealers in the countries which are part of the international art market<sup>14</sup> may be the receivers of illicitly exported goods. At present there is no requirement in these States for a dealer to see a valid export certificate of goods - not even when it is obvious that an object is of foreign origin and recent arrival. As already mentioned, very few of the countries in which the major international art dealers operate have ratified the 1970 UNESCO CONVENTION.

A system of registration or licensing of art dealers as recommended in Article 10 of the Convention (quoted above) would enable some control of their activities. The power of dealer groups to frustrate legislative efforts to control their trade are, unfortunately, considerable and their lobbying have so far been able to prevent moves for stricter control with their activity.

In many countries various professional groups are subject to registration, self-regulation or Government supervision but dealers are not required to guarantee provenance.

Although dealer groups lobby hard to prevent legislative control of their activity, the UNIDROIT CONVENTION represents an important step in the right direction. The Convention forces the dealers to follow the appropriate legal and ethical standards in researching the origin of cultural objects so that they can assure collectors buying such objects of the legitimacy of the purchase.

Some countries do, however, require registration of art dealers and certain organizations though they may not be parties to the Convention. Hence France has long had legislation requiring registration and the keeping of purchase records by traders in moveable objects, and legislation which requires dealers to make enquiries as to the provenance and to provenance title. In France every art dealer is required to maintain a register in which is kept a daily record of every transaction, in order of occurrence, together with details of the person who sold to the dealer. The dealer also records a description of the goods purchased and the price paid. There are strict formal requirements as to the keeping of the register (the register must be written in ink and there must be no erasures, prices must be written in words not in figures) and the register is subject to inspection at any time.

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<sup>14</sup> Most European countries, Argentina, Australia, Canada, Hong Kong, Japan, Singapore, South Africa, and the United States are generally regarded as the major importing States. Some of these countries are, however, also exporting and transit States.

## sanctions and penalties

Whether trade is prohibited or regulated, it is impossible fully to prevent the illegal alienation of cultural property. Even where the law is rigorous and real efforts are made to enforce it, there will be evasions of the law as long as prices in the international art market remain as high as they are. The volume of cultural property makes complete control unattainable in many countries.

### *Article 8*

*The States Parties to this Convention undertake to impose penalties or administrative sanctions on any person responsible for infringing the prohibitions referred to under articles 6 (b) and 7 (b) above.*

The imposition of penalties and sanctions is a requirement of the 1970 UNESCO CONVENTION and the installation of commensurate sanctions and penalties poses a discouragement to enter into illicit trade in cultural property. However, a common complaint of cultural authorities is that the sanctions and penalties stipulated by the legislation in force are much too lenient to have any preventive effect. The legislation needs to balance the degree of punishment with a community education programme and with sufficient resources to enforce the laws.<sup>15</sup>

States must publicize the export restrictions in force, particularly to tourists, for instance through posters in airports, museums and archaeological sites, and by including such information as a matter of routine in all kinds of tourist brochures. It is particularly important that government tourist agencies be required to provide knowledge of prohibitions of "souveniring", damaging and exporting cultural property.

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<sup>15</sup> For details on different kinds of penalties see L. V. Prott and P. J. O'Keefe, *National Legal Control of Illicit Traffic in Cultural Property*. UNESCO 1983.

Publicizing the contents of collections and new acquisitions has a preventive effect because it makes it more difficult for thieves to trade stolen objects.

publicity on acquisitions  
and stolen objects

While some jurisdictions have made specific provisions for the notification of theft or loss of cultural objects, some museum professionals are opposed to media coverage of theft arguing that such publicity leads to more thefts and alienates donors: they feel that publicity should be restricted to professional journals. The same kind of argument could be made about publicizing many other kinds of crime.

If stolen property is to be recovered publicizing theft is, however, imperative. It is difficult for cultural authorities to be alert for objects they do not even know are missing. Publicizing a theft may also have important implications for the success of litigation in a foreign jurisdiction when a country of origin of a stolen object is seeking the return of that object. For many jurisdictions<sup>16</sup> a good faith purchaser for value may be protected. In such a jurisdiction, a possessor who has purchased an object in good faith (a 'bona fide' purchaser) not knowing that the object was stolen, is entitled to receive financial compensation if a judge decides that the object is to be returned to the country of origin. If the theft has been widely publicized, it will be easier to argue that the purchaser was not in good faith.

Apart from normal media use, theft or disappearance should be publicized widely internationally through various means, notably the ICOM bulletin *ICOM News*, IFAR (the International Foundation for Art Research, based in the States and associated with the Art Loss Register in the U.K.), UNESCO and, most important, by ICPO-INTERPOL (the International Criminal Police Organization).

Finally, a very important provision in the 1970 UNESCO CONVENTION requires State Parties to prevent museums and similar institutions from acquiring illegally exported cultural property originating from another State Party. It also requires signatory States to prohibit the import of cultural property stolen from a museum or a religious or secular public monument or from a similar institution in another State Party (provided that such property is in the inventory of that institution) and to take steps, at the request of the

import regulation

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<sup>16</sup> This is very often the case in countries where the legal system is inspired by Roman or French law.

State of origin, to recover and return any such property imported (Article 7).

In other words: the provision requests States Parties to the 1970 UNESCO CONVENTION to take measures for the return of cultural property to the country of origin - even if it is in possession of someone who acquired it legally. There is no time limit to the obligation but if the purchase was in good faith (that is if the purchaser was unaware that the object was stolen) compensation must be paid to the purchaser. States who do not require holders of stolen property to be compensated may make a reservation to this provision, as the United States has done.

The technical difficulties and very onerous costs involved in operating systematic customs control, as well as the sheer volume of international trade and personal travel, makes reliance on customs control to prevent illicit trafficking in cultural property impracticable. It is also improbable as many importing countries are committed to policies of facilitating international communication and trade with a minimum of State interference. To deal with this problem while still becoming a party to the 1970 UNESCO CONVENTION, Canada planned its implementing legislation not to rely on border control:

*It is not intended .. to set up elaborate check on imports at Ports of Entry to enforce this law. First, it is up to the importer to know whether or not the cultural property being imported has legally left its country of origin. .. Second, the Act provides only for action to be taken when a reciprocating State requests in writing the recovery and return of cultural property illegally imported into Canada.<sup>17</sup>*

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<sup>17</sup> From: *An Introduction to the Cultural Property Export and Import Act*. Published by the Secretary of State, Ottawa, Canada, 1977.

## How to implement the 1970 UNESCO CONVENTION

### Steps to be taken at the International Level

National Governments must ensure provision for full co-operation between public administrations and other institutions for the control of illicit trafficking, in particular through:

- bi-lateral co-operation;
- multi-lateral co-operation, especially through the application of international agreements such as the 1970 UNESCO CONVENTION and the UNIDROIT CONVENTION on Stolen and Illegally Exported Cultural Property;
- requests to customs, police and cultural authorities for action even where international conventions may not apply;
- co-operation between national police and INTERPOL<sup>18</sup>;
- co-operation with non-governmental organizations such as ICOM and IFAR;
- co-operation with private institutions.

In the following we briefly describe the legal means and the organizations that play an important role in the implementation of the 1970 UNESCO CONVENTION at international level. Many of these presentations refer to documents which are reprinted in *Section 3: Reference Documents* of this handbook.

THE CONVENTION ON THE MEANS OF PROHIBITING AND PREVENTING THE ILLICIT IMPORT, EXPORT AND TRANSFER OF OWNERSHIP OF CULTURAL PROPERTY was adopted by UNESCO in 1970 after several decades of study, debate and negotiation. The full title of the agreement is a long but precise description of the subject of this Convention.

the 1970 UNESCO  
Convention on Illicit Traffic

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<sup>18</sup> INTERPOL, THE INTERNATIONAL CRIMINAL POLICE ORGANIZATION, an inter-governmental organization based in Lyons, France. See also *Section 3: Reference Document 27*.



The agreement aims at protecting cultural property at its source by controlling export, and at the receiving end by controlling import. Thus, in countries which are parties to the Convention, it requires anyone wanting to export an object that falls within the scope of the Convention to obtain an export certificate authorizing its export. The Convention covers museum pieces and private collections as well as 'undiscovered' cultural property such as objects from archaeological sites.

Each State Party to the Convention agrees to act to prevent its museums and similar institutions from acquiring illegally exported objects. It is also obliged to take steps to recover and return objects that have been reported stolen from museums, public monuments or similar institutions in their State of origin.

#### codes of conduct

The main impact of the 1970 UNESCO CONVENTION is undoubtedly the change in attitudes it has brought with it both in countries which are parties to the Convention and in countries which are not. By adopting this instrument, the community exerts moral pressure on those concerned with the protection of cultural heritage and especially on those dealing in cultural objects. Those responsible for protection are encouraged to take adequate measures to ensure proper protection in collaboration with the different services concerned (museums, police, customs) while those acquiring cultural property (museums, collectors, dealers) are now more aware of what is considered by the international community to be right and wrong. The impact is reflected in the fact that many museums in the industrialized countries have developed and adopted codes of ethics on the acquisition of cultural property - often based on the *Code of Professional Ethics* adopted in 1986 by the International Council of Museums (ICOM). The text has been widely publicized and is translated into at least 21 languages (for the text refer to *Section 3: Reference Document 9*).

The ICOM code urges museums to acknowledge the relationship between the marketplace and the initial and often destructive taking of an object for the commercial market, and recognize that it is highly unethical for a museum to support that illicit market in any way. The code lays down a set of regulations governing museums and museum professionals in general, and the acquisition and transfer of collections in particular. It also recommends that direct acquisition should be preferred and advocate that, if a museum feels obliged to make an acquisition through one or more intermediaries, it should always be done in observance of the laws and interests of the country of origin.

Appropriate statements of policy conforming to these standards have been adopted by major museums in Australia, New Zealand, United Kingdom and United States.<sup>19</sup> Several professional associations and institutions have adopted codes of ethics which are identical or based on ICOM's Code.

The 1970 UNESCO CONVENTION has been criticized on the grounds that some of its legal provisions are not sufficiently specific. Thus, the Convention raised but did not solve, a number of important issues such as the impact of the convention on existing rules of national law concerning the protection of the bona fide purchaser (see page 33), or the lack of specific provisions in terms of the general obligation contained in the Convention to respect the laws of export control of other countries. It was also felt that the scope of the application of the Convention (e.g. the precise relationship of Article One to the rest of the articles of the Convention) was not sufficiently clear, and that a broad interpretation would create an unmanageable interference with the legal trade in cultural property. In 1984, UNESCO therefore asked the UNIDROIT to work on the rules applicable to illicit trafficking in cultural objects to complement the 1970 UNESCO CONVENTION.

More than ten years later UNIDROIT was finally able to present a finalized text which was adopted on 24 June 1995 by delegates from 70 nations at a diplomatic conference convened by the Italian Government.

The UNIDROIT CONVENTION ON STOLEN OR ILLEGALLY EXPORTED CULTURAL OBJECTS - hereafter called the UNIDROIT CONVENTION - is designed to fundamentally alter market forces governing private transactions in art. It does so by confronting two salient issues in the contemporary art trade that effectively prevent rightful owners from locating and retrieving stolen property.

The first of these issues is the legal constraints that impede identifying the current location and possessor of stolen property. Under most existing national laws, art dealers need not reveal the ownership history of an object for sale. Cultural and art objects are the only tradable commodities of significant value not subject to such documentation, as is required each time real estate,

## UNIDROIT Convention on Stolen and Illegally Exported Cultural Objects

UNIDROIT - the International Institute for the Unification of Private Law - is an inter-governmental organization with 57 member States based in Rome. The UNIDROIT CONVENTION on Stolen and Illegally Exported Cultural Objects was developed to deal with some of the legal issues that are not sufficiently covered in the 1970 UNESCO CONVENTION. The two conventions are complementary. While the 1970 UNESCO CONVENTION operates at an inter-governmental level the UNIDROIT CONVENTION provides an international framework to enable claims for illicitly trafficked cultural property to be pursued within national legal systems. The text of the UNIDROIT CONVENTION is reprinted in *Section 3: Reference Document 3*.

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<sup>19</sup> For further information refer to P. J. O'Keefe: *Feasibility of an international code of ethics for dealers in cultural property for the purpose of more effective control of illicit traffic in cultural property, A report for UNESCO, CLT-94/WS/11, 1994.*

automobiles or treasury bonds change hands. French law in this field is a notable exception, but even it has not been fully enforced.

The second issue is the legal obstacles that prevent the recovery of stolen property once it has entered the art market. Under most existing national laws, it is virtually impossible for rightful owners to retrieve stolen property once it has been resold to a third party. Provided the third-party purchaser was never informed or involved in the object's theft, this holds true even if the object in question is widely acknowledged to be stolen. Australia, Canada, New Zealand, the United Kingdom, the United States and certain other English speaking countries whose laws favour the original owner of stolen property, are exceptions.

The UNIDROIT CONVENTION challenges both of these constraints by placing the burden of proof squarely on the holder of allegedly stolen cultural property. The Convention states that the possessor of a stolen cultural object must return it regardless of personal involvement or knowledge of the original theft. The Convention further denies any compensation for the return of a cultural objects unless "*the possessor neither knew nor ought reasonably to have known the object was stolen*". No previous international law goes as far in persuading potential art buyers to enquire about an object's past ownership. In fact, this provision should convince art dealers and auction houses to provide accurate documentation for every object they hope to resell. In this way the UNIDROIT CONVENTION could have powerful indirect influence on the art trade in the future.

## UNESCO Recommendations

The UNESCO General Conference has also adopted several international legal texts that are not conventions. These are called 'Recommendations'. The States are not bound by the provisions of the recommendations but they are a good indication of what are the generally accepted international standards within a specific field. The States are therefore invited to be inspired by these recommendations when drafting national legal provisions and regulations. Several of the recommendations can be of interest to facilitate the adoption of measures against illicit traffic in cultural property, for instance: the *1956 Recommendation on International Principles Applicable to Archaeological Excavations*, the *1976 Recommendation Concerning the International Exchange of Cultural Property*, and the *1980 Recommendation for the Protection of Moveable Cultural Property* (for the text of these Recommendations please see *Section 3: Reference Document 4, 5, and 6*).

UNESCO's role is primarily to promote a world-wide change in attitudes towards the issue of cultural heritage. The development and formulation of conventions and international agreements is an important and on-going strategy in this endeavour. In addition to a series of studies and reports on various aspects of protection of cultural heritage, UNESCO is also continuing its efforts to promote a higher degree of international legal protection of cultural property.

Many of these tasks are undertaken in co-operation with national Governments and interested (international) institutions. Basically the assistance comes in the form of technical assistance and human resource development, especially through the organization of regional and national workshops, co-ordination, networking, and wide dissemination of information. Hence UNESCO distributes, among other things, a series of *Information Notes* on issues of relevance to the prevention of illicit trafficking in general, and more specifically, *Notices of Stolen Objects*. (For examples of these notices please refer to *Section 3: Reference Document 25*).

Recently the Division of Cultural Heritage, UNESCO, got its own website where not only the text of this handbook but also a lot of other information pertaining to protection of cultural heritage is freely available. The address is: <http://www.unesco.org/>.

Whereas the 1970 UNESCO CONVENTION provides a legal framework to deal internationally with illicit traffic in cultural property, the UNESCO INTERGOVERNMENTAL COMMITTEE FOR PROMOTING THE RETURN OF CULTURAL PROPERTY TO ITS COUNTRIES OF ORIGIN OR ITS RESTITUTION IN CASE OF ILLICIT APPROPRIATION acts at an inter-governmental level as a forum for negotiation, discussion, training and awareness raising in relation to cases where this legal framework does not apply.

Set up in 1978 upon the request of newly independent Member States who sought the return of artistic and cultural treasures taken during colonial occupation, it comprises 22 members, half of whom are elected into office every two years during UNESCO's General Conference.

The Committee can only intervene in cases if bi-lateral negotiations between the countries concerned have been undertaken without results, and then only as an observer or advisor. However, the Committee exerts considerable political and moral pressure.

To facilitate negotiations the Committee has streamlined the process for demanding return or restitution with the preparation of a standard form for countries making such requests. (Please see

The UNESCO  
Intergovernmental  
Committee for Promoting  
the Return of Cultural  
Property to its Countries of  
Origin or its Restitution in  
Case of Illicit  
Appropriation

Chapter 3 below for more information on the Committee; for a copy of the Standard Form please refer to *Section 3: Reference Document 22*).

The Committee also serves as a forum to promote museum development and the training of specialists.

ICOM  
(International Council of  
Museums)

The International Council of Museums is a non-governmental organization which groups museum professionals of all domains from 120 countries. Created in 1946, ICOM generally approaches the problems of theft and illicit trade in cultural property through preventive measures such as the promotion of professional ethics and the strengthening of museum security, or through direct action such as mobilization and fund raising. ICOM has about 10,000 members world-wide. Very important are ICOM's publication activities - publishing among other things lists and photographs of stolen or missing objects. ICOM has also its own electronic website where copies of many of these publications and a lot of other information is available; the address is <http://www.icom.org>.

ICOM contributes significantly to international workshops and training activities related to the development of international standards for museum professionals notably in the fields of museum security and the standardization of inventories. For more information on ICOM, see the presentation in *Section 3: Reference Document 9*.

The primary aim of ICOM is to aid the development of professional ethics. Hence, the most important thing that ICOM has achieved is probably the establishment and the promotion of a clear-cut set of professional ethics for museum professionals. Developed and adopted by ICOM's 10<sup>th</sup> General Conference and translated into many languages, it has become the basis for similar codes adopted all over the world (see also p. 36).

ICPO- INTERPOL  
(International Criminal  
Police Organization)

The International Criminal Police Organization ( ICPO ) - better known as INTERPOL, is an inter-governmental organization whose main aim is to facilitate co-operation between police forces throughout the world. To this end, each of the 176 member countries has an office known as the INTERPOL NCB (National Central Bureau) the officers of which are trained by INTERPOL.

INTERPOL's activities are devoted to the fight against crime considered international in scope. Faced with the rise in offences relating to the illicit trafficking in cultural property, INTERPOL

developed a special programme which focuses specifically on this problem.

An important element of INTERPOL's efforts to fight illicit traffic in stolen cultural property is the international stolen property notices which the General Secretariat of INTERPOL routinely produces and distributes. When a theft is discovered, the relevant national office of INTERPOL submits information on the date and place of the theft, descriptions of stolen objects and photographs of the missing object(s) to the INTERPOL headquarters together with a request for such a notice to be issued. The information is submitted using a standard form (the so-called CRIGEN ART FORMS) designed specifically by INTERPOL for that purpose. The information is then entered into INTERPOL database and a notice based on the information given in forms written and printed in English and French. The notices are distributed to the all INTERPOL member States for further distribution to police, customs, museums, auction houses, antique dealers, and pawn brokers. The wider the circulation, the more effective the search. The potential effect of these notices is considerable as they can make certain objects impossible to sell. Unfortunately, not nearly enough of the thefts are registered with INTERPOL this way (see also p. 27).

In addition to international co-operation between police officers, INTERPOL considers it very important to facilitate wider contacts to customs authorities, museum professionals and international organizations. INTERPOL has therefore taken an active role in conferences and training workshops organized by UNESCO and ICOM.

Mention should be made of the text of Resolution 5 and 6 of the 64<sup>th</sup> General Assembly of INTERPOL which recommended to its Member States:

- *to diffuse, as widely and rapidly as possible thorough Interpol channels, information on perfectly identifiable stolen objects;*
- *to strengthen national and international co-operation of the police with the concerned milieus (customs, museums, art dealers, insurance companies ) in the detection of stolen objects and the identification of discovered objects of dubious origin.*

For more information, see the presentation in *Section 3: Reference Document 27*.

WCO  
World Customs  
Organization

The World Customs Organization (formerly known as the Customs Co-operation Council (CCC)) is an intergovernmental organization established by a convention that entered into force in 1952. Under the terms of the founding convention, the WCO is instructed to secure the highest degree of harmony and uniformity in the customs systems of its Member States and, more particularly, to study the problems inherent in the development and improvement of customs technique and customs legislation. The WCO presently groups customs administrations of 112 Member States.

The organization has co-operated with UNESCO in the drafting of a series of international conventions pertaining to the import and export of material of educational, scientific or cultural nature - among these notably the 1970 UNESCO CONVENTION ON THE MEANS OF PROHIBITING AND PREVENTING THE ILLICIT IMPORT, EXPORT AND TRANSFER OF OWNERSHIP OF CULTURAL PROPERTY.

In 1977, the WCO adopted the NAIROBI CONVENTION which in one of its Annexes deals with the assistance that countries can provide each other in action against the smuggling of works of art, antiques and other cultural property. The provisions of this Annex XI supplement the implementation of the provisions of the 1970 UNESCO CONVENTION especially with a view to international cooperation between custom authorities. Annex XI of the NAIROBI CONVENTION stipulates the institution of a central index of information (i. e. an international database) listing information on persons involved or suspected of smuggling and on methods of smuggling. Based on information received from contracting parties it is to be created and maintained by the Secretary General of WCO. The WCO database disseminates and provides information to its members as well as to other concerned parties such as UNESCO and INTERPOL.

THE NAIROBI CONVENTION, ANNEX XI, is reprinted in *Section 3: Reference Document 8*. For more information on WCO, see the presentation in *Section 3: Reference Document 26*.

other forms of multi-lateral  
co-operation

Apart from the international institutions mentioned here other non-governmental institutions are working to protect cultural heritage. The best known are ICOMOS ( the International Council on Monuments and Sites) and ICCROM (the International Centre for the Study of the Preservation and Restoration of Cultural Property). ICCROM is situated in Rome. It recently launched a long-term conservation training programme for African museum personnel.

A number of national institutions and non-government organizations have also offered their experience and services in co-operative efforts to protect cultural heritage in countries where it is threatened. For art-importing countries this is particularly true for countries which have become parties to the 1970 UNESCO CONVENTION.

When the United States in 1983 ratified the 1970 UNESCO CONVENTION it also adopted the *Cultural Property Implementation Act*. The Act establishes the *Cultural Property Advisory Committee*, consisting of eleven members who include archaeologists, anthropologists, ethnologists, experts in sale of art, representatives of museums and of the general public, as a Presidential advisory body. The function of this body is to review requests from other parties to the 1970 UNESCO CONVENTION seeking US import control on certain archaeological or ethnographic material and prepare reports to the President. In response to such a request from Mali, the United States imposed an emergency import ban on archaeological material from the region of the Niger River Valley. Similar action has been taken in other cases.

The Cultural Property Advisory Committee is an independent agency within the US Information Agency (USIA), an independent agency of the Executive Agency that is responsible for the overseas information and cultural programmes of the United States Government. Realizing that while laws are of absolute importance they are not the only nor the ultimate answer to the problem of pillage and illicit trade, USIA is increasingly supporting programmes to develop the policies and infrastructures needed to support the viability of museums and other cultural institutions in achieving the effective management of cultural resources. For more information please refer to the presentation in *Section 3: Reference Document 24*.

Canada, another art-importing country that is party to the 1970 UNESCO CONVENTION, has adopted federal legislation to ensure, on one hand, the preservation of the country's own cultural heritage and, on the other, to protect in Canada the legitimate interests of other States concerned with the preservation of their own heritage in moveable cultural property. The *Canadian Cultural Property Export and Import Act* balances controls and restrictions with tax incentives. It was designed to permit Canada to become party to an agreement with foreign States or party to international conventions relating to the prevention of illicit trafficking in cultural property. Both Canada and the U. S. have been responsible for returns of very significant cultural property.

Another possibility for bi-lateral co-operation is the signing of bi-lateral (or, possibly, multi-lateral) agreements to collaborate against



illicit trafficking in cultural heritage. The UNITED NATIONS in co-operation with UNESCO have developed a model treaty which can be used by States to strengthen co-operation in the struggle against cultural property. The treaty is proposed to further co-operation between law enforcement agencies in two countries and thus strengthen the implementation of the 1970 UNESCO CONVENTION but it can of course also be used between countries that are not signatories to the 1970 UNESCO CONVENTION.

(Reference: UNITED NATIONS, General Assembly, Resolution 45121 of 14 December 1990 - the model treaty is reprinted in *Section 3: Reference Document 7.*)

## databases

Finally, computerised databases are another internationally available facility which is now expanding rapidly.<sup>20</sup>

INTERPOL has a database for stolen cultural property exclusively for the national police of its Member States;

NATIONAL DATABASES. Several countries have developed their own databases of stolen objects, among others Belgium, Canada, the Czech Republic, France, Germany, Italy, United Kingdom, and the United States.

ICOM offers its members the possibility of publishing photographs and descriptions of stolen or missing objects in its bulletin (ICOM News).

IFAR (International Foundation for Art Research) is a private foundation based in New York that originally traced stolen items from the United States but now includes stolen property from all over the world. Since 1985, the foundation has published the *IFAR Reports*, a newsletter which provides information about recently reported catalogued stolen art and carries articles on art theft and authentication. IFAR's database is now part of the London based ART LOSS REGISTER - a private database serving mainly customers such as insurance companies and private collectors. The objectives of this

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<sup>20</sup> The situation in this area is in rapid development and any status report risks to be outdated very quickly. However, the Getty Information Institute (formerly known as the Getty Art History Information Program) in 1995 published a study that gives an overview over the databases in use at this time. The study also provides an analysis of the main problems related to the use of these facilities and the exchange of information on stolen cultural property which will probably be relevant for a longer time to come. See: R. Thornes, *Protecting Cultural Objects Through International Documentation Standards. A Preliminary Survey (p.15f)*. The Getty Art History Information Program (now the Getty Information Institute), USA 1995.

organization which is funded by subscription fees is to recover stolen property, deter the theft of art and valuables, and to reduce the trade in stolen art.

Another initiative based in United Kingdom is known under the name THESAURUS-TRACE It consists of two data-bases: *Thesaurus*, a compilation of existing catalogues published by auction houses and *Trace*, based on the *Trace* magazine (established in 1988) which provides information about stolen art and articles on art theft.

The rapid development of wide area electronic networks are creating channels of communication by which information about stolen or illegally exported objects could be exchanged both rapidly and economically. At the moment, however, not many of the relevant databases are easily accessible and questions of security and confidentiality need to be further discussed.

There is a definite need for more co-operation and networking between databases. To support efforts to improve information exchange and create networks related to the prevention of crimes against the cultural patrimony of nations, the CHARTER OF COURMAYEUR in 1992 adopted a series of recommendations that, among other, emphasizes the need for close co-operation between emerging initiatives in the private and public sectors that are developing databases on stolen cultural property.

(The CHARTER OF COURMAYEUR is reprinted in *Section 3: Reference Document 11*).

To this same end, the Czech Ministry of Culture and UNESCO in partnership with the Getty Information Institute organized a technical meeting in November 1996 on providing access to databases listing information on stolen cultural objects. Two important studies were prepared for that meeting:

*A Study on Access to Databases on Stolen Cultural Property Items Databases. Minutes of Interviews and Documents*; and *A Study on Access to Databases on Stolen Cultural Property Items Databases. Review of Systems and Recommendations Objects* - both prepared for UNESCO, Division of Cultural Heritage, by Dominique Delouis. The first volume of the study contains the full text of interviews conducted by the author with representatives for all the public and private institutions that have developed databases in this area; and the second part of the study outlines three possible scenarios for rethinking these existing databases in order to improve the exchange of information on stolen cultural objects.

## CHAPTER THREE:

### RETURN OR RESTITUTION OF CULTURAL PROPERTY

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A plea for the return of an irreplaceable cultural heritage to those who created it - by Amadou Mahtar M'Bow, Director-General, UNESCO:

*One of the most noble incarnations of a people's genius is its cultural heritage, built up over the centuries by the work of its architects, sculptors, painters, engravers, goldsmiths and all the creators of forms, who have contrived to give tangible expression to the many-sided beauty and uniqueness of that genius. The vicissitudes of history have robbed many peoples of a priceless portion of this inheritance in which their enduring identity finds its embodiment. Architectural features, statues and friezes, monoliths, mosaics, pottery, enamels, masks and objects of jade, ivory and chased gold - in fact everything which has been taken away, from monuments to handicrafts - were more than decorations or ornamentation. They bore witness to a history, the history of a culture of a nation whose spirit they perpetuated and renewed.*

*The peoples who were victims of this plunder, sometimes for hundreds of years, have not only been despoiled of irreplaceable masterpieces but also robbed of a memory which would doubtless have helped them to greater self-knowledge and would certainly have enabled others to understand them better. ..*

*Today, unbridled speculation, fanned by the prices prevailing in the art market, incites traffickers and plunderers to exploit local ignorance and take advantage of any connivance they find. In Africa, Latin America, Asia, Oceania and even in Europe, modern pirates with substantial resources, using modern techniques to satisfy their*

*greed, spoil and rob archaeological sites almost before the scholars have excavated them.*

*The men and women of these countries have the right to recover these cultural assets which are part of their being. They know, of course, that art is for the world and are aware of the fact that this art, which tells the story of their past and shows what they really are, does not speak to them alone. They are happy that men and women elsewhere can study and admire the work of their ancestors. They also realize that certain works of art have for too long played too intimate a part in the history of the country to which they were taken for the symbols linking them with that country to be denied, and for the roots they have put down to be severed.*

*These men and women who have been deprived of their cultural heritage therefore ask for the return of at least the art treasures which best represent their culture, which they feel are the most vital and whose absence causes them the greatest anguish. This is a legitimate claim; and UNESCO, whose Constitution makes it responsible for the preservation and protection of the universal heritage of works of art and monuments of historic or scientific interest, is actively encouraging all that needs to be done to meet it.*

*The return of cultural assets to their countries of origin nevertheless continues to pose particular problems which cannot be solved simply by negotiated agreements and spontaneous acts. It therefore seemed necessary to approach these problems for their own sake, examining both the principle underlying them and all their various aspects.*

*This is why, on behalf of the United Nations Educational, Scientific and Cultural Organization which has empowered me to launch this appeal,*

*I solemnly call upon the governments of the Organization's Member States to conclude bilateral agreements for the return of cultural property to the countries from which it has been taken; to promote long-term loans, deposits, sales and donations between institutions concerned in order to encourage a fairer international exchange of cultural property, and, if they have not already done so, to ratify and rigorously enforce the convention giving them effective means to prevent illicit trading in artistic and archaeological objects.*

*I call on all those working for the information media - journalists of press and radio, producers and authors of television programmes and films - to arouse world-wide a mighty and intense movement of public opinion so that respect for works of art leads, wherever necessary, to their return to their homeland.*

*I call on cultural organizations and specialized associations in all continents to help formulate and promote a stricter code of ethics with regard to the acquisition and conservation of cultural property, and to contribute to the gradual revision of codes of professional practice in this connection, on the lines of the initiative taken by the International Council of Museums.*

*I call on universities, libraries, public and private art galleries and museums that possess the most important collections, to share generously the objects in their keeping with the countries which created them and which sometimes no longer possess a single example.*

*I also call on institutions possessing several similar objects or records to part with at least one and return it to its country of origin, so that the young will not grow up without ever having the chance to see, at close quarters, a work of art or a well-made item of handicraft fashioned by their ancestors.*

*I call on the authors of art books and on art critics to proclaim how much a work of art gains in beauty and truth, both for the uninitiated and for the scholar, when viewed in the natural and social setting in which it took shape.*

*I call on those responsible for preserving and restoring works of art to facilitate, by their advice and actions, the return of such works to the countries where they were created and to seek with imagination and perseverance for new ways of preserving and displaying them once they have been returned to their homeland.*

*I call on historians and educators to help others to understand the affliction a nation can suffer at the spoliation of the works it has created. The power of the fait accompli is a survival of barbaric times and a source of resentment and discord which prejudices the establishment of lasting peace and harmony between nations.*

*Finally, I appeal with special intensity and hope to artists themselves and to writers, poets and singers, asking them to testify that nations also need to be alive on an imaginative level.*

*Two thousand years ago, the Greek historian Polybius urged us to refrain from turning other nations' misfortunes into embellishments for our own countries. Today when all peoples are acknowledged to be equal in dignity, I am convinced that international solidarity can, on the contrary, contribute practically to the general happiness of mankind.*

Amadou Mahtar M'Bow  
Director-General, UNESCO

Paris, 1978

## The (UNESCO) Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation

Not all countries have joined the 1970 UNESCO CONVENTION, and in such cases the rules and regulations for return and restitution of cultural property stipulated in the Convention do not apply. Even between the States Parties to the Convention there can be cases where the Convention does not apply because the object in dispute was exported before the Convention went into force. There are, therefore, many cases where two countries are engaged in a dispute over the ownership of a certain piece of cultural property. This is very often the case with requests by former colonies to former colonial powers.

To advance a more constructive dialogue in these cases, UNESCO's General Conference in 1978 established the INTERGOVERNMENTAL COMMITTEE FOR PROMOTING THE RETURN OF CULTURAL PROPERTY TO ITS COUNTRIES OF ORIGIN OR ITS RESTITUTION IN CASE OF ILLICIT APPROPRIATION (often just called the UNESCO INTERGOVERNMENTAL COMMITTEE). The Committee is a subsidiary organ of the UNESCO General Conference. Its members represent 22 States and half of them are changed through election every two years during the UNESCO General Conference. The Committee acts as an advisor and provides a forum for negotiation and discussion in relation to such cases. Before submitting a case to the Committee, a Requesting State must initiate bi-lateral negotiations with the State in which the requested object is located. Only when such negotiations have failed or are suspended can a case be brought to the Committee. The procedure is contained in the Statutes of the Committee which also define its composition, purposes and responsibilities. In any such cases requesting authorities can, however, always consult the UNESCO Secretariat who will be able to advise on the procedures to follow. (For the text of the Statutes, please see *Section 3: Reference Document 23*).

Standard Form  
concerning requests for  
return and restitution

At its second session in 1981, the Committee devised a *Standard Form Concerning Requests for Return and Restitution*. In order to submit a case to the Committee this form must be filled out in co-operation by the two parties involved. The procedure facilitates an objective description of the property and the course of the case as a basis for negotiation.

Earlier discussion of the form itself revealed that the exchange and comparison of the kind of detailed information it requires often is a

normal part of the scientific co-operation among museum professionals. It is when such co-operation has failed to progress and bilateral negotiations for the return of cultural property have broken down, that the form should come into play. The purpose of the Standard Form is to provide both parties with objective and detailed information by means of which the negotiations may be taken up anew.

The Standard Form has four parts:

- A. Documentary data on the object (or collection);
- B. References of legislation and regulations to prevent illicit traffic in cultural property;
- C. Suggested action.
- D. Other Observation

*Part A* consists of 13 different sections which are intended to elicit precise and comprehensive information about the object (or collection) whose return is requested. First, the object is to be described, and its location and present ownership specified. Its state of conservation should also be noted and the requirements for its proper conservation in any possible future location made explicit. All this information on the object may be supplemented by published material, index cards, photographs, etc. and details of such documentation should also be provided. These details will be given in sections *A.1-A.8*.

Section *A.9* and *A.10* of the Standard Form are intended to obtain information on how the object left its country of origin and came to be acquired by the museum where it is now held. *Part A* concludes with sections *A.11-A.13*, in which the significance the object has for the requesting and holding countries alike should be made clear.

*Part A* as a whole is intended to ensure that the form sets out all facts which might justify the request for return or restitution. The form should also, in *Part C*, describe fully the negotiation process previously set in motion. It should demonstrate an understanding of the institutional, legal and psychological obstacles which may exist in the holding country. It should indicate precisely the measures which will be taken to ensure safeguarding and display of the object after its eventual return.

Because the Standard Form is a mechanism for dialogue, it necessarily calls for an equally objective and frank response from the holding country which, as a Member State of UNESCO, is committed to engaging bilateral negotiations whenever a clearly motivated request is made to it in all good faith.

It should be noted, however, that while the form leaves space for replies by both parties, some of the sections can only be completed by one or the other. Certain historical facts relating to its departure from the country of origin may be unknown to the curators of the holding museum. Similarly, museum authorities in the requesting country may find it impossible to describe the object's present state of conservation. The information supplied by either the requesting or the holding country, or both, will make it possible to build up a full picture on the basis of which to consider each case objectively on its merits.

As some of the principles and procedures which the Committee had defined with respect to requests for return or restitution might not be familiar to all museum curators and concerned officials in UNESCO's Member States, a set of guidelines was prepared as an explanatory supplement to the Standard Form to ensure that it be used as effectively as possible. These guidelines are available upon request addressed to UNESCO Division for Cultural Heritage (address listed in *Appendix I*).

It should be observed that very few cases have been submitted to the Committee. However, bi-lateral negotiations have been undertaken, some with effective results and the return of the requested object without the direct intervention of the Committee. Some negotiations are still going on. It is a general tendency that the requested States prefer to continue negotiations with the requesting States rather than allowing the negotiations to brake down and the case to be brought for the Committee with all the publicity this brings to the case. Hence, even though its role in many cases is indirect the Committee remains a key element encouraging bi-lateral negotiations.



## CHAPTER FOUR

### CHANGING ATTITUDES

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Today, some of the world's finest displays of African, Oceanian, Asian and Latin American art or cultural property are to be found in Europe and the United States, thousands of kilometres from the peoples who are most closely linked to them. The western world is also being plagued by theft and illicit traffic in cultural property, and by the unbelievable prices offered for recognized pieces of art that takes them away from the socio-cultural context in which they originated.

It is very clear that the exporting countries, try as they may, cannot solve the problem of their disappearing heritage on their own. No matter how appropriate and effective the measures taken at national level are, the illicit trafficking in cultural property will never be halted if steps to do so are only taken in the countries which are victimized by the trade. Illicit trafficking in cultural property is a highly international affair and the international law-enforcement community has long recognized that as a major category of international crime it can only be suppressed through international co-operation.

Effective protection of cultural property is not only a question of law enforcement. Without support and co-operation from collectors and dealers in importing countries, traffickers and speculators in illegal goods will continue passing cultural objects into the legitimate market.

It is important to remember that the aim of the international movement to protect cultural property in its place of origin is not an attempt to empty the world's great museums or to prevent the fruitful exchange and understanding that comes from appreciating another culture's manifestations. The main objective of international efforts concerning cultural property is to ensure that each culture maintains an adequate representation of its own material heritage.

Raising awareness and the changing of attitudes are therefore perhaps the most important elements in the fight against illicit

trafficking in cultural property as national legislation and security measures. To bring about such a change in attitudes, it is necessary that museums and collectors especially in the western world redefine their objectives and ethical role in society, so that the 'value' of a collection depends less on the exotic and unique treasures from foreign lands it may hold.

To provide an instrument for co-operation on international legal protection of cultural property, UNESCO took the initiative to design and adopt the 1970 CONVENTION ON THE MEANS OF PROHIBITING AND PREVENTING THE ILLICIT IMPORT, EXPORT AND TRANSFER OF OWNERSHIP OF CULTURAL PROPERTY. It is currently the only universal legal instrument designed to control illicit trade in cultural property which has entered into force. It is the implementation of this Convention which is the main topic of this handbook.

However, in June 1995, another international convention was adopted under the auspices of UNIDROIT with the support of UNESCO. The Convention is called the UNIDROIT CONVENTION ON STOLEN AND ILLEGALLY EXPORTED CULTURAL OBJECTS. It will enter into force when five States have become parties to it and it will make it possible for these States and for private owners to sue in the courts of other parties to the Convention for the return of stolen and illegally exported cultural objects.

At present 86 States are party to the 1970 UNESCO CONVENTION but most of these are so-called 'exporting' States.<sup>21</sup> It remains a serious obstacle that only so few of the States which have a substantial market in cultural objects of foreign origin have become party to the 1970 UNESCO CONVENTION.<sup>22</sup> This is also sad as many of these countries were among the countries that in the 1920s and 30s provided the impetus for the Convention - motivated by an urge to protect their cultural riches which at that time were being bought up on a grand scale by foreign collectors.

Hopefully, in a not too distant future, our respect and admiration for cultural property from other cultures will extend to a respect for the fact, that these objects have their fullest value in the context of the cultures that gave rise to them in the first place.

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<sup>21</sup> With the notable exceptions of Canada, France and the United States.

<sup>22</sup> For a list of the States Parties to the Convention see *Section 3. Reference Document 2*.

*Preventing  
the  
Illicit Traffic  
in  
Cultural Property*

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## Section 2

training materials

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*photo overleaf:*

*The monumental complex of Angkor in Cambodia is one of many places in the world where artifacts are looted on a grand scale. There is a need for training of guards and policemen that can safeguard such monuments. Cambodia 1995.*

*(Photo © E. Clément, Unesco, Paris)*

## CHAPTER ONE

### Building National Institutional Capacity

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#### Regional Workshops

To make for real change, awareness of cultural property and illicit trade must become an integral part of the mind-set of all the people who are working on a daily basis in fields where illicit trafficking can be detected and stopped - and it must, for that matter, become a matter of concern to the general public.

UNESCO has therefore adopted a universal programme of regional (and national) workshops on illicit traffic with the aim of strengthening national legislation and the national institutional capacity to enforce laws and implement the 1970 UNESCO CONVENTION at both national and inter-national level. The workshops are aimed at various groups and levels of people in order to achieve a cascade effect. Basically there are three levels: regional workshops for high level policy and decision makers; national workshops for the same high level managers and their staff; and specialized national workshops for groups of personnel such as police and customs officers, museum staff, tourist guides, and school teachers.

Starting at the regional level, the programme takes the initiative to regional workshops with the objectives of creating awareness of the scope of the problems internationally and at the same time facilitate contact and a sharing of experience and resources between museums, archaeologists, concerned Government Ministries, police and customs authorities, in a number of countries. The regional workshops create a very high level of awareness while at the same time providing an opportunity to bring the discussion from theoretic abstractions to practical counter measures. The participants in regional workshops are decision makers such as judges, lawyers, high level Ministry officials and high level officials from the Police and Customs Departments, Museum Directors, etc. as well as representatives for organizations such as INTERPOL, ICOM (International Council of Museums), the World Customs Organization, and sometimes private organizations (the Getty Information Institute and the Art Loss Register have for instance participated in such activities).

During the regional workshops the participants are able to share their experiences, to discuss difficulties and common problems of illicit trafficking, thefts, clandestine excavations, illicit export, the effects of tourism, and measures to curb these problems at national and international levels. The programmes for these regional meetings should include museum security, tracing, recuperation of cultural objects from other countries, reciprocal arrangements with other States, current measures of international co-operation for the retrieval of stolen objects, and the control of export and trade.

The regional workshops are one way of creating more international co-operation. Thus, during a regional workshop organized for 15 countries in Thailand in 1992, the Thai

authorities announced that they were ready to return to Cambodia cultural objects seized in Thailand, and discussions were initiated between the two countries.

Regional workshops have so far been organized in Jomtien, Thailand (1992); in Arusha, Tanzania (1993) for the eastern and southern African countries; in Bamako, Mali (1994) for west and north African countries; in Keszthely, Hungary (1993) with representatives from eastern European countries; in Cuenca, Ecuador (1995) for Latin American countries, and in Grenada for the Caribbean countries. Most of these regional workshops have been organized by UNESCO or jointly by UNESCO and ICOM. However, any country could organize such an activity for instance to focus on problems and solutions which are specific to their region or sub-region. Australia for example, organized in 1986 a workshop in Brisbane for the South Pacific region, and in 1996 Zaire in cooperation with ICOM organized a workshop for Central African countries.

### Model programme for regional workshops

It is recommended that a regional workshop should hear and discuss national reports on the problems experienced in terms of illicit trafficking and the activities undertaken to counter the problem. In addition, a workshop should, on the basis of experience gathered in many countries, present and discuss the problems related to illicit trafficking - such as thefts, clandestine excavations, illicit export and import, scope and importance of the illicit export and import, the impact of tourism - with specific address to the actions at national and international level which are relevant options for each problem. The workshop should discuss legal measures and their effectiveness, international conventions pertaining to the protection of cultural heritage, protection and security of museum collections and public buildings, inventories, protection of archaeological sites, export control, import control, regulation of trade, sanctions and penalties, education and information of the public, as well as various organizational aspects of the problematique.

A regional workshop should also present available resources and the possibilities for external assistance e.g. from UNESCO and other organizations such as INTERPOL or ICOM, for instance in the drafting of national legislation for the protection of cultural property, in inventorying, training, or perhaps in requesting return or restitution of objects which have been illegally exported.

In terms of regional and international co-operation a workshop should as a minimum cover the following: the 1970 UNESCO CONVENTION and the UNIDROIT CONVENTION; international publicity on stolen objects, the UNESCO INTERGOVERNMENTAL COMMITTEE for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation (often called the UNESCO INTERGOVERNMENTAL COMMITTEE for short); the UNITED NATIONS' Model Treaty; existing facilities under Canadian and United States laws to implement the 1970 UNESCO CONVENTION; facilities made available by other (international) organizations notably: ICOM, INTERPOL, the World Customs Organization; and the existence and function of databases on stolen cultural property.

## National workshops

The work of the regional workshops should be followed up by national workshops. Drawing on the experience of the regional workshop, national workshops are less general in scope and are intended to focus on the situation and what needs to be done in one particular country.

Many countries have adopted laws to protect and control export of their cultural heritage but a great number of these, especially among developing countries, do not have the resources necessary to ensure adequate implementation of the laws. The absence of trained personnel in museums, police, customs, and in the tourist trade, is a widespread problem in many developing countries. In addition to the development of regional co-operation, there is thus a great need for training at the national level to ensure the development of sufficient institutional capacity.

## Strengthening national institutional capacity - an example

Cambodia lends itself as an example of how institutional capacity can be strengthened and developed within a reasonable time-frame.

After more than twenty years of political, military and civilian disturbance in Cambodia, the country was in the beginning of the '90s, losing a large part of its cultural heritage at a truly alarming rate. Statues, bas-reliefs, stone sculptures and entire lintels disappeared daily from the monuments of Angkor - a famously beautiful monumental complex, covering almost 200 sq. km. and including several hundred monuments - and from other lesser known sites. Hundreds of objects had gone missing but turned up for sale on the international art market.

During the preceding decades, the organization of the protection of Angkor had completely collapsed and the heritage site was rapidly deteriorating as a result of plunder or vandalism. As many other aspects of life in Cambodia, a system to protect the cultural heritage of the country had to be rebuilt from scratch.

At the request of Cambodia, UNESCO organized in 1992 its first national workshop in the area of illicit trafficking in cultural property. The workshop addressed politicians and representatives of many categories of national (government) officers in such diverse fields of specialization as culture, customs, police, and museums, as well as journalists, teachers, and monks. The workshop covered the elaboration of inventories, police and customs investigation techniques, legal issues, security and training of guards at museums and sites. As a result of this national workshop, a draft plan of action and a set of recommendations for national activities to protect cultural heritage were elaborated and proposed for implementation (please see *Section 2: p. 7*).

During the following months, a human resource development programme was implemented training different groups of personnel as described below. UNESCO organized a first training session for the 450 police officers guarding the Angkor complex and this effort was



substantiated by further training, in this case by the French police, and by financial assistance which allowed the site to be protected with modern security and communication facilities.

The case of Cambodia demonstrates clearly the need for a genuine mobilization of the international community. It was a first case of a coordinated programme stressing national capacity building, and the experience drawn from there can serve as an example for similar programmes in other countries. We will therefore describe the programme in some detail below.

The national workshop gave practical training to concerned personnel in the following fields: legislation; preparation of inventories; security in museums, sites, and store-rooms; public information; educational measures to raise awareness of illicit trafficking in cultural property; training and motivation of police and customs officers. More than 120 Cambodian participants from different components of the Supreme National Council were present, as well as representatives of international organizations such as UN, INTERPOL and ICOM. During the meeting, Ministers themselves, customs and police officers, educators, journalists, lawyers, conservators, and students, learned about specific techniques and participated in short training sessions.

Immediately after the workshop a new draft legislation for the protection of cultural heritage in Cambodia was elaborated. The initial, general national workshop was followed by specialized training workshops for specific groups of personnel: a one-day motivation workshop was organized for 24 Cambodian journalists and others were organized for respectively 120 custom officers, UNTAC personnel (the United Nations Transitory Authority in Cambodia), and for police officers who later received additional training in co-operation with the French police when a National Central Bureau of INTERPOL was established in Cambodia.

To raise the level of awareness among the general public, a poster competition was organized in Cambodia and the best of the posters were printed and distributed nationwide. Campaigns and general education programmes focusing on the value of the cultural heritage and the severity of the damage done by illicit excavations and illicit export of cultural property, are essential long-term measures in enforcement. Strong community commitment to the preservation of cultural heritage - for example as found in China - has a strong preventive effect and makes it more difficult for traders to operate.

During the national workshop in Cambodia, information leaflets and brochures were designed. These have been produced and widely distributed to tourists warning them, among other, against exporting cultural goods without the appropriate export licenses.

Finally, the national workshop in Cambodia developed a set of recommendations and a plan of action which clearly indicated areas of priority in the development of national institutional capacity.

In the case of Cambodia, UNESCO undertook the main responsibility for planning and organizing the national workshops due to the very specific and exceptional circumstances in Cambodia at the time (1993-94). Preparing for democratic elections UNTAC (United Nations Transitional Authority for Cambodia) requested UNESCO to work very closely

## Recommendations for National Activities to Protect Cultural Heritage.

### 1. TRAINING

- 1.1. Training of museums and monuments personnel, including guards, should be organized with the view to the creation of efficient security services and to the installation of appropriate mechanical protection against thefts and illegal excavations. Co-operation with UNESCO, ICOM and other interested organizations or countries could be requested for that purpose.
- 1.2. Training should be organized for police and customs officers on the specific topic of investigation techniques for the search of stolen cultural property. Co-operation with the Customs Co-operation Council and interested States could be requested for this purpose.
- 1.3. Training already planned on inventories of cultural property (including manuscripts), namely in co-operation with the Ecole Francaise d'Extrême-Orient, should be undertaken. Special attention should be given to the descriptions of the items both for museums and for monuments, in particular for monuments situated in remote areas.

### 2. COMMUNICATION

- 2.1. Appropriate communication equipment should be provided to all services involved in protection and recovery of cultural property, namely museums and monuments conservators, as well as police and customs officers in charge of that question.
- 2.2. Museums and monuments conservators, police and customs officers should in particular strengthen exchange of information on registers and inventories of protected cultural items as well as on stolen or recovered items.
- 2.3. Police and customs services should also strengthen their cooperation in respect of the above and of inquiries on stolen cultural items.

### 3. LEGISLATION

- 3.1. The on-going preparation of legislative texts on the protection of cultural heritage should be continued and extended to provide a better protection against thefts, illicit export and illegal excavations of cultural property. Special attention should be given to measures against exportation of protected cultural objects, preparation of specific agreements with neighbouring and market countries as well as penalties for those who committed crimes against cultural heritage. Co-operation with UNESCO should be continued and extended on that matter.

### 4. EDUCATION.

- 4.1. In the short term, the posters, the brochure, the publicity campaign and the project regarding a National Cultural Day should be realized soon after the present workshop.
- 4.2. In the longer term, the proposals contained in the plan of action (copy included in the report of the workshop) by the working group on educational measures could be implemented. Co-operation with UNESCO and with other organizations represented in Cambodia should be developed for that purpose.

The National Workshop on Illicit Trafficking in Cultural Property  
Phnom Penh, Cambodia, 1992

with local specialists to prepare the setting up of a new administration of culture in the country.

However, national institutions might as well organize such training - and perhaps only call on UNESCO for technical assistance on a smaller scale. Indeed, it is the hope that the development of the present handbook will enable countries to do so.

## Chapter Two

### Examples of training materials and activities

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One of the main objectives of this handbook is thus to facilitate training and awareness raising among the many people that come in contact with cultural property in the course of their work. To this end, this section of the handbook contains a series of exemplar training materials which are intended to support the planning and organization of national training activities.

Human resource development to ensure the institutional capacity needed to protect cultural heritage is essentially required in the same areas all over the world: drafting of appropriate legislative texts; how to prepare inventories and notices on stolen objects; public information; training of guards and museum staff, police and customs officers.

To give an idea of the kind of training activities that can be undertaken, a series of worksheets have been developed based on the instructions to the groups leaders in the Cambodian workshop and the experience gained there. The worksheets deal with core concepts and issues of illicit traffic in cultural property and provide examples on training activities and of the kind of textual material which can be developed for use in training programmes. The worksheets can of course be improved and adapted to suit specific circumstances but together they outline the basic field of training.

The organizers of national training activities are encouraged to adapt and use these materials and the proposed activities as desirable in the planning and execution of their own training programmes. Additional training activities focusing on, for example, a presentation, analysis and discussion of the various documents reproduced in Section 3 of this handbook can of course be designed as required after the pattern demonstrated here.

## situation articles

The following articles render an overall picture of the situation and the many problems related to the protection of cultural property in the world today. The articles provide good material for discussion in smaller working groups or in plenum of these problems and what can be done to improve on the situation. Supporting the text of Section 1 in this handbook, the articles facilitate a more concrete discussion of specific problems and situations. After each article is a list of questions that may assist in a better understanding of the text as well as guide a discussion.

Reading and discussing selected parts of the text in Section 1 of the handbook and one or more of these articles are activities that can form part of any training programme as both the handbook and the articles are of common interest to anyone involved in the protection of cultural property. Organizers of national training activities are encouraged to include a discussion of the handbook and one or all the articles as required and if possible add articles that deal specifically with the situation in the country in question.

The articles reprinted in the following are:

1. David Walden: *Raiders of the Cultural Ark* ( in: *UNESCO SOURCES* no 28/1991)
2. Ekpo Okpo Eyo: *A Threat to National Art Treasures: The Illicit Traffic in Stolen Art* (in: *Why preserve the past? The Challenge to Our Cultural Heritage*. Edited by Y. R. Isar. Smithsonian Institution Press and UNESCO, 1986.)
3. Opening speech from a national workshop, 1992, Cambodia. (UNESCO).

## Raiders of the Cultural Ark

by *David Walden*

Are religious objects removed by an American soldier from their storage place in Germany during the Second World War II, war souvenirs or stolen goods? Who owns the great collections of African, Asian, Oceanian and Latin American art housed in the museums of the former colonial powers? UNESCO has played a key role in thrusting the issue into the spotlight, and although art trafficking has now become big business, the courts are making life much tougher for those involved. Despite this, cultural property remains a legal and emotional minefield.

During the political upheavals and American military intervention in Panama in 1989, virtually all of the country's museums were "cleaned out". In 1990, 271 Greek and Roman pieces, the oldest dating from 470 B.C. were stolen in a daring raid on the archeological museum in Corinth (Greece). During the Gulf war, Kuwait's National Museum was ransacked, its rich collections and inventories stolen and the interior of the building put to the torch.

Throughout history, artifacts and works of art have been prized by civilizations as expressions of the cultures which created them. In times of war, international laws and conventions theoretically protect them from looting, pillage, bombardment and other willful damage. In peacetime this protection is extended by other laws which prohibit clandestine traffic in cultural property which has secular, religious, and of course monetary value.

Despite this recognition of the importance of cultural property - or perhaps because of it - history is replete with incidents involving the collection of one culture's artifacts by another, the examples cited above being only a tiny portion of the most recent. During Napoleon's Italian, Northern European and African campaigns, for example, scientists, artists, surveyors and historians, forming what was known as the "Scientific and Artistic Commission", accompanied the General and his armies and systematically selected, then transported, the major cultural treasures of these countries to France. These actions are significant because they represented not wanton plunder but rather the conscious collection of cultural objects by an invading army.

Perhaps the best known example of the appropriation of one nation's cultural property by another is the case of the Parthenon Marbles. At the beginning of the 19th century Lord Elgin, the British Ambassador in Constantinople, decided to obtain plaster casts of the monuments and sculptures of Greece (which was then part of the Ottoman Empire) to take with him upon his return to England. In the end, he did not restrict his activity to making plaster casts, but rather removed original statues and facades of buildings from the temples and monuments on the Acropolis Hill. These artifacts now form part of the collection of the British Museum, and Greece continues to actively campaign for their return. The first European archeologist/explorers into western China at the end of the 19th and the beginning of the 20th centuries, including, Britain's Sir Aurel Stein, France's Paul

Pelliot and Germany's Albert von Lecoq, have also helped fill Europe's museums with fabulous collections representative of ancient China's Buddhist culture, "collected" during their remarkable voyages into the Taklamakan desert in today's Xinjiang Autonomous Region. The marks left by their saws are still clearly visible in the caves from which frescoes, for example, were taken.

These are but a few of the early examples highlighting the need for international participation in the protection of cultural property. Various 19th century and early 20th century treaties, including the *Convention for the Protection of Cultural Property In the Event of Armed Conflict* (the HAGUE CONVENTION, 1954) began to recognize and establish that cultural property was not lawful plunder, but this principle applied only to times of war and tended to be restricted to the protection of buildings and monuments.

### From Fine Art to Incunabula

During the 1960s, heavy losses of cultural property due to illicit trafficking led Mexico and Peru in particular, but other South and Central American countries as well, to appeal to UNESCO for assistance in protecting their moveable cultural heritage. This led, in 1970, to the *UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*. With this Convention came the recognition that cultural property had to be protected at all times, and that the types of cultural property that required protection included not only buildings, monuments and fine art but also flora, fauna, mineral and palaeontological specimens, archaeological and ethnological artifacts, decorative art, manuscripts, books and incunabula, and sound, photographic and cinematographic archives.

Despite the growing awareness of the need to protect cultural property, its illicit acquisition and subsequent illegal export remains a problem, and now involves two major activities: the theft of art, and violations of national laws. Thefts of fine art tend to be widely reported, and despite the fact that such actions are not new, they are always newsworthy. Illegal exports, while equally serious, tend to be treated as administrative, technical or legal problems: in short, they lack the "romance" of a fine art "heist". In fact, because thefts of cultural property often occur in the least protected places - churches, archaeological sites, and museums in developing countries the offence may go undetected for years. This, combined with the fact that many museums are reluctant to admit that a theft has even taken place, makes enforcement of existing laws extremely difficult. Added to this is the fact that in many developing countries, profits from the looting of archaeological sites provide much needed income for an impoverished population. In Costa Rica in 1973, for example, some one percent of the economically active population was involved in digging, receiving or resale of objects from tomb-robbing - a trade, which even then in this small country was worth about a half a million dollars annually. It should not be forgotten that such wanton pillage destroys much of the scientific worth of objects and sites, which are often damaged by inexpert excavation.

The illicit, international traffic in cultural property has become big business, worth, according to some projections, in excess of one billion dollars a year, which makes it second only to narcotics in monetary value. Increasingly, illegal acts involving cultural property have been linked to the drug trade, as the upwardly spiraling value of cultural property provides a

ready means for "laundering", or otherwise concealing, the large cash profits acquired from trafficking in narcotics. There have been cases where narcotics have been used as packing material for illegally exported cultural property, which serves as yet another reminder of the linkage between the two illicit acts.

Equally shocking is the fact that thefts of cultural property are inadequately reported to police forces. INTERPOL reports that only 12% of stolen art is ever recovered, and most of these objects are recovered within the country where the theft took place. Significantly, this means the 88% of objects reported stolen are never recovered. No statistics are available to demonstrate the magnitude of illicit appropriation of archaeological, ethnographic and sacred objects which are looted. However, the number of documented cases of attacks on archaeologists, ethnologists and even soldiers and police officers, attests to the seriousness of the problem.

The prevention of illicit appropriation and trafficking in cultural property can only be achieved through international co-operation, and the recognition that objects have a cultural value when they remain within the context in which they were created. We must continually ask the question "whose culture, whose property?", and if we answer them honestly, we will realize that only the indigenous cultures of any nation can decide upon those objects which they are prepared to share with the world.

#### QUESTIONS:

1. What are the main problems and questions in relation to cultural property mentioned in this article?
2. What does it mean that the 1970 UNESCO CONVENTION brought with it a recognition a) *that cultural property has to be protected at all times*, and b) *that the range of cultural property that require protection has become wider*?
3. In which way does this understanding of cultural property differ from earlier understandings?
4. What are the conventions mentioned in the text? What is a convention? Do you know of any other international conventions?
5. What are 'incunabula' ?



## A Threat to National Art Treasures

*by Ekpo Okpo Eyo*

Art dealers and indeed museum directors have often argued against the very idea of restricting the movement of art works across territorial boundaries. Their argument is largely based on the notion that any product of a creative individual belongs generally to mankind. The truth of their argument, they point out, is borne out by the fact that the democratization of culture and the accessibility of cultural artifacts to all mankind are among the cardinal principles of UNESCO. They emphasize the point that such processes make knowledge about the peoples and cultures of the world available to all, thereby helping to remove mutual suspicion among peoples and replacing it with mutual understanding and respect as the only true basis for worldwide harmony.

There is, of course, nothing wrong with this argument, as far as it goes. However, it becomes immediately questionable in its application to real situations. In real life the notion appears to be valid only as long as art treasures flow in from the "peripheries of the world" to the "centre" and not from the "centre" outwards. Benin bronzes should be seen in museum showcases in New York and London, but it is impossible to contemplate Leonardo's Mona Lisa or Velasquez' Portrait of Juan de Pareja in Lagos or Accra. No, the risk involved would be too great, the paintings would disintegrate in the hot climate, and, in any case, the people of the country would not have enough artistic sensitivity to appreciate such masterpieces.

If you think that I have chosen extreme examples to illustrate my point then ponder the case of an ivory mask in Benin, used there for three centuries, and then plundered in 1897. It had remained in captivity in London for only eighty years; but when in 1977 its return was requested for use as an emblem, a rallying symbol, of all the black peoples who had assembled in Lagos for the second world Black and African Festival of the Arts and Culture (FESTAC), the British Museum argued that it was too fragile to travel by air to Lagos and that the climate of Lagos was unsuitable.

## Cultural Deprivation and Economic Exploitation

Illicit traffic results in Third World countries' being systematically deprived of their cultural heritage and being economically exploited at the same time. Under many guises (for example, disseminating information about mankind by showing cultural artifacts from every nook and corner of the world in London or New York), we find objects of veneration being torn away from their spiritual homes to adorn museum showcases and private homes. When you see a Benin memorial head in a showcase in New York, it does not mean any more to you than its identification as a memorial head of a "tribal" king. But this same head was made as a documentation of a particular king and it occupies a particular position in the history of the Benin people. Its removal produces a vacuum in Benin history. It follows that with the removal of so many Benin memorial heads the means of reconstructing or illustrating the history of the Benin Kingdom has forever been destroyed. Museums of the western world - contrary to their belief that by hoarding artifacts from the "peripheries" of the world they are passing on information - are, in a very special and real sense, destroying the authentic sources of information they wish to disseminate.

In the past missionaries, explorers, scientists, and colonial administrators were the principle suppliers of objects to museum collections in Europe and America. In many cases, the objects collected in this way were well documented; others were poorly or incorrectly documented. In the last several decades, this situation has changed for the worse. Whereas in the past there was some attempt to inform, now much collection activity is confined to economic exploitation through organized theft: the sole purpose is to make money out of the heritage of the poor nations of the world. I would like to illustrate this with a few recent examples from Nigeria. Those acquainted with the history of the looting of art objects from Africa will be familiar with the infamous British punitive expedition to Benin City in 1897. In this operation the Royal Palace was burnt down, precious bronzes looted, and the king banished to die in exile. Today not a single western museum that depicts African civilizations is without one or two Benin pieces. Yet the Benin Museum has to display third-rate pieces and casts and photographs of others that now adorn museums elsewhere.

Even the few Benin bronzes now on exhibition in Nigeria's museums had to be purchased abroad and brought back to the country.

As far as the present time is concerned, before 1981 there may have been isolated cases of thefts of museum objects from Nigeria, but by and large our museums were not the sorts of places where unscrupulous dealers found it easy to buy objects. Now the story is different, perhaps as a result of the awareness created by the success of the international exhibition *Treasures of Ancient Nigeria*. I feel I ought to tell the whole story here because of the many questions and issues it raises: first, the question of sharing the joy of art experience with the world - an experience museums of Europe and North America have always advocated; second, the nature of cooperation with art dealers; and third, the dilemma of a museum director in the developing world.

## The Jebba Female Figure

This bronze figure is the tallest in the medium yet recorded in Africa. In 1972, when I had just become Director of Antiquities in Nigeria, the Jebba figure was one of nine such works scattered in several villages along the banks of the River Niger. All of them were associated with Tsoede, the legendary founder of the Nupe Kingdom, and were tentatively dated to the sixteenth century. In these villages the bronzes were the foci of religious activities in which every villager took part. They therefore represented the collective identity of the people. The Jebba figure was kept in a small mud house, and by arrangement with the local chief the Department of Antiquities provided a caretaker to look after its safety. It was the normal practice for our staff to carry out physical inspection of these objects at least once a year. In that year, the other eight bronzes had already been inspected when a cable was sent to me from M. Cahen, director of the Tervuren Museum in Belgium, saying that the Jebba figure was being offered for sale. We immediately rushed to Jebba and discovered that a thief had indeed entered through the back room window and removed the figure. A trip to Brussels did not yield any information other than that the object was in Paris. No one was willing to say more. The figure has since been lost, and the people deprived of their object of worship. Because the theft was well publicized, the figure has yet to surface. In a frantic move the museum itself was forced to remove the eight remaining figures and replace them with copies. Thus the people of Jebba have been deprived of their cult object. Nigeria has been robbed of one of her national art treasures and the museums of Europe and America have no information to provide to mankind! Perhaps the Jebba figure has been tucked away in some dark corner of a primitive home, or perhaps it has been melted down? Who then gains by this act?

## The Nok Piece

The Nigerian exhibition *Treasures of Ancient Nigeria: Legacy of Two Thousand Years*, first shown in Detroit in January, 1980, toured eight American cities and also went to Calgary in Canada. This exhibition was organized not only to dispel misconceptions about African art but also to share with the world, in an appropriate manner, the joy art lovers derive from viewing great works of art.

It happened that as soon as the show opened in Calgary a couple of African runners together with a notorious New York dealer went up to Calgary to sell an ancient terra-cotta figure belonging to a culture that has been dated to between 900 B.C. and 200 A.D. Apart from the fact that the exhibition was an instant success in Calgary the director of the Glenbow Museum in which the show took place, Mr. Duncan Cameron, was embarrassed to have the figure - which could only have been stolen - offered him for sale. Mr. Cameron had sat as an expert on various committees that worked on the preparation of the UNESCO *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property* (1970).

Canada is a signatory to the Convention, and Mr. Cameron thought this was the chance to test its applicability in his country. The Royal Mounted Canadian Police was alerted and the vendors subsequently arrested. Although the case is not yet settled, this happens to be the first test of the UNESCO Convention in the Law Court, and all of us are awaiting the outcome. This case has once again highlighted the magnitude of the problem of illicit traffic

in art treasures and shows specifically how international cooperation may help in checking the flow. The Canadian authorities have already spent considerable energy and money on the case, and I gather they are determined to pursue the effort to its logical conclusion.

## Pace Gallery

I visited the Pace Gallery in New York in 1980 and saw a Yoruba wooden figure with which I was familiar and which my predecessor, Kenneth Murray, had photographed in the field. I did not have the documented material with me, so I could not immediately present it to the gallery staff. When I got back to Lagos, I checked the archives. There was no mistake about it, so I decided to xerox the information and the photograph of the object and send them to New York as proof that the figure had been illegally removed from Nigeria. On receipt of the information, the Pace gallery wrote back to confirm the piece they had was the same one we had documented; they claimed, however, that they bought it in good faith. How would they get their money back, they asked? My answer was that they should return the piece to whoever sold it to them and show him the documentary evidence we had provided.

Six months of silence elapsed before I heard again from Pace. What I heard was not about the Yoruba figure; instead I received a cable asking whether we had lost three Benin bronzes, a head connected with the cult of Oduduwa, a very fine fragment of sixteenth-century plaque and an aegis. The Oduduwa head was pretty well known, but the museum numbers on all the pieces had been scratched out and their documentation destroyed. I called Pace from Lagos and asked for photographs, which they immediately sent to me. With the help of these I was able to trace the pieces in the set of museum catalogues that are permanently kept in my office.

The Nigerian Security Organization was immediately alerted, and they in turn informed INTERPOL. But INTERPOL was too slow, and the vendor, a black American, demanded quick settlement with Pace, failing which he would withdraw the items. I then decided to approach the Federal Bureau of Investigation (FBI) in New York through the Nigerian ambassador to the United States, and the pieces were immediately taken into custody.

When arrested by the FBI, the vendor stated that the pieces had been offered to him in his hotel in Lagos by two men. He did not know what they were worth; packing and an export permit had been arranged for him. Rather than prosecute, I thought it would be better to use this man to get at the source of the theft, which looked like an inside job. The vendor was given a free return ticket to Lagos and free hotel facilities for one week in order to help identify, from among the museum staff, the two men who sold the bronzes to him. He refused to participate in an open identification parade but asked for photographs of all the members of the museum's staff. These were supplied immediately. Despite a one-week wait, nothing came of it.

The vendor cautioned us to proceed slowly otherwise we would scare away the culprits. We decided to exercise patience, but the vendor eventually refused to return the bronzes to Nigeria - contrary to our previous agreement that return would be condition for non-prosecution. He enlisted the services of a lawyer who demanded that his client's money, about \$25,000, be refunded to him before he released the objects. These were worth \$600,000 in the open market. We continued to exercise patience until he returned to

Lagos, where he was immediately arrested by the Criminal Investigation Department. He then had no choice but to authorize the FBI to release the pieces to me.

In the meantime Pace again sent information that another bronze - a plaque illustrated in my book *Two Thousand Years of Nigerian Art* was about to leave Nigeria. After the first thefts we had taken a not very satisfactory inventory of our collection, but this bronze was physically counted in the storeroom. Six months later it was nowhere to be found, and a second inventory was ordered. It was during the second inventory that we discovered two manholes in the ceiling of the storeroom - so carefully camouflaged they were not easily detectable. When the police arrived, they traced the tracks to the locked office of a staff member who had been accompanying the exhibition *Treasures of Ancient Nigeria*. This man has since been arrested, and the case is pending in court.

Pace, although knowing exactly where the bronze plaque had been taken, refused to disclose the information. Instead they offered to get it back for us if we could refund the money the buyer had paid for it. The amount was \$35,000, and the worth of the piece in the open market was then between \$400,000 and \$500,000. This posed a new problem: should we pay to recover what had been stolen from our museum? I had planned to send photographs of the plaque around the world. These had in fact been printed, but I was advised that if I sent them the plaque would either disappear forever or be melted down.

### The Ife Terracotta Head

One factor in the decision of the Nigerian government to provide the \$35,000 for the retrieval of the bronze plaque was a similar incident that occurred early in 1980. Sotheby's had advertised the auction of a fine Ife terra-cotta head. I had written to inform them the head had been stolen from Nigeria, and that it would harm their reputation to be associated with the sale of known stolen property. The piece was withdrawn from sale and returned to the "owner." When the Nigerian exhibition opened in Detroit in January 1981, someone telephoned me at my hotel and asked if I would consider buying the piece for Nigeria since I had succeeded in stopping its sale. If I was interested another person would call me to discuss the terms. I was confused, but ten minutes later a woman called and told me the piece had been taken out of Nigeria by a missionary thirty years earlier and that she had sent it to Sotheby's because she wanted a public museum to buy it. She was prepared, however, to let the Nigerian government have it for \$150,000. I was enraged and pointed out how improper it would be for Nigeria to pay for a treasure stolen from its own territory. The woman then wanted to know what she could do with the piece. I told her she could do what she liked with it.

She thought I was the most callous museum director alive. The piece has not resurfaced since then.

### The Dilemma of Developing Countries

I began this paper by questioning the validity of the argument that museums in the "centre" of the world should be allowed to display objects - no matter how they obtain them - for the purpose of scientific and cultural education. The cases I have described above demonstrate how helpless, and vulnerable the museums of the Third World are to say

nothing of their unprotected shrines and temples. No one would quarrel if museums in the "centre" asked questions about the provenance of objects that come to them. Is it not obvious that asking museums and cultural authorities in developing countries to take protective measures is simply not enough? For as long as there is a ready market in Europe and North America, stealing will not stop. Nigeria, for example, has a vast territorial boundary and the cost of policing it would be astronomical. Even if we were able to afford the security, the attraction of easy money can corrupt law enforcement agencies.

I have stressed the role of museums in this matter and have not mentioned the dealers. This is deliberate as I want to emphasize that if museums would buy properly, illegal art dealing would be reduced to a minimum. For no matter how rich a collector may be, all works eventually end up in public institutions. It is by refusing to buy what is illegal that we can hope to take the momentum out of a trade that is not only immoral but is slowly and steadily eroding the most authentic evidence of the being of the peoples of the Third World.

In conclusion I would like to quote Ava Plakins, who wrote about the National Museum of Nigeria in *Connoisseur* (January 1984): "*It is especially distressing that this particular institution should suffer such woes, since it is one of the most professionally managed museums in Africa. Moreover, Nigeria itself had made serious efforts to enforce a strict ban on exports of major works of indigenous art. But there is clearly room for improvement. It all makes one wonder how much artwork finds its way out of less cautious museums and countries and into the hands of less discriminating dealers.*"

Let me add that it all makes one wonder how much artwork finds its way out of the hands of less discriminating dealers into equally less discriminating museums.

#### QUESTIONS:

1. What is the argument against restricting the movement of art across territorial boundaries? What are the arguments against this position?
2. Why was the Jebba figure not kept in a museum but in a village?
3. What does it mean that a buyer is in good faith (*bona fide*)?
4. Should a museum pay to recover their stolen property? Why/why not? What else can they do?
5. What is the author's advice and solution to what he calls *the dilemma of developing countries*?

## The Fight Against Theft and Illicit Traffic of Cultural Property

*introductory address by UNESCO at the national workshop in Cambodia*

..

The situation in Cambodia is serious, but it is not unique. Theft and clandestine excavation to feed the world's greedy appetite for illegally exported art objects and antiquities are among the many problems facing developing countries in the struggle to rebuild economies and rehabilitate societies. Works of art, antiques and archaeological objects are an important part of every country's heritage and pride. This is why many States have adopted strong legal measures to protect their antiquities and cultural property. But because of inadequate means to enforce these laws, because of the growing market demand in the richer countries and because of unsettled political conditions in many areas, thefts of antiques and art objects as well as the looting of archaeological sites are actually on the rise in many countries - including Cambodia.

The result is not only a blow to national pride and a loss to the cultural heritage of a country, but also, in the case of looting of archaeological sites, it is a loss of knowledge of the history of humanity. When the archaeological context of a site is destroyed by clandestine digging, precious evidence is lost forever depriving scholars and specialists of the possibility of studying the meaning of these traces of our ancestors' civilization.

Most looted objects leave a country and travel to markets abroad via a circuitous underground route taking advantage of situations and places where antiquities laws are either non-existent or in-effective. Co-operation between countries is therefore essential. The aim of such cooperation is not to stop the exchange of all art objects or handicrafts, but it is to stop theft and to regulate the legal export and import of cultural objects so that countries are not robbed of those objects which are of fundamental significance for their national heritage and cultural identity.

In a country such as Cambodia which faces the immense task of national reconstruction, the safeguarding of national cultural property is a challenge which is particularly difficult to achieve. Even the very definition of what constitutes national cultural property is problematic. And how, for example, does a country reconcile the need to develop and expand external trade as quickly as possible with the need to adopt strict control measures to prevent unscrupulous individuals from exporting all of the country's most valuable antiques for quick sale abroad?

The solution to this problem is a complex, delicate process requiring for its fundamental success a general public understanding of the importance of safeguarding the national heritage and the cooperation of the Cambodian people as a whole. However, an essential role in watching over and policing this process is vested in those professions represented in this room today: museum and site administrators and guards; police and customs officers;

jurists and the court system; educators; members of the tourist industry; antique dealers themselves; and, of course, the press whose role in exposing the illicit traffic in antiquities is of immense value in bringing this underground activity out in the open where it can be scrutinized and corrected.

Since its creation, UNESCO has taken the lead international role in encouraging States to protect their cultural heritage through legal means and by adopting other complementary measures such as the establishment of museums and public education programmes. 72 states - including Cambodia - are party to the 1970 UNESCO CONVENTION *on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*.

It is here today in Cambodia that UNESCO is convening the first ever national workshop on this topic, thus providing a forum for persons from all concerned professions to meet together to find ways to put a stop to this activity so destructive to Cambodia's national identity and pride.

Present with us are leading international lawyers as well as experts from INTERPOL, ICOM - the International Council on Museums and the customs services of several art-importing nations. I am also pleased that representatives of UNTAC Civil Administration and Civilian Police are also able to assist in this workshop. The next week therefore offers a unique opportunity for Cambodian archaeologists, administrators, and law enforcement officers to consult with their professional colleagues from abroad on what actions to take and how they may best collaborate to prevent further robbery of Cambodia's cultural heritage.

But we are not going to spend the whole of the week just talking. At the end of tomorrow's plenary session, working groups will be constituted in order to begin to develop concrete, practical measures which hopefully can be almost immediately put in place to stop the worst of the looting, clandestine digging and illegal export of antiquities from Cambodia. During the workshops, the international experts will also conduct practical training sessions in response to the needs as they may be expressed by you, the members of each working group. At the end of the week, we shall again have the opportunity to meet in plenary to share the ideas developed in the working groups and to plan a coordinated approach to the solution of the problem of how to prevent the further looting and illicit trade in Cambodia's cultural heritage.

#### QUESTIONS:

1. Why is it that *even the very definition of what constitutes national cultural property is problematic* ?
2. Why is trade regulation of cultural property an impediment to the development and expansion of external trade?
3. Who were the people participating in the Cambodian national workshop?



## presentation and discussion of the measures available in the fight against illicit traffic in cultural property

- Objectives:* *The main objective of this briefing activity is to present, in a plenary session, the various measures that are possible in the fight against illicit traffic in cultural property, and to provide a forum for discussion among the many people who will have to work together in the application of such measures. It is also an objective of this activity to get indications of interest and institutional commitment from the representatives of, among other, the various Ministries.*
- Participants:* *Representatives from various Ministries concerned such as the Ministry of Foreign Affairs, Ministry of Justice, Ministry of Culture, Ministry of Public Works, Ministry of Interior, Ministry of Trade, Ministry of Tourism, Ministry of Education. In addition, representatives of religious bodies, representatives from police and customs, museum representatives and archaeologists, and of course members of the press, should be invited.*
- Expertise required:* *A specialist in the implementation of the 1970 UNESCO CONVENTION . UNESCO or ICOM may assist in identification of suitable expertise.*
- Materials required:* *Information materials of various kinds could be distributed as well as copies of the handbook "Preventing Illicit Traffic in Cultural Property" and copies of the 1970 UNESCO CONVENTION. The recommendation from various regional workshops reprinted in Section 3: Reference Documents 12 - 18, may be used as deemed relevant.*
- Time required:* *30-45 minutes for presentations and 30-60 minutes plenary discussion. Total 60-105 minutes.*
- Location:* *A large plenary/conference room preferable with audio-visual facilities such as an overhead projector and a screen.*

### ACTIVITY

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An international expert may start by giving an overview of the situation and what has been done in various places to protect cultural property from illicit trafficking. He/she will then present and discuss the various measures available - especially in terms of the 1970 UNESCO CONVENTION. Local expertise may then elaborate on the situation and the particular problems facing the country in question.

In order to present and discuss the measures that are available to prevent and fight illicit traffic and protect cultural property the following diagrammes may be used to structure and guide the session. To support a fruitful discussion it is important to draw on the participants own experience as well as presenting ideas and concepts which may be new to them.

*Working against illicit traffic in cultural heritage who does what ??*

STEPS TO BE TAKEN AT NATIONAL LEVEL :	<i>Responsible Ministry</i>
<p>1.     Legislation:</p> <p>General legislation on the protection of immovable and movable cultural property, including:</p> <ul style="list-style-type: none"> <li>• export certificates for any items authorized to be exported;</li> <li>• regulations on archaeological excavations;</li> <li>• regulation of trade in cultural property (licenses);</li> <li>• sanctions and penalties; and</li> <li>• ratification and implementation of international conventions especially the 1970 UNESCO CONVENTION, and the UNIDROIT CONVENTION, and the PROTOCOL to the 1954 HAGUE CONVENTION</li> </ul>	<p>.</p> <p><i>Culture + Justice</i> <i>+ Customs Service</i></p> <p> </p> <p><i>+ Foreign Affairs</i></p>
<p>2.     Inventories of cultural property:</p> <p>The elaboration of a list of important cultural property and the institution of a national inventory system covering both movable objects (in museums and store-rooms) and immovable objects (parts of monuments).</p>	<p><i>Culture</i></p>
<p>3.     Educational measures:</p> <p>Information through various media: television, newspapers, traditional art forms, and printed materials such as posters or booklets for distribution</p> <ul style="list-style-type: none"> <li>• for the whole population: in museums and sites, and in public places such as city halls, churches or pagodas;</li> <li>• for pupils and students: from primary school to university, through special courses and manuals, as elements in normal textbooks and in supplementary reading materials ..</li> </ul> <p>for tourists and visitors: warning signs and brochures for distribution in airports, hotels and in travel agents' offices, in museums and at sites.</p>	<p><i>Culture</i> <i>+ Communication (or Information)</i></p> <p> </p> <p><i>Education</i></p> <p> </p> <p><i>+ Tourism</i></p>

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#### 4. Security :

##### In Museums:

- appropriate security measures (fences, alarms, locks, ..);
- constitution of teams of guards (nomination of a chief of security) in each museum;
- training of museum personnel and guards.

*Responsible Ministry*

*Culture + Public Works*

##### Around Monuments and Sites:

- creation of possible restricted areas to protect fragile parts of monuments;
- training of guards;
- warnings signs for visitors.

*Culture + Tourism*

#### 5. Human resource development:

##### Police:

- constitution of INTERPOL National Central Bureau with multi-lingual staff;
- training of policemen;
- procurement and installation of adequate transport and communication equipment on the sites (e.g. radios, cars, motorbikes).

*Interior*

+ *Communication*

##### Customs:

- training of customs officers;
- acquisition of adequate control equipment (e.g. x-ray).

*Customs Service*

##### Tourism sector:

- sensitizing tourist guides, tour operators and travel agents

*Tourism*

*Working against illicit traffic in cultural heritage who does what ??*

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STEPS TO BE TAKEN AT INTERNATIONAL LEVEL :

*Responsible Ministry:*

1. Multi-lateral co-operation

Ratification and implementation of the relevant international conventions, especially the 1970 UNESCO CONVENTION, the UNIDROIT CONVENTION and the PROTOCOL to the 1954 HAGUE CONVENTION to facilitate international cooperation in terms of illicit traffic in cultural property.

*Culture + Justice + Foreign Affairs*

2. Bilateral co-operation

Possible bilateral agreements (especially with neighbouring countries or countries with an important market for cultural objects).

*Culture + Foreign Affairs*

3. Publicity

Dissemination of general information on thefts and pillage of cultural property to:

*Communication (or Information)  
+ Tourism*

- the international public opinion (through international press, airline magazines; travel magazines);
- guides and tour operators (through specialized magazines);
- dealers of art objects (through specialized magazines, dealers associations, ..).

*Trade*

Dissemination of specific information and descriptions on stolen objects through INTERPOL.

*Interior*

## legislative measures against illicit traffic in cultural property

- Objectives:* The main objective is to review existing cultural heritage legislation and discuss the possible content of new legislation in order to refine the legal protection of cultural property.
- Participants:* Representatives from Ministry of Culture and Ministry of Justice, members of the National Assembly, judges and lawyers should be invited.
- Expertise required:* One lawyer specialized in international and national protection of cultural property. UNESCO may assist in identifying a suitable legal expert.
- Materials required:* Copies of similar legislation (reprinted by UNESCO in a series of booklets; see Section 3: Reference Document 25) as well as copies of the 1970 UNESCO CONVENTION, the UNIDROIT CONVENTION and the PROTOCOL to the 1954 HAGUE CONVENTION may be distributed in advance ( for the full texts of these Conventions see Section 3: Reference Document 1, 3, and 29).
- Time required:* 4-6 hours.
- Location:* Ministry of Justice or the National Assembly.

### ACTIVITIES

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#### Presentation and discussion

- a) Description and explanation of the different legal measures that are available in the fight against illicit trafficking:
  - control/regulation of transfer of ownership (inventories, classification);
  - control/regulation of trade in cultural property;
  - control of archaeological excavations;
  - export control;
  - import control.
- b) Group discussion of the above mentioned measures.
- c) Presentation and review of existing cultural heritage legislation in the country in question.
- d) Evaluation of these measures with a view to the local situation (exemplify).

### Role-plays

Enacting and analysis of actual cases through role plays. The participants should act out the role of officials, whose job it is to find solutions to cases, making use of the legal instruments they administer.

### Plenary discussion

Brief plenary presentation arguing the relevance and possible effect of applying specific legal measures in the fight against illicit trafficking.

### Drafting group

The participants may decide to constitute a smaller drafting group that would make a list of the provisions of the existing legislation that need to be changed and possible new provisions. The drafting group may also start drafting the text of these new provisions.

## inventories

- Objectives:* To introduce the practice and methods of inventorying and enable the participants to prepare inventory cards for collections of cultural property.
- Participants:* Museum staff, archaeologists, students.
- Expertise required:* One museologist or art historian or archaeologist. ICOM may assist in identification of suitable expertise.
- Materials required:* blank filing cards, camera + film and flash, photocopies of text from the handbook "Preventing Illicit Traffic in Cultural Property" e. g. Section 1: pp. 23-28 and Section 3: Reference Documents 19 and 21. Other books may be useful as reference material especially the ICOM "Handbook of Standards. Documenting African Collections". See also bibliography.
- Time required:* 4-8 hours.
- Location:* Museum premises.
- Note:* The activities of Worksheets 4 and 5 may be combined.

## ACTIVITIES

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 Presentation and discussion

Analysis and overview of the situation in the country in terms of inventories and documentation practice. Presentation and discussion of the definition of cultural property given in the 1970 UNESCO CONVENTION.

To support this presentation the participants should be asked to read the parts on inventories in Section 1 (pp. 23-28) of this handbook and the introduction to the ICOM "Handbook of Standards. Documenting African Collections" (the introduction is reprinted in Section 3: Reference Document 19) before the training session. Explicit reference to these texts should be made during the presentation to ensure and facilitate comprehension.

## Exercises

At the National Museum, the participants (working in groups or individually) will select objects of different types, colours, materials, sizes, origins, and periods - representing a wide variety of objects of the museum collections.

For each of the objects selected the participants will prepare a card containing the standard information normally used by the museum.

Another card for the same objects should then be prepared following the information

categories listed in the introduction of the ICOM "*Handbook of Standards. Documenting African Collections*".

Compare the two cards and discuss the advantages and disadvantages of one and the other.

#### Plenary discussion

What is the usefulness of inventories? Is there a national inventory of protected cultural property in your country?

How are international documentation standards such as the one presented in the ICOM "*Handbook of Standards*" useful in the fight against illicit traffic in cultural property?



## notices on stolen objects

- Objectives:* To enable police officers to prepare, on the basis of existing inventories or other information, notices on stolen cultural objects for international dissemination.
- Participants:* Museum staff, archaeologists, police officers.
- Expertise required:* Same as for Worksheet 4. However, the necessary expertise can also be provided by a police officer with training and experience in preparing notices on stolen objects.
- Materials required:* Copies of the INTERPOL standard forms (CRIGEN ART FORMS, - see Section 3: Reference Document 20) and selected text from the handbook "Preventing Illicit Traffic in Cultural Property". Local photographic museum archives/ inventory cards, or archives from the Archaeology or Conservation Department.
- Time required:* 3-4 hours.
- Location:* Museum premises or police station.
- Note:* The activities of Worksheets 4 and 5 may be combined.

## ACTIVITIES

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### Presentation

Presentation focusing on the need for pertinent information if stolen property is to be recovered and the various ways such information can be produced and circulated. The presentation should mention some of the major problems in this area, and the current international move to create consensus on some minimum information standards. Finally, the presentation should include a demonstration of the CRIGEN ART FORMS designed by INTERPOL for this purpose.

### Exercises

- a) The participants must imagine that certain objects have been stolen. On the basis of inventory cards or other existing documentation they will draft notices of the theft containing the necessary information for communication to INTERPOL, UNESCO, ICOM, or other organizations concerned. The relevant CRIGEN ART FORMS should be used for the preparation for the notices.

b) Imagine then that parts of some objects exhibited in the museum have been broken away and stolen.

On the basis of the existing documentation, photographs and descriptions, will the participants prepare similar notices on stolen cultural objects making sure that the information provided is sufficient to enable identification of the parts which have been stolen.

c) Heads, statues, reliefs, and other elements have been recently broken off and removed from monuments on various sites.

On the basis of photographs alone, will the participants prepare notices on these objects stolen from monuments making sure that the information provided is sufficient to enable identification of the parts which have been stolen.

#### Plenary discussion

The cards and notices produced by the working groups will be presented and discussed in a plenary session.

## educational measures and public information 1

### *Preparing an information campaign*

<i>Objective:</i>	<i>To prepare a campaign to inform the public on the problem of illicit traffic in cultural property.</i>
<i>Participants:</i>	<i>Representatives from Ministries of Education, Communication and Tourism; teachers from schools and universities, media people.</i>
<i>Expertise required:</i>	<i>Specialist(s) in education and communication, graphic designers or illustrators.</i>
<i>Materials required:</i>	<i>Examples of existing promotional materials (posters, brochures) produced e.g. to promote tourism; a blackboard; large sheets of papers, markers etc.</i>
<i>Time required:</i>	<i>Min. 7-8 hours (some of the projects may take much longer).</i>
<i>Location:</i>	<i>This activity can take place in any normal classroom or meeting room.</i>

### ACTIVITIES

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The participants will discuss the effectiveness of media in creating awareness of specific topics or problems before making a list of the different means and media which can be utilized to educate and inform on the need to protect cultural property.

The information campaign will differentiate between three different target groups:

1. schoolchildren and students;
2. adults and general public; and
3. visitors and tourists.

The participants may be divided into smaller groups. Each group will then discuss and develop projects for the different means and media identified.

These projects and the result of the group work will be presented at a plenary session which will also prepare a plan of action for the information campaign.

## Examples of projects:

- *poster or brochure:*

The project should prepare a business/project plan describing precisely the contents of the poster or the brochure as well as practical production details such as size, colours, paper quality; costs of printing and preparation and the assistance required; number of copies to be printed; where, when and how it would be posted and distributed; a national information campaign prepared for its launching.

The groups will design the poster or brochure with the advice of the experts and the use of the basic material provided.

- *radio or television programme:*

The project should prepare a business/project plan describing precisely the content (what kind of film? showing what? interview with whom? saying what? ..) as well as practical production information such as the length of the programme, time of broadcasting, assistance required, costs.

In the case of radio or television programmes, the participants may be asked to participate in role plays.

- *exhibition:*

The group should prepare a business/project plan describing precisely the topic and exhibits of the planned exhibition as well as its place of location, dates and duration; the costs involved and the assistance required. The group should further plan the organization of visits by schoolchildren, tourists, general public, police or customs officers, soldiers.

- *campaign directed at different groups of people:*

This could be a programme to develop information and teaching materials of various kinds and scope on which the participants may work as explained in the preceding examples, or it could be perhaps, a specific project for the introduction into the curricula of a course to heighten awareness of the need to protect cultural heritage (in which case the level of education considered should be specified). Development of curriculum materials for use in formal education purposes such as handbooks, slide presentations and work books can also be considered.

The group should describe precisely the content of the materials as well as provide practical production details including costs of printing and preparation and the assistance required; number of copies to be produced; where, when and how it would be launched and distributed.

The groups will design the materials with the advice of the experts and the use of basic material provided.

- *project for the education and training of tourist guides and the enlightenment of tourists visiting monuments and sites:*

This, too, could also be a question of developing material suitable for the purpose - such as the development of a curriculum and supportive illustrated handbooks. Maps, translations of information, postcards and posters, and souvenirs directed at tourists could be considered.

As in the other activities, the group should design the materials and describe the project as well as provide practical production details including costs of production and preparation and other assistance required; scope and volume of the project; where, when and how it would be launched and distributed.

## educational measures and public information 2

*Preparing a poster campaign*

- Objective:* To launch a poster contest among the staff and students at the Fine Arts University with the aim of enhancing the awareness of theft and vandalism against cultural property among the general public.
- Participants:* Professors and students from the Fine Arts University/School, media people and other interested parties.
- Expertise:* No particular expertise required but a Committee to evaluate the posters must be established.
- Materials required:* Examples of existing promotional materials (posters, brochures) produced e.g. to promote tourism; slide projector and slides illustrating the effects of vandalism, theft and plundering of cultural property
- Time required:* Initially 60 min. and the individual projects may of course take whatever time is set aside before the date of submission. Then, the Committee members will be required to evaluate the submitted posters and participate in a press conference to present some of the posters and announce the winner(s).
- Location:* Fine Arts University/School.

## ACTIVITIES

## Introduction

Drawing on the local situation as well as international examples, the threat to cultural property and monuments posed by theft and vandalism should be presented. The idea behind the poster campaign should then be outlined and discussed and a plan of action prepared. If desirable, a competition could be launched with rewards for the best posters - in which case terms and conditions should also be publicized.

Finally, the participants should discuss the projects. All participants are invited to design posters (including practical production details including preparation of artwork and costs of production).

## Guidelines

There should be different categories of posters illustrating different aspects of cultural heritage protection such as:

1. prevention of vandalism against cultural property - such as graffiti on monument walls, or other wilful damage to objects of cultural property.
2. Prevention of clandestine excavations -  
- i. e. illegal digging in the ground around monuments and archaeological sites to find and collect antique objects; use of metal detectors.
3. Prevention of thefts -  
of statues, sculptures, paintings and other cultural property from monuments, private collections and museums:

*(These themes should of course be modified to reflect the situation in a particular country)*

In pictures and graphics, the posters should make people understand that cultural property testifies to the history of a people. The posters should further create an awareness of cultural property as national heritage which should remain in the country. The posters should illustrate the importance of this national heritage to a people and what will be the result if cultural property is subject to uncontrolled and illegal sale.

The poster campaign should further spread the message that the law dictates severe penalties ( fines and imprisonment) for trafficking and looting, and that those who steal cultural property and sell it to the traffickers will be punished.

The posters should emphasize that if someone is seen while trying to steal cultural property or is seen vandalizing monuments, it is necessary to prevent him/her from doing it and to tell of this activity to the authorities.

The posters will be aimed at three different target groups:

1. posters for display in public areas such as stations, markets, administration buildings, shops, offices. ( *target group: the general public* );
2. posters for display in schools. ( *target group: school children*);
3. posters for display in airports, ports, hotels, travel agents, ( *target group: tourists and visitors*).

Constitution of a Committee, Evaluation and Press Conference

## museum and monuments security

### *training of guards*

<i>Objective:</i>	<i>To enable the staff to draw up a plan for improving the security in museums, at monuments and cultural sites.</i>
<i>Participants:</i>	<i>Museum and monuments staff.</i>
<i>Expertise required:</i>	<i>An expert in security in museums, monuments and cultural sites. UNESCO or ICOM may assist in identification of suitable expertise.</i>
<i>Materials required:</i>	<i>Samples and brochures of security equipment (locks, bars, alarms, ..). Diagramme of the museum and monuments staff and copies of their job descriptions.</i>
<i>Time required:</i>	<i>3 sessions each lasting a minimum of 3 hours.</i>
<i>Location:</i>	<i>Museum or administration building for cultural sites.</i>

## ACTIVITIES

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### 1. Situation analysis and needs assessment

The officer in-charge for each of the museums and sites will analyze and describe the situation in his respective museum or site regarding:

- thefts or pillage of cultural objects;
- mechanical security measures adopted;
- number and training of guards.

He/she will then list the problems and requirements beginning with the most urgent regarding:

- improvement of mechanical security (bars, lockers, signs for visitors, other protection measures, ..);
- creation or functioning of a security service;
- training of members of the security service and of the guards (especially with the view to the increasing number of visitors in the museums and on the sites).



## Exercises

- a) The participants may be asked to participate in role plays placing them in specific situations (for example: the reactions of the personnel when a visitor is seen being stealing an object).
- b) The participants should be asked to draft a checklists for their own job responsibilities specifying all the places, protections, locks, keys, that must be checked during a day's work in a museum or a monument.
- c) With the assistance of the other participants, the officer in-charge for each of the museums and sites will draft a chart of his personnel (including the curator himself) indicating for each of the staff:
  - their role and their responsibility regarding security against thefts;
  - the specific training they may need to properly assume that responsibility;

The checklists and the charts will be presented and discussed in a plenary session.

- d) The expert will analyze the situation on the basis of the information given and advise on the basic requirements to ensure the proper security measures against thefts of cultural objects, especially in terms of security personnel and guards required, their qualifications and training, the organization of a security service, the responsibilities of the curator, security personnel and guards as well as the equipment they need to exercise their functions.
- e) In response to the identified needs the expert may organize subsequent training sessions. The expert should advise on the equipment needed for the personnel including communication equipment, uniform and/or badges, trying to be as precise as possible providing details on the type of equipment, technical specifications and price on the local market (or the international market if necessary).

## 2. Mechanical security

The expert will advise on the mechanical security measures to respond to the needs expressed by the participants. He/she will demonstrate models and show brochures of basic security material as necessary.

A detailed list of the equipment needed will be elaborated for each museum or site. The list should be as precise and comprehensive as possible giving details on the type of material needed, specifications, and their price on the local market (or the international market if necessary). These lists should then be discussed and revised in plenum with the other participants. If desirable the participants and the expert may purchase models of the equipment required for demonstration, on a field trip to the local market.

## 3. Plenum discussion

Presentation and review of the check lists and the lists of equipment that each participant has drafted during the course.

## training of police and customs officers - 1

- Objectives:* To enable a discussion of the extent of co-operation between customs and police in the fight against illicit traffic, this worksheet features a combined training programme for police officers and customs officers. As a result of this discussion a proposal for the establishment of a separate body to co-ordinate police work and customs work in this area, may emerge.
- Participants:* Representatives from the Ministry of Interior and whatever Ministry is in charge of customs affairs (Ministry of Finance or Ministry of Trade), police officers and customs officers.
- Expertise required:* Two experts in police and customs techniques respectively, both specialized in illicit traffic in cultural property. UNESCO or INTERPOL or THE WORLD CUSTOMS ORGANIZATION may assist in identification of suitable expertise.
- Materials required:* Copies of selected text from the handbook "Preventing illicit traffic in cultural property" e. g. Section 3: Reference Documents 1, 8, 27, and 28.
- Time required:* min. 6-8 hours.
- Location:* Police or customs premises.

### ACTIVITIES

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#### Presentation and role-plays

The experts will explain modern criminal or customs investigations practice relating to the import or export control of cultural property. To further illustrate such practice the participants may be asked to participate in role-plays directed by the experts.

#### Situation analysis

The participants will then divide into working groups (one on police, one on customs) which will prepare an analysis of the current situation in terms of police and customs structure and capacity, and the major problems and shortcomings or restraints in the fight against thefts and illicit export of cultural objects. The analyses should cover the following issues:

- existence and nature of inventories or registers of important cultural items;
- existence and nature of registers of suspects of illegal traffic;
- equipment (radio and telephone communication, vehicles, photographic equipment);
- relations and extent of co-operation with other institutions (police, customs, army, dealers, INTERPOL, neighbouring countries);
- power of customs and police regarding the protection of cultural property especially in terms of the possibilities for controlling persons and goods, seizing objects and arresting people, and undertake appropriate investigation;
- common techniques used by thieves to steal cultural property in museums or from monuments.

The analyses will be presented and discussed in a plenary session.

#### Presentation

The experts on police and customs techniques will briefly describe how, in some countries, a centralized body has been established that coordinates information and actions in the field of repression of illicit traffic in cultural property. He/she would describe the advantages of having a specialized body for this purpose and give examples of how such coordinating bodies are structured and function in other countries with successful results, among other in terms of recuperating cultural objects.

#### Discussion

The participants and the experts will then proceed to a discussion of improving coordination between especially police and customs in the area of illicit traffic in cultural property. The presentation should include presentations of WCO and INTERPOL. THE WCO may mention the NAIROBI CONVENTION for its Annex XI which specifically deals with the customs authorities contribution to the repression of illicit traffic in cultural property. The participants are expected to present case studies and draw on examples related to their own experience.

The participants may be invited to draft a proposal for the creation of a coordinating body that could help improving the police or customs services regarding the investigation for cultural property. The proposal should consider the existing national structure and capacity of police and customs as well as draw on the international experience presented by the experts. The proposal must be detailed in terms of the structure, the power and resources to be invested with the proposed body.

## training of police and customs officers - 2

*Note:*

*Since the majority of the police officers working to protect the cultural heritage sites in Cambodia were newly recruited and inexperienced, a motivation and training course which discussed the police's role and duty vis-a-vis the protection of cultural heritage was organized as a follow-up to this activity. About 450 police officers were trained during two specialized workshops. While the first of these workshops mainly was a presentation and discussion of the role and duty of the police in terms of protecting cultural property, the second workshop focused on specific investigation and recovery techniques (see worksheet 11). The objective of the training was to make the police officers clearly understand the importance of protecting the sites for the prosperity of the country, and also make clear that control of cultural property is an inherent responsibility of the police. The provisions of the criminal code were explained and discussed, as well as the need to establish regular patrols and to control visitors. The necessity of reporting thefts and pillage or any other deterioration of the sites was emphasized throughout the workshops.*

*Below is a speech which was prepared specifically for this activity. To be used in a different context it should be modified.*

<i>Objective:</i>	<i>To sensitize and motivate police and customs officers to their duty in the fight against illicit traffic.</i>
<i>Participants:</i>	<i>Police officers involved with the guarding of cultural sites. Customs officers may be invited, too.</i>
<i>Expertise required:</i>	<i>International or national specialist in the field of cultural heritage (e.g. a UNESCO officer).</i>
<i>Materials required:</i>	<i>Slide projector and screen; slides illustrating the concept of cultural heritage and the effects of theft and vandalism.</i>
<i>Time required:</i>	<i>1-2 hours.</i>
<i>Location:</i>	<i>Police or customs premises.</i>

### *Protecting the cultural treasures is the duty of everyone*

In many countries of the world, monuments, temples and other religious and cultural sites are damaged or pillaged. Many important cultural objects, such as statues, lintels or bronzes are stolen and sold to unscrupulous traffickers. The result is that, in such countries, the younger generations do not have the possibility to admire their national and cultural heritage, and do not have the chance to get to know first hand the objects that more than anything else tell the history of their nation.

Many countries are so poor or have gone through such difficult periods in their history that they are not able to do much against vandalism, thefts and illicit trafficking in their cultural treasures. In some countries in Africa, for example, it has become difficult to find any examples of the ancient wooden masks and other traditional and ritual religious objects which they are famous for. These objects can instead be admired in museums in Europe or in America but people in the countries where these objects are originating from, are no longer able to see for themselves what their parents could admire, be proud of and use in traditional rituals.

Other countries, on the contrary, hope that the efforts of the whole population who love these national treasures, will make it possible to limit thefts and export out of the national territory of the most beautiful objects.

In Cambodia, it has also become urgent to defend the cultural treasures so that the future generations in this country, your own children and grand-children, can still admire what you can admire and love: the famous and beautiful statues, carvings, and lintels which the Cambodian people is so proud of and which is also admired by many foreigners.

For this purpose His Royal Highness King Norodom Sihanouk has personally requested M. Federico Mayor, the Director-General of UNESCO, to help Cambodia protect its national treasures against vandalism and thefts.

As the Angkor monuments are very famous and beloved all over the world, many foreigners want to visit Cambodia. It is necessary to build hotels, restaurants, and roads to welcome these visitors. New jobs will be therefore created for your children. Tourism can bring more prosperity in the country if it is well organized and if the monuments are well-preserved. On the contrary, if many statues and beautiful lintels have disappeared from the temples or are too badly damaged by vandalism and thefts, the visitors will be disappointed and will not come again to Cambodia and spend money here.

Protecting monuments against thefts is therefore a guarantee of prosperity for your children. It is the duty of all the Cambodians to participate to this effort. Those people, Cambodian and foreigners, who participate to thefts and illicit trafficking, will be punished because they act against the interest of the nation, against the children of this country, against their own children.

### *A special duty for the police*

Among the Cambodian citizens, policemen have the duty to show an example. One of their missions in Siem Reap is to help prevent vandalism, thefts and destruction of the monuments, statues, lintels, carvings. In Cambodia, like everywhere else in the world,

policemen are very important persons. They can be very proud of their mission and their family; their children can be very proud of them.

Obviously, the task of policemen is very difficult, especially when they do not have adequate equipment, uniforms or training. UNESCO knows that your working conditions are not sufficient and that you need more equipment to do your job properly. The situation will improve in the future. As a first step, UNESCO can announce to you that police trainers will come here in the following months to train you in better protecting the monuments. In the meantime, UNESCO should like to remind a few of the basic rules which the police have to follow to properly undertake their mission of protection.

There are two serious problems which the police has to try to prevent: vandalism and theft.

### *Vandalism*

Vandalism is the destruction, or at least the damaging, of beautiful objects, statues, head, carvings which are in the monuments. This has happened many times in Angkor and, unfortunately, it still continues.

Vandalism is most often caused because people do not know any better. Some people who damage the monuments do not know that it is a part of the national heritage and that it is a crime to destroy it. Very often they do not even know that they will be punished if they do so. The duty of the police is therefore to look after all the visitors to the monuments, both Cambodian and foreigners, to watch if they are respectful to the monuments. If you see that they are about to damage them, your duty is to warn them and to prevent them from doing so. If they have done it anyway and if you arrive to late, you have to try to arrest them because they act against the law and may be punished by imprisonment. You have to bring them to the Chief of the police station who will have to make a report.

Graffiti is a special form of vandalism. A graffiti is an inscription on the wall of a temple. Graffiti have appeared on some walls at the Angkor monuments. Some visitors indeed like to write on the walls their name and the date of their visit. It can be considered as not very important if only two or three people write graffiti but it could become very serious and could badly damage the monuments if each visitor does so. In Europe, some walls of some famous monuments are covered with graffiti: It is too bad because it really damages the monuments, in particular beautiful frescos or carvings. A similar situation could happen in Cambodia very quickly if the police does not pay attention to the visitors and does not prevent them from writing graffiti. If a policeman sees someone trying to write on the walls, he has to try to prevent him from doing so, kindly but firmly. Graffiti are against the law and may be punished.

### *Theft*

Many thefts have been reported in the past at the Angkor temples. Still now they are reported especially from the temples of Bantey Srei and Neak Pean. This is not acceptable. Unscrupulous people want to steal what belongs to you, to the people of Cambodia, and to your children. Everyone, especially the police, has to prevent these people from stealing your cultural property.

One of the tasks of UNESCO is to try to convince collectors abroad not buy and sell stolen Khmer cultural objects and to convince their Government to punish the people that continue to do so.

In Cambodia, the police must also take measures against theft. During training sessions scheduled for October, trainers will work with you at the reinforcement of specific techniques to prevent thefts. But we should like today, as an introduction to the future training, to tell you already a few words on what the police is expected to do by briefly examining what the police has to do in three different situations.

*1. What to do to prevent thefts (dissuasive measures) ?*

We should never forget that thieves should be afraid of the police. Even if the police in Cambodia are not sufficiently equipped, they must show their presence on and around the monuments. Thieves will be more afraid to steal if they see that the police is always present on the site. Police should patrol day and night, in and around the monuments. However, these patrols should change their route and schedule frequently to prevent the thieves from knowing when the patrol does not come. The patrols can be organized by the Chiefs of the different police stations during a briefing which can be held every week. Each policeman should also be provided with a uniform which must be clean all the time. Visitors, both Cambodian and foreigners must have the feeling that they may not do anything against the law otherwise they will be caught by the police. Another means to show the presence of the police is to control people entering and getting out of the Angkor area.

*2. What to do when a theft is happening?*

If you see someone trying to steal something from a monument, you have to arrest him or her immediately. If the object has already been removed from the monument, you will seize the object which will be put in a safe place at the Angkor conservation. You have to bring the thief to the police station where a report will be made. In his report the Chief of the station will mention the date, the hour, the place of the seizure as well as the identity of the person who attempted to steal the object. The Chief of the station will inform the Chief police and the Director of Angkor Conservation.

*3. What to do when a theft has already happened ?*

It may also happen that in spite of all what you did to prevent it, objects or statues have disappeared anyway, in particular during the night. In such situations, too, policemen must report immediately to their Chief so that a message will be sent all over the world through INTERPOL to try to recover the stolen objects. A report must also be made immediately to the Director of the Angkor conservation. For this purpose it is advised that regular meetings be organized between the Chief police, the chief of the police stations of the Angkor area and the Director of the Angkor conservation.

## CONCLUSION

The country counts on police officers to prevent vandalism and thefts of cultural treasures. Police officers who, like you, are protecting a World Heritage site have a very important responsibility. UNESCO knows that your mission is difficult, very difficult. But you can be very proud. You are working for the future of your country, for the welfare of your children. They can be proud of you for you are protecting the national heritage of Cambodia which makes the whole world very proud of you, too.

## training of police officers - 3

*Note:*

*The present worksheet presents a revised outline for a training programme for police officers originally designed by the French authorities for the Cambodian authorities. The programme was designed particularly for the case of Cambodia and should therefore not be considered as a general model but rather as an example of how such a training programme can look. However, it does contain some very useful information on the possible extent and course of a training programme.*

*The outline for a training programme was presented to the Cambodian authorities within a proposed structure for organization of the police force which anticipated that a specialized police unit was established to ensure the security against theft and pillage on the sites and monuments of Angkor. This unit, to be called the Central Office for the Prevention of Theft of Cultural Property, would function as the co-ordinator between the National Police, Customs, the Courts and the involved Ministries. Through the National Central Bureau of Interpol, the Office would also become an integral part of the international fight against illicit traffic in cultural property. The first condition for such a scheme to work is that the national police is in place and functioning. The outlined training programme was designed to ensure this.*

- Objective:* Training of police officers in specific investigation and recovery techniques.
- Participants:* The training programme would address all police officers assigned to a co-ordinating office for the prevention of theft of cultural property, as well as inspectors concerned with stolen cultural property from district offices and the Chief and Deputy of the National Central Bureau of INTERPOL.  
As desirable, customs officers, officers from the Ministry of Justice and Ministry of Defence (Military Police Units), as well as officers responsables for Museums within the Ministry of Culture can be invited.
- Expertise required:* Experienced police trainer, specialized in protection of cultural property. UNESCO or INTERPOL may assist in the identification of suitable expertise.
- Materials required:* - to be indicated by the trainer.
- Time required:* The training outlined in this worksheet is intended to be an in-service training programme which can extend from one to several weeks.
- Location:* Police premises.



*The training programme has three modules:*

- module 1: Organization and general objectives, police techniques
- module 2: Protection of cultural property - a job for the police
- module 3: Training on location

#### Module 1. Organization and general objectives, police techniques

Presenting a model organizational chart, the Expert will first of all describe the coordinating office's role and place within the national police structure and within the Ministry of Interior. He will then go on to explain the national operation plan(s), emergency plans, national and international opinion in detail. Relations and cooperation with other interested Ministries and not least with international agencies such as UNESCO and INTERPOL, and specialized institutions should be elaborated and illustrated through examples.

Subsequently, ideas to facilitate the fight against pillage and illicit traffic in cultural property such as inventories and registers of authorized arts dealers, compulsory export certificates etc. should be introduced and described in some detail.

Questions from the participants should be an essential element in the training and the experts should strive to give precise and detailed answers to all questions.

#### Module 2. Protection of cultural property

During this training module, three interventions will be given by, respectively, a representative of the police authority that is overall responsible for preventing theft of cultural property, a representative from UNESCO, and a representative from a specialized scientific institution working with the preservation of cultural heritage. The main focus will be on the place and importance of a country's cultural heritage. The three experts will illustrate the problems and the mechanisms put in place in the international fight against pillage and illicit traffic in cultural property. The use of audio-visual aids is recommended for this presentation.

To enhance the solemnity of the issue and emphasize the importance accorded cultural property by national authorities, as well as the status given to the fight against pillage and illicit traffic, high ranking politicians could briefly address the audience at the beginning and at the end of the training.

### Module 3. Training on location

The training will take up the issues from modules 1 and 2 with special regard to the problems and issues at hand at the location.

The training will in particular focus on survey techniques and criminal investigation with particular respect to this field. Penal codes and procedures will be explained and discussed, and the possibilities and procedures of involving INTERPOL in any investigation.

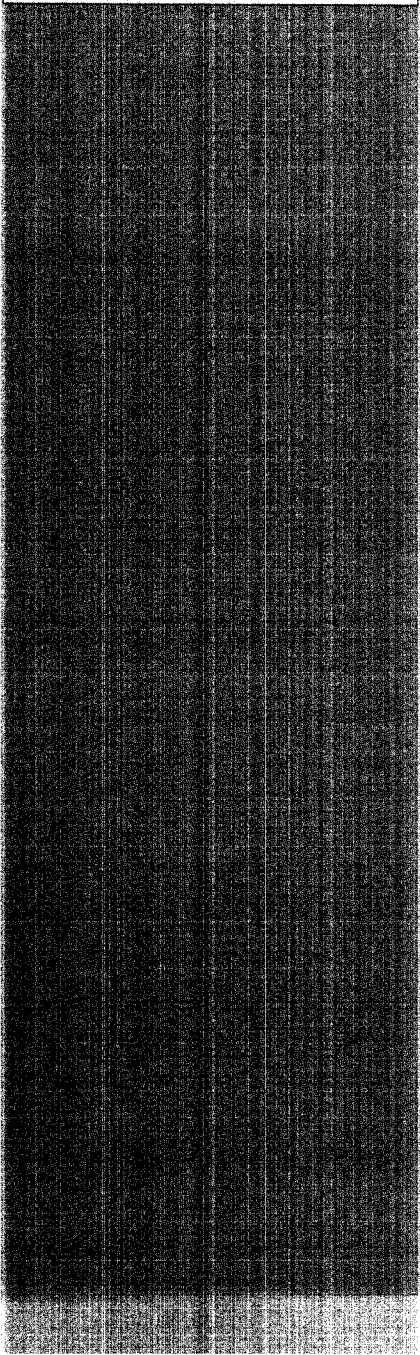
The presence of the Director of the coordinating office for the prevention of theft of cultural property would make it feasible to explain and review procedures and perhaps even to institute new or reviewed procedures to combat pillage and illicit traffic more effectively.

It would be wise to divide the activities of this module in two categories: one that addresses all involved participants including high-ranking political figures who give to the sessions an impression of the importance accorded by authorities to the issue; and another which more directly addresses the problems of lower ranking officers who are going to work with the issues on a day to-day basis.

*Preventing  
the  
Illicit Traffic  
in  
Cultural Property*

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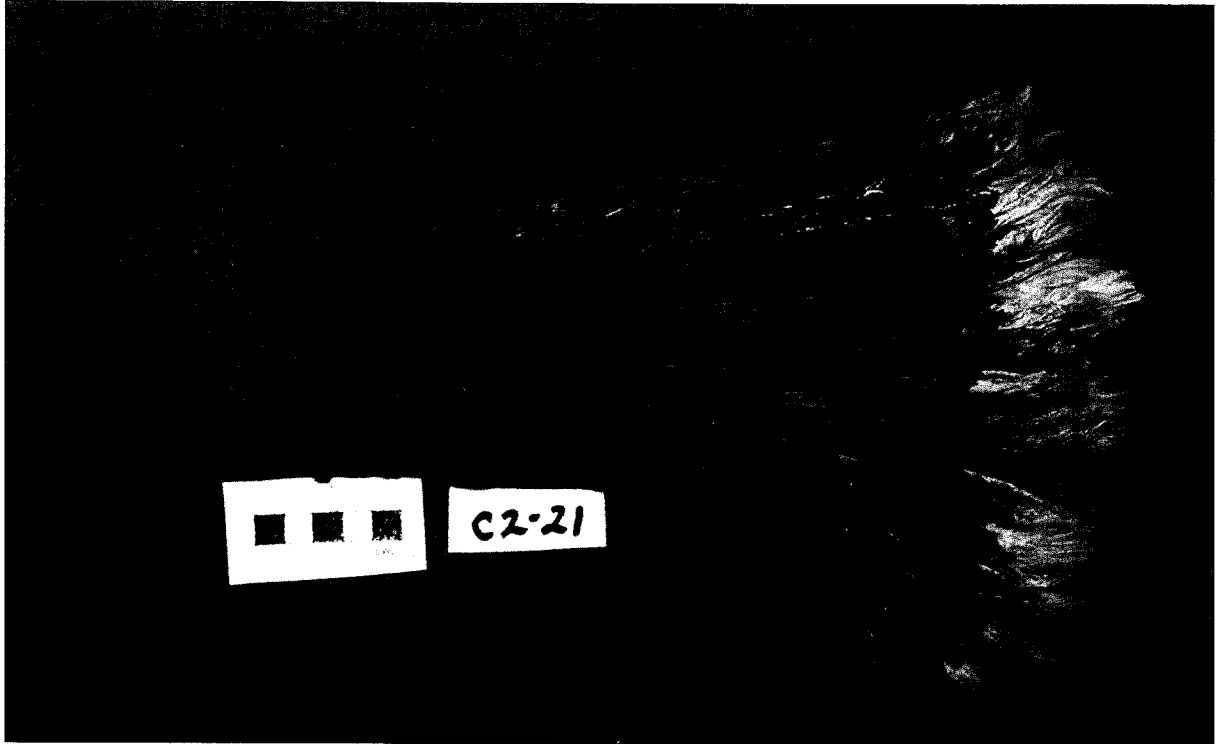
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# Section 3

reference documents

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*photo overleaf:*

*Peruvian feathered headdress ornament seized by Canada Customs in 1985 pursuant to the 1970 UNESCO Convention.*

*(Photo © Canadian Cultural Property Export Review Board)*

United Nations Educational, Scientific and Cultural Organization  
Organización de las Naciones Unidas para la Educación, la Ciencia y la Cultura  
Organisation des Nations Unies pour l'éducation, la science et la culture  
Организация объединенных наций по вопросам образования, науки и культуры

Convention on the means of prohibiting and  
preventing the illicit import, export and transfer  
of ownership of cultural property

adopted by the General Conference at its sixteenth session  
Paris, 14 November 1970

Convención sobre las medidas que deben adoptarse  
para prohibir e impedir la importación, la exportación y la  
transferencia de propiedad ilícitas de bienes culturales

aprobada por la Conferencia General en su decimosexta reunión  
París, 14 de noviembre de 1970

Convention concernant les mesures à prendre  
pour interdire et empêcher l'importation, l'exportation  
et le transfert de propriété illicites des biens culturels

adoptée par la Conférence générale à sa seizième session  
Paris, le 14 novembre 1970

Конвенция о мерах, направленных  
на запрещение и предупреждение незаконного ввоза, вывоза  
и передачи права собственности на культурные ценности

принятая Генеральной конференцией на шестнадцатой сессии  
Париж, 14 ноября 1970 г.

The General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris from 12 October to 14 November 1970, at its sixteenth session,

Recalling the importance of the provisions contained in the Declaration of the Principles of International Cultural Co-operation, adopted by the General Conference at its fourteenth session,

Considering that the interchange of cultural property among nations for scientific, cultural and educational purposes increases the knowledge of the civilization of Man, enriches the cultural life of all peoples and inspires mutual respect and appreciation among nations,

Considering that cultural property constitutes one of the basic elements of civilization and national culture, and that its true value can be appreciated only in relation to the fullest possible information regarding its origin, history and traditional setting,

Considering that it is incumbent upon every State to protect the cultural property existing within its territory against the dangers of theft, clandestine excavation, and illicit export,

Considering that, to avert these dangers, it is essential for every State to become increasingly alive to the moral obligations to respect its own cultural heritage and that of all nations,

Considering that, as cultural institutions, museums, libraries and archives should ensure that their collections are built up in accordance with universally recognized moral principles,

Considering that the illicit import, export and transfer of ownership of cultural property is an obstacle to that understanding between nations which it is part of Unesco's mission to promote by recommending to interested States, international conventions to this end,

Considering that the protection of cultural heritage can be effective only if organized both nationally and internationally among States working in close co-operation,

Considering that the Unesco General Conference adopted a Recommendation to this effect in 1964, Having before it further proposals on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property, a question which is on the agenda for the session as item 19,

Having decided, at its fifteenth session, that this question should be made the subject of an international convention,

Adopts this Convention on the fourteenth day of November 1970.



## Article 1

For the purposes of this Convention, the term "cultural property" means property which, on religious or secular grounds, is specifically designated by each State as being of importance for archaeology, prehistory, history, literature, art or science and which belongs to the following categories:

- (a) Rare collections and specimens of fauna, flora, minerals and anatomy, and objects of palaeontological interest;
- (b) property relating to history, including the history of science and technology and military and social history, to the life of national leaders, thinkers, scientists and artists and to events of national importance;
- (c) products of archaeological excavations (including regular and clandestine) or of archaeological discoveries;
- (d) elements of artistic or historical monuments or archaeological sites which have been dismembered;
- (e) antiquities more than one hundred years old, such as inscriptions, coins and engraved seals;
- (f) objects of ethnological interest;
- (g) property of artistic interest, such as:
  - (i) pictures, paintings and drawings produced entirely by hand on any support and in any material (excluding industrial designs and manufactured articles decorated by hand);
  - (ii) original works of statuary art and sculpture in any material;
  - (iii) original engravings, prints and lithographs;
  - (iv) original artistic assemblages and montages in any material;
- (h) rare manuscripts and incunabula, old books, documents and publications of special interest (historical, artistic, scientific, literary, etc.) singly or in collections;
- (i) postage, revenue and similar stamps, singly or in collections;
- (j) archives, including sound, photographic and cinematographic archives;
- (k) articles of furniture more than one hundred years old and old musical instruments.

## Article 2

1. The States Parties to this Convention recognize that the illicit import, export and transfer of ownership of cultural property is one of the main causes of the impoverishment of the cultural heritage of the countries of origin of such property and that international co-operation constitutes one of the most efficient means of protecting each country's cultural property against all the dangers resulting therefrom.

2. To this end, the States Parties undertake to oppose such practices with the means at their disposal, and particularly by removing their causes, putting a stop to current practices, and by helping to make the necessary reparations.

## Article 3

The import, export or transfer of ownership of cultural property effected contrary to the provisions adopted under this Convention by the States Parties thereto, shall be illicit.

## Article 4

The States Parties to this Convention recognize that for the purpose of the Convention property which belongs to the following categories forms part of the cultural heritage of each State:

- (a) Cultural property created by the individual or collective genius of nationals of the State concerned, and cultural property of importance to the State concerned created within the territory of that State by foreign nationals or stateless persons resident within such territory;
- (b) cultural property found within the national territory;
- (c) cultural property acquired by archaeological, ethnological or natural science missions, with the consent of the competent authorities of the country of origin of such property;
- (d) cultural property which has been the subject of a freely agreed exchange;
- (e) cultural property received as a gift or purchased legally with the consent of the competent authorities of the country of origin of such property.



## Article 5

To ensure the protection of their cultural property against illicit import, export and transfer of ownership, the States Parties to this Convention undertake, as appropriate for each country, to set up within their territories one or more national services, where such services do not already exist, for the protection of the cultural heritage, with a qualified staff sufficient in number for the effective carrying out of the following functions:

- (a) Contributing to the formation of draft laws and regulations designed to secure the protection of the cultural heritage and particularly prevention of the illicit import, export and transfer of ownership of important cultural property;
- (b) establishing and keeping up to date, on the basis of a national inventory of protected property, a list of important public and private cultural property whose export would constitute an appreciable impoverishment of the national cultural heritage;
- (c) promoting the development or the establishment of scientific and technical institutions (museums, libraries, archives, laboratories, workshops. . .) required to ensure the preservation and presentation of cultural property;
- (d) organizing the supervision of archaeological excavations, ensuring the preservation "in situ" of certain cultural property, and protecting certain areas reserved for future archaeological research;
- (e) establishing, for the benefit of those concerned (curators, collectors, antique dealers, etc.) rules in conformity with the ethical principles set forth in this Convention; and taking steps to ensure the observance of those rules;
- (f) taking educational measures to stimulate and develop respect for the cultural heritage of all States, and spreading knowledge of the provisions of this Convention;
- (g) seeing that appropriate publicity is given to the disappearance of any items of cultural property.

## Article 6

The States Parties to this Convention undertake:

- (a) To introduce an appropriate certificate in which the exporting State would specify that the export of the cultural property in question is authorized. The certificate should accompany all items of cultural property exported in accordance with the regulations;

- (b) to prohibit the exportation of cultural property from their territory unless accompanied by the above-mentioned export certificate;
- (c) to publicize this prohibition by appropriate means, particularly among persons likely to export or import cultural property.

## Article 7

The States Parties to this Convention undertake:

- (a) To take the necessary measures, consistent with national legislation, to prevent museums and similar institutions within their territories from acquiring cultural property originating in another State Party which has been illegally exported after entry into force of this Convention, in the States concerned. Whenever possible, to inform a State of origin Party to this Convention of an offer of such cultural property illegally removed from that State after the entry into force of this Convention in both States;
- (b) (i) to prohibit the import of cultural property stolen from a museum or a religious or secular public monument or similar institution in another State Party to this Convention after the entry into force of this Convention for the States concerned, provided that such property is documented as appertaining to the inventory of that institution;
- (ii) at the request of the State Party of origin, to take appropriate steps to recover and return any such cultural property imported after the entry into force of this Convention in both States concerned, provided, however, that the requesting State shall pay just compensation to an innocent purchaser or to a person who has valid title to that property. Requests for recovery and return shall be made through diplomatic offices. The requesting Party shall furnish, at its expense, the documentation and other evidence necessary to establish its claim for recovery and return. The Parties shall impose no customs duties or other charges upon cultural property returned pursuant to this Article. All expenses incident to the return and delivery of the cultural property shall be borne by the requesting Party.

#### Article 8

The States Parties to this Convention undertake to impose penalties or administrative sanctions on any person responsible for infringing the prohibitions referred to under Articles 6 (b) and 7 (b) above.

#### Article 9

Any State Party to this Convention whose cultural patrimony is in jeopardy from pillage of archaeological or ethnological materials may call upon other States Parties who are affected. The States Parties to this Convention undertake, in these circumstances, to participate in a concerted international effort to determine and to carry out the necessary concrete measures, including the control of exports and imports and international commerce in the specific materials concerned. Pending agreement each State concerned shall take provisional measures to the extent feasible to prevent irremediable injury to the cultural heritage of the requesting State.

#### Article 10

The States Parties to this Convention undertake:

- (a) To restrict by education, information and vigilance, movement of cultural property illegally removed from any State Party to this Convention and, as appropriate for each country, oblige antique dealers, subject to penal or administrative sanctions, to maintain a register recording the origin of each item of cultural property, names and addresses of the supplier, description and price of each item sold and to inform the purchaser of the cultural property of the export prohibition to which such property may be subject;
- (b) to endeavour by educational means to create and develop in the public mind a realization of the value of cultural property and the threat to the cultural heritage created by theft, clandestine excavations and illicit exports.

#### Article 11

The export and transfer of ownership of cultural property under compulsion arising directly or indirectly from the occupation of a country by a foreign power shall be regarded as illicit.

#### Article 12

The States Parties to this Convention shall respect the cultural heritage within the territories for the international relations of which they are responsible, and shall take all appropriate measures to prohibit and prevent the illicit import, export and transfer of ownership of cultural property in such territories.

#### Article 13

The States Parties to this Convention also undertake, consistent with the laws of each State:

- (a) To prevent by all appropriate means transfers of ownership of cultural property likely to promote the illicit import or export of such property;
- (b) to ensure that their competent services cooperate in facilitating the earliest possible restitution of illicitly exported cultural property to its rightful owner;
- (c) to admit actions for recovery of lost or stolen items of cultural property brought by or on behalf of the rightful owners;
- (d) to recognize the indefeasible right of each State Party to this Convention to classify and declare certain cultural property as inalienable which should therefore *ipso facto* not be exported, and to facilitate recovery of such property by the State concerned in cases where it has been exported.

#### Article 14

In order to prevent illicit export and to meet the obligations arising from the implementation of this Convention, each State Party to the Convention should, as far as it is able, provide the national services responsible for the protection of its cultural heritage with an adequate budget and, if necessary, should set up a fund for this purpose.

#### Article 15

Nothing in this Convention shall prevent States Parties thereto from concluding special agreements among themselves or from continuing to implement agreements already concluded regarding the restitution of cultural property removed, whatever the reason, from its territory of origin, before the entry into force of this Convention for the States concerned.

#### Article 16

The States Parties to this Convention shall in their periodic reports submitted to the General Conference of the United Nations Educational, Scientific and Cultural Organization on dates and in a manner to be determined by it, give information on the legislative and administrative provisions which they have adopted and other action which they have taken for the application of this Convention, together with details of the experience acquired in this field.

#### Article 17

1. The States Parties to this Convention may call on the technical assistance of the United Nations Educational, Scientific and Cultural Organization, particularly as regards:

- (a) Information and education;
- (b) consultation and expert advice;
- (c) co-ordination and good offices.

2. The United Nations Educational, Scientific and Cultural Organization may, on its own initiative conduct research and publish studies on matters relevant to the illicit movement of cultural property.

3. To this end, the United Nations Educational, Scientific and Cultural Organization may also call on the co-operation of any competent non-governmental organization.

4. The United Nations Educational, Scientific and Cultural Organization may, on its own initiative, make proposals to States Parties to this Convention for its implementation.

5. At the request of at least two States Parties to this Convention which are engaged in a dispute over its implementation, Unesco may extend its good offices to reach a settlement between them.

#### Article 18

This Convention is drawn up in English, French, Russian and Spanish, the four texts being equally authoritative.

#### Article 19

1. This Convention shall be subject to ratification or acceptance by States members of the United Nations Educational, Scientific and Cultural Organization in accordance with their respective constitutional procedures.

2. The instruments of ratification or acceptance shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

#### Article 20

1. This Convention shall be open to accession by all States not members of the United Nations Educational, Scientific and Cultural Organization which are invited to accede to it by the Executive Board of the Organization.

2. Accession shall be effected by the deposit of an instrument of accession with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

#### Article 21

This Convention shall enter into force three months after the date of the deposit of the third instrument of ratification, acceptance or accession, but only with respect to those States which have deposited their respective instruments on or before that date. It shall enter into force with respect to any other State three months after the deposit of its instrument of ratification, acceptance or accession.

#### Article 22

The States Parties to this Convention recognize that the Convention is applicable not only to their metropolitan territories but also to all territories for the international relations of which they are responsible; they undertake to consult, if necessary, the governments or other competent authorities of these territories on or before ratification, acceptance or accession with a view to securing the application of the Convention to those territories, and to notify the Director-General of the United Nations Educational, Scientific and Cultural Organization of the territories to which it is applied, the notification to take effect three months after the date of its receipt.

### Article 23

1. Each State Party to this Convention may denounce the Convention on its own behalf or on behalf of any territory for whose international relations it is responsible.
2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.
3. The denunciation shall take effect twelve months after the receipt of the instrument of denunciation.

### Article 24

The Director-General of the United Nations Educational, Scientific and Cultural Organization shall inform the States members of the Organization, the States not members of the Organization which are referred to in Article 20, as well as the United Nations, of the deposit of all the instruments of ratification, acceptance and accession provided for in Articles 19 and 20, and of the notifications and denunciations provided for in Articles 22 and 23 respectively.

### Article 25

1. This Convention may be revised by the General Conference of the United Nations Educational, Scientific and Cultural Organization. Any such revision shall, however, bind only the States which shall become Parties to the revising convention.
2. If the General Conference should adopt a new convention revising this Convention in whole or in part, then, unless the new convention otherwise provides, this Convention shall cease to be open to ratification, acceptance or accession, as from the date on which the new revising convention enters into force.

### Article 26

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Done in Paris this seventeenth day of November 1970, in two authentic copies bearing the signature of the President of the sixteenth session of the General Conference and of the Director-General of the United Nations Educational, Scientific and Cultural Organization, which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization, and certified true copies of which shall be delivered to all the States referred to in Articles 19 and 20 as well as to the United Nations.

The foregoing is the authentic text of the Convention duly adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization during its sixteenth session, which was held in Paris and declared closed the fourteenth day of November 1970.

IN FAITH WHEREOF we have appended our signatures this seventeenth day of November 1970.

*The President of the General Conference*

**ATILIO DELL'ORO MAINI**

*The Director-General*

**RENE MAHEU**

Certified copy  
Paris,

*Director, Office of International  
Standards and Legal Affairs,  
United Nations Educational,  
Scientific and Cultural Organization*

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*THE 1970 UNESCO CONVENTION  
on the Means of Prohibiting and Preventing the Illicit Import, Export and  
Transfer of Ownership of Cultural Property*

*List of the 86 States Parties as of 8 January 1997*

<i>STATES</i>	<i>Date of Deposit</i>	<i>Date of Entry into Force</i>
	Ratification (R) Acceptance (Ac) Accession (A) Succession (S)	
ALGERIA	24.06.1974 (R)	24.09.1974
ANGOLA	07.11.1991 (R)	07.02.1992
ARGENTINA	11.01.1973 (R)	11.04.1973
ARMENIA (Republic of) <sup>1</sup>	05.09.1993 (S)	note 1
AUSTRALIA	30.10.1989 (Ac)	30.01.1990
BANGLADESH	09.12.1987 (R)	09.03.1988
BELARUS	28.04.1988 (R)	28.07.1988
BELIZE	26.01.1990 (R)	26.04.1990
BOLIVIA	04.10.1976 (R)	04.01.1977
BOSNIA-HERZEGOVINA (Republic of) <sup>2</sup>	12.07.1993 (S)	note 2
BRAZIL	16.02.1973 (R)	16.05.1973
BULGARIA <sup>5</sup>	15.09.1971 (R)	24.04.1972
BURKINA FASO	07.04.1987 (R)	07.07.1987
CAMBODIA	26.09.1972 (R)	26.12.1972
CAMEROON	24.05.1972 (R)	24.08.1972

CANADA	28.03.1978 (Ac)	28.06.1978
CENTRAL AFRICAN REPUBLIC	01.02.1972 (R)	01.05.1972
CHINA (People's Republic of)	28.11.1989 (Ac)	28.02.1990
COLOMBIA	24.05.1988 (Ac)	24.08.1988
COSTA RICA	06.03.1996 (R)	06.06.1996
COTE D'IVOIRE	30.10.1990 (R)	30.01.1991
CROATIA (Republic of) <sup>2</sup>	06.07.1992 (S)	note 2
CUBA	30.01.1980 (R)	30.04.1980
CYPRUS	19.10.1979 (R)	19.01.1980
CZECH REPUBLIC <sup>3</sup>	26.03.1993 (S)	note 3
DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA	13.05.1983 (R)	13.08.1983
DOMINICAN REPUBLIC	07.03.1973 (R)	07.06.1973
ECUADOR <sup>5</sup>	24.03.1971 (Ac)	24.04.1972
EGYPT	05.04.1973 (Ac)	05.07.1973
EL SALVADOR	20.02.1978 (R)	20.05.1978
ESTONIA	27.10.1995 (R)	27.01.1996
FEDERAL REPUBLIC OF YUGOSLAVIA	03.10.1972 (R)	03.01.1973
FRANCE	07.01.1997 (R)	07.04.1997
GEORGIA (Republic of) <sup>1</sup>	04.11.1992 (S)	note 1
GREECE	05.06.1981 (R)	05.09.1981
GRENADA	10.09.1992 (Ac)	10.12.1992
GUATEMALA	14.01.1985 (R)	14.04.1985
GUINEA	18.03.1979 (R)	18.06.1979
HONDURAS	19.03.1979 (R)	19.06.1979
HUNGARY	23.10.1978 (R)	23.01.1979
INDIA	24.01.1977 (R)	24.04.1977
IRAN (Islamic Republic of)	27.01.1975 (Ac)	27.04.1975
IRAQ	12.02.1973 (Ac)	12.05.1973
ITALY	02.10.1978 (R)	02.01.1979
JORDAN	15.03.1974 (R)	15.06.1974
KUWAIT	22.06.1972 (Ac)	22.09.1972
KYRGHYZ REPUBLIC	03.07.1995 (A)	03.10.1995

LEBANON	25.08.1992 (R)	25.11.1992
LIBYAN ARAB JAMAHIRIYA	09.01.1973 (R)	09.04.1973
MADAGASCAR	21.06.1989 (R)	21.09.1989
MALI	06.04.1987 (R)	06.07.1987
MAURITANIA	27.04.1977 (R)	27.07.1977
MAURITIUS	27.02.1978 (Ac)	27.05.1978
MEXICO	04.10.1972 (Ac)	04.01.1973
MONGOLIA	23.05.1991 (Ac)	23.08.1991
NEPAL	23.06.1976 (R)	23.09.1976
NICARAGUA	19.04.1977 (R)	19.07.1977
NIGER	16.10.1972 (R)	16.01.1973
NIGERIA	24.01.1972 (R)	24.04.1972
OMAN	02.06.1978 (Ac)	02.09.1978
PAKISTAN	30.04.1981 (R)	30.07.1981
PANAMA	13.08.1973 (Ac)	13.11.1973
PERU	24.10.1979 (Ac)	24.01.1980
POLAND	31.01.1974 (R)	30.04.1974
PORTUGAL	09.12.1985 (R)	09.03.1986
QATAR	20.04.1977 (Ac)	20.07.1977
REPUBLIC OF KOREA	14.02.1983 (Ac)	14.05.1983
ROMANIA	06.12.1993 (R)	06.03.1994
RUSSIAN FEDERATION <sup>4</sup>	28.04.1988 (R)	28.07.1988
SAUDI ARABIA	08.09.1976 (Ac)	08.12.1976
SENEGAL	09.12.1984 (R)	09.03.1985
SLOVAK REPUBLIC <sup>3</sup>	31.03.1993 (S)	note 3
SLOVENIA (Republic of) <sup>2</sup>	05.11.1992 (S)	note 2
SPAIN	10.01.1986 (R)	10.04.1986
SRI LANKA	07.04.1981 (Ac)	07.07.1981
SYRIAN ARAB REPUBLIC	21.02.1975 (Ac)	21.05.1975
TAJIKISTAN (Republic of) <sup>1</sup>	28.08.1992 (S)	note 1
TUNISIA	10.03.1975 (R)	10.06.1975
TURKEY	21.04.1981 (R)	21.07.1981
UKRAINE	28.04.1988 (R)	28.07.1988



UNITED REPUBLIC OF TANZANIA	02.08.1977 (R)	02.11.1977
UNITED STATES OF AMERICA	02.09.1983 (Ac)	02.12.1983
URUGUAY	09.08.1977 (R)	09.11.1977
UZBEKISTAN	15.03.1996 (R)	15.06.1996
ZAIRE	23.09.1974 (R)	23.12.1974
ZAMBIA	21.06.1985 (R)	21.09.1985

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1. *This State lodged a notification of succession at the mentioned date, by which it stated that it was bound by the Convention that the USSR ratified on 28 April 1988.*
2. *This State lodged a notification of succession at the mentioned date, by which it stated that it was bound by the Convention which Yugoslavia ratified on 3 October 1972.*
3. *This State lodged a notification of succession at the mentioned date, by which it stated that it was bound by the Convention which Czechoslovakia accepted on 14 February 1977.*
4. *The instrument of ratification was deposited by the USSR on 28 April 1988. The Director-General has been informed that the Russian Federation would continue the participation of the USSR in UNESCO conventions.*
5. *In conformity with the procedure set forth in the Convention, this agreement entered into force, for the first States, three months after the deposit of ratification by the third State, Nigeria.*

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## UNIDROIT CONVENTION

### *on Stolen or Illegally Exported Cultural Objects*

*The States parties to this Convention,*

Assembled in Rome at the invitation of the Italian Republic from the 7 to 24 June 1995 for a Diplomatic Conference for the adoption of the draft UNIDROIT Convention on the International Return of Stolen or Illegally Exported Cultural Objects,

*Convinced* of the fundamental importance of the protection of cultural heritage and of cultural exchanges for promoting understanding between peoples, and the dissemination of culture for the well-being of humanity and the progress of civilization,

*Deeply Concerned* by the illicit trade in cultural objects and the irreparable damage frequently caused by it, both to these objects themselves and to the cultural heritage of national, tribal, indigenous or other communities, and also to the heritage of all peoples, and in particular by the pillage of archaeological sites and the resulting loss of irreplaceable archaeological, historical and scientific information,

*Determined* to contribute effectively to the fight against illicit trade in cultural objects by taking the important step of establishing common, minimal legal rules for the restitution and return of cultural objects between Contracting States, with the objective of improving the preservation and protection of the cultural heritage in the interest of all,

*Emphasizing* that this Convention is intended to facilitate the restitution and return of cultural objects, and that the provision of any remedies, such as compensation, needed to effect restitution and return in some States, does not imply that such remedies should be adopted in other States,

*Affirming* that the adoption of the provisions of this Convention for the future in no way confers any approval of legitimacy upon illegal transactions of whatever kind which may have taken place before the entry into force of the Convention,

*Conscious* that this Convention will not by itself provide a solution to the problems raised by illicit trade, but that it initiates a process that will enhance international cultural co-operation and maintain a proper role for legal trading and inter-State agreements for cultural exchanges,

*Acknowledging* that implementation of this Convention should be accompanied by other effective measures for protecting cultural objects, such as the development and use of registers, the physical protection of archaeological sites and technical co-operation,

*Recognizing* the work of various bodies to protect cultural property, particularly the 1970 UNESCO CONVENTION on illicit traffic and the development of codes of conduct in the private sector,

*Have agreed* as follows:

## Chapter I - SCOPE OF APPLICATION AND DEFINITION

### Article 1

This Convention applies to claims of an international character for:

- a) the restitution of stolen cultural objects;
- b) the return of cultural objects removed from the territory of a Contracting State contrary to its law regulating the export of cultural objects for the purpose of protecting its cultural heritage (hereinafter "illegally exported cultural objects").

### Article 2

For the purposes of this Convention, cultural objects are those which, on religious or secular grounds, are of importance for archaeology, prehistory, history, literature, art or science and belong to one of the categories listed in the Annex to this Convention.

## Chapter II - RESTITUTION OF STOLEN CULTURAL OBJECTS

### Article 3

1. The possessor of a cultural object which has been stolen shall return it.
2. For the purposes of this Convention, a cultural object which has been unlawfully excavated or lawfully excavated and unlawfully retained shall be considered stolen, when consistent with the law of the State where the excavation took place.
3. Any claim for restitution shall be brought within a period of three years from the time when the claimant knew the location of the cultural object and the identity of its possessor, and in any case within a period of fifty years from the time of the theft.
4. However, a claim for restitution of a cultural object forming an integral part of an identified monument or archaeological site, or to a public collection, shall not be subject to time limitations other than a period of three years from the time the claimant knew the location of the cultural object and the identity of its possessor.
5. Notwithstanding the provisions of the preceding paragraph, any Contracting State may declare that a claim is subject to a time limitation of 75 years or such longer period as is provided in its law. A claim made in another Contracting State for restitution of a cultural object displaced from a monument, archaeological site or public collection in a Contracting State making such a declaration shall also be subject to that time limitation.
6. A declaration referred to in the preceding paragraph shall be made at the time of signature, ratification, acceptance, approval or accession.
7. For the purposes of this Convention, a "public collection" consists of a group of inventoried or otherwise identified cultural objects owned by:
  - a) a Contracting State;
  - b) a regional or local authority of a Contracting State;

- c) a religious institution in a Contracting State; or
  - d) an institution that is established for an essentially cultural, educational or scientific purpose in a Contracting State and is recognized in that State as serving the public interest.
8. In addition, a claim for restitution of a sacred or communally important cultural object belonging to and used by a tribal or indigenous community in a Contracting State as part of that community's traditional or ritual use, shall be subject to the time limitation applicable to public collections.

#### Article 4

1. The possessor of a stolen cultural object required to return it shall be entitled, at the time of its restitution, to payment of fair and reasonable compensation provided that the possessor neither knew nor ought reasonably to have known that the object was stolen and can prove that it exercised due diligence when acquiring the object.
2. Without prejudice to the right of the possessor to compensation referred to in the preceding paragraph, reasonable efforts shall be made to have the person who transferred the cultural object to the possessor, or any prior transferor, apply the compensation where to do so would be consistent with the law of the State in which the claim is brought.
3. Payment of compensation to the possessor by the claimant, when this is required, shall be without prejudice to the right of the claimant to recover it from any other person.
4. In determining whether the possessor exercised due diligence, regard shall be had to the circumstances of the acquisition, including the character of the parties, the price paid, whether the possessor consulted any reasonably accessible register of stolen cultural objects, and any other relevant information and documentation which it could reasonably have obtained, and whether the possessor consulted accessible agencies or took any other step that a reasonable person would have taken in the circumstances.
5. The possessor shall not be in a more favorable position than the person from whom it acquired the cultural object by inheritance or otherwise gratuitously.

### Chapter III - RETURN OF ILLEGALLY EXPORTED CULTURAL OBJECTS

#### Article 5

1. A Contracting State may request the court or other competent authority of another Contracting State acting to order the return of a cultural object exported from the territory of the requesting State.
2. A cultural object which has temporarily been exported from the territory of the requesting State, for purposes such as exhibition, research or restoration, under a permit issued according to its law regulating its export for the purpose of protecting its cultural heritage and not returned in accordance with the terms of the permit shall be deemed to have been illegally exported.

3. The court or other competent authority of the State addressed shall order the return of an illegally exported cultural object if the requesting State establishes that the removal of the object from its territory significantly impairs one or more of the following interests.
  - a) the physical preservation of the object or of its context,
  - b) the integrity of a complex object,
  - c) the preservation of information of, for example, a scientific or historical character,
  - d) the traditional or ritual use of the object by a tribal or indigenous community;or establishes that the object is of significant cultural importance for the requesting State.
4. Any request made under paragraph 1 of this article shall contain or be accompanied by such information of a factual or legal nature as may assist the court or other competent authority of the State addressed in determining whether the requirements of paragraphs 1 to 3 have been met.
5. Any request for return shall be brought within a period of three years from the time when the requesting State knew the location of the object and the identity of its possessor, and in any case within a period of fifty years from the date of the export or from the date on which the object should have been returned under a permit referred to in paragraph of this article.

## Article 6

1. The possessor of a stolen cultural object who acquired it the object after it was illegally exported shall be entitled, at the time of its return, to payment by the requesting State of fair and reasonable compensation, provided that the possessor neither knew nor ought reasonably to have known that the object had been illegally exported.
2. In determining whether the possessor knew or ought reasonably to have known that the that the cultural object had been illegally exported, , regard shall be had to the circumstances of the acquisition, including the absence of an export certificate required under the law of the requesting State.
3. Instead of compensation, and in agreement with the requesting State, the possessor required to return the cultural object to that State, may decide:
  - a) to retain ownership of the object; or
  - b) to transfer ownership against payment or gratuitously to a person of its choice residing in the requesting State who provides the necessary guarantees.
4. The cost of returning the cultural object in accordance with this article shall be borne by the requesting state, without prejudice to the right of that State to recover costs from any other person.
5. The possessor shall not be in a more favorable position than the person from whom it acquired the cultural object by inheritance or otherwise gratuitously.

## Article 7

1. The provisions of this Chapter shall not apply where:
  - a) the export of the cultural object is no longer illegal at the time at which the return is requested; or
  - b) the object was exported during the lifetime of the person who created it or within a period of fifty years following the death of that person.
2. Notwithstanding the provisions of sub-paragraph (b) of the preceding paragraph, the provisions of this Chapter shall apply where a cultural object was made by a member or members of a tribal or indigenous community for use by that community and the object will be returned to that community.

## Chapter IV - GENERAL PROVISIONS

### Article 8

1. A claim under Chapter II and a request under Chapter III may be brought before the courts or other competent authorities of the Contracting State where the cultural object is located, in addition to the courts or other competent authorities otherwise having jurisdiction under the rules in force in Contracting states.
2. The parties may agree to submit the dispute to any court or other competent authority or to arbitration.
3. Resort may be had to the provisional, including protective, measures available under the law of the Contracting state where the object is located even when the claim for restitution or request for return of the object is brought before the courts or other competent authorities of another Contracting State.

### Article 9

1. Nothing in this Convention shall prevent a Contracting State from applying any rules more favourable to the restitution or the return of a stolen or illegally exported cultural object than provided for by this Convention.
2. This article shall not be interpreted as creating an obligation to recognize or enforce a decision of a court or other competent authority of another Contracting State that departs from the provisions of this Convention.

### Article 10

1. The provisions of Chapter II shall apply only in respect of a cultural object that is stolen after this Convention enters into force in respect of the State where the claim is brought, provided that:
  - a) the object was stolen from the territory of a Contracting State after the entry into force of this Convention for that State; or

- b) the object is located in a Contracting State after the entry into force of the Convention for that State.
2. The provisions of Chapter III shall apply only in respect of a cultural object that is illegally exported after this Convention enters into force for the requesting State as well as the State where the request is brought.
3. This Convention does not in any way legitimize any illegal transaction of whatever nature which has taken place before the entry into force of this Convention or which is excluded under paragraphs 1. or 2. of this article, nor limit any right of a State or other person to make a claim under remedies available outside the framework of this Convention for the restitution or return of a cultural object stolen or illegally exported before the entry into force of this Convention.

## Chapter V - FINAL PROVISIONS

### Article 11

1. This Convention is open for the signature at the concluding meeting of the Diplomatic Conference for the adoption of the draft UNIDROIT Convention on the International Return of Stolen or Illegally Exported Cultural Objects and will remain open for signature by all States at Rome until 30 June 1996.
2. This Convention is subject to ratification, acceptance or approval by States which have signed it.
3. This Convention is open for accession by all States which are not signatory States as from the date it is open for signature.
4. Ratification, acceptance, approval or accession is subject to the deposit of a formal instrument to that effect with the depositary.

### Article 12

1. This Convention shall enter into force on the first day of the sixth month following the date of deposit of the fifth instrument of ratification, acceptance, approval or accession.
2. For each State that ratifies, accepts, approves or accedes to this Convention after the deposit of the fifth instrument of ratification, acceptance, approval or accession, this Convention shall enter into force in respect of that State on the first day of the sixth month following the date of deposit of its instrument, acceptance, approval or accession.

### Article 13

1. This Convention does not affect any international instrument by which any Contracting State is legally bound and which contains provisions on matters governed by this Convention, unless a contrary declaration is made by the States bound by such instrument.
2. Any Contracting State may enter into agreements with one or more Contracting States, with a view to improving the application of this Convention in their mutual relations. The States which have concluded such an agreement shall transmit a copy to the depositary.

3. In their relations with each other, Contracting States which are Members of organizations of economic integration or regional bodies may declare that they will apply the internal rules of these organizations or bodies and will not therefore apply as between the provisions of this Convention the scope of application of which coincides with that of those rules.

#### Article 14

1. If a Contracting State has two or more territorial units, whether or not possessing different systems of law applicable in relation to the matters dealt with in this Convention, it may, at the time of signature or of the deposit of its instrument of ratification, acceptance, approval or accession, declare that this Convention is to extend to all its territorial units or only to one or more of them, and may substitute for its declaration another declaration at any time.
2. These declarations are to be notified to the depositary and are to state expressly the territorial units to which the Convention extends.
3. If, by virtue of a declaration under this article, this Convention extends to one or more but not all of the territorial units of a Contracting State, the reference to:
  - a) the territory of a Contracting State in Article 1 shall be construed as referring to the territory of a territorial unit of that State;
  - b) a court or other competent authority of the Contracting State or of the State addressed shall be construed as referring to the court or other competent authority of a territorial unit of that State;
  - c) the Contracting State where the cultural object is located in Article 8 (1) shall be construed as referring to the territorial unit of that State where the object is located;
  - d) the law of the Contracting State where the object is located in Article (3) shall be construed as referring to the law of the territorial unit of that State where the object is located; and
  - e) a Contracting State in Article 9 shall be construed as referring to a territorial unit of that State.
4. If a Contracting State makes no declaration under paragraph 1 of this article, this Convention is to extend to all territorial units of that State.

#### Article 15

1. Declarations made under this Convention at the time of signature are subject to confirmation upon ratification, acceptance or approval.
2. Declarations and confirmations of declarations are to be in writing and to be formally notified to the depositary.
3. A declaration shall take effect simultaneously with the entry into force of this Convention in respect of the State concerned. However, a declaration of which the depositary receives formal notification after such entry into force shall take effect on the first day of the sixth month following the date of its deposit with the depositary.
4. Any State which makes a declaration under this Convention may withdraw it at any time by a formal notification in writing addressed to the depositary. Such withdrawal shall take effect on the first day of the sixth month following the date of the deposit of the notification.



## Article 16

1. Each Contracting State shall at the time of signature, ratification, acceptance, approval or accession, declare that claims for the restitution, or requests for the return, of cultural objects brought by the State under Article 8 may be submitted to it under one or more of the following procedures:
  - a) directly to the courts or other competent authorities of the declaring State;
  - b) through an authority or authorities designated by that State to receive such claims or requests and to forward them to the courts or other competent authorities of that State;
  - c) through diplomatic or consular channels.
2. Each Contracting State may also designate the courts or other authorities competent to order the restitution or return of cultural objects under the provisions of Chapters II and III.
3. Declarations made under paragraphs 1 and 2 of this article may be modified at any time by a new declaration.
4. The provisions of paragraphs 1 to 3 of this article do not affect bilateral or multilateral agreements on judicial assistance in respect of civil and commercial matters that may exist between Contracting States.

## Article 17

Each Contracting State shall, no later than six months following the date of deposit of its instrument of ratification, acceptance, approval or accession, provide the depositary with written information in one of the official languages of the Convention concerning the legislation regulating the export of its cultural objects. This information shall be updated from time to time as appropriate.

## Article 18

No reservations are permitted except those expressly authorized in this Convention.

## Article 19

1. This Convention may be denounced by any State Party, at any time after the date on which it enters into force for that State, by the deposit of an instrument to that effect with the depositary.
2. A denunciation shall take effect on the first day of the sixth month following the deposit of the instrument of denunciation with the depositary. Where a longer period for the denunciation to take effect is specified in the instrument of denunciation it shall take effect upon the expiration of such longer period after its deposit with the depositary.
3. Notwithstanding such a denunciation, this Convention shall nevertheless apply to a claim for restitution or a request for return of a cultural object submitted prior to the date on which the denunciation takes effect.

## Article 20

The President of the International Institute for the Unification of Private Law (UNIDROIT) may at regular intervals, or at any time at the request of five Contracting States, convene a special committee in order to review the practical operation of this Convention.

## Article 21

1. This Convention shall be deposited with the Government of the Italian Government.
2. The Government of the Italian Republic shall:
  - a) Inform all States which have signed or acceded to this Convention and the President of the International Institute for the Unification of Private Law (UNIDROIT) of:
    - i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;
    - ii) each declaration made in accordance with this Convention;
    - iii) the withdrawal of any declaration;
    - iv) the date of entry into force of this Convention;
    - v) the agreements referred to in Article 13;
    - vi) the deposit of an instrument of denunciation of this Convention together with the date of its deposit and the date on which it takes effect;
  - b) transmit certified true copies of this Convention to all signatory States, to all States acceding to the Convention and to the President of the International Institute for the Unification of Private Law (UNIDROIT);
  - c) Perform such other functions customary for depositaries.

*In Witness Whereof* the undersigned plenipotentiaries, being duly authorized, have signed this Convention.

*Done* at Rome, this twenty-fourth day in June, one thousand nine hundred and ninety-five, in a single original, in the English and French languages, both texts being equally authentic.

- signatures -

annex

- a) *Rare collections and specimens of fauna, flora, minerals and anatomy, and objects of paleontological interest;*
- b) *Property relating to history, including the history of science and technology and military and social history, to the life of national leaders, thinkers, scientists and artists and to events of national importance;*
- c) *Products of archaeological excavations (including regular and clandestine) or of archaeological discoveries;*
- d) *Elements of artistic or historic monuments or of archaeological sites which have been dismembered;*
- e) *Antiquities more than one hundred years old, such as inscriptions, coins and engraved seals;*
- f) *Objects of ethnological interest;*
- g) *Property of artistic interest, such as:*
  - i) *pictures, paintings and drawings produced entirely by hand on any material (excluding industrial designs and manufactured articles decorated by hand);*
  - ii) *original works of statuary art and sculpture in any material;*
  - iii) *original engravings, prints and lithographs;*
  - iv) *original artistic assemblages and montages in any material;*
- h) *Rare manuscripts and incunabula, old books, documents and publications of special interest (historical, artistic, scientific, literary, etc.) singly or in collections;*
- i) *Postage, revenue and similar stamps, singly or in collections;*
- j) *Archives, including sound, photographic and cinematographic achievements;*
- k) *Articles of furniture more than one hundred years old and old musical instruments.*

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UNESCO RECOMMENDATION  
*on International Principles Applicable to Archaeological Excavations*

*'New Delhi Recommendation', 1956*

The General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO), meeting at New Delhi, from 5 November to 5 December 1956, at its ninth session,

*Being of the opinion* that the surest guarantee for the preservation of monuments and works of the past rests in the respect and affection felt for them by the peoples themselves, and persuaded that such feelings may be greatly strengthened by adequate measures inspired by the wish of Member States to develop science and international relations,

*Convinced* that the feelings aroused by the contemplation and study of works of the past do much to foster mutual understanding between nations, and that it is therefore highly desirable to secure international co-operation with regard to them and to further, in every possible way, the fulfillment of their social mission.

*Considering* that while individual States are more directly concerned with the archaeological discoveries made on their territory, the international community as a whole is nevertheless the richer for such discoveries,

*Considering* that the history of man implies the knowledge of all different civilizations; and that it is therefore necessary, in the general interest, that all archaeological remains be studied and, where possible, preserved and taken into safe keeping,

*Convinced* that it is highly desirable that the national authorities responsible for the protection of the archaeological heritage should be guided by certain common principles which have been tested by experience and put into practice by national archaeological services,

*Being of the opinion* that, though the regulation of excavations is first and foremost for the domestic jurisdiction of each State, this principle should be brought into harmony with that of a liberally understood and freely accepted international co-operation,

*Having before it* proposals concerning international principles applicable to archaeological excavations, which constitute item 9.4.3 on the agenda of the session,

*Having decided*, at its eighth session, that these proposals should be regulated at the international level by way of a recommendation to Member States.

Adopts, this fifth day of December 1956, the following Recommendation:

*The General Conference recommends* that Member States should apply the following provisions by taking whatever legislative or other steps may be required to give effect, within their respective territories, to the principles and norms formulated in the present Recommendation:

*The General Conference recommends* that Member States should bring the present Recommendation to the knowledge of authorities and organizations concerned with archaeological excavations and museums.

*The General Conference recommends* that Member States should report to it, on dates and in a manner to be determined by it, on the action which they have taken to give effect to the present Recommendation.

## I. DEFINITIONS

### Archaeological Excavations

1. For the purpose of the present Recommendation, by archaeological excavations is meant any research aimed at the discovery of objects of archaeological character, whether such research involves digging of the ground or systematic exploration of its surface or is carried out on the bed or in the subsoil of inland or territorial waters of a Member State.

### Property Protected

2. The provisions of the present Recommendation apply to any remains, whose preservation is in the public interest from the point of view of history or art and architecture, each Member State being free to adopt the most appropriate criterion for assessing the public interest of objects found on its territory. In particular, the provisions of the present Recommendation should apply to any monuments and movable or immovable objects of archaeological interest considered in the widest sense

3. The criterion adopted for assessing the public interest of archaeological remains might vary according to whether it is a question of the preservation of such property, or of the excavator's or finder's obligation to declare his discoveries.

- a) In the former case, the criterion based on preserving all objects originating before a certain date should be abandoned, and replaced by one whereby protection is extended to all objects belonging to a given period or of a minimum age fixed by law.
- b) In the latter case, each Member State should adopt far wider criteria, compelling the excavator or finder to declare any object, of archaeological character, whether movable or immovable, which he may discover.

## II. GENERAL PRINCIPLES

### Protection of the Archaeological Heritage

4. Each Member State should ensure the protection of its archaeological heritage, taking fully into account problems arising in connection with excavations, and in conformity with the provisions of the present Recommendation.
5. Each Member State should in particular:
  - a) Make archaeological explorations and excavations subject to prior authorization by the competent authority;
  - b) Oblige any person finding archaeological remains to declare them at the earliest possible date to the competent authority;
  - c) Impose penalties for the infringement of these regulations;
  - d) Make undeclared objects subject to confiscation;
  - e) Define the legal status of the archaeological sub-soil and, where State ownership of the said sub-soil is recognized, specifically mention the fact in its legislation;
  - f) Consider classifying as historical monuments the essential elements of its archaeological heritage.

### Protecting Body: Archaeological Excavations

6. Although differences of tradition and unequal financial resources make it impossible for all Member States to adopt a uniform system of organization in the administrative services responsible for excavations, certain common principles should nevertheless apply to all national archaeological services:
  - a) The archaeological service should, so far as possible, be a central State administration - or at any rate an organization provided by law with the necessary means for carrying out any emergency measures that may be required. In addition to the general administration of archaeological work, this service should co-operate with research institutes and universities in the technical training of excavators. This body should also set up a central documentation, including maps, of its movable and immovable monuments and additional documentation for every important museum or ceramic or iconographic collection, etc.
  - b) Steps should be taken to ensure in particular the regular provision of funds: (i) to administer the services in a satisfactory manner; (ii) to carry out a programme of work proportionate to the archaeological resources of the country, including scientific publications; (iii) to exercise control over accidental discoveries; (iv) to provide for the upkeep of excavation sites and monuments.
7. Careful supervision should be exercised by each Member State over the restoration of archaeological remains and objects discovered.
8. Prior approval should be obtained from the competent authority for the removal of any monuments which ought to be preserved *in situ*.
9. Each Member State should consider maintaining untouched, partially or totally, a certain number of archaeological sites of different periods in order that their excavation may benefit from improved techniques and more advanced archaeological knowledge. On each of the larger sites now

being excavated in so far as the nature of the land permits, well defined 'witness' areas might be left un-excavated in several places in order to allow for eventual verification of the stratigraphy and archaeological composition of the site.

#### Formation of Central and Regional Collections

10. Inasmuch as archaeology is a comparative science, account should be taken, in the setting up and organizing of museums and reserve collections, of the need for facilitating the work of comparison as much as possible. For this purpose, central and regional collections might be formed or, in exceptional cases, local collections on particularly important archaeological sites - in preference to small scattered collections, accessible to comparatively few people. These establishments should command on a permanent basis, the administrative facilities and scientific staff necessary to ensure the preservation of the exhibits.

11. On important archaeological sites, a small exhibit of an educational nature -possibly a museum - should be set up to convey to visitors the interest of the archaeological remains.

#### Education of the Public

12. The competent authority should initiate educational measures in order to arouse and develop respect and affection for the remains of the past by the teaching of history, the participation of students in certain excavations, the publication in the press of archaeological information supplied by recognized specialists, the organization of guided tours, exhibitions and lectures dealing with methods of excavation and results achieved, the clear display of archaeological sites explored and monuments discovered, and the publication of cheap and simply written monographs and guides. In order to encourage the public to visit these sites. Member States should make all necessary arrangements to facilitate access to them.

### III. REGULATIONS

#### Authority to Excavate Granted to Foreigners

13. Each Member State on whose territory excavations are to take place should lay down general rules governing the granting of excavation concessions, the conditions to be observed by the excavator, in particular as concerns the supervision exercised by the national authorities, the period of the concession, the reasons which may justify its withdrawal, the suspension of work, or its transfer from the authorized excavator to the national archaeological service.

14. The conditions imposed upon a foreign excavator should be those applicable to nationals. Consequently, the deed of concession should omit special stipulations which are not imperative.

#### International Collaboration

15. In the higher interest of archaeology and of international collaboration, Member States should encourage excavations by a liberal policy. They might allow qualified individuals or learned bodies, irrespective of nationality, to apply on an equal footing for the concession to excavate. Member States should encourage excavations carried out by joint missions of scientists from their own country and of archaeologists representing foreign institutions, or by international missions.

16. When a concession is granted to a foreign mission, the representative of the conceding State - if such be appointed - should, as far as possible, also be an archaeologist capable of helping the mission and collaborating with it.

17. Member States which lack the necessary resources for the organization of archaeological excavations in foreign countries should be accorded facilities for sending archaeologists to sites being worked by other Member States, with the consent of the director of excavations.

18. A Member State whose technical or other resources are insufficient for the scientific carrying out of an excavation should be able to call on the participation of foreign experts or on a foreign mission to undertake it.

### Reciprocal Guarantees

19. Authority to carry out excavations should be granted only to institutions represented by qualified archaeologists or to persons offering such unimpeachable scientific, moral and financial guarantees as to ensure that any excavations will be completed in accordance with terms of the deed of concession and within the period laid down.

20. On the other hand, 'when authority to carry out excavations is granted to foreign archaeologists, it should guarantee them a period of work long enough, and conditions of security sufficient to facilitate their task and protect them from unjustified cancellation of the concession in the event, for instance, of their being obliged, for reasons recognized as valid, to interrupt their work for a given period of time.

### Preservation of Archaeological Remains

21. The deed of concession should define the obligations of the excavator during and on completion of his work. The deed should, in particular, provide for guarding, maintenance and restoration of the site together with the conservation, during and on completion of his work, of objects and monuments uncovered. The deed should moreover indicate what help if any the excavator might expect from the conceding State in the discharge of his obligations should these prove too onerous.

### Access to Excavation Sites

22. Qualified experts of any nationality should be allowed to visit a site before a report of the work is published and with the consent of the director of excavations, even during the work. This privilege should in no case jeopardize the excavator's scientific rights to his finds.

### Assignment of Finds

23.

- a) Each Member State should clearly define the principles which hold good on its territory in regard to the disposal of finds from excavations.
- b) Finds should be used, in the first place, for building up, in the museums of the country in which excavations are carried out, complete collections fully representative of that country's civilization, history, art and architecture.



- c) With the main object of promoting archaeological studies through the distribution of original material, the conceding authority, after scientific publication, might consider allocating to the approved excavator a number of finds from his excavation, consisting of duplicates or, in a more general sense, of objects or groups of objects which can be released in view of their similarity to other objects from the same excavation. The return to the excavator of objects resulting from excavations should always be subject to the condition that they be allocated within a specified period of time to scientific centres open to the public, with the proviso that if these conditions are not put into effect, or cease to be carried out, the released objects will be returned to the Conceding authority.
- d) Temporary export of finds, excluding objects which are exceptionally fragile or of national importance, should be authorized on request emanating from a scientific institution of public or private character if the study of these finds in the conceding State is not possible because of lack of bibliographical or scientific facilities, or is impeded by difficulties of access.
- e) Each Member State should consider ceding to, exchanging with, or depositing in foreign museums objects which are not required in the national collections.

### Rights and Obligations of the Excavator

24.

- a) The conceding State should guarantee to the excavator scientific rights in his field for a reasonable period.
- b) The conceding State should require the excavator to publish the results of his work within the period stipulated in the deed, or, failing such stipulations, within a reasonable period. This period should not exceed two years for the preliminary report. For a period of five years following the discovery, the competent archaeological authorities should undertake not to release the complete collection of finds, nor the relative scientific documentation, for detailed study, without the written authority of the excavator. Subject to the same conditions, these authorities should also prevent photographic or other reproduction of archaeological material still unpublished. In order to allow, should it be so desired, for simultaneous publication of the preliminary report in both countries, the excavator should, on demand, submit a copy of his text to these authorities.
- c) Scientific publications dealing with archaeological research and issued in a language which is not widely used should include a summary and, if possible, a list of contents and captions of illustrations into some more widely known language.

### Documentation on Excavations

25. Subject to the provisions set out in paragraph 24, the national archaeological services should, as far as possible, make their own documentation and reserve collections of archaeological material readily available for inspection and study to excavators and qualified experts, especially those who have been granted a concession for a particular site or who wish to obtain one.

### Regional Meetings and Scientific Discussions

26. In order to facilitate the study of problems of common interest, Member States might, from time to time, convene regional Meetings attended by representatives, or the archaeological services of interested States. Similarly, each Member State might encourage excavators working on its soil to meet for scientific discussions.

#### IV. TRADE IN ANTIQUITIES

27. In the higher interests of the common archaeological heritage each Member State should consider the adoption of regulations to govern the trade in antiquities so as to ensure that this trade does not encourage smuggling of archaeological material or affect adversely the protection of sites and the collecting of material for public exhibit.

28. Foreign museums should, in order to fulfill their scientific and educational aims, be able to acquire objects which have been released from any restrictions due to the laws in force in the Country of origin.

#### V. REPRESSION OF CLANDESTINE EXCAVATIONS AND OF THE EXPORT OF ARCHAEOLOGICAL FINDS

##### Protection of Archaeological Sites against Clandestine Excavations and Damage

29. Each Member State should take all necessary measures to prevent clandestine excavations and damage to monuments defined in Paragraphs 2 and 3 above, and also to prevent the export of objects thus obtained.

##### International Co-operation in Repressive Measures

30. All necessary measures should be taken in order that museums to which archaeological objects are offered ascertain that there is no reason to believe that these objects have been procured by clandestine excavation, theft or any other method regarded as illicit by the competent authorities of the country of origin. Any suspicious offer and all details appertaining thereto should be brought to the attention of the services concerned. When archaeological objects have been acquired by museums, adequate details allowing them to be identified and indicating the manner of their acquisition should be published as soon as possible.

##### Return of the Objects to their Country of Origin

31. Excavation services and museums should lend one another assistance in order to ensure or facilitate the recovery of objects derived from clandestine excavations or theft, and of all objects exported in infringement of the legislation of the country of origin. It is desirable that each Member State should take the necessary measures to ensure this recovery. These principles should be applied in the event of temporary export as mentioned in paragraph 23 (c), (d) and (e) above, if the objects are not returned within the stipulated period.

#### VI. EXCAVATIONS IN OCCUPIED TERRITORY

32. In the event of armed conflict any Member State occupying the territory of another State should refrain from carrying out archaeological excavations in the occupied territory. In the event of chance finds being made particularly during military works, the occupying Power should take all possible measures to protect these finds, which should be handed over, on the termination of

hostilities, to the competent authorities of the territory previously occupied, together with all documentation relating thereto.

## VII. BILATERAL AGREEMENTS

33. Member States should, whenever necessary or desirable, conclude bilateral agreements to deal with matters of common interest arising out of the application of the present Recommendation.

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UNESCO RECOMMENDATION

*Concerning the International Exchange of Cultural Property*

The General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO), meeting in Nairobi from 26 October to 30 November 1976, at its nineteenth session,

*Recalling* that cultural property constitutes a basic element of civilization and national cultural,

*Considering* that the extension and promotion of cultural exchange directed towards a fuller mutual knowledge of achievements in various fields of culture, will contribute to the enrichment of the cultures of other nations making up the cultural heritage of all mankind,

*Considering* that the circulation of cultural property, when regulated by legal, scientific and technical conditions calculated to prevent illicit trading in and damage to such property, is a powerful means of promoting mutual understanding and appreciation among nations,

*Considering* that the international circulation of cultural property is still largely dependent on the activities of self-seeking parties and so tends to lead to speculation which causes the price of such property to rise, making it inaccessible to poorer countries and institutions while at the same time encouraging the spread of illicit trading.

*Considering* that, even when the motives behind the international circulation of this property are disinterested, the action taken usually results in unilateral services, such as short-term loans, deposits under medium- or long-term arrangements, or donations,

*Considering* that such unilateral operations are still limited in number and restricted in range both because of their cost and because of the variety and complexity of the relevant regulations and practices,

*Considering* that, while it is highly desirable to encourage such operations, by reducing or removing the obstacles to their extension, it is also vitally important to promote operations based on mutual confidence which would enable all institutions to deal with each other on an equal footing,

*Considering* that many cultural institutions, whatever financial resources, possess several identical or similar specimens of cultural objects of indisputable quality and origin which are amply documented, and that some of these items, which are of only minor or secondary importance for these institutions because of their plurality, would be welcomed as valuable accessions by institutions in other countries,

*Considering* that a systematic policy of exchange among cultural institutions, by which each would part with its surplus items in return for objects that it lacked, would not only be enriching to all

parties but would also lead to a better use of the international community's cultural heritage which is the sum of all the national heritages

*Recalling* that this policy of exchange has already been recommended in various international agreements concluded as a result of UNESCO's work,

*Noting* that, on these points, the effects of the above-mentioned instruments have remained limited, and that, generally speaking, the practice of exchange between disinterested cultural institutions is not widespread, while such operations as do take place are frequently confidential or unpublicized,

*Considering* that it is consequently necessary to develop simultaneously not only the unilateral operations of loans, deposits or donations but also bi- or multilateral exchanges,

*Having before it* proposals concerning the international exchange of cultural property which appears on the agenda of the session as item 26,

*Having decided*, at this eighteenth session, that this question should take the form of a Recommendation to Member States,

*Adopts*, this twenty-sixth day of November 1976, the present Recommendation.

*The General Conference* recommends that Member States should apply the following provisions by taking whatever legislative or other steps may be required in conformity with the constitutional system or practice of each State, to give effect within their respective territories to the principles formulated in this Recommendation.

*The General Conference* recommends that Member States should bring this Recommendation to the attention of the appropriate authorities and bodies.

*The General Conference* recommends that Member States should submit to it, by dates and in the form to be decided upon by the Conference, reports concerning the action taken by them in pursuance of this Recommendation.

## I. DEFINITIONS

1. For the purpose of this Recommendation:

*"cultural institution"* shall be taken to mean any permanent establishment administered in the general interest for the purpose of preserving, studying and enhancing cultural property and making it accessible to the public and which is licensed or approved by the competent public authorities of each State;

*"cultural property"* shall be taken to mean items which are the expression and testimony of human creation and of the evolution of nature which, in the opinion of the competent bodies in individual States, are, or may be, of historical, artistic, scientific or technical value and interest, including items in the following categories:

- a) zoological, botanical and geological specimens;
- b) archaeological objects;
- c) objects and documentation of ethnological interest;
- d) works of fine art and of the applied arts;
- e) literary, musical, photographic and cinematographic works;

- f) archives and documents;

*"international exchange"* shall be taken to mean any transfer of ownership, use or custody of cultural property between States or cultural institutions in different countries - whether it takes the form of the loan, deposit, sale or donation of such property - carried out under such conditions as may be agreed between the parties concerned.

## II. MEASURES RECOMMENDED

2. Bearing in mind that all cultural property forms part of the common cultural heritage of mankind and that every State has a responsibility in this respect, not only towards its own nationals but also towards the international community as a whole, Member States should adopt within the sphere of their competence, the following measures to develop the circulation of cultural property among cultural institutions in different countries in cooperation with regional and local authorities as may be required.
3. Member States, in accordance with the legislation and the constitutional system or practice and the particular circumstances of their respective countries, should adapt existing statutes or regulations or adopt new legislation or regulations regarding inheritance, taxation and customs duties and take all other necessary measures in order to make it possible or easier to carry out the following operations solely for the purposes of international exchanges of cultural property between cultural institutions:
  - definitive or temporary import or export as well as transit of cultural property;
  - transfer of ownership or derestriction of cultural property belonging to a public body or a cultural institution.
4. Member States should foster, if they deem it advisable, the establishment either under their direct authority or through cultural institutions of files of request for and offers of exchanges of cultural property made available for international exchange.
5. Offers of exchange should be entered in the files only when it has been established that the legal status of the items concerned conforms to national law and that the offering institution has legal title for this purpose.
6. Offers of exchange should include full scientific, technical and, if requested, legal documentation calculated to ensure the most favourable conditions for the cultural utilization, the conservation and, where appropriate, the restoration of the items in question.
7. Exchange agreements should include an indication that the recipient institution is prepared to take all necessary measures of conservation for the proper protection of the cultural property involved.
8. Consideration should be given to the granting of additional financial assistance to cultural institutions, or to the setting aside of part of the existing levels of financial assistance, to facilitate the carrying out of international exchanges.
9. Member States should give special attention to the problem of covering the risks to which cultural property is exposed throughout the duration of loans, including the period spent in transport, and should, in particular, study the possibility of introducing government guarantee and compensation systems for the loan of objects of great value, such as those which already exist in certain countries.

10. Member States, in accordance with their constitutional practice, should examine the possibility of entrusting to appropriate specialized bodies the task of coordinating the various operations involved in the international exchange of cultural property.

### III. INTERNATIONAL COOPERATION

11. With the assistance of all competent organizations, whether regional, national or international, intergovernmental or non-governmental, and in accordance with their constitutional practice, Member States should launch an extensive campaign of information and encouragement aimed at cultural institutions in all countries and at the professional staff of all categories - administrative, academic and scientific - who are in charge of the national cultural property, at the national or regional level, drawing their attention to the important contribution which can be made to the promotion of a better mutual understanding of all peoples by developing all forms of international circulation of cultural property and encouraging them to participate in such exchanges.

12. This campaign should cover the following points in particular:

- a) cultural institutions having already concluded agreements on the international circulation of cultural property should be invited to publicize all provisions which are of a general nature and could thus serve as a model, but not provisions of a special nature such as the description of the particular items in question, their evaluation or their specific technical details;
- b) the competent specialized organizations, and particularly the International Council of Museums, should produce or enlarge one or more practical handbooks describing every possible form of circulation of cultural property and emphasizing their specific features. These handbooks should include model contracts, including insurance contracts, for every type of agreement. With the help of the competent national authorities, the handbooks should be widely distributed to all the professional organizations involved in the various countries;
- c) in order to facilitate the preparatory studies for the conclusion of exchange agreements, the following should be widely distributed in all countries:
  - i) various publications (books, periodicals, museum and exhibition catalogue, photographic documentation) produced in all countries by institutions which are custodians of cultural property;
  - ii) the files of exchange offers and requests compiled in each country;
- d) the attention of cultural institutions in all countries should be drawn especially to the opportunities for reassembling a presently dismembered work which would be afforded by a system of successive loans, without transfer of ownership, enabling each of the holding institutions to take its turn to display the work in its entirety.

13. Should the parties to an international exchange of cultural property encounter technical difficulties in carrying out such an exchange they may request the opinion of one or more experts nominated by them after consultation with the Director-General of UNESCO.

#### IV. FEDERAL STATES

14. In giving effect to the present Recommendation, Member States which have a federal or non-unitary constitutional system might follow the principles set forth in Article 34 of the Convention concerning the Protection of the World Cultural and Natural Heritage, adopted by the General Conference at its seventeenth session.

#### V. ACTION AGAINST ILLICIT TRADING IN CULTURAL PROPERTY

15. The development of international exchanges should enable the cultural institutions of the different Member States to enlarge their collections by acquiring cultural property of lawful origin, accompanied by documentation calculated to bring out their full cultural significance. Accordingly, Member States should take all necessary steps, with the help of the international organizations concerned, to ensure that the development of such exchanges goes hand in hand with an extension of the action taken against every possible form of illicit trading in cultural property.



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UNESCO RECOMMENDATION

*For the Protection of Moveable Property*

The General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris from 24 October to 28 November 1978, at its twentieth session,

*Noting*, the great interest in cultural property now finding expression throughout the world in the creation of numerous museums and similar institutions, the growing number of exhibitions, the constantly increasing flow of visitors to collections, monuments and archaeological sites, and the intensification of cultural exchanges,

*Considering* that this is a very positive development which should be encouraged, in particular by applying the measures advocated in the Recommendation concerning the International Exchange of Cultural Property adopted by the General Conference at its nineteenth session in 1976,

*Considering* that the growing desire of the public to know and appreciate the wealth of the cultural heritage, of whatever origin, has nevertheless led to an increase in all the dangers to which cultural property is exposed as a result of particularly easy access or inadequate protection, the risks inherent in transport, and the recrudescence, in some countries, of clandestine excavation, thefts, illicit traffic and acts of vandalism,

*Noting* that because of this aggravation of the risks, but also as a consequence of the increase in the market value of cultural items, the cost of comprehensive insurance in countries where there is no adequate system of governmental guarantees is beyond the means of most museums and is a definite impediment to the organization of international exhibitions and other exchanges between different countries,

*Considering* that movable cultural property representing the different cultures forms part of the common heritage of mankind and that every State is therefore morally responsible to the international community as a whole for its safeguarding,

*Considering* that States should accordingly intensify and give general effect to such measures for the prevention and management of risks as will ensure the effective protection of movable cultural property and, at the same time, reduce the cost of covering the risks incurred,

*Wishing* to supplement and extend the scope of the norms and principles laid down in this respect by the General Conference, in particular in the Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954), the Recommendation on International Principles Applicable to Archaeological Excavation (1956), the Recommendation on the Most Effective Means of Rendering Museums Accessible to Everyone (1960), the Recommendation on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1964), the

Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970), the Recommendation concerning the Protection, at National Level, of the Cultural and Natural Heritage (1972), the Convention concerning the Protection of the World Cultural and Natural Heritage (1972) and the Recommendation concerning the International Exchange of Cultural Property (1976),

*Having before it* proposals concerning the protection of movable cultural property,

*Having decided*, at its nineteenth session, that this question should take the form of a recommendation to Member States,

*Adopts*, this twenty-eighth day of November 1978, the present Recommendation.

*The General Conference* recommends that Member States apply the following provisions by taking whatever legislative or other steps may be required, in conformity with the constitutional system or practice of each State, to give effect within their respective territories to the principles and norms formulated in this Recommendation.

*The General Conference* recommends that Member States bring this Recommendation to the attention of the appropriate authorities and bodies.

*The General Conference* recommends that Member States submit to it by dates and in the form to be decided upon by the Conference, reports concerning the action taken by them in pursuance of this Recommendation.

## I. DEFINITIONS

1. For the purposes of this Recommendation:
  - a) 'movable cultural property' shall be taken to mean all movable objects which are the expression and testimony of human creation or of the evolution of nature and which are of archaeological, historical, artistic, scientific or technical value and interest, including items in the following categories:
    - i) products of archaeological exploration and excavations conducted on land and under water;
    - ii) antiquities such as tools, pottery, inscriptions, coins, seals, jewellery, weapons and funerary remains, including mummies;
    - iii) items resulting from the dismemberment of historical monuments;
    - iv) material of anthropological and ethnological interest;

- v) items relating to history, including the history of science and technology and military and social history, to the life of peoples and national leaders, thinkers, scientists and artists and to events of national importance;
  - vi) items of artistic interest, such as:
    - paintings and drawings, produced entirely by hand on any support and in any material (excluding industrial designs and manufactured articles decorated by hand);
    - original prints, and posters and photographs, as the media for original creativity;
    - original artistic assemblages and montages in any material;
    - works of statuary art and sculpture in any material;
    - works of applied art in such materials as glass, ceramics, metal, wood, etc.;
  - vii) manuscripts and incunabula, codices, books, documents or publications of special interest;
  - viii) items of numismatic (medals and coins) and philatelic interest;
  - ix) archives, including textual records, maps and other cartographic materials, photographs, cinematographic films, sound recordings and machine-readable records;
  - x) items of furniture, tapestries, carpets, dress and musical instruments;
  - xi) zoological, botanical and geological specimens;
- b) 'protection' shall be taken to mean the prevention and coverage of risks as defined below:
- i) 'prevention of risks' means all the measures required, within a comprehensive protection system, to safeguard movable cultural property from every risk to which such property may be exposed, including those resulting from armed conflict, riots or other public disorders;
  - ii) 'risk coverage' means the guarantee of indemnification in the case of damage to, deterioration, alteration or loss of movable cultural property resulting from any risk whatsoever, including risks incurred as a result of armed conflict, riots or other public disorders whether such coverage is effected through a system of governmental guarantees and indemnities, through the partial assumption of the risks by the State under a deductible or excess loss arrangement, through commercial or national insurance or through mutual insurance arrangements.
2. Each Member State should adopt whatever criteria it deems most suitable for defining the items of movable cultural property within its territory which should be given the protection envisaged in this Recommendation by reason of their archaeological, historical, artistic, scientific or technical value.

## II. GENERAL PRINCIPLES

3. The movable cultural property thus defined includes objects belonging either to the State or public bodies or to private bodies or individuals. Since all this property constitutes an important element of the cultural heritage of the nations concerned, the prevention and coverage of the various risks, such as damage, deterioration and loss, should be considered as a whole, even though the solutions adopted may vary from case to case.
4. The growing perils which threaten the movable cultural heritage should incite all those responsible for protecting it, in whatever capacity, to play their part: staff of national and local administrations in charge of safeguarding cultural property, administrators and curators of museums and similar institutions, private owners and those responsible for religious buildings, art and antique dealers, security experts, services responsible for the suppression of crime, customs officials and the other public authorities involved.
5. The co-operation of the public is essential for truly effective protection. The public and private bodies responsible for information and teaching should strive to instill general awareness of the importance of cultural property, the dangers to which it is exposed, and the need to safeguard it.
6. Cultural property is liable to deterioration as a result of poor conditions of storage, exhibition, transport and environment (unfavourable lighting, temperature or humidity, atmospheric pollution), which in the long run may have more serious effects than accidental damage or occasional vandalism. Suitable environmental conditions should consequently be maintained in order to ensure the material security of cultural property. The responsible specialists should include in the inventories data on the physical state of the objects and recommendations concerning the requisite environmental conditions.
7. The prevention of risks also calls for the development of conservation techniques and restoration workshops and the installation of effective protection systems in museums and other institutions possessing collections of movable cultural property. Each Member State should endeavour to ensure that the most suitable measures are taken in accordance with local circumstances.
8. Offenses concerning works of art and other cultural property are increasing in some countries, most frequently being linked to fraudulent transfers across frontiers. Thefts and plunder are organized systematically and on a large scale. Acts of vandalism are also increasing. To combat these forms of criminal activity, be they of an organized nature or the action of individuals, strict control measures are necessary. Since fakes can be used for theft or the fraudulent transformation of authentic objects, measures must also be taken to prevent their circulation.
9. Protection and the prevention of risks are much more important than compensation in the event of damage or loss, since the essential purpose is to preserve the cultural heritage, not to replace by sums of money objects which are irreplaceable.
10. Because of the considerable increase in the risks resulting during transport and temporary exhibition, from environmental changes, inept handling, faulty packaging or other unfavourable conditions, adequate coverage against damage or loss is essential. The cost of risk coverage should be reduced through the rational management by museums and similar institutions of insurance contracts or by means of full or partial governmental guarantees.

### III. MEASURES RECOMMENDED

1. In accordance with the principles and norms set out above Member States should take all necessary steps, in conformity with their legislation and constitutional system, to protect movable cultural property effectively and, in the case of transport in particular, should ensure the application of the necessary measures of care and conservation and the coverage of the risks incurred.

#### Measures for the Prevention of Risks

##### Museums and other similar institutions

2. Member States should take all necessary steps to ensure adequate protection for cultural property in museums and similar institutions. In particular, they should:
  - a) encourage the systematic inventorying and cataloguing of cultural property, with the fullest possible details and in accordance with methods specially developed for the purpose (standardized fiches, photographs - and also, if possible, colour photographs - and, as appropriate, microfilms). Such an inventory is useful when it is desired to determine damage or deterioration to cultural property. With such documentation the necessary information can be given, with all due precautions to the national and international authorities responsible for combating thefts, illicit trading and the circulation of fakes;
  - b) encourage, as appropriate, the standardized identification of movable cultural property using unobtrusive means offered by contemporary technology;
  - c) urge the museums and similar institutions to reinforce the prevention of risks by a comprehensive system of practical security measures and technical installations and to ensure that all cultural property is kept, exhibited and transported in such a way as to protect it from all elements likely to damage or destroy it, including in particular heat, light, humidity, pollution, the various chemical and biological agents, vibration and shock;
  - d) provide the museums and similar institutions for which they are responsible with the necessary funds for implementing the measures set out in subparagraph (c) above;
  - e) take the necessary steps to ensure that all the tasks associated with the conservation of movable cultural property are carried out in accordance with the traditional techniques best suited to the particular cultural property and the most advanced scientific methods and technology; for this purpose, a suitable system for training and the vetting of professional qualifications should be established, in order to ensure that all those involved possess the required level of competence. The facilities for this should be strengthened or, if necessary, established. If appropriate, for the sake of economy, the establishment of regional conservation and restoration centres is recommended;
  - f) provide suitable training for supporting staff (including security staff) and draw up guidelines for such staff, laying down standards for the performance of their duties;
  - g) encourage regular training for protection, conservation and security staff;

- h) ensure that the staff of museums and similar institutions also receive the necessary training to enable them, in the event of disasters, to co-operate effectively in the rescue operations carried out by the competent public services;
  - i) encourage the publication and dissemination to those responsible, if necessary in confidential form, of the latest technical and scientific information on all aspects of the protection, conservation and security of movable cultural property;
  - j) issue performance standards for all security equipment for museums and public and private collections and encourage their application.
3. No effort should be spared to avoid giving in to ransom demands, so as to discourage the theft of illegal appropriation of movable cultural property carried out for that purpose. The persons or institutions concerned should consider ways and means of making this policy known.

#### Private collections

4. Member States should also, in conformity with their legislation and constitutional system, facilitate the protection of collections belonging to private bodies or individuals by:
- a) inviting the owners to make inventories of their collections, to communicate the inventories to the official services responsible for the protection of the cultural heritage and, if the situation requires, to grant access to the competent official curators and technicians in order to study and advise on safeguarding measures;
  - b) if appropriate, providing for incentives to the owners, such as assistance for the conservation of items listed in the inventories or appropriate fiscal measures;
  - c) studying the possibility of granting fiscal benefits to those who donate or bequeath cultural property to museums or similar institutions;
  - d) entrusting an official body (the department responsible for museums or the police) with the organization of an advisory service for private owners on security installations and other protective measures, including fire protection.

#### Movable cultural property situated in religious buildings and archaeological sites

5. To ensure that movable cultural property situated in religious buildings and archaeological sites is suitably preserved and protected against theft and plunder, Member States should encourage the construction of installations for storing it and the application of special security measures. Such measures should be in proportion to the value of the property and the extent of the risks to which it is exposed. If appropriate, governments should provide technical and financial assistance for this purpose. In view of the special significance of movable cultural property situated in religious buildings, Member States and the competent authorities should endeavour to provide for the proper protection and presentation of such property where it is located.

## International exchanges

6. Since movable cultural property is particularly exposed, during transport and temporary exhibition, to risks of damage which can arise from inept handling, faulty packaging, poor conditions during temporary storage or climatic changes as well as inadequate reception arrangements, special measures of protection are required. In the case of international exchanges Member States should:
- a) take the necessary measures to ensure that appropriate conditions of protection and care during transport and exhibition as well as adequate coverage of risk are specified and agreed on between the parties concerned. Governments through whose territory the cultural property will transit should provide assistance, if so requested;
  - b) encourage the institutions concerned to:
    - i) ensure that cultural property is transported, packed and handled in accordance with the highest standards. The measures to be taken to this effect could include the determination by experts of the most appropriate form of packaging, as well as the type and timing of transport; it is recommended that, where appropriate, the responsible curator of the lending museum accompany the property during transport and certify its conditions; the institutions responsible for the shipping and packing of the objects should attach a list describing their physical appearance, and the receiving institutions should check the objects against those lists;
    - ii) take appropriate measures to prevent any direct or indirect damage which might arise from the temporary or permanent overcrowding of the exhibition premises;
    - iii) agree, where necessary, on the methods to be used for measuring, recording and regulating the degree of humidity in order to maintain the relative humidity within definite limits, and on the measures to be taken to protect light-sensitive objects (exposure to daylight, type of lamp to be used, maximum level of illumination in lux, methods used to measure and control this level);
  - c) simplify the administrative formalities relating to the lawful movement of cultural property and arrange for appropriate identification of crates and other forms of packaging containing cultural property;
  - d) take steps to protect cultural property in transit or temporarily imported for the purpose of cultural exchanges, and in particular facilitate rapid customs clearance in suitable premises, which should be situated close to, and if possible on, the premises of the institution concerned, and ensure that clearance is effected with all the desirable precautions; and
  - e) whenever necessary, give instructions to their diplomatic and consular representatives to enable them to take effective action to accelerate customs procedures and ensure the protection of cultural property during transport.

### Education and information

7. To ensure that the population as a whole becomes aware of the value of cultural property and of the need to protect it, particularly with a view to the preservation of their cultural identity, Member States should encourage the competent authorities at national, regional or local level to:
  - a) provide children, young people and adults with the means of acquiring knowledge and respect for movable cultural property using all available educational and information resources for that purpose;
  - b) draw the attention of the public at large by every possible means to:
    - i) the significance and importance of cultural property, but without stressing the purely commercial value of that property;
    - ii) the opportunities available to them for participating in the activities undertaken by the competent authorities in order to protect such property.

### Control measures

8. To combat thefts, illegal excavations, vandalism and the use of fakes, Member States should, where the situation demands, establish or strengthen services specifically responsible for the prevention and suppression of these offenses.
9. Member States should, where the situation calls for it, take the necessary measures to:
  - a) provide for sanctions or any appropriate measures, whether under the penal or civil code or administrative or other measures in the case of the theft, pillage, receiving or illegal appropriation of movable cultural property, and of damage intentionally caused to such property; these sanctions or measures should take into account the gravity of the offense;
  - b) ensure better co-ordination between all services and sectors working for the prevention of offenses concerning movable cultural property and organize a system of rapid dissemination of information on such offenses, including information on fakes, among official bodies and the various sectors concerned, such as museum curators and art and antique dealers;
  - c) ensure proper conditions for the safeguarding of movable cultural property by taking steps to counter the neglect and abandon to which it is very often exposed and which is conducive to its deterioration.
10. Member States should also encourage private collectors and art and antique dealers to transmit all information concerning fakes to the official bodies mentioned in paragraph 19(b).

### Measures to Improve the Financing of Risk Coverage

#### Governmental guarantees

11. Member States should:
  - a) give special attention to the problem of covering adequately the risks to which movable cultural property is exposed during transport and temporary exhibitions;



- b) in particular, consider instituting in any legislative, statutory or other form, a system of governmental guarantees such as those which exist in certain countries, or a system of partial assumption of the risks by the State or any community concerned with a view to covering an insurance franchise deductible or an excess of loss;
  - c) within the framework of such systems and in the forms mentioned above, provide for compensation to lenders in the event of damage to, or the deterioration, alteration or loss of cultural objects loaned for the purpose of exhibition in museums or similar institutions. The provisions instituting these systems should specify the conditions and procedures governing the payment of such compensation.
12. The provisions concerning governmental guarantees should not apply to cultural property which is the object of transactions for commercial purposes.

#### Measures at the level of museums and similar institutions

13. Member States should also urge museums and other similar institutions to apply the principles of risk management, comprising the determination, classification, assessment, control and financing of risks of all kinds.
14. The risk management programme of all institutions which have taken out insurance should include the internal drafting of a procedures manual, periodic surveys on types of risks and the probable maximum loss, analysis of contracts and rates, market studies and a competitive bidding procedure. A person or body should be specifically entrusted with risk management.

### IV. INTERNATIONAL CO-OPERATION

1. Member States should:
- a) collaborate with intergovernmental and non-governmental organizations competent in regard to the prevention and coverage of risks;
  - b) strengthen at international level co-operation between official bodies responsible for the suppression of thefts and illicit trading in cultural property and for the discovery of fakes, and, in particular, urge these bodies to circulate rapidly among themselves, through machinery provided for this purpose, all useful information on illegal activities;
  - c) if necessary conclude international agreements for co-operation in regard to legal aid and the prevention of offenses;
  - d) take part in the organization of international training courses in the conservation and restoration of movable cultural property, and in risk management, and ensure that they are regularly attended by their specialized staff;
  - e) establish, in collaboration with the specialized international organizations, ethical and technical standards in the fields covered by the present Recommendation and encourage the exchange of scientific and technical information, particularly on innovations relating to the protection and conservation of movable cultural property.

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## MODEL TREATY FOR BILATERAL COOPERATION

### *for the Prevention of Crimes that Infringe on the Cultural Heritage of People in the Form of Movable Property*<sup>1</sup>

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders [HAVANA, Cuba, 27 August - 7 September 1990],

*Recalling* the Milan Plan of Action<sup>2</sup> adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and approved by the General Assembly in resolution 40/32 of 29 November 1985,

*Bearing in mind* the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order<sup>3</sup>, among which principle 37 requires that the United Nations should prepare model instruments suitable for use as international and regional agreements and as guides for national implementing legislation,

*Recalling* also resolution 1 of the Seventh Congress<sup>4</sup>, in which Member States were urged to increase their activity at the international level, in order to combat organized crime and entering into bilateral assistant treaties,

*Noting* that the Economic and Social Council, in its resolution 1989/62 of 24 May 1989, decided that the topic of transnational crimes against the cultural patrimony of countries should be included under item 3 of the provisional agenda of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in order to explore the possibilities for formulating comprehensive policies of international co-operation for the prevention of such offences,

*Desirous* of promoting co-operation to prevent unlawful acts that encroach on the historical and cultural legacy of peoples,

*Bearing in mind* that the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property<sup>5</sup>, adopted by the United Nations

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1 From United Nations, General Assembly, Resolution 45121 of 14 December 1990.

2 See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August - 6 September 1985. (United Nations Publication, Sales No. E.86.IV.1), chap.I, sect. A.

3 Ibid., sect. B.

4 Ibid., sect. E.

5 UNESCO, Records of the General Conference, Sixteenth Session, vol. I, Resolutions, pp. 135-141.

Educational, Scientific and Cultural Organization, which entered into force on 24 April 1972, establishes in its declarative section the duty of every State to protect the heritage represented by the cultural property located on its territory against the dangers of robbery, clandestine excavation and illicit export, as well as a commitment to combat these practices by every available means, particularly with respect to stopping them while in progress, eliminating their causes and providing the assistance required to secure the return of the property in question,

*Mindful* of the declarations and legal instruments that provide as an essential undertaking, for the adoption, both nationally and internationally of the most effective possible measures for adequately protecting, defending and recovering cultural property and for combating such acts as may damage or diminish those riches of an archaeological, historical and artistic nature that represent the expression of the national character of their respective peoples,

*Convinced* that the best way of achieving these objectives is through the co-operation and mutual help that must exist in order to succeed in preventing crimes against cultural heritage and in returning the property in question to the countries from which it has been illicitly removed,

*Conscious* of the need to respect human dignity and recalling the principles set forth in the Universal declaration of Human Rights<sup>6</sup> and the International Covenant on Economic, Social and Cultural Rights, as well as in the International Covenant on Civil and Political Rights<sup>7</sup>,

*Recognizing* the importance of the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property as a means of preventing crimes of this type and securing the return of property that has been illicitly removed,

1. *Recommends* that Member States consider the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property, contained in the annex to the present resolution, as a framework that may be of assistance to interested States in negotiating and drawing up bilateral agreements designed to improve co-operation in the area of crime prevention and criminal justice;
2. *Invites* those Member States that have not yet established treaty relations with other States for the prevention of crimes that infringe on the cultural heritage of peoples, or that wish to modify these relations if they already exist, to bear in mind, when so doing, the draft model treaty;
3. *Urges* all Member States to continue to strengthen international co-operation and mutual assistance in resolving these problems;
4. *Calls upon* Member States to inform the Secretary-General periodically of the efforts made to conclude agreements for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property;
5. *Requests* the Committee on Crime Prevention and Control to examine periodically the progress achieved in this area.

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6 United Nations, General Assembly, Resolution 217 A (III).

7 United Nations, General Assembly, Resolution 2200 A (XXI), annex.

# Model Treaty

for the Prevention of Crimes That Infringe on the Cultural Heritage of Peoples  
in the Form of Movable Property<sup>8</sup>

\_\_\_\_\_ and \_\_\_\_\_  
(country) (country)

Conscious of the need to co-operate in the field of criminal justice,

Wishing to add to the effectiveness of the co-operation between their two countries in combating criminal activities which involve movable cultural property through the introduction of measures for impeding illicit transnational trafficking in movable cultural property whether or not it has been stolen, the imposition of appropriate and effective administrative and penal sanctions and the provision of a means for restitution,

Have agreed as follows:

## Article 1 - Scope of application and definition<sup>9</sup>

1. For the purposes of this treaty, movable cultural property<sup>10</sup> shall be understood as referring to property which, on religious or secular grounds, is specifically designated by a State Party as being subject to export control by reason of its importance for archaeology, prehistory, history, literature, art or science, and as belonging to one or more of the following categories:
  - a) Rare collections and specimens of fauna, flora, minerals and anatomy, and objects of paleontological interest;
  - b) Property relating to history, including the history of science and technology, military history, and the history of societies and religions, as well as to the lives of leaders,

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8 An alternative title preferred by the drafting group of experts is "Model Treaty Concerning Crimes Relating to the Restitution of Movable Cultural Property".

9 Suggested alternatives to article 1, paragraph 1, are:

*This treaty covers all items of movable cultural property specifically designated as such by a State Party, and subject to export control by that State Party.; or*

*This treaty covers those items of movable cultural property specifically agreed to between the States Parties as being subject to export control.*

10 The categories follow closely the list contained in article 1 of the 1970 UNESCO Convention on illicit traffic. However, this list may not be exhaustive, and State Parties may wish to add other categories.

thinkers, scientists and artists and other national figures. and to events of national importance;

- c) Products of archaeological excavations or discoveries, including clandestine excavations or discoveries, whether on land or under water;
  - d) Elements of artistic or historical monuments or archaeological sites which have been dismantled;
  - e) Antiquities, including tools, ceramics, ornaments, musical instruments, pottery, inscriptions of all kinds, coins, engraved seals, jewels, weapons and funerary remains of any description;
  - f) Materials of anthropological, historical or ethnological interest;
  - g) Property of artistic interest, such as:
    - i) Pictures, paintings and drawings produced entirely by hand on any support and in any material (excluding industrial designs and manufactured articles decorated by hand);
    - ii) Original works of statuary art and sculpture in any material;
    - iii) Original engravings, prints, lithographs and art photographs;
    - iv) Original artistic assemblages and montages in any material;
  - h) Rare manuscripts and incunabula, old books, documents and publications of special historical, artistic, scientific, literary or other interest, singly or in collections:
    - i) Postage, revenue and similar stamps, either singly or in collections;
    - j) Archives, including phonographic, photographic and cinematographic archives;
    - k) Articles of furniture, furnishings and musical instruments of more than 100 years of age.
2. This treaty applies to movable cultural property stolen in or illicitly exported from the other State Party after the coming into force of the treaty<sup>11</sup>.

## Article 2 - General Principles

1. Each State Party undertakes:
  - a) To take the necessary measures to prohibit the import and export of movable cultural property (i) which has been stolen in the other State Party or (ii) which has been illicitly exported from the other State Party;
  - b) To take the necessary measures to prohibit the acquisition of, and dealing within its territory with, movable cultural property which has been imported contrary to the prohibitions resulting from the implementation of subparagraph (a) above;

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<sup>11</sup> State Parties may wish to consider providing for a period of limitation after which the right to request recovery of stolen or illicitly exported movable cultural property will be forfeited.

- c) To legislate in order to prevent persons and institutions within its territory from entering into international conspiracies with respect to movable cultural property;
  - d) To provide information concerning its stolen movable cultural property to an international data base agreed upon between the States Parties<sup>12</sup>;
  - e) To take the measures necessary to ensure that the purchaser of stolen movable cultural property which is listed on the international data base is not considered to be a purchaser who has acquired such property in good faith<sup>13</sup>;
  - f) To introduce a system whereby the export of movable cultural property is authorized by the issue of an export certificate<sup>14</sup>;
  - g) To take the measures necessary to ensure that a purchaser of imported movable cultural property which is not accompanied by an export certificate issued by the other State Party and who did not acquire the movable cultural property prior to the entry into force of this treaty shall not be considered to be a person who has acquired the movable cultural property in good faith
  - h) To use all the means at its disposal, including the fostering of public awareness, to combat the illicit import and export, theft, illicit excavation and illicit dealing in movable cultural property.
2. Each State Party undertakes to take the necessary measures to recover and return, at the request of the other State Party, any movable cultural property which is covered by subparagraph (a) above.

### Article 3 - Sanctions<sup>15</sup>

1. Each State Party undertakes to impose sanctions<sup>16</sup> upon:
- a) Persons or institutions responsible for the illicit import or export of movable cultural property;
  - b) Persons or institutions that knowingly acquire or deal in stolen or illicitly imported movable cultural property;
  - c) Persons or institutions that enter into international conspiracies to obtain, export or import movable cultural property by illicit means.

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12 Further developments in this field will provide the international community, particularly potential State Parties, with an opportunity to implement this method of crime prevention. The United Nations Congresses on the Prevention of Crime and the Treatment of Offenders may wish to develop initiatives in this direction.

13 This provision is intended to supplement, and not be in substitution for, the normal rules relating to good faith acquisition.

14 This procedure is consistent with the validation procedure described in article 6 of the 1970 UNESCO Convention.

15 State Parties should consider adding certain types of offences against movable cultural property to the list of extraditable offences, covered by an extradition treaty.

16 State Parties may wish to consider establishing minimum penalties for certain offences.

## Article 4 - PROCEDURES

1. Requests for recovery and return shall be made through diplomatic channels. The requesting State Party shall furnish, at its expense, the documentation and other evidence, including the date of export, necessary to establish its claim for recovery and return.
2. All expenses incidental to the return and delivery of the movable cultural property shall be borne by the requesting State party<sup>17</sup>, and no person or institution shall be entitled to claim any form of compensation from the State party returning the property claimed. Neither shall the requesting State Party be required to compensate in any way such persons or institutions as may have participated in illegally sending abroad the property in question, although it must pay fair compensation to any person or institution that in good faith acquired or was in legal possession of the property<sup>18</sup>.
3. Both parties agree not to levy any customs or other duties on such movable property as may be discovered and returned in accordance with the present treaty.
4. The States Parties agree to make available to each other such information as will assist in combating crimes against movable cultural property<sup>19</sup>.
5. Each State Party shall provide information concerning laws which protect its movable cultural property to an international data base agreed upon between the States Parties<sup>20</sup>.

## Article 5 - FINAL PROVISIONS<sup>21</sup>

1. This treaty is subject to (ratification, acceptance or approval). The instruments of (ratification, acceptance or approval) shall be exchanged as soon as possible, through diplomatic channels.
2. This treaty shall come into force on the thirtieth day after the day on which the instruments of (ratification, acceptance or approval) are exchanged.
3. Either State Party may denounce this treaty by giving notice in writing to the other State Party. Such denunciation shall take effect six months after the date on which such notice is received by the other State Party.
4. This treaty is intended to be complementary to, and does not in any way exclude, participation in other international arrangements.

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17 State Parties may wish to consider whether the expenses and/or the expense of providing compensation should be shared between them.

18 State Parties may wish to consider the position of a blameless possessor who has inherited or otherwise gratuitously acquired a cultural object which had been previously dealt with in bad faith.

19 Some State Parties may need to preface article 4, paragraph 3. by the following: "Subject to domestic laws, particularly those concerning access to information and the protection of privacy,....."

20 It should be noted that General Assembly resolution 44/18 of 6 November 1989, and quite a number of resolutions of the General Conference of UNESCO have invited member States to establish, with the assistance of UNESCO, national inventories of cultural property. At the date of the drafting of this treaty, national legislative texts on the protection of cultural movable property from 76 countries have been collected, published and disseminated by UNESCO.

21 State Parties may consider providing for a process for the resolution of disputes.

In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this treaty.

\_\_\_\_\_ and \_\_\_\_\_  
*(signature)* *(signature)*

\_\_\_\_\_ on \_\_\_\_\_  
*(place)* *(date)*

\_\_\_\_\_ and \_\_\_\_\_  
*(language)* *(language)*

each texts being equally authentic.



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**THE NAIROBI CONVENTION**  
*- Annex XI -*

*Concerning Assistance in Action Against the Smuggling of Works of Art,  
Antiques and Other Cultural Property*

Adopted by the Customs Cooperation Council [now: The World Customs Organization] in Nairobi, 9 June 1977.

1. The provisions of this Annex apply to works of art, antiques and other "cultural property" which, on religious or secular grounds, is held to be of importance for archaeology, prehistory, history, literature, art or science, within the meaning of paragraphs (a)-(k) of Article 1 of the UNESCO Convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property (Paris, 14 November 1970), insofar as such works of art, antiques and other cultural property are the subject of smuggling. They do not preclude the application of national measures of co-operation with national services for the protection of the cultural heritage and, in the Customs field, they supplement the implementation of the provisions of the UNESCO Convention by Contracting Parties to that Convention which have also accepted this Annex.
2. The provisions of this Annex concerning the smuggling of works of art, antiques and other cultural property shall, wherever appropriate and to the extent of the competence of the Customs administrations, apply also to the financial operations undertaken in connexion with such smuggling.

**Exchange of information by customs administrations  
on their own initiative**

3. The Customs administrations of Contracting Parties shall, on their own initiative and without delay, communicate to other Customs administrations which may be directly concerned, any available information concerning:
  - a) operations which are known or suspected to constitute, or which seem likely to give rise to, smuggling of works of art, antiques or other cultural property;

- b) persons known to be engaged in or, insofar as information concerning such persons can be communicated under national law, persons suspected of engaging in operations referred to in paragraph (a) above, and vehicles, ships, aircraft and other means of transport used, or suspected of being used, for such operations;
- c) new means or methods used for smuggling works of art, antiques or other cultural property.

#### Assistance, on request, relating to surveillance

4. At the request of the Customs administration of a Contracting Party, the Customs administration of another Contracting Party shall, to the extent of its competence and ability, maintain special surveillance for a specified period over :
  - a) the movements, particularly the entry into and exit from its territory, of particular persons reasonably believed to be professionally or habitually engaged in the smuggling of works of art, antiques or other cultural property in the territory of the requesting Contracting Party;
  - b) movements of works of art, antiques or other cultural property which are reported by the Customs administration of the requesting Contracting Party as giving rise to important illicit traffic from the territory of that Contracting Party;
  - c) particular vehicles, ships, aircraft or other means of transport reasonably believed to be used for smuggling works of art, antiques or other cultural property from the territory of the requesting Contracting Party,
 and shall communicate a report thereon to the Customs administrations of the requesting Contracting Party.

#### Enquiries on request on behalf of another Contracting Party

5. At the request of the Customs administration of a Contracting Party, the Customs administration of another Contracting Party shall, to the extent of its ability and subject to the laws and regulations in force in its territory, make enquiries to obtain evidence concerning any smuggling of work of art, antiques or other cultural property under investigation in the territory of the requesting Contracting Party, and take statements from any persons sought in connexion with that smuggling or from witnesses or experts, and communicate the results of the enquiry, as well as any documents or other evidence, to the Customs administration of the requesting Contracting Party.

#### Action by Customs officials of a Contracting Party in the territory of another Contracting Party

6. Where it is not sufficient for evidence to be given solely in the form of a written statement, at the request of the Customs administration of a Contracting Party the Customs administration of another Contracting Party, to the extent of its ability, shall authorize its officials to appear before a court or tribunal in the territory of the requesting Contracting Party as witnesses or experts in the matter of smuggling of works of art, antiques or other cultural property. The request for appearance shall specify, in particular, in what case and in what capacity the official is to be heard. The Customs administration of the Contracting

Party accepting the request shall, in authorizing appearance, state any limits with which its officials should comply in giving evidence.

7. At the written request of the Customs administration of a Contracting Party, the Customs administration of another Contracting Party shall, where deemed appropriate and to the extent of its competence and ability, authorize officials of the requesting administration to be present in the territory of the requested Contracting Party in connexion with enquiries into or the official reporting of smuggling of works of art, antiques or other cultural property of concern to the requesting Contracting Party.
8. Where deemed appropriate by both Contracting Parties and subject to the laws and regulations in force in their territories, the officials of the Customs administration of a Contracting Party shall, at the request of another Contracting Party, participate in investigations carried out in the territory of that other Contracting Party.

#### Pooling of information

9. The Customs administrations of Contracting Parties shall communicate [to] the Secretary General of the Council, to the extent that such information is of international interest, the information specified hereafter.
10. The Secretary General of the Council shall institute and keep up-to-date a central index of information communicated to him by Contracting Parties and shall use information from it to prepare summaries and studies of new and recurring trends in the smuggling of works of art, antiques or other cultural property. He shall periodically review the index to eliminate information which, in his opinion, has outlived its utility or become out-of-date.
11. The Customs administrations of the Contracting Parties shall, upon request by the Secretary General of the Council and subject to the other provisions of the Convention and this Annex, provide the Secretary General with such complementary information as may be necessary to prepare the summaries and studies referred to in paragraph 10 of this Annex.
12. The Secretary General of the Council shall circulate to the services or officials named by the Customs administrations of the Contracting Parties specific information contained in the central index, to the extent that he deems such circulation useful, and any summaries and studies referred to in paragraph 10 of this Annex.
13. The Secretary General of the Council shall, unless advised to the contrary by the Contracting Party furnishing the information, also circulate to UNESCO and to the International Criminal Police Organization / Interpol any information concerning the smuggling of works of art, antiques or other cultural property contained in the central index, to the extent that there has been illicit transfer of ownership and he deems such circulation useful, together with any summaries or studies that he may have prepared on this subject under paragraph 10 of this Annex.
14. The Secretary General of the Council shall, upon request, supply a Contracting Party having accepted this Annex with any other information available to him in connexion with the pooling of information provided for by this Annex.

## Central index, Part I: Persons

15. Notifications under this Part of the central index shall provide information concerning:
- a) persons finally convicted of smuggling; and
  - b) where appropriate, persons suspected of smuggling or apprehended in the act of smuggling in the territory of the Contracting Party making the notification, even though legal proceedings have not been completed,
- it being understood that when Contracting Parties refrain from notifying the names and descriptions of the persons involved because such notification is prohibited by their national legislation, they shall nevertheless make a notification containing as many as possible of the items listed in this Part of the central index.
16. The information to be furnished shall, so far as possible, include the following:
- a) *Surname*
  - b) *Forenames*
  - c) *Maiden name (if applicable)*
  - d) *Nickname or alias*
  - e) *Occupation*
  - f) *Address (present)*
  - g) *Date and place of birth*
  - h) *Citizenship / Nationality*
  - i) *Country of residence and countries visited during the past 12 months*
  - j) *Type and number of identity papers, including country and date of issue*
  - k) *Physical description*
    - i) *Sex*
    - ii) *Height*
    - iii) *Weight*
    - iv) *Build*
    - v) *Hair*
    - vi) *Eyes*
    - vii) *Complexion*
    - viii) *Distinctive marks*
  - l) *Brief particulars of offence (including particulars of type and origin of goods involved in the offence, and whether there has been an, illicit transfer of ownership) and the circumstances which led to the detection of the offence*
  - m) *Nature and amount of penalty and/or sentence imposed*
  - n) *Other observations including languages spoken and (if available) any previous convictions recorded*
  - o) *Contracting Party furnishing the information (including reference number).*
17. As a general rule, the Secretary General of the Council shall circulate information relating to Part I of the central index at least to the countries of citizenship/nationality and residence and to the countries visited by the person concerned during the past 12 months.

## Central index, Part II: Methods

18. Notifications under this Part of the central index shall provide information relating to methods of smuggling works of art, antiques or other cultural property, including methods of concealment, in all cases of significant international interest. Contracting Parties shall report each use of a known method of smuggling as well as new, unusual or possible methods so that current trends in this field can be detected.

19. The information to be furnished shall, so far as possible, include the following:
- a) Description of methods of smuggling. If available, the description (make, model, registration number, in the case of land vehicles, type of vessel, etc.) of any means of transport used. Where applicable, data from the approval plate or certificate of containers or vehicles, the designs of which were approved under an international Convention, and information about any violation of seals, bolts, sealing devices or other parts of containers or vehicles;
  - b) Description, if applicable, of the place of concealment, including, where possible, a photograph or sketch;
  - c) Description of goods concerned;
  - d) Other observations, including the circumstances which led to detection;
  - e) Contracting Party furnishing the information (including reference number).

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## ICOM CODE OF PROFESSIONAL ETHICS

### I. PREAMBLE

The ICOM Code of Professional Ethics was adopted unanimously by the 15th General Assembly of ICOM meeting in Buenos Aires, Argentina on 4 November 1986.

It provides a general statement of professional ethics, respect for which is regarded as a minimum requirement to practise as a member of the museum profession. In many cases it will be possible to develop and strengthen the Code to meet particular national or specialized requirements and ICOM wishes to encourage this. A copy of such developments of the Code should be sent to the Secretary General of ICOM, Maison de l'UNESCO, 1 rue Miollis, 75732 Paris Cedex 15, France.

For the purposes of Articles 2 para. 2, 9 para. 1(d), 14 para. 17(b), 15 para. 7(c), 17 para. 12(e) and 18 para. 7(d) of the ICOM Statutes, this Code is deemed to be the statement of professional ethics referred to therein.

### 1. DEFINITIONS

#### 1.1. The International Council of Museums (ICOM)

ICOM is defined in Article 1 para. 1 of its *Statutes* as "the international non-governmental organization of museums and professional museum workers established to advance the interests of museology and other disciplines concerned with museum management and operations."

The objectives of ICOM, as defined in Article 3 para. 1 of its *Statutes*, are:

- a) "(a) To encourage and support the establishment, development and professional management of museums of all kinds;
- b) To advance knowledge and understanding of the nature, functions and role of museums in the service of society and of its development;
- c) To organize co-operation and mutual assistance between museums and between professional museum workers in the different countries;
- d) To represent, support and advance the interests of professional museum workers of all kinds;
- e) To advance and disseminate knowledge in museology and other disciplines concerned with museum management and operations."

## 1.2. Museum

A museum is defined in Article 2 para. 1 of the *Statutes* of the International Council of Museums as "a non-profit making, permanent institution in the service of society and of its development, and open to the public which acquires, conserves, researches, communicates and exhibits, for purposes of study, education and enjoyment, material evidence of people and their environment.

1. The above definition of a museum shall be applied without limitation arising from the nature of the governing body, the territorial character, the functional structure or the orientation of the collections of the institution concerned.
2. In addition to institutions designated as 'museums' the following qualify as museums for the purposes of this definition:
  - a) natural, archaeological and ethnographic monuments and sites of a museum nature that acquire, conserve and communicate material evidence of people and their environment;
  - b) institutions holding collections of and displaying live specimens of plants and animals, such as botanical and zoological gardens, aquaria and vivaria;
  - c) science centres and planetaria;
  - d) conservation institutes and exhibition galleries permanently maintained by libraries and archive centres;
  - e) nature reserves;
  - f) such other institutions as the Executive Council, after seeking the advice of the Advisory Committee, considers as having some or all of the characteristics of a museum, or as supporting museums and professional museum workers through museological research, education or training."

## 1.3. The Museum Profession

ICOM defines the members of the museum profession, under Article 2, para. 2 of its *Statutes*, as follows: "Professional museum workers include all the personnel of museums or institutions qualifying as museums in accordance with the definition in Article 2 para. 1 (*as detailed under para. 1.2 above*), having received specialized training, or possessing an equivalent practical experience, in any field relevant to the management and operations of a museum, and privately or self-employed persons practising in one of the museological professions and who respect the *ICOM Code of Professional Ethics*."

## 1.4. Governing Body

The government and control of museums in terms of policy, finance and administration etc., varies greatly from one country to another, and often from one museum to another within a country according to the legal and other national or local provisions of the particular country or institution.

In the case of many national museums, the Director, Curator or other professional head of the museum may be appointed by, and directly responsible to, a Minister or a Government Department, whilst most local government museums are similarly governed and controlled by the appropriate local authority. In many other cases the government and control of the museum is vested in some form of independent body, such as a board of trustees, a society, a non-profit company, or even an individual.

For the purposes of this *Code* the term "Governing Body" has been used throughout to signify the superior authority concerned with the policy, finance and administration of the museum. This may be an individual Minister or official, a Ministry, a local authority, a Board of Trustees, a Society, the Director of the museum or any other individual or body. Directors, Curators or other professional heads of the museum are responsible for the proper care and management of the museum.

## II. INSTITUTIONAL ETHICS

### 2. BASIC PRINCIPLES FOR MUSEUM GOVERNANCE

#### 2.1. Minimum Standards for Museums

The governing body or other controlling authority of a museum has an ethical duty to maintain, and if possible enhance, all aspects of the museum, its collections and its services. Above all, it is the responsibility of each governing body to ensure that all of the collections in their care are adequately housed, conserved and documented.

The minimum standards in terms of finance, premises, staffing and services will vary according to the size and responsibilities of each museum. In some countries such minimum standards may be defined by law or other government regulation, and, in others, guidance on and assessment of minimum standards is available in the form of "Museum Accreditation" or similar schemes. Where such guidance is not available locally, it can usually be obtained from appropriate national and international organizations and experts, either directly or through the National Committee or International Committee of ICOM.

#### 2.2. Constitution

Each museum should have a written constitution or other document setting out clearly its legal status and permanent, non-profit nature, drawn up in accordance with appropriate national laws in relation to museums, the cultural heritage, and non-profit institutions. The governing body or other controlling authority of a museum should prepare and publicize a clear statement of the aims, objectives and policies of the museum, and of the role and composition of the governing body itself.

#### 2.3. Finance

The governing body holds the ultimate financial responsibility for the museum and for the protecting and nurturing of its various assets: the collections and related documentation, the premises, facilities and equipment, the financial assets, and the staff. It is obliged to develop and define the purposes and related policies of the institution, and to ensure that all of the museum's assets are properly and effectively used for museum purposes. Sufficient funds must be available on a regular basis, either from public or private sources, to enable the governing body to carry out and develop the work of the museum. Proper accounting procedures must be adopted and maintained in accordance with the relevant national laws and professional accountancy standards.

#### 2.4. Premises

The board has especially strong obligations to provide accommodation giving a suitable environment for the physical security and preservation of the collections. Premises must be adequate for the museum to fulfill within its stated policy its basic functions of collection, research, storage, conservation, education and display, including staff accommodation, and should comply with all appropriate national legislation in relation to public and staff safety. Proper standards of protection should be provided against such hazards as theft, fire, flood, vandalism and deterioration, throughout the year, day and night. The special needs of disabled people should be provided for, as far as practicable, in planning and managing both buildings and facilities.



## 2.5. Personnel

The governing body has a special obligation to ensure that the museum has staff sufficient in both number and kind to ensure that the museum is able to meet its responsibilities. The size of the staff, and its nature (whether paid or unpaid, permanent or temporary), will depend on the size of the museum, its collections and its responsibilities. However, proper arrangements should be made for the museum to meet its obligations in relation to the care of the collections, public access and services, research, and security.

The governing body has particularly important obligations in relation to the appointment of the director of the museum, and whenever the possibility of terminating the employment of the director arises, to ensure that any such action is taken only in accordance with appropriate procedures under the legal or other constitutional arrangements and policies of the museum, and that any such staff changes are made in a professional and ethical manner, and in accordance with what is judged to be the best interests of the museum, rather than any personal or external factor or prejudice. It should also ensure that the same principles are applied in relation to any appointment, promotion, dismissal or demotion of the personnel of the museum by the director or any other senior member of staff with staffing responsibilities.

The governing body should recognize the diverse nature of the museum profession, and the wide range of specializations that it now encompasses, including conservator/restorers, scientists, museum education service personnel, registrars and computer specialists, security service managers, etc. It should ensure that the museum both makes appropriate use of such specialists where required and that such specialized personnel are properly recognized as full members of the professional staff in all respects.

Members of the museum profession require appropriate academic, technical and professional training in order to fulfill their important role in relation to the operation of the museum and the care for the heritage, and the governing body should recognize the need for, and value of, a properly qualified and trained staff, and offer adequate opportunities for further training and re-training in order to maintain an adequate and effective workforce.

A governing body should never require a member of the museum staff to act in a way that could reasonably be judged to conflict with the provisions of this *Code of Ethics*, or any national law or national code of professional ethics.

The Director or other chief professional officer of a museum should be directly responsible to, and have direct access to, the governing body in which trusteeship of the collections is vested.

## 2.6. Educational and Community Role of the Museum

By definition, a museum is an institution in the service of society and of its development, and is generally open to the public (even though this may be a restricted public in the case of certain very specialized museums, such as certain academic or medical museums, for example).

The museum should take every opportunity to develop its role as an educational resource used by all sections of the population or specialized group that the museum is intended to serve. Where appropriate in relation to the museum's programme and responsibilities, specialist staff with training and skills in museum education are likely to be required for this purpose.

The museum has an important duty to attract new and wider audiences within all levels of the community, locality or group that the museum aims to serve, and should offer both the general community and specific individuals and groups within its opportunities to become actively involved in the museum and to support its aims and policies.

## 2.7. Public Access

The general public (or specialized group served, in the case of museums with a limited public role), should have access to the displays during reasonable hours and for regular periods. The museum should also offer the public reasonable access to members of staff by appointment or other arrangement, and full access to information about the collections, subject to any necessary restrictions for reasons of confidentiality or security as discussed in para. 7.3 below.

## 2.8. Displays, Exhibitions and Special Activities

Subject to the primary duty of the museum to preserve unimpaired for the future the significant material that comprises the museum collections, it is the responsibility of the museum to use the collections for the creation and dissemination of new knowledge, through research, educational work, permanent displays, temporary exhibitions and other special activities. These should be in accordance with the stated policy and educational purpose of the museum, and should not compromise either the quality or the proper care of the collections. The museum should seek to ensure that information in displays and exhibitions is honest and objective and does not perpetuate myths or stereotypes.

## 2.9. Commercial Support and Sponsorship

Where it is the policy of the museum to seek and accept financial or other support from commercial or industrial organizations, or from other outside sources, great care is needed to define clearly the agreed relationship between the museum and the sponsor. Commercial support and sponsorship may involve ethical problems and the museum must ensure that the standards and objectives of the museum are not compromised by such a relationship.

## 2.10. Museum Shops and Commercial Activities

Museum shops and any other commercial activities of the museum, and any publicity relating to these, should be in accordance with a clear policy, should be relevant to the collections and the basic educational purpose of the museum, and must not compromise the quality of those collections. In the case of the manufacture and sale of replicas, reproductions or other commercial items adapted from an object in a museum's collection, all aspects of the commercial venture must be carried out in a manner that will not discredit either the integrity of the museum or the intrinsic value of the original object. Great care must be taken to identify permanently such objects for what they are, and to ensure accuracy and high quality in their manufacture. All items offered for sale should represent good value for money and should comply with all relevant national legislation.

## 2.11. Legal Obligation

It is an important responsibility of each governing body to ensure that the museum complies fully with all legal obligations, whether in relation to national, regional or local law, international law or treaty obligations, and to any legally binding trusts or conditions relating to any aspect of the museum collections or facilities.

### 3. ACQUISITIONS TO MUSEUM COLLECTIONS

#### 3.1. Collecting Policies

Each museum authority should adopt and publish a written statement of its collecting policy. This policy should be reviewed from time to time, and at least once every five years. Objects acquired should be relevant to the purpose and activities of the museum, and be accompanied by evidence of a valid legal title. Any conditions or limitations relating to an acquisition should be clearly described in an instrument of conveyance or other written documentation. Museums should not, except in very exceptional circumstances, acquire material that the museum is unlikely to be able to catalogue, conserve, store or exhibit, as appropriate, in a proper manner. Acquisitions outside the current stated policy of the museum should only be made in very exceptional circumstances, and then only after proper consideration by the governing body of the museum itself, having regard to the interests of the objects under consideration, the national or other cultural heritage and the special interests of other museums.

#### 3.2. Acquisition of Illicit Material

The illicit trade in objects destined for public and private collections encourages the destruction of historic sites, local ethnic cultures, theft at both national and international levels, places at risk endangered species of flora and fauna, and contravenes the spirit of national and international patrimony. Museums should recognize the relationship between the market place and the initial and often destructive taking of an object for the commercial market, and must recognize that it is highly unethical for a museum to support in any way, whether directly or indirectly, that illicit market.

A museum should not acquire, whether by purchase, gift, bequest or exchange, any object unless the governing body and responsible officer are satisfied that the museum can acquire a valid title to the specimen or object in question and that in particular it has not been acquired in, or exported from, its country of origin and/or any intermediate country in which it may have been legally owned (including the museum's own country), in violation of that country's laws.

So far as biological and geological material is concerned, a museum should not acquire by any direct or indirect means any specimen that has been collected, sold or otherwise transferred in contravention of any national or international wildlife protection or natural history conservation law or treaty of the museum's own country or any other country except with the express consent of an appropriate outside legal or governmental authority.

So far as excavated material is concerned, in addition to the safeguards set out above, the museum should not acquire by purchase objects in any case where the governing body or responsible officer has reasonable cause to believe that their recovery involved the recent unscientific or intentional destruction or damage of ancient monuments or archaeological sites, or involved a failure to disclose the finds to the owner or occupier of the land, or to the proper legal or governmental authorities.

If appropriate and feasible, the same tests as are outlined in the above four paragraphs should be applied in determining whether or not to accept loans for exhibition or other purposes.

#### 3.3. Field Study and Collecting

Museums should assume a position of leadership in the effort to halt the continuing degradation of the world's natural history, archaeological, ethnographic, historic and artistic resources. Each museum should develop policies that allow it to conduct its activities within appropriate national and international laws and treaty obligations, and with a reasonable certainty that its approach is consistent with the spirit and intent of both national and international efforts to protect and enhance the cultural heritage.

Field exploration, collecting and excavation by museum workers present ethical problems that are both complex and critical. All planning for field studies and field collecting must be preceded by investigation, disclosure and consultation with both the proper authorities and any interested museums or academic institutions in the country or area of the proposed study sufficient to ascertain if the proposed activity is both legal and justifiable on academic and scientific grounds. Any field programme must be executed in such a way that all participants act legally and responsibly in acquiring specimens and data, and that they discourage by all practical means unethical, illegal and destructive practices.

### 3.4. Co-operation Between Museums in Collecting Policies

Each museum should recognize the need for co-operation and consultation between all museums with similar or overlapping interests and collecting policies, and should seek to consult with such other institutions both on specific acquisitions where a conflict of interest is thought possible and, more generally, on defining areas of specialization. Museums should respect the boundaries of the recognized collecting areas of other museums and should avoid acquiring material with special local connections or of special local interest from the collecting area of another museum without due notification of intent.

### 3.5. Conditional Acquisitions and Other Special Factors

Gifts, bequests and loans should only be accepted if they conform to the stated collecting and exhibition policies of the museum. Offers that are subject to special conditions may have to be rejected if the conditions proposed are judged to be contrary to the long-term interests of the museum and its public.

### 3.6. Loans to Museums

Both individual loans of objects and the mounting or borrowing of loan exhibitions can have an important role in enhancing the interest and quality of a museum and its services. However, the ethical principles outlined in paras. 3.1 to 3.5 above must apply to the consideration of proposed loans and loan exhibitions as to the acceptance or rejection of items offered to the permanent collections: loans should not be accepted nor exhibitions mounted if they do not have a valid educational, scientific or academic purpose.

### 3.7. Conflicts of Interest

The collecting policy or regulations of the museum should include provisions to ensure that no person involved in the policy or management of the museum, such as a trustee or other member of a governing body, or a member of the museum staff, may compete with the museum for objects or may take advantage of privileged information received because of his or her position, and that should a conflict of interest develop between the needs of the individual and the museum, those of the museum will prevail. Special care is also required in considering any offer of an item either for sale or as a tax-benefit gift, from members of governing bodies, members of staff, or the families or close associates of these.

## 4. DISPOSAL OF COLLECTIONS

### 4.1. General Presumption of Permanence of Collections

By definition one of the key functions of almost every kind of museum is to acquire objects and keep them for posterity. Consequently, there must always be a strong presumption against the disposal of specimens to which a museum has assumed formal title. Any form of disposal, whether by donation, exchange, sale or destruction requires the exercise of a high order of curatorial judgement and should be approved by the governing body only after full expert and legal advice has been taken.

Special considerations may apply in the case of certain kinds of specialized institutions such as "living" or "working" museums, and some teaching and other educational museums, together with museums and other institutions displaying living specimens, such as botanical and zoological gardens and aquaria, which may find it necessary to regard at least part of their collections as "fungible" (i.e. replaceable and renewable). However, even here there is a clear ethical obligation to ensure that the activities of the institution are not detrimental to the long-term survival of examples of the material studied, displayed or used.

### 4.2. Legal or Other Powers of Disposal

The laws relating to the protection and permanence of museum collections, and to the power of museums to dispose of items from their collection vary greatly from country to country, and often from one museum to another within the same country. In some cases no disposals of any kind are permitted, except in the case of items that have been seriously damaged by natural or accidental deterioration. Elsewhere, there may be no explicit restriction on disposals under general law.

Where the museum has legal powers permitting disposals, or has acquired objects subject to conditions of disposal, the legal or other requirements and procedures must be fully complied with. Even where legal powers of disposal exist, a museum may not be completely free to dispose of items acquired: where financial assistance has been obtained from an outside source (e.g. public or private grants, donations from a Friends of the Museum organization, or private benefactor), disposal would normally require the consent of all parties who had contributed to the original purchase.

Where the original acquisition was subject to mandatory restrictions these must be observed unless it can be clearly shown that adherence to such restrictions is impossible or substantially detrimental to the institution. Even in these circumstances the museum can only be relieved from such restrictions through appropriate legal procedures.

### 4.3. De-accessioning Policies and Procedures

Where a museum has the necessary legal powers to dispose of an object the decision to sell or otherwise dispose of material from the collections should only be taken after due consideration, and such material should be offered first, by exchange, gift or private treaty sale, to other museums before sale by public auction or other means is considered. A decision to dispose of a specimen or work of art, whether by exchange, sale or destruction (in the case of an item too badly damaged or deteriorated to be restorable) should be the responsibility of the governing body of the museum, not of the curator of the collection concerned acting alone. Full records should be kept of all such decisions and the objects involved, and proper arrangements made for the preservation and/or transfer, as appropriate, of the documentation relating to the object concerned, including photographic records where practicable.

Neither members of staff, nor members of the governing bodies, or members of their families or close associates, should ever be permitted to purchase objects that have been de-accessioned from a collection. Similarly, no such person should be permitted to appropriate in any way items from the museum collections, even temporarily, to any personal collection or for any kind of personal use.

#### 4.4. Return and Restitution of Cultural Property

If a museum should come into possession of an object that can be demonstrated to have been exported or otherwise transferred in violation of the principles of the UNESCO *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970)* and the country of origin seeks its return and demonstrates that it is part of the country's cultural heritage, the museum should, if legally free to do so, take responsible steps to cooperate in the return of the object to the country of origin.

In the case of requests for the return of cultural property to the country of origin, museums should be prepared to initiate dialogues with an open-minded attitude on the basis of scientific and professional principles (in preference to action at a governmental or political level). The possibility of developing bilateral or multilateral co-operation schemes to assist museums in countries which are considered to have lost a significant part of their cultural heritage in the development of adequate museums and museum resources should be explored.

Museums should also respect fully the terms of the *Convention of Cultural Property in the Event of Armed Conflict* (The Hague Convention, 1954) and in support of this *Convention*, should in particular abstain from purchasing or otherwise appropriating or acquiring cultural objects from any occupied country, as these will in most cases have been illegally exported or illicitly removed.

#### 4.5. Income From Disposal of Collections

Any moneys received by a governing body from the disposal of specimens or works of art should be applied solely for the purchase of additions to the museum collections.

### III. PROFESSIONAL CONDUCT

#### 5. GENERAL PRINCIPLES

##### 5.1. Ethical Obligations of Members of the Museum Profession

Employment by a museum, whether publicly or privately supported, is a public trust involving great responsibility. In all activities, museum employees must act with integrity and in accordance with the most stringent ethical principles as well as the highest standards of objectivity.

An essential element of membership of a profession is the implication of both rights and obligations. Although the conduct of a professional in any area is ordinarily regulated by the basic rules of moral behaviour which govern human relationships, every occupation involves standards, as well as particular duties, responsibilities and opportunities that from time to time create the need for a statement of

guiding principles. The museum professional should understand two guiding principles: first, that museums are the object of a public trust whose value to the community is in direct proportion to the quality of service rendered; and, secondly, that intellectual ability and professional knowledge are not, in themselves, sufficient, but must be inspired by a high standard of ethical conduct.

The Director and other professional staff owe their primary professional and academic allegiance to their museum and should at all times act in accordance with the approved policies of the museum. The Director or other principal museum officer should be aware of, and bring to the notice of the governing body of the museum whenever appropriate, the terms of the *ICOM Code of Professional Ethics* and of any relevant national or regional codes or policy statements on museum ethics, and should urge the governing body to comply with these. Members of the museum profession should also comply fully with the *ICOM Code* and any other codes or statements on museum ethics whenever exercising the functions of the governing body under delegated powers.

## 5.2. Personal Conduct

Loyalty to colleagues and to the employing museum is an important professional responsibility, but the ultimate loyalty must be to fundamental ethical principles and to the profession as a whole.

Applicants for any professional post should divulge frankly and in confidence all information relevant to the consideration of their applications, and if appointed should recognize that museum work is normally regarded as a full-time vocation. Even when the terms of employment do not prohibit outside employment or business interests, the Director and other senior staff should not undertake other paid employment or accept outside commissions without the express consent of the governing body of the museum. In tendering resignations from their posts, members of the professional staff, and above all the Director, should consider carefully the needs of the museum at the time. A professional person, having recently accepted a new appointment, should consider seriously his/her professional commitment to his/her present post before applying for a new post elsewhere.

## 5.3. Private Interests

While every member of any profession is entitled to a measure of personal independence, consistent with professional and staff responsibilities, in the eyes of the public no private business or professional interest of a member of the museum profession can be wholly separated from that of the professional's institution or other official affiliation, despite disclaimers that may be offered. Any museum-related activity by the individual may reflect on the institution or be attributed to it. The professional must be concerned not only with the true personal motivations and interests, but also with the way in which such actions might be construed by the outside observer. Museum employees and others in a close relationship with them must not accept gifts, favours, loans or other dispensations or things of value that may be offered to them in connection with their duties for the museum (see also para. 8.4 below).

## 6. PERSONAL RESPONSIBILITY TO THE COLLECTIONS

### 6.1. Acquisitions to Museum Collections

The Director and professional staff should take all possible steps to ensure that a written collecting policy is adopted by the governing body of the museum, and thereafter reviewed and revised as appropriate at regular intervals. This policy, as formally adopted and revised by the governing body, should form the basis of all professional decisions and recommendations in relation to acquisitions.

Negotiations concerning the acquisition of museum items from members of the general public must be conducted with scrupulous fairness to the seller or donor. No object should be deliberately or misleadingly identified or valued, to the benefit of the museum and to the detriment of the donor, owner or previous owners, in order to acquire it for the museum collections, nor should be taken nor retained on loan with the deliberate intention of improperly procuring it for the collections.

### 6.2. Care of Collections

It is an important professional responsibility to ensure that all items accepted temporarily or permanently by the museum are properly and fully documented to facilitate provenance, identification, condition and treatment. All objects accepted by the museum should be properly conserved, protected, and maintained.

Careful attention should be paid to the means of ensuring the best possible security as a protection against theft in display, working or storage areas, against accidental damage when handling objects, and against damage or theft in transit. Where it is the national or local policy to use commercial insurance arrangements, the staff should ensure that the insurance cover is adequate, especially for objects in transit and loan items, or other objects, which are not owned by the museum but which are its current responsibility.

Members of the museum profession should not delegate important curatorial, conservation, or other professional responsibilities to persons who lack the appropriate knowledge and skill, or who are inadequately supervised, in the case of trainees or approved volunteers, where such persons are allowed to assist in the care of the collections. There is also a clear duty to consult professional colleagues within or outside the museum if at any time the expertise available in a particular museum or department is insufficient to ensure the welfare of items in the collections under its care.

### 6.3. Conservation and Restoration of Collections

One of the essential ethical obligations of each member of the museum profession is to ensure the proper care and conservation of both existing and newly-acquired collections and individual items for which the member of the profession and the employing institutions are responsible, and to ensure that as far as is reasonable the collections are passed on to future generations in as good and safe a condition as practicable having regard to current knowledge and resources.

In attempting to achieve this high ideal, special attention should be paid to the growing body of knowledge about preventative conservation methods and techniques, including the provision of suitable environmental protection against the known natural or artificial causes of deterioration of museum specimens and works of art.

There are often difficult decisions to be made in relation to the degree of replacement or restoration of lost or damaged parts of a specimen or work of art that may be ethically acceptable in particular circumstances. Such decisions call for proper co-operation between all with a specialized responsibility



for the object, including both the curator and the conservator or restorer, and should not be decided unilaterally by one or the other acting alone.

The ethical issues involved in conservation and restoration work of many kinds are a major study in themselves, and those with special responsibilities in this area, whether as director, curator, conservator or restorer, have an important responsibility to ensure that they are familiar with these ethical issues, and with appropriate professional opinion, as expressed in some detailed ethical statements and codes produced by the conservator/restorer professional bodies.<sup>22</sup>

#### 6.4. Documentation of Collections

The proper recording and documentation of both new acquisitions and existing collections in accordance with appropriate standards and the internal rules and conventions of the museum is a most important professional responsibility. It is particularly important that such documentation should include details of the source of each object and the conditions of acceptance of it by the museum. In addition, specimen data should be kept in a secure environment and be supported by adequate systems providing easy retrieval of the data by both the staff and by other *bona fide* users.

#### 6.5. De-accessioning and Disposals from the Collections

No item from the collections of a museum should be disposed of except in accordance with the ethical principles summarized in the Institutional Ethics section of this *Code*, paras. 4.1 to 4.4 above, and the detailed rules and procedures applying in the museum in question.

#### 6.6. Welfare of Live Animals

Where museums and related institutions maintain for exhibition or research purposes live populations of animals, the health and well-being of any such creatures must be a foremost ethical consideration. It is essential that a veterinary surgeon be available for advice and for regular inspection of the animals and their living conditions. The museum should prepare a safety code for the protection of staff and visitors which has been approved by an expert in the veterinary field, and all staff must follow it in detail.

#### 6.7. Human Remains and Material of Ritual Significance

Where a museum maintains and/or is developing collections of human remains and sacred objects, these should be securely housed and carefully maintained as archival collections in scholarly institutions, and should always be available to qualified researchers and educators, but not to the morbidly curious. Research on such objects and their housing and care must be accomplished in a manner acceptable not only to fellow professionals but also to those of various beliefs, including particular members of the community, ethnic or religious groups concerned. Although it is occasionally necessary to use human remains and other sensitive material in interpretative exhibits, this must be done with tact and with respect for the feelings for human dignity held by all peoples.

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<sup>22</sup> 'The Conservator-Restorer: A Definition of the Profession'. *ICOM News*, Vol. 39, No. 1, 1986, pp. 5-6.

## 6.8. Private Collections

The acquiring, collecting and owning of objects of a kind collected by a museum by a member of the museum profession for a personal collection may not in itself be unethical, and may be regarded as a valuable way of enhancing professional knowledge and judgement. However, serious dangers are implicit when members of the profession collect for themselves privately objects similar to those which they and others collect for their museums. In particular, no member of the museum profession should compete with their institution either in the acquisition of objects or in any personal collecting activity. Extreme care must be taken to ensure that no conflict of interest arises.

In some countries and many individual museums, members of the museum profession are not permitted to have private collections of any kind, and such rules must be respected. Even where there are no such restrictions, on appointment, a member of the museum profession with a private collection should provide the governing body with a description of it, and a statement of the collecting policy being pursued, and any consequent agreement between the curator and the governing body concerning the private collection must be scrupulously kept. (See also para. 8.4 below).

## 7. PERSONAL RESPONSIBILITY TO THE PUBLIC

### 7.1. Upholding Professional Standards

In the interests of the public as well as the profession, members of the museum profession should observe accepted standards and laws, uphold the dignity and honour of their profession and accept its self-imposed disciplines. They should do their part to safeguard the public against illegal or unethical professional conduct, and should use appropriate opportunities to inform and educate the public in the aims, purposes and aspirations of the profession in order to develop a better public understanding of the purposes and responsibilities of museums and of the profession.

### 7.2. Relations with the General Public

Members of the museum profession should deal with the public efficiently and courteously at all times, and should in particular deal promptly with all correspondence and enquiries. Subject to the requirements of confidentiality in a particular case, they should share their expertise in all professional fields in dealing with enquiries, subject to due acknowledgement, from both the general public and specialist enquirers, allowing *bona fide* researchers properly controlled but, so far as possible, full access to any material or documentation in their care, even when this is the subject of personal research or special field of interest.

### 7.3. Confidentiality

Members of the museum profession must protect all confidential information relating to the source of material owned by or loaned to the museum, as well as information concerning the security arrangements of the museum, or the security arrangement of private collections or any place visited in the course of official duties. Confidentiality must also be respected in relation to any item brought to the museum for identification and, without specific authority from the owner, information on such an item should not be passed to another museum, to a dealer, or to any other person (subject to any legal obligation to assist the police or other proper authorities in investigating possible stolen or illicitly acquired or transferred property).

There is a special responsibility to respect the personal confidences contained in oral history or other personal material. Investigators using recording devices such as cameras or tape recorders or the technique of oral interviewing should take special care to protect their data, and persons investigated, photographed or interviewed should have the right to remain anonymous if they so choose. This right should be respected where it has been specifically promised. Where there is no clear understanding to the contrary, the primary responsibility of the investigator is to ensure that no information is revealed that might harm the informant or his or her community. Subjects under study should understand the capacities of cameras, tape recorders and other machines used, and should be free to accept or reject their use.

## 8. PERSONAL RESPONSIBILITY TO COLLEAGUES AND THE PROFESSION

### 8.1. Professional Relationships

Relationships between members of the museum profession should always be courteous, both in public and in private. Differences of opinion should not be expressed in a personalized fashion. Notwithstanding this general rule, members of the profession may properly object to proposals or practices which may have a damaging effect on a museum or museums, or the profession.

### 8.2. Professional Co-operation

Members of the museum profession have an obligation, subject to due acknowledgement, to share their knowledge and experience with their colleagues and with scholars and students in relevant fields. They should show their appreciation and respect to those from whom they have learned and should present without thought of personal gain such advancements in techniques and experience which may be of benefit to others.

The training of personnel in the specialized activities involved in museum work is of great importance in the development of the profession and all should accept responsibility, where appropriate, in the training of colleagues. Members of the profession who in their official appointment have under their direction junior staff, trainees, students and assistants undertaking formal or informal professional training, should give these the benefit of their experience and knowledge, and should also treat them with the consideration and respect customary among members of the profession.

Members of the profession form working relationships in the course of their duties with numerous other people, both professional and otherwise, within and outside the museum in which they are employed. They are expected to conduct these relationships with courtesy and fair-mindedness and to render their professional services to others efficiently and at a high standard.

### 8.3. Dealing

No member of the museum profession should participate in any dealing (buying or selling for profit), in objects similar or related to the objects collected by the employing museum. Dealing by museum employees at any level of responsibility in objects that are collected by any other museum can also present serious problems even if there is no risk of direct conflict with the employing museum, and should be permitted only if, after full disclosure and review by the governing body of the employing museum or designated senior officer, explicit permission is granted, with or without conditions.

Article 7 para. 5 of the ICOM *Statutes* provides that membership of ICOM shall not be available, under any circumstances, to any person or institution that is dealing (buying or selling for profit) in cultural property.

#### 8.4. Other Potential Conflicts of Interest

Generally, members of the museum profession should refrain from all acts or activities which may be construed as a conflict of interest. Museum professionals by virtue of their knowledge, experience, and contacts are frequently offered opportunities, such as advisory and consultancy services, teaching, writing and broadcasting opportunities, or requests for valuations, in a personal capacity. Even where the national law and the individual's conditions of employment permit such activities, these may appear in the eyes of colleagues, the employing authority, or the general public, to create a conflict of interest. In such situations, all legal and employment contract conditions must be scrupulously followed, and in the event of any potential conflict arising or being suggested, the matter should be reported immediately to an appropriate superior officer or the museum governing body, and steps must be taken to eliminate the potential conflict of interest.

Even where the conditions of employment permit any kind of outside activity, and there appears to be no risk of any conflict of interest, great care should be taken to ensure that such outside interests do not interfere in any way with the proper discharge of official duties and responsibilities.

#### 8.5. Authentication, Valuation and Illicit Material

Members of the museum profession are encouraged to share their professional knowledge and expertise with both professional colleagues and the general public (see para. 7.2 above).

However, written certificates of authenticity or valuation (appraisals) should not be given, and opinions on the monetary value of objects should only be given on official request from other museums or competent legal, governmental or other responsible public authorities.

Members of the museum profession should not identify or otherwise authenticate objects where they have reason to believe or suspect that these have been illegally or illicitly acquired, transferred, imported or exported.

They should recognize that it is highly unethical for museums or the museum profession to support either directly or indirectly the illicit trade in cultural or natural objects (see para. 3.2 above), and under no circumstances should they act in a way that could be regarded as benefiting such illicit trade in any way, directly or indirectly. Where there is reason to believe or suspect illicit or illegal transfer, import or export, the competent authorities should be notified.

#### 8.6. Unprofessional Conduct

Every member of the museum profession should be conversant with both any national or local laws, and any conditions of employment, concerning corrupt practices, and should at all times avoid situations which could rightly or wrongly be construed as corrupt or improper conduct of any kind. In particular no museum official should accept any gift, hospitality, or any form of reward from any dealer, auctioneer or other person as an improper inducement in respect of the purchase or disposal of museum items.

Also, in order to avoid any suspicion of corruption, a museum professional should not recommend any particular dealer, auctioneer or other person to a member of the public, nor should the official accept

any "special price" or discount for personal purchases from any dealer with whom either the professional or employing museum has a professional relationship.

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## CODE OF PRACTICE

### *for the Control of International Trading in Works of Art*

#### *The U.K. Fine Art and Antiques Trade*

1. In view of the world-wide concern expressed over the traffic in stolen antiques and works of art and the illegal export of such objects, the U.K. fine art and antiques trade wishes to codify its standard practice as follows:
2. Members of the U.K. fine art and antiques trade undertake, to the best of their ability, not to import, export or transfer the ownership of such objects where they have reasonable cause to believe:
  - a) The seller has not established good title to the object under the laws of the U.K., i.e. whether it has been stolen or otherwise illicitly handled/acquired.
  - b) That an imported object has been acquired in or exported from its country of export in violation of that country's laws.
  - c) That an imported object was acquired dishonestly or illegally from an official excavation site or monument or originated from an illegal, clandestine or otherwise unofficial site.
3. Members also undertake not to exhibit, describe, attribute, appraise or retain any object with the intention to promote or fail to prevent its illicit transfer or export.
4. Where a member of the U.K. fine art and antiques trade comes into possession of an object, that can be demonstrated beyond reasonable doubt to have been illegally exported from its country of export, and the country of export seeks its return within a reasonable period, that member, if legally free to do so, will take responsible steps to cooperate in the return of that object to the country of export. Where the code has been breached unintentionally, satisfactory reimbursement should be agreed between the parties.
5. Violations of this code of practice will be rigorously investigated.
6. This code which is intended to apply to all objects usually traded in the fine art and antiques market and to all persons active in that market has been subscribed by the following organizations:

*Christie Manson & Woods Ltd., Sotheby Parke Bernet & Co., the Society of London Art Dealers, the British Antique Dealers' Association, the Society of Fine Art Auctioneers, the Incorporated Society of Valuers and Auctioneers, the Antiquarian Booksellers Association, the Royal Institute of Chartered Surveyors, the Fine Art Trade Guild, the British Association of Removers and the Antiquities Dealers' Association.*

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## CHARTER OF COURMAYEUR

The International Workshop on the Protection of Artistic and Cultural Patrimony held at Courmayeur, June 1992, adopted the following recommendations.:

### *1. National and International Action Against the Illicit Trade in Objects Belonging to the Cultural Patrimony of Nations*

*Aware* of the sharp increase registered in the illicit trade with art objects and archeological items belonging to the cultural patrimony of nations,

*Convinced* that such criminal activities are causing grave damage to the cultural patrimony of many countries,

*Convinced* also that its cultural patrimony is a crucial component of the identity and self-understanding of a people,

*Mindful* of the imperative need to protect the cultural patrimony, preserving thereby the social, historical and artistic components of this identity and self-understanding,

*Desirous* to assist Governments and international organizations in their efforts to curtail the illicit trade with art objects and items belonging to the cultural patrimony,

*Recalling* the principles contained in the International Covenant on Economic, Social and Cultural Rights,

*Recalling* also the principles contained in the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property,

*Recalling* further the principles on protection of moveable cultural property contained in the Protocol to the 1954 UNESCO Convention on the Protection of Cultural Property in the Event of Armed Conflict,

*Recognizing* the usefulness of the model treaty for the prevention of crimes against the cultural heritage of peoples, as annexed to resolution B1 of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

*Aware* of the draft Convention on stolen and illegally exported cultural property which is under preparation in the framework of the International Institute for the Unification of Private Law (UNIDROIT),

*Adopts the following recommendations* for national and international action aimed at bringing under control the illicit trade with objects belonging to the cultural patrimony of nations:

1. Concerned Governments should make concerted effort, on the occasion of the forty-seventh session of the General Assembly of the United Nations and of the next General Conference of UNESCO, to obtain the adoption of resolutions strongly urging Member States to initiate multilateral and bilateral negotiations aimed at concluding treaties for the protection of the cultural patrimony of nations. The same resolutions should also urge Governments to upgrade, in their crime prevention programmes, the importance of protecting the cultural property of nations, granting top priority to these activities.
2. In view of the need for international co-operation to cope with the illicit trade with cultural objects, Governments should establish focal points that would handle, in close collaboration with ICPO/INTERPOL, all matters related with the transnational traffic with art objects and items belonging to the cultural patrimony, including requests for international co-operation.
3. Detailed and extensive information concerning the cultural patrimony of every nation is of the foremost importance. Consequently, Governments should consider establishing inventories of their cultural patrimony, containing, when possible, a description of each item adequate for its identification and a photographic reproduction of it. In addition, Governments should examine the possibility of establishing public registers of works of art, identified by categories, as goods linked to possession. Further, national inventories should remain open to new items, as these come to light.
4. In view of the scarcity of resources prevailing in many countries, Member States should be disposed to provide technical and, eventually, material assistance to requesting Governments interested in establishing the above-mentioned national inventories. Such technical assistance could take the form of provision of expert advice, training and/or hardware, as needed, and may be provided bilaterally or through international organizations.
5. For the purpose of enhancing awareness on the part of Government officials of the seriousness and gravity of the problem in question, the United Nations and UNESCO, in co-operation with ICPO/INTERPOL and interested intergovernmental and non-governmental organizations, are requested to prepare a document, to be submitted to national authorities, explaining in detail the dimensions of the problem, including available relevant statistical data. The document should also cover the links between the illicit traffic with objects belonging to the cultural patrimony of nations, and other manifestations of transnational criminality, such as the illicit traffic with narcotic drugs.
6. Governments are urged to consider the introduction of new legislation, as needed, that would criminalize the illicit export and import of cultural objects.
7. Governments should consider establishing regulations whereby any imported cultural object should be accompanied by an export permission issued by the relevant authorities of the country of origin. Governments should also determine the adequate sanctions in case of violations of any regulations so established.
8. With respect to the return of illicitly exported objects, it has been noted that excessive demands for information posed by the requested Governments may in practice render ineffective the dispositions of a bilateral agreement. For instance, the request for the exact date of the theft, or the illicit exportation, may be impossible to fulfill. This is particularly true in the case of clandestine archeological digs. Consequently, Governments are urged to show greater flexibility and understanding for the difficulties facing the authorities of the requesting countries.



9. In the same vein, it has been observed that high judicial costs in the requested country may deter requesting countries from initiating action for the return of illicitly exported objects. In fact, in some cases, such costs may exceed the price of the item in question. Consequently, Governments are reminded that they are free to explore the possibility of friendly settlement, or, where the parties agree, of binding arbitration procedures in order to secure the return of such illicitly exported objects to their countries of origin.
10. The United Nations and UNESCO, in consultation with Governments and in co-operation with relevant organizations, should explore the possibility of creating an internationally recognized licensing system for art dealers, which would serve to weed out the criminal elements of an otherwise respectable professional group.
11. The co-operation between the United Nations, UNESCO and INTERPOL in the area of the illicit trade with cultural objects should be intensified and streamlined, so as to obtain higher effectiveness and better possibilities of providing advice and assistance to requesting Governments.
12. Regional and inter-regional crime prevention institutes should add to their programmes of work elements concerning the prevention of crimes against the cultural patrimony of nations, so as to be able to assist requesting Governments and to support the corresponding activities of the United Nations.
13. It is indispensable that the international community gain full awareness of the crucial moral dimensions of the illicit transnational trade with the cultural patrimony. It is a fact that a considerable share of this trade flows from developing to developed countries. Consequently, developed countries should be respectful of the cultural heritage of developing countries, and should provide full co-operation to the victims of illicit trade with cultural objects, thereby dispelling any misunderstanding and placing themselves above any suspicion of possible complicity or complacency.

## *2. Improvement of Information Exchanges and Establishment of Data-Banks*

*Recognizing* that recording and dissemination of information about the legal status of cultural items and about crimes against the cultural patrimony are important means of combating international illicit traffic in moveable cultural property,

*Noting* with satisfaction the existence of data bases already established, inter alia, by the Italian Republic, Arma del Carabinieri, since 1980, and by Canada, since 1983, as well as those established by ICPO/INTERPOL and the Art Loss Register,

*Acknowledging* the action of UNESCO and the International Council of Museums (ICOM) in assisting countries in the preparation of inventories and appropriate legislation, in providing training for specialized personnel and in co-ordinating the concerns of museums with respect to crimes against cultural property,

*Recognizing* also the cultural importance of assisting developing countries to protect their cultural patrimonies from the criminal depredations to which they are increasingly subjected,

*Acknowledging with appreciation* the willingness of the Governments of Canada and Italy to provide assistance to international efforts to achieve an optimal diffusion of information concerning stolen and illegally exported movable cultural property as well as national laws related to its protection,

*Aware* of the fruitful co-operation established between the United Nations and UNESCO in relation to the prevention of crimes against the cultural patrimony,

*Recalling* the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of ownership of Cultural Property, in particular article 5 thereof concerning the need to give appropriate publicity by States parties to the Convention to the disappearance of any items of cultural property,

*Noting* the 1989 ICOM General Conference resolution on the importance of national inventories,

*Strongly underlining* the importance of the resolution on the use of automated information exchange to combat crimes against movable cultural property adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

*Adopts* the following recommendations for national and international action aimed at the improvement of information exchanges related to the prevention of crimes against the cultural patrimony of nations:

1. The United Nations, in co-operation with UNESCO, should play a central role in the co-ordination of information exchanges between Governments, relevant intergovernmental and non-governmental organizations and private institutions, so as to ensure an optimal diffusion of data concerning movable cultural patrimonies and crimes committed against them;
2. The United Nations, in close collaboration with UNESCO, should organize, subject to the availability of extra budgetary resources, yearly expert meetings for the purpose of carrying out a continuous technical evaluation of the difficulties encountered in establishing the co-ordination mentioned in recommendation (1), above;
3. The United Nations, in collaboration with UNESCO and in co-operation with relevant international agencies and organizations, should formulate specific country projects, intended to assist Member States in improving their capability to cope with the challenge of crimes against cultural property. These projects, which should address, inter alia, such areas as legal reforms, establishment of data bases, museum security and training of law enforcement officials and customs personnel in the identification of cultural objects, would be submitted to potential donor countries for the purpose of funding. The United Nations and UNESCO should act as executing agencies for funded projects;
4. Member States should examine the possibility of supporting the United Nations Criminal Justice Information Network (UNCJIN), thus contributing to improve its capability;
5. The United Nations and UNESCO, in close collaboration with ICOM and other interested non-governmental organizations, should encourage close co-operation between emerging initiatives in the private and public sector that are developing data bases about stolen cultural property. The feasibility of establishing a network of these data bases should be carefully explored;
6. The United Nations and UNESCO, in co-operation with ICOM and other relevant non-governmental organizations, should promote the development of national inventories of cultural properties, and should provide expert advice to requesting countries on standards and technical methods for establishing such inventories;
7. The intended direct accessibility of the ICPO/INTERPOL Central Data Base on Stolen or Unidentified Works of Art to national law enforcement agencies should be strongly encouraged;
8. The diffusion of information concerning national and international legislation concerning cultural patrimonies should be strongly encouraged. UNESCO should promote the development of a data base about such legislation, making them accessible to Governments, intergovernmental and non-governmental organizations and to relevant private institutions;

9. The United Nations and UNESCO, in co-operation with concerned Governments, with ICPO/INTERPOL and with relevant private sector organizations, should provide museums and other public sector organizations with information concerning stolen cultural property, if possible through access to the corresponding data bases;
10. Since the bulk of information concerning stolen or unidentified works of art is still kept in national registers or data bases, it appears desirable that the INTERPOL Computer Network be granted easy access to this information, particularly in those cases in which the possibility of international illicit traffic cannot be excluded, thereby facilitating an increase of seizures and recovery at the international level.

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## RECOMMENDATIONS

adopted at the UNESCO Regional Seminar on  
The Protection of Movable Cultural Property  
*BRISBANE, 2-5 December 1986*

### *This seminar*

*Congratulating* UNESCO on its achievements in the protection of the cultural heritage through its cultural heritage conventions and recommendations, international publicity and educational and practical endeavours,

*Endorsing* the importance of legislation, cataloguing, research, supervision of archaeological excavations, ethics, and education in the field of cultural heritage as set out in Article 5 of the 1970 UNESCO 'Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property'.

*Emphasizing* the importance of international co-operation between governments, institutions, dealers and collectors to prevent illicit trade,

1. *Recommends* that all Member States of UNESCO in the Asia and Pacific region which have not yet ratified the 1970 'Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property' should be reminded of its growing importance in protecting the world's cultural heritage, and be encouraged to become parties to this Convention;
2. *Requests* that the UNESCO Executive Board exercise its prerogative to invite, under Article 20 of the 1970 Convention, those countries in the Asia and Pacific region which are not members of UNESCO to become parties to the 1970 Convention, in the belief that this step would give them an important means of protecting their cultural heritage and the support in so doing of UNESCO and its Member States;
3. *Recognizes* the need for the protection of the cultural heritage of Asia and the Pacific, and requests the Director-General of UNESCO to explore the feasibility of establishing a Regional Convention to this end;
4. *Invites* the Director-General of UNESCO to invite Member States of the Asia and Pacific region to review or establish legislative protection for their movable cultural heritage, and draws the attention of these Member States to the Facilities available through UNESCO for assistance with drafting such legislation and associated needs;
5. *Invites* the Director-General of UNESCO to invite the attention of Member States in the Asia and Pacific region to the urgent need for protection of the underwater cultural heritage, and for legislative and administrative control of underwater archaeological sites. It further

requests the Director-General of UNESCO to transmit to all States of the region the text of the Statement of Principle on this matter adopted by the seminar;

6. *Invites* the Director-General of UNESCO to draw the attention of Member States in the Asia and Pacific region to the urgent need to develop national facilities and expertise to care for cultural property, especially that which is returned to its country of origin;
7. *Invites* the Director-General of UNESCO to also encourage Member States of the Asia and Pacific region to maintain and develop traditional skills and materials, so that they be integrated into programs for the conservation of the cultural heritage;
8. *Invites* the Director-General of UNESCO to assist Member States in the Asia and Pacific region to raise the level of awareness of the importance of the cultural heritage of the region among local populations, customs and police officials, tourists and other travellers and members of governments;
9. *Invites* the Director-General of UNESCO to convoke regional workshops in the Asia and Pacific region on the various subjects covered in these recommendations;
10. *Commends* the activities of the Regional Conservation Centre, which is sponsored by UNESCO, at the Canberra College of Advanced Education, and requests that the Director-General of UNESCO continue his support for the Centre.

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## RECOMMENDATIONS

adopted at the UNESCO Regional Workshop on  
The Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer  
of Ownership of Cultural Property  
*JOMTIEN, Thailand, 24 - 28 February 1992*

### A. *To UNESCO*

1. UNESCO should encourage Member States to assign top priority to the documentation of movable cultural property and to the preparation of inventories;
2. Great concern was expressed by participating countries to the lack of definition of the terms of "innocent purchaser" and "valid title" used in Article 7,b,ii of the UNESCO 1970 Convention. Therefore UNESCO is urged to continue its efforts to clarify these terms in cooperation with the Committee of governmental experts established within UNIDROIT;
3. UNESCO should urgently contact UNTAC forces and seek their cooperation in stopping illicit traffic in cultural property, vandalism and pillage in Cambodia, namely by using and training the demobilized soldiers in surveillance of monuments;
4. In order to pre-empt clandestine excavations in Cambodia, UNESCO is urged to provide assistance under emergency measures;
5. UNESCO should continue to encourage cooperation with the appropriate heritage and law enforcement agencies - both within each country and overseas;
6. UNESCO should continue and extend its efforts, in cooperation with the United Nations, for the establishment of a network of the existing data bases on stolen cultural property (such as the data bases of INTERPOL, Canadian Heritage Information Network, ICOM, International Foundation for Art Research, .. );
7. UNESCO, INTERPOL and CCC should cooperate in periodic analyzes of trends in illegal trafficking of cultural property, which may be submitted for dissemination to UNESCO National Commissions and to ICOM;
8. UNESCO should seek the cooperation of CCC to provide training to customs officials of States parties to the 1970 Convention;
9. UNESCO should develop training programmes on preventing illicit traffic in cultural property at regional as well as national level;
10. UNESCO should undertake a study on measures for protection of cultural property in remote areas;

11. UNESCO should continue its efforts to persuade States which have not yet ratified it, to become parties to the UNESCO 1970 Convention.

B. *To Member States*

1. Every country may set up a National Clearing House, either attached to the respective National Commission for Cooperation with UNESCO or to the respective National Committee of ICOM, with the following purpose:
  - a) All thefts or cases of illicit traffic of cultural objects in a country should be promptly reported to the UNESCO-ICOM Museum Information Center by electronic mail or fax;
  - b) Every National Clearing House shall urge upon the museums of its own country to approach the UNESCO-ICOM Museum Information Center before acquiring any object relating to some other country in order to determine whether such objects were stolen or illicitly exported, imported or transferred;
  - c) The National Clearing Houses, so formed, should remain responsible for proper implementation of the UNESCO (1970) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property;
  - d) The National Clearing Houses shall also help in export, import, or transfer of cultural properties from one country to the other by legal means through mutual consent;
2. Every country should enact laws for inaugurating import of antiquities as well as provisions for restitution of cultural property. These laws may be tightened with the provisions of deterrent punishment for the offenders. Effective checks should also be made on the diplomatic baggage, in the same way as in Sri Lanka;
3. Bilateral negotiations, and, if possible, agreements between Member States in the region should be developed in order to facilitate restitution of cultural property;
4. Important cultural property should be declared not exportable or importable without valid governmental permission;
5. It was observed that SAARC Member Countries and Commonwealth Countries were engaged in the process of developing suitable measures regarding the problem of illicit traffic and smuggling of antiquities. The Member States concerned are urged to expedite the process and finalize the agreement in this respect;
6. The Member States in the region, particularly Cambodia and its neighboring countries, should develop close cooperation between their services concerned, namely police, customs, museums, archaeologists, etc. so as to curb illicit traffic in cultural property;
7. Member States should cooperate with media for the dissemination of information on illicit traffic in cultural property, particularly on stolen items through international television networks such as CNN, Star TV, BBC and others;
8. Member States should develop educational programmes, both in the primary and the secondary schools, on the creation of awareness regarding the importance of cultural property and the need to protect it;

9. Museum or archaeological personnel may be posted at the entry/exit points in a country to assist customs officials in properly dealing with the cases of import or export of cultural property;
10. Authorities responsible for the control of cultural property worldwide should strengthen cooperation and advise each other more quickly about the movement of cultural items;
11. States parties to the Convention are urged to join the Customs Cooperation Council, if not already done so, and deposit their relevant laws for inclusion in data base by CCC;
12. The countries which have treaties of extradition in respect of declared criminals should extend same provisions in respect of offenders of acts against cultural property;
13. Each Member State should consider the possibility of contacting their national police services and other concerned agencies in order to establish a list of institutions, dealers and others indulging in illegal traffic in cultural property, which should be transmitted to INTERPOL for appropriate dissemination;
14. In order to protect original antiquities, Member States should take appropriate measures to ensure that true-to-original replicas of art objects of same size, type material and fabric are not made without proper authorization and a distinguishing mark;
15. The Member States should consider whether it is desirable to send international exhibitions to countries which have not yet ratified or accepted the 1970 UNESCO Convention.

#### C. *To ICOM*

1. ICOM should set up a computerized data base in the UNESCO-ICOM Museum Information Center, in collaboration with UNESCO, CHIN, FAR and other organizations on cultural properties which are stolen or subjected to illicit traffic;
2. ICOM should continue to encourage cooperation between museums, namely by twinning of museums for documentation, conservation and security measures;
3. ICOM, in cooperation with Ecole Francaise d'Extreme-Orient, should provide all necessary assistance to Cambodia in its efforts to prepare a comprehensive documentation and catalogue on Khmer objects of art in possession of museums in various countries;
4. ICOM should continue its efforts to persuade its members to respect scrupulously the standards contained in its Code of Ethics, particularly with regards to the acquisition of foreign cultural material.



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## RECOMMENDATIONS

adopted at the UNESCO Regional Seminar  
for Central Asian and Eastern European Countries on

Illicit Traffic in Cultural Property

KESZTHELY, Hungary, 21-23 March 1993.

### *To Member States*

1. States of the Region should make efforts to increase regional cooperation to prevent illicit traffic in cultural property between their customs, police and cultural administrations and between their museums. In particular States Parties to the Plovdiv Agreement 1986 should make active use of its provisions;
2. States of the Region who are not yet Party to the *UNESCO Convention on the means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property* 1970 should take immediate steps to deposit their Instrument of Accession;
3. States whose status is not clear with regard to the *UNESCO Convention on the means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property* 1970 because of their succession to another State should take immediate steps to inform UNESCO of their decision regarding participation in the Convention;
4. States should consider creation of a regional data base of important cultural objects. Access to the data base would be restricted;
5. States should make use of the INTERPOL network by ensuring that losses are notified to INTERPOL headquarters in Lyon, France, via the National Central Bureau of the INTERPOL member country;
6. States should undertake adequate documentation of important cultural objects in particular by:
  - a) applying the standards of documentation proposed by CIDOC (the ICOM International Committee for Documentation);
  - b) undertaking an inventory of movable items from churches;
  - c) encouraging museum staff to register items by incentives e.g. priority in research resources for those who actively register;
  - d) where resources are short, giving priority to the most important objects of the cultural heritage of the country concerned.

7. States should determine:
  - a) which objects should not leave the country;
  - b) which objects are subjects to export permit;
  - c) which objects can be freely moved.
8. Cultural experts (museum experts) should contribute training courses for customs officers for the recognition of important cultural objects.
9. States should ensure that museums undertake the following measures of security:
  - a) regular checking of the items of collections not on display in museums (inventory, etc.). If this is not done, the exact time of "disappearance" cannot be ascertained;
  - b) internal security regulations in the museums and public collections (handling of locks, keys, etc.). These should always reflect the current situation;
  - c) keeping safe objects of art under restoration. In certain cases any person is free to enter the workshops; systems of security (electronic appliances do not always cover those areas;
  - d) investing and where possible using on all museum objects new methods of invisible, indelible marking.
10. States should endeavour to ensure that the necessary information on illicit traffic in cultural objects reaches all levels of the police and customs service, especially at the level of detection. In this respect attractive billboards featuring types of specially important items should be placed permanently in customs offices.
11. States should take steps to control the excavation of antiquities, including those discovered during construction work. Building projects on sensitive sites should be subject to control by archaeologists.
12. All States Parties to the *Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict* (The Hague Convention 1954) are invited to ensure that cultural objects seized and returned to the authorities in the occupied territory by another State Party to the Convention are seized and returned to the authorities in the occupied area. They should warn their citizens that transactions in such objects are illegal and that these objects must be returned;
13. States are invited to take action to encourage protection of cultural property in the hands of religious bodies by:
  - a) encouraging churches in a diplomatic manner to have documented inventory with photographs. It is suggested that approaches be made to the various denominations via the Bishop or equivalent at diocese level;
  - b) after such approaches are made, encouraging them to have a single exhibition in the diocese of cultural or religious items and not to leave such items in unattended country churches;
  - c) encouraging them to install alarm systems even of a primitive or simple kind linked to the local police office or station;
  - d) instructing theological colleges in matters relating to conservation;

- e) recommending to churches that the ICOM standards of documentation be followed as nearly as possible by those countries not having a detailed modern or computerized of recording data.

#### *To UNESCO*

1. UNESCO should encourage Member States to assign priority to the documentation of movable cultural property and to the preparation of inventories, where appropriate in cooperation with ICOM (CIDOC);
2. UNESCO should continue to encourage cooperation between heritage and law enforcement agencies within each country, regionally and internationally;
3. UNESCO should invite all new States to become Parties to its Convention protecting the cultural heritage and provide them with all necessary information;
4. UNESCO should take action, in cooperation with ICOM (ICMS) to create a project whose aim is to provide advice on security measures at museums and galleries etc. to those member countries seeking such advice;
5. UNESCO should organize a regional seminar on legal issues relating to restitution of cultural property removed during war and military occupation.

#### *To ICOM*

1. ICOM should cooperate, through its appropriate international committees with States seeking advice on:
  - a) security measures against theft and natural disaster;
  - b) documentation of cultural property; and
  - c) appropriate training in these fields.

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## *Arusha Appeal*

adopted at the ICOM / UNESCO Regional Workshop on  
Illicit Traffic in Cultural Property  
*ARUSHA, Tanzania, 24 - 29 September 1993.*

The participants in the workshop on the fight against illicit traffic held on September 1993 in Arusha have reviewed the preoccupying situation of the African heritage.

*Museum artifacts are stolen and illicitly exported;*

*Archaeological sites are illegally excavated;*

*National heritage property has been stolen or sold from local communities to unscrupulous traffickers.*

The consequences are immense and will have adverse effects on the future of African nations by depriving them of the knowledge of their past, by removing from the communities the symbols of their identity.

To face this situation, the heritage professionals have drafted a priority policy aimed at fighting this tragedy. The main lines of action are:

- systematic creation of inventories of heritage in and out of museums, emphasizing the need of visual documentation;
- harmonizing national legislations and ratifying the international conventions and in particular the UNESCO Convention of 1970 against illicit traffic;
- reinforcing the collaboration with police and customs services;
- drafting national research, education and information policies aimed at making the populations, the decision makers and the general public aware of the value and importance of cultural heritage.

African professionals are aware that these measures cannot be fully put into practice without the cooperation of professionals from other parts of the world. This is the reason why they urge the support of the international professional heritage community and other related institutions and call upon them to eradicate plundering and illicit trafficking of African heritage.

They express also the wish that an international fund be urgently created to finance the acquisition of stolen property and its restitution to museums and communities when the national or international legislations do not provide for this.

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## *Bamako Appeal*

adopted at the ICOM / UNESCO Regional Workshop on  
The Struggle against Illicit Traffic in Cultural Property  
BAMAKO, Mali, 12 - 14 October 1994.

Having in mind the Appeal launched in Arusha, in September 1993, by their colleagues from eastern and southern Africa, museum professionals, police and customs officers who met during the regional Workshop on the struggle against illicit traffic in cultural property in Bamako from 12 to 14 October 1994 are launching a solemn Appeal to international organizations, decision makers and the greater public in order to stop the haemorrhaging of cultural heritage from Africa.

*The participants defined strategies whose application should impede this disaster:*

- The participants announce the launching by museums of awareness and training activities for police and customs officers in order to allow them to better identify protected cultural objects, and with a view to the creation of specialized customs and police services. They request ICOM and UNESCO to prepare a handbook and teaching materials to this effect.
- They propose the creation in each country of a flexible structure associating museums, police and customs in order to facilitate the urgent transmission of information on stolen cultural object to INTERPOL and the regional liaison office of the Customs Cooperation Council.
- Museum professionals undertake to cooperate with local communities, schools and media in order to increase public awareness of the necessity to protect and preserve the cultural heritage.
- Participants ask for the organization, as soon as possible, of a summit of Ministers of Culture of African countries on the problem of illicit traffic. They also ask that the issue be placed on the agenda of the next Conference of the Organization for African Unity, namely in order to invite African countries importing cultural objects from Africa which are not yet States parties to the UNESCO 1970 Convention against illicit traffic to ratify this instrument without delay.
- To this end, they recommend to the States in the region to fully utilize the mechanisms of international cooperation provided by that Convention, following the example of Mali which has submitted with success to the USA a request for the ban of import into the USA of cultural objects illegally exported from Mali. They also support the preparation of a UNIDROIT draft convention.
- They request ICOM and UNESCO to send missions to the African countries which are in situations of armed conflict with a view to taking urgent measures to safeguard cultural objects which are threatened.
- In case of thefts or illegally exported cultural property, information on these objects being necessary for their recovery, the participants request that special efforts be undertaken at

national level and with international cooperation in order that museum, researchers and archaeologists can receive sufficient resources for the preparation of inventories and documentation, and for the protection of archaeological and excavation sites.

- They recommend the strict application of the *ICOM Code of Ethics* as far as collection and acquisitions are concerned and they suggest the study of a Code of Ethics for archaeological and anthropological research and they are launching an appeal to specialized laboratories in order to forbid dating and other analysis which could valorize objects of dubious origin.
- They insist on regional cooperation between museums and their professionals to share information and undertake common policies for research and exhibitions. They are requesting that this Appeal be officially presented to the Council of Ministers of ECOWAS (Economic Community of West African States) and of the Arab Maghreb Union.

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## *Declaration of Cuenca*

adopted at the UNESCO/ ICOM Regional Workshop on  
Illicit Traffic in Cultural Property  
Cuenca, Ecuador, 13 September 1995.

*The Regional UNESCO-ICOM Workshop on "Illicit Traffic on Cultural Property", which took place in the city of Cuenca, Ecuador, with the participation of representatives of the cultural institutions of the Member States of Latin America, of INTERPOL, of the World Customs Organization, of UNIDROIT, of the International Council of Museums, Organization of American States, and of the Indigenous Organizations of the Region.*

### CONSIDERING :

1. That the economic processes of globalization entail standardization of life styles, presenting a threat to the survival of cultural diversity, and at the same time a reaction, towards reaffirmation of identity and the value of what is one's own ;
2. That the identity of Latin America is based essentially upon a cultural heritage which is the product of its historical tradition, enriched by the contributions of different cultures, which have generated diverse expressions of being, producing a unity, which, at the same time, shows a wealth of diversity ;
3. That this heritage is subject to systematic and ever-increasing expropriation, a fact that threatens human development and international relations ;
4. That, furthermore, this contributes to irreparable loss of ethical values, among the populace of the Region, and diminishes the welfare of our peoples ;
5. That the State has diminished its governing role, as the custodian entity responsible for the social function and capitalization of the benefits of the cultural heritage ;
6. That the adherence of countries to the Conventions of UNESCO 1970 and UNIDROIT 1995, complementary on "Measures which should be adopted in order to prohibit and to prevent the Illicit Import, Export and Transfer of Ownership of Cultural Property," and on "Restitution of Stolen or Illegally Exported Cultural Objects," respectively, would strengthen international relations;

### RECOMMENDS :

1. That the State assume the appropriate role in reinforcing the cultural identity of our peoples, by adopting the following measures :
  - Ratifying or adhering to the above mentioned international Conventions ;
  - Updating, or implementing effectively relevant legislation ;
  - Creating, or strengthening cultural organisms, by giving them sufficient prestige and economic resources to carry out their mission in an effective manner ;

- Designing policies and planning actions, ensuring their continuity and effectiveness, or reinforcing those which already exist ;
- Incorporating the civil society into the processes of increasing awareness of strengthening of identity and preservation of cultural property, designing strategies directed towards eliciting participation of the media, police and customs control organisms, and educational institutions, in their formal and informal expressions ;
- Initiating or continuing with the inventory and registration of cultural property, analogizing systems, utilizing existing networks such as FORUM OF MINISTERS OF CULTURE OF LATIN AMERICA AND THE CARIBBEAN and the SICLAC project - and simplifying formats which permit rapid identification and interchange of information, a process which must have the active participation of the civil society ;
- Promoting the establishment of tripartite commissions, made up of representatives of Culture, Police and Customs, for the furtherance of due coordination of protective actions, control, and recovery of cultural property ;
- Including, as a matter of relevance, in regional and sub-regional agreements, control of illicit traffic of cultural property ;
- Promoting specific bilateral agreements among States, dealing with the protection of cultural heritage;
- Promoting, through diplomatic channels, a more active attitude concerning recovery of expatriated cultural heritage, as well as concrete actions in the area of illicit traffic control.

2. Furthermore, recommends generally that international organizations continue and redouble their actions in respect to protection of cultural heritage and specifically as follows:

*To UNESCO :*

- Promoting among its Member States the ratification of the above-mentioned Conventions ;
- Collaborating with the Latin American Member States in furtherance of :
  - training of specialized personnel in preservation of heritage ;
  - creation and expansion of inventories, national registries and information networks ;
  - design of cultural policies and legislation related to relevant issues ;
  - planning of continuing-education seminars and workshops for organisms connected to preservation and control of cultural heritage, such as Customs, the Police, and Cultural Institutions.

*To ICOM :*

- Striving to successfully integrate the civilian population into the preservation and conservation of heritage,
- Forwarding the training of museum, customs, and police personnel ;



- Motivating the execution of measures of preservation of patrimony at the community level, and of security in museums and other institutions ;
- Making every effort to increase awareness of the importance of conservation of the cultural heritage, and distributing information relevant to this theme ;
- Furthering the diffusion of ICOM's Code of Ethics, not only among museum workers but among the population in general ;
- Encouraging personnel of museums and related institutions, and collectors who are holders in due course of cultural property, to report the theft of any item immediately after its occurrence;
- Urging museums and related institutions to make an exhaustive inventory of their cultural property.

*To INTERPOL and the WORLD CUSTOMS ORGANIZATION:*

- Generating agencies of liaison with cultural bodies, in order to coordinate efforts towards conservation of cultural heritage ;
- Participating actively in national tripartite commissions ;
- Disseminating awareness among personnel as to what constitutes Cultural Heritage ;
- Collaborating in the generation of Information Networks, related to the different aspects of illicit traffic of cultural property.

*To the FORUM of MINISTERS of CULTURE :*

Being mindful of the recommendations contained in this Declaration, and adopting measures pertinent to their prompt execution, and including the agenda of the next meeting of the Forum the problem of illicit traffic of cultural property and measures to be taken for its control.

FURTHERMORE, the participants in the workshop support the Decade of Indigenous Peoples, and welcome their active participation in the deliberations of this congress, with the suggestion that they make this Document known to the World Council of Indigenous Peoples, and to Indigenous Initiative for Peace, headed by Nobel Peace Prize winner Rigoberta Menchu.

FINALLY, the participants in the Regional Workshop express their profound gratitude to the Government of Ecuador, to the Sub-Secretary of Culture, to the National Council of Culture, and to the Illustrious Municipality of Cuenca, for its generous and cordial reception of us during the days of the Congress, and to UNESCO, to ICOM, and to the President of the Organizing Committee, for their enthusiastic promotion of such an important event.

Solemnized in the City of Cuenca, Republic of Ecuador, on the 13th day of September, 1995.

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## *The Kinshasa Declaration*

adopted at the UNESCO/ ICOM Sub-Regional Workshop on  
Illicit Traffic in Cultural Property  
Kinshasa, Zaire, 26-28 June 1996.

*Considering* the gravity of the pillaging and looting of cultural property in the Central African region.  
*Conscious of the fact* that the problem can only be resolved through a concerted collaborative effort at regional and international level,  
*We, the participants in the workshop on the illicit traffic of cultural property held in Kinshasa, Zaire, 26-28 June 1996, ask*

### *To DECISION-MAKERS*

- to give a prominent place to the development of museums in their policy and to provide museum professionals a status and satisfactory working conditions so that they can exercise their function of information, training and education in the field of heritage;
- the urgent launching of rescue archaeology programmes;
- to give to the professionals the necessary resources for the preparation of inventories and the classification of sites;
- the urgent drafting and revision of national legislation on the basis of regional experts reports in charge of defining the cultural heritage;
- to the governments of the States which have not yet done so, to urgently ratify the 1970 UNESCO Convention against illicit traffic in cultural property, the UNIDROIT Convention 1995, as far as the very concerning situation of countries in situation of armed conflict, the Hague 1954 Convention.

The participants in the workshop recommend the constitution of a coordination committee of representatives of departments concerned (culture, research, education, police, customs, justice, foreign affairs, tourism, trade). These representatives will have to be selected for the professional expertise. This committee will have the mandate to define a policy and strategies for a better application of legislation on cultural heritage and to implement these strategies.

### *To MUSEUM PROFESSIONALS*

- The workshop recommends the holding of a meeting of cultural heritage professionals in order to define the cultural and national heritage to be protected taking into consideration the cultural context in the region.
- The workshop recommends the participation to the AFRICOM project for standardization of inventories and documentation.
- The workshop recommends the creation of a regional organization of ICOM (ICOMAC) which shall ensure the follow-up of actions proposed in this meeting.
- The participants undertake to organize within a year practical actions in the field such as information and training of customs and police officers and to report of these activities at the AFRICOM Coordinating Committee.

### *To INTERPOL NCB and CUSTOMS SERVICES*

The workshop recommends to utilize to full extent the possibilities of disseminating information on stolen cultural objects through Interpol and World Customs Organisation (WCO).

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*Introduction to the*  
**ICOM - HANDBOOK OF STANDARDS.**  
*Documenting African Collections*<sup>23</sup>

#### WHY STANDARDS?

This handbook is the initial response to a two-fold concern of museum professionals: to protect the African heritage by documenting and producing systematic inventories and developing museum activities (research, collecting, exhibitions, educational programmes...) by facilitating the exchange of information on collections and the sharing of professional practices.

Thus, the standards published herein have been developed in order to:

- facilitate collections management by the museums,
- ensure the security of objects by an inventory of all the collections which includes minimal information permitting the identification of each object or specimen;
- facilitate exchange between museums and the development of common projects (research, exhibitions, training, etc);
- prepare the computerisation of inventories and the documentation of collections by a standardised and rigorous organisation of information.

The ambition of this handbook is to cover all types of collections: humanities (history, archaeology, ethnography, art ..) as well as natural history (palaeontology, zoology, geology, etc.). However, due to the composition of the group of pilot museums which elaborated this handbook, the humanities are covered more thoroughly.

Tested over three years on the collections of the six pilot museums and continually readapted, these standards have already proven their effectiveness, not only within the individual framework of each museum but also within the wider framework of exchanges. However they will attain their objective only when the majority of the African and Africanist museums have adopted them.

#### WHAT IS THE DOCUMENTATION OF COLLECTIONS?

Museums catalogue their collections in order to manage, conserve and exploit them. This consists in creating a group of documentation records (material or computerised) of the objects. The documentation record includes a series of different kinds of information concerning the object: these distinct types of information are called "fields".

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<sup>23</sup> For copies please contact ICOM - address listed in *Appendix 1*. Like many other CIDOC documents the *Handbook* is also available in electronic form at CIDOC's website: <http://www.icom.org>

The standards in the handbook herein consist in a list of fields. For each field, a precise definition of the content and the syntax to use are given. In order to make this handbook easier to use, examples have been added and lists of terminology have been developed in some cases.

The selected fields have been grouped according to their customary use in the museums:

*Object management*: groups data necessary for the identification of the objects, their inventorying (registering), their localisation and their control;

*Object description*: is a detailed physical identification of the object;

*History of the object*: groups all the information enabling the object to be placed in its socio-cultural, geographical and chronological context;

*Documentation*: contains the references to the bibliographic or other sources, contributing to a greater knowledge of the object.

For a better use of the documentation, and with a view to eventual computerisation, it is preferable to adopt certain drafting rules right from the beginning, amongst which the most important is the necessity of referring to the list of terminologies associated with certain fields. For an effective information search, it is indeed important that each user employ the same terms to designate the same type of objects, hence the usefulness of creating a standard vocabulary based on the terminology commonly used by the experts.

The proposed terminology lists are of two kinds:

Some are introduced merely as illustration, to facilitate the use of the handbook and the recording of the data. Their use could make the catalogue easier to consult. They are not exhaustive and can be developed for each museum, even if the creation of lists common to all museums is the ultimate goal.

On the other hand, some of the published lists, called "closed lists" which are cross-referenced with the phrase "it is mandatory to use the terminology list", are an integral part of the standards. They contain the only vocabulary that can be used for recording and are indispensable, especially in the framework of exchanges. When the documentation is not computerised, indexes are created on the basis of these closed lists.

The lists proposed were prepared on the basis of existing lists and on the experience of each of the six museums. There already exist many published reference works, often a lot more detailed and organised by speciality.

## STEPS TOWARDS THE ADOPTION OF THE STANDARDS

From now on, it is very important to make the distinction in the list of suggested fields between the inventory information, which the museum must have at its disposal for each object so that the museum can justify its status and ensure its conservation and security, and the cataloguing information which documents the object in order to be able to exploit it in its activities (research, exhibitions, educational programmes, etc.).

The inventory includes the following fields:

For Humanities collections:

- |   |                           |
|---|---------------------------|
| 1.1 Country                                 | 2.1 Image                 |
| 1.2 Institution where the object is located | 2.10 Object name          |
| 1.3 Owner institution name                  | 2.14 Material             |
| 1.4 Accession number                        | 2.16 Dimensions           |
| 1.7 Acquisition or accession method         | 2.17 Physical description |
| 1.6 Acquisition or accession date           | 2.20 Condition            |

For Natural Sciences collections:

- |   |                           |
|---|---------------------------|
| 1.1 Country                                 | 2.1 Image                 |
| 1.2 Institution where the object is located | 2.4 Specimen form         |
| 1.3 Owner institution name                  | 2.5 Body part             |
| 1.4 Accession number                        | 2.8 Classified name       |
| 1.5 Acquisition or accession method         | 2.16 Dimensions           |
| 1.6 Acquisition or accession date           | 2.17 Physical description |
|   | 2.20 Condition            |

The catalogue is composed of all of the fields proposed in the handbook which must be completed as the information becomes available.

Depending on the size of the museum collections, and according to whether there are previously existing collections or new acquisitions, the standards can be adopted in different ways,

*For previously existing collections*, it is necessary to adopt new standards. The information registered on the former records will be transferred to the new records in the proper field. This work of adapting the former records will also permit an updating of the information and its integration in the global organisational policy of the museum through a unified and structured classification.

*For new collections*, it is important that each object or group of objects just acquired can first be assigned minimal data in order to guarantee its security, enable its control and identification, and engage the responsibility of the museum by making the acquisition legal and official. This is inventory data.

Every newly acquired object must be given an inventory number which will be placed on the object itself. One or several images of the object must be available. Afterwards, the documentation can be developed according to the fields retained and the existing information.

For previous as well as for new collections, the documentary analysis should be done either in the presence of the object or on the basis of recent documentation, thus providing an additional verification of the data to be registered. Some of the fields do not require specific research and they should therefore be filled in as soon as the object enters the museum; those which require preliminary study could be completed in a second phase. Each record must be written or controlled by one person only, preferably the specialist.

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## *Interpol - CRIGEN Art Forms*

With the successful implementation of a sophisticated electronic database, the so-called Automated Search Facility (also known as ASF) used to trace wanted persons internationally, the Interpol General Secretariat decided to extend the use of the ASF to stolen or missing objects of cultural property. Now all member countries can consult this new database which combines a description of the stolen object (including where possible, a (colour) image) with details about the theft.

Interpol gets the information for the ASF database from the liaison officer at the National Central Bureau (NCB) of Interpol in the member countries. These police officers are, however, seldom art specialists. To assist the officers in providing the precise information and description of a stolen or missing object in an easy way, Interpol have therefore created a set of special forms called the CRIGEN ART forms which are designed to assist the officers in providing detailed information sufficient to ensure identification of the missing object(s). Beside an overall description of the object itself, these forms contain information about the artist of the missing object, descriptive information of the techniques and materials used in the fashion of the object, its dimensions and colouring, and whether or not there are any signature(s) or other markings on the object which can be used for identification.

Whenever a missing object is to be filed with Interpol two separate forms must be filled out. The first is a 'case form' that only contains information about the theft or recovery of the stolen object(s). This form is common for all cases. In addition, the officers must fill out another form describing the missing or stolen object. Because there are so many different kinds of cultural property, nine different forms (numbered 1-9) corresponding to 25 different categories of objects, have been created to enable the officers of member countries to communicate relevant information for identification purposes. The CRIGEN ART forms correspond to the following categories of objects:

CRIGEN ART FORM (no no.):	<i>Theft or Discovery of Cultural Property</i> general 'case form' which is used in all cases
CRIGEN ART FORM no.1:	<i>Drawing-Enamel-Print-Painting-Tapestry-Mosaic</i>
CRIGEN ART FORM no.2:	<i>Furniture</i>
CRIGEN ART FORM no.3:	<i>Ceramics-Glassware-Gold and Silverware/Jewellery</i>
CRIGEN ART FORM no.4:	<i>Religious or liturgical item</i>
CRIGEN ART FORM no.5:	<i>Musical Instrument-Firearm-Weapon</i>
CRIGEN ART FORM no.6:	<i>Coin/Medal-Document/Book-Embroidery-Lace-Stamp</i>
CRIGEN ART FORM no.7:	<i>Carpet/Rug-Clock/Watch/Timepiece-Doll/Toy/Robot</i>
CRIGEN ART FORM no.8:	<i>Sculpture/Statue-Miscellaneous</i>
CRIGEN ART FORM no.9:	<i>Icon</i>

In the following are reprinted copies of three of the ten CRIGEN ART forms - the general case form which is common to all cases and form nos. 1 and 8 which are the forms most frequently used. Copies of the other forms are easily obtained by contacting the NCB (National Central Bureau) of Interpol in any of the Interpol Member States (which number near 200).

The CRIGEN/ART forms serve as basic documents for both data entry and for the publication of international notices. The forms are designed to guide and help the police officers providing the information and at the same time be easily interpreted for computer data entry. To minimize the risk of error, querying is done with the use of coded fields and not on free text.

The general form collects information concerning the case such as how, and from where and when the object was stolen, the owners name and address. The same form is also used to notify Interpol of the discovery of any stolen or missing object.

Each of the nine additional forms provide space to describe the stolen item. All of the forms follow the same basic structure. The forms look a bit like a multiple choice test - and most of the information is in fact given by selecting and ticking off relevant descriptive options.

First, the name of the items are listed. In the case of a work of fine art such as a painting or a statue, the title, the artist and the date that it was produced are also listed. Then follows details regarding the medium or technique used, and details concerning the shape and dimensions of the object in question.

At the end of all the forms are questions regarding the value of the object, inventory reference, whether there is a reward offered and, finally, it is asked whether or not a photograph of the stolen object is available. This is essential because many items are very difficult to describe in detail. In terms of circulating a notice it is important to consider that a photograph often is more effective as a description than a verbal description.

Upon completion by the specialist officers or the liaison officer at the National Central Bureau (NCB) of Interpol, the form should be forwarded (if possible together with a photograph) to the General Secretariat of Interpol in Lyons, France. There it is edited by a specialist officer, and the information is entered into Interpol's *ASF* database.

After data entry, the form is passed back to specialist officers for conversion into a '*Stolen Art Notice*'. This notice is printed in French and English and is distributed to all member countries in sufficient copies to meet their needs. The notice states that it should be distributed to auction houses, art dealers, customs etc. in an effort to recover the property should it be offered for sale. Copies are also sent directly to UNESCO, ICOM and ICEFAT (the International Organization of Fine Art Transporters.).



INTERNATIONAL CRIMINAL POLICE ORGANIZATION

I N T E R P O L

General Secretariat

THEFT OR DISCOVERY OF CULTURAL PROPERTY

- A) -  Request for publication of an international notice to trace stolen property.
- B) -  Request for publication of an international notice to determine the origin of property found in suspicious circumstances.
- C) -  For data entry without publication of a notice

SENDER

DATE

SENDER'S REFERENCE No.

ASF  YES  NO

ADDRESSEE: ICPO-INTERPOL GENERAL SECRETARIAT

- |                                 |   |   |  |
|---------------------------------|---|---|--|
| 1. Date of theft or discovery   | Day   | Month   | Year   |
| 2. Place of theft or discovery  | Country   | Province  | Town   |
| 3. Location of property         | a. <input type="checkbox"/> Castle/palace         | f. <input type="checkbox"/> Motor vehicle             | k. <input type="checkbox"/> Underwater site  |
|                                 | b. <input type="checkbox"/> Museum                | g. <input type="checkbox"/> Place of worship          | l. <input type="checkbox"/> Library          |
|                                 | c. <input type="checkbox"/> Private residence     | h. <input type="checkbox"/> Antique dealer's premises | <input type="checkbox"/> Other               |
|                                 | d. <input type="checkbox"/> Business premises     | i. <input type="checkbox"/> Art gallery               |  |
|                                 | e. <input type="checkbox"/> Open air              | j. <input type="checkbox"/> Archaeological site       |  |
| 4. Rightful owner or possessor  |   |   |  |
| 5. Circumstances/Modus operandi | a. <input type="checkbox"/> Theft (ordinary)      | e. <input type="checkbox"/> Use of duplicate keys     | i. <input type="checkbox"/> Offered for sale |
|                                 | b. <input type="checkbox"/> Breaking and entering | f. <input type="checkbox"/> Substitution              | j. <input type="checkbox"/> Discovered       |
|                                 | c. <input type="checkbox"/> Robbery               | g. <input type="checkbox"/> Deceit                    | <input type="checkbox"/> Other               |
|                                 | d. <input type="checkbox"/> Armed robbery         | h. <input type="checkbox"/> Theft by an employee      |  |
| Additional information          |   |   |  |

- A) If property stolen is subsequently found, please send us a CANCELLATION NOTICE as soon as possible giving the following details:
- Date, place and circumstances of the discovery, methods of concealment, damage caused;
  - Name of the person in whose possession the property was found, his profession, whether he was thought to be acting in good faith, whether he is being prosecuted or has been convicted of this offence, whether he was acting as a go-between and if so the final destination of the property, whether the property has been or will be restored to the rightful owner, and under what conditions;
  - Role, identity particulars, fingerprints, photograph and criminal record of each person involved (attach personal data sheet).
- B) If property seized in suspicious circumstances is subsequently identified, the same procedure should be followed.

0. ITEM OR OBJECTMATCHING CODE: 4 

--	--	--	--	--	--

  
(do not fill in)1. [ ] SUBJECT

OR

[ ] TITLE (if any) In original language:  
In English:2. ARTIST

Family name:

Year of birth: \_\_\_\_\_

Forename:

Year of death: \_\_\_\_\_

Known as:

3. DATE OR PERIOD4. MEDIUM OR TECHNIQUEF. ( ) DRAWING

- a. ( ) Sanguine
- b. ( ) Charcoal
- c. ( ) Three crayon
- d. ( ) Indian ink
- e. ( ) Pastel
- f. ( ) Pen
- g. ( ) Pencil
- h. ( ) Reed
- i. ( ) Silver point
- j. ( ) White lead, chalk
- k. ( ) Wash drawing

H. ( ) ENAMEL

- a. ( ) Ajouré translucent
- b. ( ) Champlevé
- c. ( ) Cloisonné
- d. ( ) Painted

I. ( ) PRINT

- a. ( ) Engraving on metal  
(aquatint, etching,  
drypoint, burin)
- b. ( ) Woodcut
- c. ( ) Linocut
- d. ( ) Lithograph
- e. ( ) Silkscreen
- f. ( ) Other technique

P. ( ) PAINTING

- a. ( ) Acrylic
- b. ( ) Collage
- c. ( ) Tempera
- d. ( ) Wax colours
- e. ( ) Fresco
- f. ( ) Gouache
- g. ( ) Mixed medium
- h. ( ) Oil
- i. ( ) Watercolour

S. ( ) TAPESTRYX. ( ) MOSAIC

- |  |   |  |
|--|---|--|
| F. ( ) <u>DRAWING</u>  | H. ( ) <u>ENAMEL</u>  | I. ( ) <u>PRINT</u>                      |
| P. ( ) <u>PAINTING</u>                                       | S. ( ) <u>TAPESTRY</u>  | X. ( ) <u>MOSAIC</u>                     |
| 01 ( ) Interior scene  | 01 ( ) Without figures or animals<br>or imaginary creatures   | 01 ( ) Not religious                     |
| 02 ( ) Exterior scene  | 02 ( ) With 1 figure (not portrait)                           | 02 ( ) Religious                         |
| 03 ( ) Scene with undefined<br>background                    | 03 ( ) With 2 figures   |  |
|  | 04 ( ) With 3 figures   |  |
|  | 05 ( ) With more than 3 figures                               |  |
|  | 06 ( ) With animal(s)   |  |
|  | 07 ( ) With imaginary creature(s)                             |  |
|  | 08 ( ) With figure(s) and animal(s)                           |  |
|  | 09 ( ) With figure(s) and imaginary<br>creature(s)            |  |
|  | 10 ( ) With figure(s), animal(s) and<br>imaginary creature(s) |  |
| 04 ( ) Portrait (not religious)                              | 01 ( ) Full length  | 01 ( ) Full face                         |
| 05 ( ) Single saint/religious figure<br>without infant Jesus | 02 ( ) Partial view   | 02 ( ) Right profile                     |
| 06 ( ) Single saint/religious figure<br>with infant Jesus    |   | 03 ( ) 3/4 right profile                 |
|  |   | 04 ( ) Left profile                      |
|  |   | 05 ( ) 3/4 left profile                  |
| 07 ( ) Modern  | 01 ( ) Figurative   | 01 ( ) Exterior scene with<br>figure(s)  |
|  | 02 ( ) Geometric shape(s)                                     | 02 ( ) Exterior scene without<br>figures |
|  | 03 ( ) Non-figurative or abstract                             | 03 ( ) Interior scene with<br>figure(s)  |
|  |   | 04 ( ) Interior scene without<br>figures |
|  |   | 99 ( ) Other                             |
| 08 ( ) Still life  |   |  |

5. MATERIAL(S) USED

A. Organic

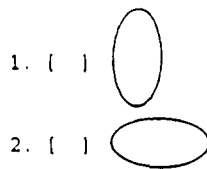
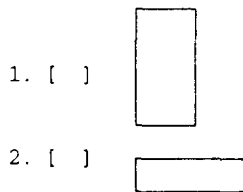
- a. [ ] Animal fibre
- b. [ ] Bone
- c. [ ] Canvas
- d. [ ] Cardboard
- e. [ ] Coral
- f. [ ] Cork
- g. [ ] Cotton
- h. [ ] Damask
- i. [ ] Fabric
- j. [ ] Ivory
- k. [ ] Linen
- l. [ ] Mother of pearl
- m. [ ] Paper
- n. [ ] Papier mâché
- o. [ ] Papyrus
- p. [ ] Parchment
- q. [ ] Pearl
- r. [ ] Resin
- s. [ ] Rubber
- t. [ ] Silk
- u. [ ] Skin, hide, leather
- v. [ ] Synthetic fibre
- w. [ ] Thread
- x. [ ] Tortoiseshell
- y. [ ] Vegetable fibre
- z. [ ] Velvet
- zz. [ ] Wax
- yy. [ ] Wood
- xx. [ ] Wool
- [ ] Other

B. Inorganic

- a. [ ] Alabaster
- b. [ ] Aluminium
- c. [ ] Brass
- d. [ ] Bronze
- e. [ ] Celluloid
- f. [ ] Ceramic
- g. [ ] Clay
- h. [ ] Copper
- i. [ ] Crystal
- j. [ ] Earthenware
- k. [ ] Enamel
- l. [ ] Glass
- m. [ ] Gold
- n. [ ] Gum
- o. [ ] Iron
- p. [ ] Kaolin
- q. [ ] Lead
- r. [ ] Majolica
- s. [ ] Marble
- t. [ ] Pewter
- u. [ ] Plastic
- v. [ ] Porcelain
- w. [ ] Precious stone
- x. [ ] Sealing wax
- y. [ ] Semi-precious stone
- z. [ ] Silver
- zz. [ ] Silver gilt
- yy. [ ] Steel
- xx. [ ] Stone
- ww. [ ] Stoneware
- vv. [ ] Stucco, plaster
- uu. [ ] Terracotta
- tt. [ ] Tin
- ss. [ ] Tinplate
- [ ] Other

6A. SHAPE/FORM

- a. [ ] Rectangular
- b. [ ] Square
- c. [ ] Round
- d. [ ] Oval
- e. [ ] Irregular



6B. SINGLE OBJECT OR PART OF A GROUP

- a. [ ] Single object (not forming part of a group or ensemble)
- b. [ ] Object forming part of group or ensemble
  - 1. [ ] Diptych
  - 2. [ ] Triptych
  - 3. [ ] Polyptych
  - 4. [ ] Pair
  - [ ] Other

7. DIMENSIONS WITHOUT FRAME - MAIN COLOUR(S)

Dimensions: EXACT [ ] ESTIMATED [ ]

Height: \_\_\_\_\_ cm      Depth: \_\_\_\_\_ cm      Weight: \_\_\_\_\_ kg

Width: \_\_\_\_\_ cm      Diameter: \_\_\_\_\_ cm

A. Main colour(s)

- a. [ ] Black
- b. [ ] Blue
- c. [ ] Brown
- d. [ ] Gold
- e. [ ] Green
- f. [ ] Grey
- g. [ ] Orange
- h. [ ] Purple
- i. [ ] Red
- j. [ ] Silver
- k. [ ] Transparent
- l. [ ] White
- m. [ ] Yellow

8. DESCRIPTION

A. ACTIVITIES, EVENTS

- |   |   |   |
|---|---|---|
| a. ( ) Agriculture (farming, gardening)     | g. ( ) Eating   | p. ( ) Romance, amorous behaviour             |
| b. ( ) Bathing, washing                     | h. ( ) Entertainment                                    | q. ( ) Sitting                                |
| c. ( ) Death                                | i. ( ) Fishing  | r. ( ) Sleeping                               |
| d. ( ) Disaster (fire, shipwreck, etc.)     | j. ( ) Hunting  | s. ( ) Smoking                                |
| e. ( ) Drinking                             | k. ( ) In water   | t. ( ) Standing                               |
| f. ( ) Driving, riding<br>(animal, vehicle) | l. ( ) Kneeling   | u. ( ) Walking                                |
|   | m. ( ) Lying down                                       | v. ( ) War (battle in air, on<br>land or sea) |
|   | n. ( ) Professional activity<br>(dentist, doctor, etc.) | w. ( ) Writing, reading                       |
|   | o. ( ) Religious act (praying)                          |   |

B. ANIMALS, FIGURES

- |                                    |                                       |  |                                |
|------------------------------------|---------------------------------------|--|--------------------------------|
| a. ( ) Angel, cupid, putto, cherub | h. ( ) Domestic animal                | o. ( ) Horse                           | v. ( ) Saint, religious figure |
| b. ( ) Bald                        | i. ( ) Facial hair                    | p. ( ) Imaginary figure<br>or creature | w. ( ) Sheep/lamb              |
| c. ( ) Bird                        | j. ( ) Fish, shellfish                | q. ( ) Jewellery                       | x. ( ) Snake                   |
| d. ( ) Child                       | k. ( ) Glasses                        | r. ( ) Madonna and child               | y. ( ) Stylized person, animal |
| e. ( ) Christ                      | l. ( ) Halo                           | s. ( ) Man                             | z. ( ) Virgin Mary             |
| f. ( ) Cow                         | m. ( ) Head                           | t. ( ) Military figure                 | zz. ( ) Wild animal            |
| g. ( ) Dog                         | n. ( ) Headgear (hat, crown,<br>veil) | u. ( ) Nude                            | yy. ( ) Woman                  |

C. DETAILS

- |   |  |  |   |
|---|--|--|---|
| a. ( ) Aeroplane                            | h. ( ) Fabric (curtain,<br>napkin, drapery,<br>tablecloth) | o. ( ) Lighting device<br>(candle, lamp) | w. ( ) Tableware (crockery,<br>cutlery, bottle) |
| b. ( ) Architectural detail,<br>ruin        | i. ( ) Fence   | p. ( ) Mirror, clock                     | x. ( ) Tools/implements                         |
| c. ( ) Basket                               | j. ( ) Flower  | q. ( ) Musical instrument                | y. ( ) Tree                                     |
| d. ( ) Book, newspaper, document,<br>scroll | k. ( ) Food (other than<br>fruit or vegetable)             | r. ( ) Picture, statue,<br>sculpture     | z. ( ) Vehicle (car, bicycle<br>wagon, etc.)    |
| e. ( ) Cross, crucifix                      | l. ( ) Fruit, vegetable                                    | s. ( ) Plant, leaf, branch               | zz. ( ) Weapon, firearm                         |
| f. ( ) Crosier, stick, sceptre              | m. ( ) Furniture, rug                                      | t. ( ) Religious item                    | yy. ( ) Window                                  |
| g. ( ) Door                                 | n. ( ) Geometric shape                                     | u. ( ) Ship, boat                        |   |
|   |  | v. ( ) Skull, skeleton, bone             |   |

D. SETTING

- |   |                         |                               |   |
|---|-------------------------|-------------------------------|---|
| a. ( ) Airport, railway station,<br>waterfront, harbour | g. ( ) Fire             | o. ( ) Road, highway,<br>path | v. ( ) Town, city, village                      |
| b. ( ) Beach, shore                                     | h. ( ) Forest           | p. ( ) Rock                   | w. ( ) Water (canal, lake,<br>pond, river, sea) |
| c. ( ) Bridge   | i. ( ) House, farm      | q. ( ) Room (interior)        | x. ( ) Windmill, watermill                      |
| d. ( ) Castle, tower                                    | j. ( ) Market           | r. ( ) Snow                   | y. ( ) Without background                       |
| e. ( ) Cloud  | k. ( ) Moon             | s. ( ) Star                   |   |
| f. ( ) Field, meadow, pasture<br>garden, park           | l. ( ) Mountain, hill   | t. ( ) Street, square         |   |
|   | m. ( ) Place of worship | u. ( ) Sun                    |   |
|   | n. ( ) Rain             |                               |   |

9. SIGNATURE

A. DETAIL

- |                          |                            |                             |                             |
|--------------------------|----------------------------|-----------------------------|-----------------------------|
| a. ( ) Without signature | b. ( ) With signature      |                             |                             |
|                          | 1. ( ) Illegible signature | 2. ( ) Legible<br>signature | 3. ( ) Monogram, initial(s) |

B. LOCATION

- |             |                     |                  |           |
|-------------|---------------------|------------------|-----------|
| a. ( ) Back | c. ( ) Bottom left  | e. ( ) Top left  | ( ) Other |
| b. ( ) Base | d. ( ) Bottom right | f. ( ) Top right |           |

10. INSCRIPTION OR MARKINGS (type, wording, location)

11. INVENTORY OR CATALOGUE REFERENCE

12. VALUE

REWARD OFFERED: ( ) yes ( ) no

13. PHOTOGRAPH: ( ) yes ( ) no

FREE TEXT SECTION

For inclusion in "Most Wanted" notice: ( ) yes ( ) no

SIGNATURE OF HEAD OF NCB:



SENDER'S REFERENCE No.  
 NUMBER OF ITEMS [ ] OF [ ]

0. ITEM OR OBJECT

MATCHING CODE: 4          
 (do not fill in)

1. [ ] SUBJECT

OR

[ ] TITLE (if any) In original language:  
 In English:

2. ARTIST

Family name: \_\_\_\_\_ Year of birth: \_\_\_\_\_  
 Forename: \_\_\_\_\_ Year of death: \_\_\_\_\_  
 Known as: \_\_\_\_\_

3. DATE OR PERIOD

4. MEDIUM OR TECHNIQUE

- |                         |                      |
|-------------------------|----------------------|
| R. ( ) SCULPTURE/STATUE | Y. ( ) MISCELLANEOUS |
| a. ( ) Relief           |                      |
| b. ( ) Hollow           |                      |
| c. ( ) Carved           |                      |
| d. ( ) Cast             |                      |
| e. ( ) Decorated        |                      |
| f. ( ) Polychrome       |                      |
| g. ( ) Modelled         |                      |
| h. ( ) Welded           |                      |
| i. ( ) Compressed       |                      |

Y. ( ) MISCELLANEOUS

- |  |                             |
|--|-----------------------------|
| 01 ( ) SCIENTIFIC AND MEASURING INSTRUMENT               | 01 ( ) Maritime             |
|  | 02 ( ) Optical/astronomic   |
|  | 99 ( ) Other                |
| 02 ( ) CLOTHING AND TEXTILES                             | 01 ( ) Headgear             |
|  | 02 ( ) Shoes                |
|  | 03 ( ) Gloves               |
|  | 04 ( ) Belt/belt buckle     |
|  | 05 ( ) Fabric               |
|  | 99 ( ) Other                |
| 03 ( ) ARCHAEOLOGICAL ITEM                               | 01 ( ) Fossile              |
|  | 02 ( ) Mummy/skeleton/skull |
|  | 03 ( ) Sarcophagus          |
|  | 99 ( ) Other                |
| 04 ( ) TABLEWARE (except glass, ceramics and silverware) | 01 ( ) Goblet/pitcher       |
|  | 02 ( ) Plate/bowl           |
|  | 99 ( ) Other                |
| 05 ( ) ETHNIC CULTURAL OBJECT                            |                             |
| 06 ( ) CANE  |                             |
| 07 ( ) PIPE  |                             |
| 08 ( ) CHESS SET   |                             |
| 99 ( ) OTHER   |                             |

R. ( ) SCULPTURE/STATUE

- |   |  |  |
|---|--|--|
| 01 ( ) ONE FIGURE   | 01 ( ) Full length                     | 01 ( ) Non-religious                       |
|   | 02 ( ) Bust, three-quarter             | 02 ( ) Christ                              |
|   | 03 ( ) Torso                           | 03 ( ) Virgin Mary without Child           |
|   | 04 ( ) Head                            | 04 ( ) Virgin Mary with Child on right arm |
|   |  | 05 ( ) Virgin Mary with Child on left arm  |
|   |  | 06 ( ) Virgin Mary with Child on both arms |
|   |  | 07 ( ) Saint/religious figure              |
|   |  | 08 ( ) Saint/religious figure with Child   |
|   |  | 09 ( ) Buddha/Asian God                    |
|   |  | 10 ( ) Angel/putto/cherub                  |
|   |  | 99 ( ) Other                               |
| 02 ( ) ONE ANIMAL   |  |  |
| 03 ( ) ONE IMAGINARY CREATURE                                       |  |  |
| 04 ( ) ONE FIGURE WITH ANIMAL(S)                                    |  |  |
| 05 ( ) ONE FIGURE WITH IMAGINARY CREATURE(S)                        |  |  |
| 06 ( ) ONE FIGURE WITH ANIMAL(S) AND IMAGINARY CREATURE(S)          |  |  |
| 07 ( ) GROUP OF FIGURES   | 01 ( ) Pieta                           |  |
|   | 02 ( ) 2 figures (not Pieta)           | 01 ( ) Non-religious                       |
|   | 03 ( ) 3 figures                       | 02 ( ) Religious                           |
|   | 04 ( ) More than 3 figures             |  |
| 08 ( ) GROUP OF ANIMALS   |  |  |
| 09 ( ) GROUP OF IMAGINARY CREATURE(S)                               |  |  |
| 10 ( ) GROUP OF FIGURES WITH ANIMAL(S) AND/OR IMAGINARY CREATURE(S) |  |  |
| 11 ( ) MODERN   | 01 ( ) Figurative                      |  |
|   | 02 ( ) Geometric shape(s)              |  |
|   | 03 ( ) Non-figurative/abstract         |  |
| 12 ( ) ARCHITECTURAL OR DECORATIVE ELEMENT                          | 01 ( ) Base                            |  |
|   | 02 ( ) Capital                         |  |
|   | 03 ( ) Stele/engraved plaque/tombstone |  |
|   | 04 ( ) Column                          |  |
|   | 05 ( ) Frieze                          |  |
|   | 06 ( ) Carved panel                    |  |
|   | 99 ( ) Other                           |  |
| 13 ( ) MISCELLANEOUS  | 01 ( ) Mask                            |  |
|   | 02 ( ) Garden urn                      |  |
|   | 99 ( ) Other                           |  |

5. MATERIAL(S) USED

A. Organic

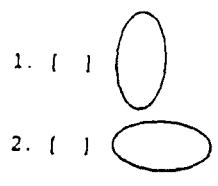
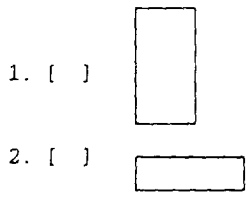
- a.  Animal fibre
- b.  Bone
- c.  Canvas
- d.  Cardboard
- e.  Coral
- f.  Cork
- g.  Cotton
- h.  Damask
- i.  Fabric
- j.  Ivory
- k.  Linen
- l.  Mother of pearl
- m.  Paper
- n.  Papier mâché
- o.  Papyrus
- p.  Parchment
- q.  Pearl
- r.  Resin
- s.  Rubber
- t.  Silk
- u.  Skin, hide, leather
- v.  Synthetic fibre
- w.  Thread
- x.  Tortoiseshell
- y.  Vegetable fibre
- z.  Velvet
- zz.  Wax
- yy.  Wood
- xx.  Wool
- [ ] Other

B. Inorganic

- a.  Alabaster
- b.  Aluminium
- c.  Brass
- d.  Bronze
- e.  Celluloid
- f.  Ceramic
- g.  Clay
- h.  Copper
- i.  Crystal
- j.  Earthenware
- k.  Enamel
- l.  Glass
- m.  Gold
- n.  Gum
- o.  Iron
- p.  Kaolin
- q.  Lead
- r.  Majolica
- s.  Marble
- t.  Pewter
- u.  Plastic
- v.  Porcelain
- w.  Precious stone
- x.  Sealing wax
- y.  Semi-precious stone
- z.  Silver
- zz.  Silver gilt
- yy.  Steel
- xx.  Stone
- ww.  Stoneware
- vv.  Stucco, plaster
- uu.  Terracotta
- tt.  Tin
- ss.  Tinplate
- [ ] Other

6A. SHAPE/FORM

- a.  Rectangular
- b.  Square
- c.  Round
- d.  Oval
- e.  Irregular



6B. SINGLE OBJECT OR PART OF A GROUP

- a.  Single object (not forming part of a group or ensemble)
- b.  Object forming part of group or ensemble
  - 1.  Diptych
  - 2.  Triptych
  - 3.  Polyptych
  - 4.  Pair
  - [ ] Other

7. DIMENSIONS WITHOUT FRAME - MAIN COLOUR(S)

Dimensions:

Height: \_\_\_\_\_ cm      EXACT [ ]      Depth: \_\_\_\_\_ cm      ESTIMATED [ ]      Weight: \_\_\_\_\_ kg

Width: \_\_\_\_\_ cm      Diameter: \_\_\_\_\_ cm

A. Main colour(s)

- a.  Black
- b.  Blue
- c.  Brown
- d.  Gold
- e.  Green
- f.  Grey
- g.  Orange
- h.  Purple
- i.  Red
- j.  Silver
- k.  Transparent
- l.  White
- m.  Yellow



8. DESCRIPTION

A. ACTIVITIES, EVENTS

- |   |   |   |
|---|---|---|
| a. ( ) Agriculture (farming, gardening)     | g. ( ) Eating   | p. ( ) Romance, amorous behaviour             |
| b. ( ) Bathing, washing                     | h. ( ) Entertainment                                    | q. ( ) Sitting                                |
| c. ( ) Death                                | i. ( ) Fishing  | r. ( ) Sleeping                               |
| d. ( ) Disaster (fire, shipwreck, etc.)     | j. ( ) Hunting  | s. ( ) Smoking                                |
| e. ( ) Drinking                             | k. ( ) In water   | t. ( ) Standing                               |
| f. ( ) Driving, riding<br>(animal, vehicle) | l. ( ) Kneeling   | u. ( ) Walking                                |
|   | m. ( ) Lying down                                       | v. ( ) War (battle in air, on<br>land or sea) |
|   | n. ( ) Professional activity<br>(dentist, doctor, etc.) | w. ( ) Writing, reading                       |
|   | o. ( ) Religious act (praying)                          |   |

B. ANIMALS, FIGURES

- |                                    |                                       |  |                                |
|------------------------------------|---------------------------------------|--|--------------------------------|
| a. ( ) Angel, cupid, putto, cherub | h. ( ) Domestic animal                | o. ( ) Horse                           | v. ( ) Saint, religious figure |
| b. ( ) Bald                        | i. ( ) Facial hair                    | p. ( ) Imaginary figure<br>or creature | w. ( ) Sheep/lamb              |
| c. ( ) Bird                        | j. ( ) Fish, shellfish                | q. ( ) Jewellery                       | x. ( ) Snake                   |
| d. ( ) Child                       | k. ( ) Glasses                        | r. ( ) Madonna and child               | y. ( ) Stylized person, animal |
| e. ( ) Christ                      | l. ( ) Halo                           | s. ( ) Man                             | z. ( ) Virgin Mary             |
| f. ( ) Cow                         | m. ( ) Head                           | t. ( ) Military figure                 | zz. ( ) Wild animal            |
| g. ( ) Dog                         | n. ( ) Headgear (hat, crown,<br>veil) | u. ( ) Nude                            | yy. ( ) Woman                  |

C. DETAILS

- |   |  |  |   |
|---|--|--|---|
| a. ( ) Aeroplane                            | h. ( ) Fabric (curtain,<br>napkin, drapery,<br>tablecloth) | o. ( ) Lighting device<br>(candle, lamp) | w. ( ) Tableware (crockery,<br>cutlery, bottle) |
| b. ( ) Architectural detail,<br>ruin        | i. ( ) Fence   | p. ( ) Mirror, clock                     | x. ( ) Tools/implements                         |
| c. ( ) Basket                               | j. ( ) Flower  | q. ( ) Musical instrument                | y. ( ) Tree                                     |
| d. ( ) Book, newspaper, document,<br>scroll | k. ( ) Food (other than<br>fruit or vegetable)             | r. ( ) Picture, statue,<br>sculpture     | z. ( ) Vehicle (car, bicycle<br>wagon, etc.)    |
| e. ( ) Cross, crucifix                      | l. ( ) Fruit, vegetable                                    | s. ( ) Plant, leaf, branch               | zz. ( ) Weapon, firearm                         |
| f. ( ) Crosier, stick, sceptre              | m. ( ) Furniture, rug                                      | t. ( ) Religious item                    | yy. ( ) Window                                  |
| g. ( ) Door                                 | n. ( ) Geometric shape                                     | u. ( ) Ship, boat                        |   |
|   |  | v. ( ) Skull, skeleton, bone             |   |

D. SETTING

- |   |                         |                               |   |
|---|-------------------------|-------------------------------|---|
| a. ( ) Airport, railway station,<br>waterfront, harbour | g. ( ) Fire             | o. ( ) Road, highway,<br>path | v. ( ) Town, city, village                      |
| b. ( ) Beach, shore                                     | h. ( ) Forest           | p. ( ) Rock                   | w. ( ) Water (canal, lake,<br>pond, river, sea) |
| c. ( ) Bridge   | i. ( ) House, farm      | q. ( ) Room (interior)        | x. ( ) Windmill, watermill                      |
| d. ( ) Castle, tower                                    | j. ( ) Market           | r. ( ) Snow                   | y. ( ) Without background                       |
| e. ( ) Cloud  | k. ( ) Moon             | s. ( ) Star                   |   |
| f. ( ) Field, meadow, pasture<br>garden, park           | l. ( ) Mountain, hill   | t. ( ) Street, square         |   |
|   | m. ( ) Place of worship | u. ( ) Sun                    |   |
|   | n. ( ) Rain             |                               |   |

9. SIGNATURE

A. DETAIL

- |                          |                            |                             |                             |
|--------------------------|----------------------------|-----------------------------|-----------------------------|
| a. ( ) Without signature | b. ( ) With signature      |                             |                             |
|                          | 1. ( ) Illegible signature | 2. ( ) Legible<br>signature | 3. ( ) Monogram, initial(s) |

B. LOCATION

- |             |                     |                  |           |
|-------------|---------------------|------------------|-----------|
| a. ( ) Back | c. ( ) Bottom left  | e. ( ) Top left  | ( ) Other |
| b. ( ) Base | d. ( ) Bottom right | f. ( ) Top right |           |

10. INSCRIPTION OR MARKINGS (type, wording, location)

11. INVENTORY OR CATALOGUE REFERENCE

12. VALUE

REWARD OFFERED: ( ) yes ( ) no

13. PHOTOGRAPH: ( ) yes ( ) no

FREE TEXT SECTION

For inclusion in "Most Wanted" notice: ( ) yes ( ) no

SIGNATURE OF HEAD OF NCIB:

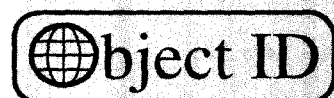
## OBJECT IDENTIFICATION CHECKLIST

( *Object ID* )

There is general consensus on the usefulness and need to establish an international documentation standard for cultural property to facilitate exchange of information. But just how such a standard should look has occasioned many studies and discussions. These have the support from such diverse organizations as the Council of Europe, the Getty Information Institute, the International Council of Museums (ICOM), UNESCO, and others.

They have led to the preparation of the following list of categories known as 'Object ID Checklist', or for short 'Object ID'.

# OBJECT ID CHECKLIST



## TAKE PHOTOGRAPHS

Photographs are of vital importance in identifying and recovering stolen objects. In addition to overall views, take close-ups of inscriptions, markings, and any damage or repairs. If possible, include a scale or object of known size in the image.

## ANSWER THESE QUESTIONS:

### **Type of Object**

What kind of object is it (e.g., painting, sculpture, clock, mask)?

### **Materials & Techniques**

What materials is the object made of (e.g., brass, wood, oil on canvas)?  
How was it made (e.g., carved, cast, etched)?

### **Measurements**

What is the size and/or weight of the object? Specify which unit of measurement is being used (e.g., cm., in.) and to which dimension the measurement refers (e.g., height, width, depth).

### **Inscriptions & Markings**

Are there any identifying markings, numbers, or inscriptions on the object (e.g., a signature, dedication, title, maker's marks, purity marks, property marks)?

### **Distinguishing Features**

Does the object have any physical characteristics that could help to identify it (e.g., damage, repairs, or manufacturing defects)?

### **Title**

Does the object have a title by which it is known and might be identified (e.g., *The Scream*)?

### **Subject**

What is pictured or represented (e.g., landscape, battle, woman holding child)?

### **Date or Period**

When was the object made (e.g., 1893, early 17th century, Late Bronze Age)?

### **Maker**

Do you know who made the object? This may be the name of a known individual (e.g., Thomas Tompion), a company (e.g., Tiffany), or a cultural group (e.g., Hopi).

## WRITE A SHORT DESCRIPTION

This can also include any additional information which helps to identify the object (e.g., color and shape of the object, where it was made).

## KEEP IT SECURE

Having documented the object, keep this information in a secure place.

# INTRODUCING OBJECT ID

## What is Object ID?

Object ID is an international standard for describing art, antiques, and antiquities. It has been developed through the collaboration of museums, cultural heritage organizations, police and customs agencies, the art and antiques trade, appraisers, and the insurance industry.

## Why use Object ID?

A stolen object is unlikely to be recovered and returned to you unless it has been photographed and adequately described. The Object ID checklist helps you provide the information needed to identify an object as yours.

## How do I use Object ID?

Object ID is easy to use. Just follow the checklist on the back of this page and try to answer as many of the questions as possible.

## Where can I find out more about Object ID?

For more information about Object ID, write to:

### Object ID

Getty Information Institute  
1200 Getty Center Drive  
Los Angeles, California 90049-1681  
USA

Or visit: [www.gii.getty.edu/pco](http://www.gii.getty.edu/pco)

#### Credits:

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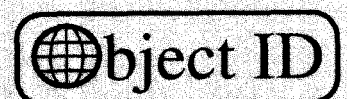
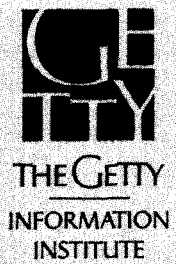
*Tate Gallery, London/Art Resource, New York*  
*Morisot, Berthe. Girl on a Divan, c. 1885.*  
*Tate Gallery, London, Great Britain.*

*Art Resource, New York*  
*Polychrome Figure of a Priest, possibly the Patriarch Ryumyo.*  
*Late Kamakura period. Private Collection.*

*Giraudon/Art Resource, New York*  
*Large breast-plate, in gold.*  
*Musée Institut d'Afrique Noir, Dakar, Senegal.*

*Giraudon/Art Resource, New York*  
*Silver bowl from Bordeaux, 1744.*  
*Musée des Arts Decoratifs, Paris, France.*

*Beniaminson/Art Resource, New York*  
*Anonymous, 17th century. St. John the Baptist. Russian icon.*  
*Kremlin Armoury, The Kremlin, Moscow, Russia.*





THE GETTY  
INFORMATION  
INSTITUTE

## Guidelines for Reproducing the Object ID Checklist

If you would like to inform your customers, clients, or members about Object ID, you may reproduce the text of the Object ID Checklist in advice notes, leaflets, posters, or newsletters.

### THE GETTY

The J. Paul Getty Museum

Research Institute for  
the History of Art and  
the Humanities

Conservation Institute

Information Institute

Education Institute  
for the Arts

Grant Program

Leadership Institute for  
Museum Management

The J. Paul Getty Trust

### Conditions:

The checklist text must be reproduced in full and unaltered, and it must include the Object ID logo and the following information:

For further information about Object ID write to:

Object ID

Getty Information Institute

1200 Getty Center Drive, Suite 300

Los Angeles, California 90049-1681

USA

Or visit: [www.gii.getty.edu/pco](http://www.gii.getty.edu/pco)

### Object ID Logo:

Photo-ready copies of the Object ID logo are available upon request from the Getty Information Institute at the address below.

### Images:

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Art Resource

65 Bleeker Street, 9th Floor

New York, New York 10012

USA

Telephone: (212) 505-8700

Fax: (212) 420-9286



**Standard Form concerning Requests  
for Return or Restitution**

**Formulaire type pour les demandes  
de retour ou de restitution**

January 1986  
Janvier 1986

Intergovernmental Committee for Promoting the Return  
of Cultural Property to its Countries of Origin  
or its Restitution in Case of Illicit Appropriation

Comité intergouvernemental pour la promotion du retour  
de biens culturels à leur pays d'origine  
ou de leur restitution en cas d'appropriation illégale

NOTES ON  
COMPLETING THE FORM

General

1. The present form has been established by the Intergovernmental Committee as a mechanism to enable it to promote bilateral negotiations concerning the return or restitution of cultural property. The form is to be used therefore only in cases where negotiations already initiated have made unsatisfactory progress. It is intended to be a comprehensive yet flexible framework, which allows Member States to provide information as completely as possible.
2. The requesting country should use the form to submit its request to the Secretariat of the Committee which will transmit the document to the holding country concerned. The holding country should in turn use the form to provide its reply to the request and return it to the Secretariat of the Committee within a period of one year from the date of receipt.
3. Please note that the use of the form is limited to one object per form. It is not practicable to deal with information on more than one distinct object at a time. In the case of a request for an entire collection of objects it is understood that the collection, for the purposes of the present form, would be treated as an entity i.e. 'an object'.

INDICATIONS POUR  
REmplir LE FORMULAIRE

Généralités

1. Le présent formulaire a été établi par le Comité intergouvernemental pour lui permettre de promouvoir les négociations bilatérales concernant le retour ou la restitution de biens culturels. Il ne doit donc être utilisé que dans les cas où les négociations déjà engagées ne progressent pas de manière satisfaisante. Il a été conçu comme un cadre global mais souple, qui permet aux Etats membres de fournir des renseignements aussi complets que possible.
2. Le pays demandeur doit utiliser le formulaire pour adresser sa demande au Secrétariat du Comité, qui transmettra le document au pays détenteur concerné. Le pays détenteur doit utiliser le formulaire pour répondre à la demande et le renvoyer au Secrétariat dans un délai d'un an à compter de la date de réception.
3. Veuillez noter que chaque formulaire ne peut servir que pour un seul objet. Il n'est guère possible sur le plan pratique de traiter des informations concernant plus d'un objet distinct à la fois. En cas de demande relative à une collection entière d'objets, il est entendu qu'aux fins du présent formulaire, la collection sera considérée comme une entité, c'est-à-dire comme "un objet".

Name of the requesting country/Nom du pays demandeur

*The Republic of Sampleform*

Name of the requesting institution or service/Nom de l'institution ou du service demandeur

*The National Museum of Archaeology  
Ministry of Culture  
City*

## A

DOCUMENTARY DATA ON THE OBJECT  
RENSEIGNEMENTS CONCERNANT L'OBJETA.1 Description of the object

Information should be provided if possible with respect to:

- (a) Type of object: painting, sculpture, manuscript, ceramics, textiles, archaeological finds, buildings or monuments, etc.
- (b) Characteristics: material of which made (wood, stone, metal, parchment, etc.), dimensions, weight, form, period, authorship (if applicable, special distinctive features).

Requesting country/Pays demandeur

*Silver vessel decorated with gold inlay figures of upright lions fighting; hunting scene on the reverse. Handles are solid lion figures. Slightly damaged: chip missing from lip above principal scene; dent in body of the vessel below handle. Some areas of body have been consolidated.*

*Height : 22.6 cm*

*Width of body : 18.2 cm*

*Width with handles : 24.8 cm*

*Diameter of opening : 11.3 cm*

*Diameter of foot : 6.2 cm*

*Acquisition number : 1941.123.1*

*Probably made by so-called "Lion Master", circa 800 B.C.*

A.1 Description de l'objet

Dans la mesure du possible on donnera des renseignements sur :

- (a) Le type d'objet : peinture, sculpture, manuscrit, céramique, textile, objets de fouilles, constructions, éléments de constructions ou de monuments, etc.
- (b) Ses caractéristiques : matériau (bois, pierre, métal, parchemin, etc.), dimensions, poids, forme, période, auteur (s'il y a lieu), caractères distinctifs particuliers.

Holding country/Pays détenteur

A.2 Location of the object

The place where the object is currently displayed or held in the holding country should be specified, e.g. a museum gallery or reserve collection. If not known, the holding country may wish to state the presumed location, according to the latest information available.

Requesting country/Pays demandeur

*Musée des Beaux-Arts*  
*1, rue Lepape*  
*City, Country*

A.2 Lieu où se trouve l'objet

Le lieu où l'objet est actuellement exposé ou détenu dans le pays détenteur doit être précisé (par exemple, les salles d'exposition ou les réserves d'un musée). Si ce lieu n'est pas connu, le pays détenteur voudra peut-être indiquer l'emplacement présumé de l'objet d'après les informations les plus récentes.

Holding country/Pays détenteur



*The object was last seen there one month ago, on July 12, 1985. It may no longer be in this Museum. (see enclosed photograph; object is on the lower right hand side of the vitrine).*

A.3 Ownership

It should be made clear whether the object was/is the property of a public or private organization or of a private individual.

A.3 Propriété

Il conviendra de préciser si l'objet était/est la propriété d'un organisme public ou privé ou d'un particulier.

*The vessel is/was property of the State. It is/was under the care of the National Museum of Archaeology which in turn falls under the jurisdiction of the Ministry of Culture.*

*It was excavated in 1939, transferred to the Museum in 1941 following study and conservation and consolidation treatment.*

*The excavation team, lead by Professor X, was working at (site) assigned to him by the State. The agreement between the excavator and the State defines finds "as the property of the State". Until other agreements may be reached: see A.8 below for reference to excavation report.*

1941, November. Acquisition number :  
1941.123.1

*Following standard practise at the National Museum, the numbers are small and painted, using red oil paint, on the underside of the vessel's foot.*

A.5 Legal status

Is the object part of the national heritage; is it part of the collection of a public or private museum; is it held on short- or long-term loan, deposit, etc.?

A.5 Statut juridique

L'objet fait-il partie du patrimoine national ? Fait-il partie des collections d'un musée public ou privé ? Est-il détenu au titre d'un prêt à court ou à long terme, en dépôt, etc. ?

Requesting country/Pays demandeur

Holding country/Pays détenteur

*This vessel, probably made by the so-called "Lion-Master" is a National Treasure thus part of the national heritage and was in the permanent collection of the National Museum.*

*The Master is the only identified ancient silversmith of the Republic of Samleform.*

A.6 State of conservation

Here details may be given concerning the decay of constituent materials, deterioration noted, intentional or accidental mutilations, if any, restoration carried out.

A.6 Etat de conservation

On pourra donner ici des renseignements sur l'altération des matériaux, les détériorations constatées, les dégradations intentionnelles ou accidentelles et, le cas échéant, les restaurations effectuées.

Requesting country/Pays demandeur

Holding country/Pays détenteur

*The condition of the object was relatively stable in the original uncontrolled climate. Some separation appears now between the body and the consolidated areas. Surface deterioration is evident in treated areas and tarnishing is severe owing to ambient fumes.*

Conservation requirements for the object  
Information should be provided as to the environmental conditions required, possible conservation treatment indicated, etc.

Requesting country/Pays demandeur/

*This object should not be moved or handled without gloves; the tarnishing has caused damage to the surface decoration; the environment should be clear of fumes which enhance tarnishing; the relative humidity of the environment should not be high.*

A.8 References and documentation

Bibliographic or other references concerning the object should be provided. Other documentation such as labels, catalogue cards, information about the archaeological site from which the object originated, etc. should also be included wherever possible. Such material may be attached to the present form.

Requesting country/Pays demandeur

Excavation reports:

Author, Annals of Archaeology n° 12 (1939) p. 15; idem. n° 13 (1940), pp. 77-92 (illustrations pls. I-V, figs. 1-10 are extremely poor).

Publications:

Author, The Ancient Silversmiths (London, 1952), mentioned on p. 43.

Author, The Work of the Lion Master (Toronto, 1961), p. 19.

Author, L'argenterie ancienne (Bruxelles) 1963, p. 5.

Earlier illustrations were never reproduced owing to poor quality.

Catalogue cards:

Copies attached (Appendix 00).

A.7 Conditions requises pour la conservation de l'objet

Des informations seront fournies en ce qui concerne l'environnement dont a besoin l'objet, le traitement éventuellement nécessaire pour assurer sa conservation, etc.

Holding country/Pays détenteur

A.8 Références et documentation

Les références bibliographiques ou autres concernant l'objet devront être fournies. Tous les autres éléments de documentation tels qu'étiquettes, fiches de catalogue, renseignements sur le site archéologique dont provient l'objet, etc., devront aussi être produits chaque fois que cela sera possible. Ces documents pourront être joints au présent formulaire.

Holding country/Pays détenteur

A.9 Circumstances in which the object left country of origin

Information should be provided if possible with respect to the means by which the object left its country of origin, e.g. trade, illicit appropriation, colonial or foreign occupation, exchange, gift, loan for repair and/or reproduction, temporary export licence for scientific purposes including conservation or exhibition.

Requesting country/Pays demandeur

*The vessel was reported stolen in 1959. The theft was publicized in newspapers (copies in Appendix OO), in magazines (copies), and in professional periodicals (copies).*

*The theft occurred in the night of January 1-2, 1959 and was one of several objects removed that night. The perpetration have not been identified.*

*Following the theft, the vessel was illicitly exported.*

A.9 Circonstances dans lesquelles l'objet a quitté son pays d'origine

Des renseignements seront fournis, dans la mesure du possible, sur la façon dont l'objet a quitté son pays d'origine : transaction commerciale, appropriation illicite, occupation coloniale ou étrangère, échange, don, prêt pour réparation et/ou reproduction, autorisation temporaire d'exportation à des fins scientifiques (y compris conservation ou exposition).

Holding country/Pays détenteur

A.10 Mode of acquisition by institution in holding country

The mode of acquisition should be specified, e.g. purchase, gift, exchange, loan, archaeological excavation, temporary import for scientific purposes, illicit acquisition, colonial or foreign occupation, etc.

Requesting country/Pays demandeur

*Probably by purchase (details should be provided if possible by the holding country).*

A.10 Mode d'acquisition par l'institution du pays détenteur

Il conviendra de spécifier le mode d'acquisition de l'objet, par exemple : achat, don, échange, prêt, fouille archéologique, importation temporaire à des fins scientifiques, acquisition illicite, occupation coloniale ou étrangère, etc.

Holding country/Pays détenteur

A.11 Particular significance for the requesting country

This may be historical, cultural, religious or scientific in nature or a combination of several of these. The object may be a 'missing link' in a given cultural tradition and/or in the country's national collections.

Requesting country/Pays demandeur

*Refer to A.5 above. In addition, this vessel is so highly esteemed as a National Treasure that it is referred to in most courses taught in lower schools, colleges and universities. It is recognized and acclaimed as part of our Republic's national and cultural heritage.*

A.11 Signification particulière pour le pays demandeur

Cette signification peut être de nature historique, culturelle, religieuse ou scientifique, ou encore associer plusieurs de ces éléments. L'objet peut être un "chaînon manquant" d'une tradition culturelle déterminée et/ou des collections nationales du pays demandeur.

A.12 Details of similar objects known to exist in country of origin or elsewhere  
Information may be provided concerning objects of the same period, provenance or type, or (where applicable) by the same author; objects whose significance is similar to that described under A.11 above may also be mentioned.

Requesting country/Pays demandeur

*Although fragments of such vessels are present in our national public collections, entire vessels, so complete with decoration are not found anywhere.*

A.13 Significance of the object for the holding country

Requesting country/Pays demandeur

*This object of high quality is representative of a period of our culture. It is an unique object produced in our land and excavated in our country.*

A.12 Renseignements sur les objets similaires dont l'existence dans le pays d'origine ou ailleurs est connue

Des renseignements sur les objets de la même période, de la même provenance ou du même type, ou encore (s'il y a lieu) du même auteur peuvent être fournis; les objets dont la signification est similaire à celle qui a été décrite à la rubrique A.11 peuvent également être mentionnés.

Holding country/Pays détenteur

A.13 Signification de l'objet pour le pays détenteur

Holding country/Pays détenteur

**B REFERENCES TO LEGISLATION AND REGULATION TO PREVENT ILLICIT TRAFFIC IN CULTURAL PROPERTY**

**RÉFÉRENCES CONCERNANT LES DISPOSITIONS LÉGISLATIVES  
ET RÉGLEMENTAIRES VISANT À EMPÊCHER LE TRAFIC ILLICITE DE BIENS CULTURELS**

Full references to the relevant articles of national legislation or regulation concerning illicit traffic should be provided, both with respect to export of cultural property and its import from other countries. The texts of such legislation or regulation may be attached to the present form if necessary.

Des références complètes aux dispositions pertinentes de la législation ou de la réglementation nationale concernant le trafic illicite devront être fournies, tant en ce qui concerne l'exportation de biens culturels que leur importation d'autres pays. Les textes législatifs et réglementaires en question pourront, s'il y a lieu, être joints au présent formulaire.

Requesting country/Pays demandeur

Holding country/Pays détenteur

*Attached are copies of all legislative acts and writs concerning such matters. Note that the laws are recent (1973 and forward) and therefore may not be applicable. This appeal, however, being one moral in nature does reach beyond any statutory limitations.*

**C SUGGESTED ACTION**  
**MESURES SUGGÉRÉES**

**C.1 Previous negotiations**

Give full details of negotiations carried out so far. What progress has been achieved? Please indicate reasons for lack of progress with respect to these negotiations.

Requesting country/Pays demandeur

*An appeal for assistance to the Musées des Beaux Arts in the holding country was made on July 15, 1985 (attached). No response has been received.*

*INTERPOL and the International Council of Museums (ICOM) have been informed (copies of letters, Appendix 00). Letters to Ministries of Foreign Affairs and Cultural Affairs in holding country (copies enclosed, Appendices 00-00) have also been sent.*

**C.1 Négociations antérieures**

Donner des renseignements détaillés sur les négociations menées jusqu'ici. Quels résultats ont été obtenus? Veuillez indiquer les raisons pour lesquelles ces négociations piétinent.

Holding country/Pays détenteur

**C.2 Proposals of requesting country**

Proposals with respect to further steps necessary or new forms of co-operation or negotiation to be initiated may be outlined here.

Requesting country/Pays demandeur

- . Assistance of Ministries in holding country*
- . An international appeal*
- . A press-campaign stressing either the absence of co-operation or the positive results of and when the vessel is returned.*

**C.2 Propositions du pays demandeur**

Les propositions concernant les nouvelles initiatives jugées nécessaires ou les nouvelles modalités de coopération ou de négociation à envisager pourront être brièvement exposées ici.

**C.3 Legal status object would have in requesting country**

Information should be provided as to whether the object would become part of the national heritage or of the collection of a public or private museum or other institution.

Requesting country/Pays demandeur

*The object would have the status it has always had, even after its illegal removal, that of "National Treasure".*

**C.3 Statut juridique qu'aurait l'objet dans le pays demandeur**

Il conviendra d'indiquer si l'objet deviendrait un élément du patrimoine national ou s'il entrerait dans les collections d'un musée public ou privé ou d'une autre institution.



C.4 Place of display in requesting country  
Information should be provided as to whether the object will be displayed in a State museum or other institution; in a private museum or institution; in a place of worship, etc.

Requesting country/Pays demandeur

C.4 Lieu d'exposition dans le pays demandeur  
Il conviendra d'indiquer si l'objet sera exposé dans un musée ou une autre institution d'Etat, dans un musée ou une autre institution privée, dans un lieu de culte, etc.

*The vessel should be returned to its original place of exhibition but now, be placed in a highly secure and controlled environment to dissuade any repetition of theft and reduce the rate of deterioration.*

C.5 Facilities available  
Information should be provided concerning the curatorial, managerial and conservation facilities available to the museum or other institution which will receive the object.

Requesting country/Pays demandeur

C.5 Moyens disponibles  
Des informations devront être fournies sur les moyens de conservation, de gestion et d'administration dont dispose le musée ou l'institution qui recevra l'objet.

*The National Museum of Archaeology has a staff of 12 curators and a small conservation facility. Objects such as this vessel are treated by experts in the University Laboratory because they have access to advanced equipment.*

C.6 Response by holding country

Holding country/Pays détenteur

C.6 Réponse du pays détenteur

C.7 Institutions or persons responsible for negotiations

Requesting country/Pays demandeur

*Ministry of Culture  
National Museum of Archaeology*

*Professor X, excavator of the vessel, has offered to assist us if necessary.*

C.7 Institutions ou personnes chargées des négociations

Holding country/Pays détenteur

# D OTHER OBSERVATIONS/AUTRES OBSERVATIONS

Requesting country/Pays demandeur

Holding country/Pays détenteur

Requesting country/Pays demandeur

Holding country/Pays détenteur

Signed/Signature _____
Full Name/Nom _____
Title/Titre _____
_____
_____
Date _____

Signed/Signature _____
Full Name/Nom _____
Title/Titre _____
_____
_____
Date _____

Reserved for Unesco Secretariat

Réservé pour le Secrétariat de l'Unesco

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*Statutes of*  
**THE [UNESCO] INTERGOVERNMENTAL COMMITTEE**

*for Promoting the Return of Cultural Property to its Countries of Origin  
or its Restitution in Case of Illicit Appropriation.*

**Article 1** <sup>24</sup>

An Intergovernmental Committee of an advisory nature whose services will be available to Member States and Associate Members of UNESCO involved, hereafter called the Committee, whose functions are defined in Article 4 below, is hereby established within the United Nations Educational, Scientific and Cultural Organization, hereafter called UNESCO.

**Article 2**

1. The Committee shall be composed of 20 Member States of UNESCO elected by the General Conference at its ordinary sessions, taking into account the need to ensure equitable geographical distribution and appropriate rotation, as well as the representative character of those States in respect of the contribution they are able to make to the restitution or return of cultural property to its countries of origin.
2. The term of office of members of the Committee shall extend from the end of the ordinary session of the General Conference during which they are elected until the end of its second subsequent ordinary session.
3. Notwithstanding the provisions of paragraph 2 above, the term of office of half of the members designated at the time of the first election shall cease at the end of the first ordinary session of the General Conference following that at which they were elected. The names of these members shall be chosen by lot by the President of the General Conference after the first election.
4. Members of the Committee shall be immediately eligible for re-election.
5. States members of the Committee shall choose their representatives with due attention to the terms of reference of the Committee as defined by these statutes.

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<sup>24</sup> The General conference of UNESCO adopted, at its twenty-eighth session (Paris, October-November 1995), Resolution 28 C/22 increasing the membership of the Intergovernmental Committee from twenty to twenty-two Member States.

### Article 3

1. For the purposes of these statutes, 'cultural property' shall be taken to denote historical and ethnographic objects and documents including manuscripts, works of the plastic and decorative arts, palaeontological and archaeological objects and zoological, botanical and mineralogical specimens.
2. A request for the restitution or return by a Member State or Associate Member of UNESCO may be made concerning any cultural property which has a fundamental significance from the point of view of the spiritual values and cultural heritage of the people of a Member State or Associate Member of UNESCO and which has been lost as a result of colonial or foreign occupation or as a result of illicit appropriation.
3. Cultural property restituted or returned shall be accompanied by the relevant scientific documentation.

### Article 4

The Committee shall be responsible for :

1. seeking ways and means of facilitating bilateral negotiations for the restitution or return of cultural property to its countries of origin when they are undertaken according to the conditions defined in Article 9 ;
2. promoting multilateral and bilateral co-operation with a view to the restitution and return of cultural property to its countries of origin ;
3. encouraging the necessary research and studies for the establishment of coherent programmes for the constitution of representative collections in countries whose cultural heritage has been dispersed ;
4. fostering a public information campaign on the real nature, scale and scope of the problem of the restitution or return of cultural property to its countries of origin ;
5. guiding the planning and implementation of UNESCO's programme of activities with regard to the restitution or return of cultural property to its countries of origin ;
6. encouraging the establishment or reinforcement of museums or other institutions for the conservation of cultural property and the training of the necessary scientific and technical personnel ;
7. promoting exchanges of cultural property in accordance with the Recommendation on the International Exchange of Cultural Property ;
8. reporting on its activities to the General Conference of UNESCO at each of its ordinary sessions.

### Article 5

1. The Committee shall meet in regular plenary session at least once and not more than twice every two years. Extraordinary sessions may be convened as specified in the Committee's Rules of Procedure.
2. Each member of the Committee shall have one vote, but may send to the Committee's sessions as many experts or advisers as it deems necessary.

3. The Committee shall adopt its own Rules of Procedure.

#### Article 6

1. The Committee may set up ad hoc subcommittees for the study of specific problems related to its activities, as described in paragraph 1 of Article 4. Membership of such subcommittees may also be open to Member States of UNESCO which are not represented in the Committee.
2. The Committee defines the mandate of any such ad hoc subcommittee.

#### Article 7

1. At the beginning of its first session, the committee shall elect a Chairman, four Vice-Chairmen and a Rapporteur ; these shall form the Committee's Bureau.
2. The Bureau shall discharge such duties as the Committee may lay upon it.
3. Meetings of the Bureau may be convened in between sessions of the Committee at the request of the Committee itself, of the Chairman of the Committee or of the Director-General of UNESCO.
4. The Committee shall elect a new Bureau whenever its own membership is changed by the General Conference in accordance with Article 2 above.
5. The members of the Bureau who are representatives of Member States of UNESCO shall remain in office until a new Bureau has been elected.<sup>25</sup>

#### Article 8

1. Any Member State which is not a member of the Committee or any Associate Member of UNESCO that is concerned by an offer or a request for the restitution or return of cultural property shall be invited to participate, without the right to vote, in the meetings of the Committee or of its ad hoc subcommittees dealing with that offer or request. The States which are members of the Committee that are concerned by an offer or request for the restitution or return of cultural property shall not have the right to vote when such offer or request is being examined by the Committee or its ad hoc subcommittees.
2. Member States and Associate Members of UNESCO which are not members of the Committee may attend meetings of the Committee and of its ad hoc subcommittees as observers.
3. Representatives of the United Nations and other organizations of the United Nations system may take part, without the right to vote, in all meetings of the Committee and of its ad hoc subcommittees.
4. The Committee shall determine the conditions under which international governmental and non-governmental organizations, other than those covered by paragraph 3 above, shall be invited to attend its meetings or those of its ad hoc subcommittees as observers.

#### Article 9

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<sup>25</sup> Resolution of the Twenty-third Session of the General Conference of UNESCO, adopted on 4 November 1985.

1. Offers and requests formulated in accordance with these statutes, concerning the restitution or return of cultural property, shall be communicated by Member States or Associate Members of UNESCO to the Director-General, who shall transmit them to the Committee, accompanied, in so far as is possible, by appropriate supporting documents.
2. The Committee shall examine such offers and such requests and the relevant documentation in accordance with Article 4, paragraph 1, of these statutes.
3. Article 10
4. The Secretariat of the Committee shall be provided by the Director-General of UNESCO, who shall place at the Committee's disposal the staff and other means required for its operation.
5. The Secretariat shall provide the necessary services for the sessions of the Committee and meetings of its Bureau and ad hoc subcommittees.
6. The Secretariat shall fix the date of the Committee's sessions in accordance with the Bureau's instructions, and shall take all steps required to convene such sessions.
7. The Committee and the Director-general of UNESCO shall make the greatest possible use of the services of any competent international non-governmental organization in order to prepare the Committee's documentation and to ensure that its recommendations are implemented.

#### Article 11

Each Member State and Associate Member of UNESCO shall bear the expense of participation of its representatives in sessions of the Committee and of subsidiary organs, its Bureau and its ad hoc subcommittees.

*These Statutes were adopted by Resolution 4/7.6/5 of the Twentieth Session of the General Conference of UNESCO, Paris, 24 October to 28 November 1978.*

**United States  
Information  
Agency**

WASHINGTON DC 20547-0001

**The Protection of Cultural Property**

The 1983 Convention on Cultural Property Implementation Act enables the U.S. to implement the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. The Act allows the United States to impose import restrictions on certain categories of archaeological or ethnological material the pillage of which places a nation's cultural patrimony in jeopardy. The ultimate goal of this international framework of cooperation is to reduce the incentive for pillage which causes an irretrievable loss of information about our universal heritage. The U.S. is the only major art-importing country to ratify the 1970 UNESCO Convention. This has the effect of making the Convention operational for art-source countries.

There are eighty-five signatories to the Convention, any of which may submit to the U.S. a request seeking the protection of import controls. Such a request is submitted to the Director of USIA who carries out the President's decision-making functions and determines whether a request merits the imposition of U.S. import restrictions. Before arriving at a decision, the Director considers the recommendation of the Cultural Property Advisory Committee. This committee, appointed by the President, is comprised of eleven private citizens who are expert in archaeology and anthropology; expert in the international sale of cultural property; and who represent the interests of museums and the general public. USIA provides technical and administrative support to the committee.

To date, the U.S. has imposed emergency import restrictions on the following categories of cultural property -- material from the Cara Sucia Archaeological Region of El Salvador; antique Aymara textiles from Coroma, Bolivia; Moche artifacts from the Archaeological Region of Sipan, Peru; Maya archaeological material originating in the Peten Region of Guatemala; and archaeological material from the region of the Niger River Valley of Mali are all restricted from entry into the U.S. In March 1995, the U.S. and El Salvador successfully concluded the first bilateral cultural property agreement which protects several categories of El Salvador's rich pre-Hispanic archaeological heritage. (Final action is pending on requests from Canada and Nicaragua for bilateral agreement seeking U.S. protection of their respective cultural resources.)

These actions achieve the goal of the Convention by stimulating opportunities for scientific research, exhibition exchange, conservation training, museum development, educational programs, economic development through cultural tourism and other activities that, in the long term, serve to ameliorate the problem of pillage.

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## **CULTURAL PROPERTY ADVISORY COMMITTEE**

The Cultural Property Advisory Committee was established by the Convention on Cultural Property Implementation Act of 1983 (Public Law 97-446). The Act enables the U.S. to participate in the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. This treaty, adopted by UNESCO in 1970, is designed to further international cooperation in protecting cultural artifacts from pillage and unlawful trade.

The committee is comprised of eleven persons who are appointed by the President for three year staggered terms. Representation on the committee is stipulated by law in the following manner: two members who represent the interests of museums; three experts in archaeology, anthropology, ethnology or related fields; three experts in the international sale of cultural property; and three who represent the interests of the general public.

The committee convenes to review a state party request that has been submitted to the U.S. under Article 9 of the 1970 Convention. Such requests seek U.S. cooperation in restricting the importation of certain categories of archaeological or ethnological material the pillage of which places a nation's cultural heritage in jeopardy. The committee is responsible for reviewing such requests and recommending a course of action to the Director of USIA to whom the President has delegated the decision-making responsibilities under the Act. By law, USIA provides the committee with technical and administrative support to carry out its advisory function.

Consistent with committee recommendations, the U.S. government now restricts the importation of pre-Hispanic archaeological material from the Cara Sucia region of El Salvador; antique Aymara textiles from Coroma, Bolivia; Moche material from the archaeological site of Sipan in northern Peru; Maya archaeological material from the Peten region of Guatemala; and archaeological material from the region of the Niger River Valley and the Bandiagara Escarpment of Mali. A final determination is pending with respect to the committee's recommendation on requests for protection from Canada and Nicaragua.

The objective of U.S. government participation in the 1970 UNESCO Convention is not only to protect cultural objects against pillage and illicit export, but also the information associated with these objects that is of importance to understanding our universal heritage. U.S. actions under the Convention help to create opportunities for legal access to the protected material for scientific, cultural and educational purposes.

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*Technical Guidelines*  
*Cultural Property Request to the United States*

A. Definition of a Request

A request for U.S. import restrictions is made to the United States under Article 9 of the 1970 UNESCO Convention. Only a State Party to the 1970 Convention may submit such a request. A request must be accompanied by a written statement of the facts known to the State Party that relate to the determinations the Director of USIA must make in accordance with *Section 303 of the Act* (see part B below). In addition, a request must supply information that supports a determination that an emergency condition exists if the requesting state wishes the consideration of provisional emergency action (see part C below).

B. Information Provided in a Request

Such information should avoid conclusory statements and must relate to the following four criteria upon which the Director of USIA reaches essential determinations in carrying out his delegated agreement authority:

1. that the cultural patrimony of the State Party is in jeopardy from the pillage of its archaeological or ethnological materials

Suggested guidelines

The request document should provide information that :

- a. enables the Director of USIA to have a clear understanding of the significance the archaeological or ethnological material has to the national patrimony;
- b. to the extent possible, is clear about the categories/types of material for which protection is sought;
- c. to the extent possible, provides specificity and supporting evidence of the pillage and jeopardy to the affected cultures of the national patrimony.
- d. The request document should provide enough information to enable the Director of USIA to determine that the following statutory definitions of archaeology or ethnological material are met
  - 1) *archaeological material*, for the purposes of a State Party request, must be of cultural significance; at least 250 years old; normally discovered as a result of scientific excavation, clandestine or accidental digging, or exploration on land or under water; a request should clearly support this definition of archaeological material;
  - 2) *ethnological material*, for the purposes of a State Party request, must be the product of a tribal or non industrial society and important to the cultural heritage of a people because of its comparative rarity, or its contribution to the knowledge of the origins, development, or history of that people; a request should clearly support this definition of ethnological material;

2. that the State Party has taken measures consistent with the Convention to protect its cultural patrimony;<sup>26</sup>

Suggested guidelines

The request document should provide information about:

- a. national, regional, and local legislation to protect the cultural patrimony;
- b. export controls;
- c. public and/or private entities that have been established to protect the cultural patrimony;
- d. law enforcement action that may have been taken;
- e. international cooperation;
- f. active steps that have been taken to recover cultural property;
- g. public awareness programs that may instill in the people an understanding of the importance of the national cultural patrimony;
- h. participation in INTERPOL;
- i. examples of other self-help measures such as regional cooperation (e.g., the Council of Europe, European Union, ASEAN, OAS, etc.).

3. that the application of import restrictions would be of substantial benefit in deterring a serious situation of pillage and that less drastic remedies are not available;

Suggested guidelines

The request document should provide information about:

1. a.the significance of the U.S. art market for material illicitly removed from the country of origin;
2. b.how, by imposing import restrictions, the U.S. would have a substantial deterrent effect on the situation of pillage;
3. c.other nations having a significant import trade in the material;
4. d.other remedies that have been tried with inadequate results.

4. that the application of import restrictions is consistent with the general interest of the international community in the interchange of cultural property among nations for scientific, cultural and educational purposes.<sup>27</sup>

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<sup>26</sup> [Note : the requesting country should examine, and address to the extent possible, the additional measures developed by the Cultural Property Advisory Committee (a separate document) concerning long-term strategies for protecting movable cultural property. While not mandatory for a request submission, some of the measures may be cited as desirable goals in an agreement with another country and reviewed by the Committee with respect to progress in their implementation during the effective period of an agreement.]

<sup>27</sup> [Note : Some of the additional measures developed by the Cultural Property Advisory Committee (a separate document) that relate to determination 2 on page 2 of this set of technical guidelines, may also relate to determination 4, above.]

### Suggested guidelines

The request document should provide information about the following :

- a. how the material, for which import restrictions are being requested, might be made available for scientific, cultural and educational purposes;
- b. how scholars have access to this material for research purposes, etc.;
- c. what possibilities might there be for a systematic scholarly research ;
- d. how the international community at large might benefit from the imposition of import restrictions on this material (e.g., are there planned or ongoing projects such as exhibitions or publications that could benefit the general public and the scholarly community but are in jeopardy because of pillage and illicit transfer of the material).

### C. Additional Information for Emergency Action

If a State Party wishes its request to receive *provisional emergency consideration* (as provided by Section 304 of the Act), then its written request, as described above, must supply information that "supports" a determination that any of the following emergency condition exists:

that the archaeological or ethnological material is --

- 1) (a) a newly discovered type of material which is (b) of importance for the understanding of the history of mankind and (c) is in jeopardy from pillage, dismantling, dispersal, or fragmentation; or
- 2) (a) identifiable as coming from any site [some State Party Requests have used this criterion for more than one site, as within a region] (b) recognized to be of high cultural significance (c) if such site is in jeopardy from pillage, dismantling, dispersal or fragmentation (d) which is, or threatens to be, of crisis proportions; or
- 3) (a) a part of the remains of a particular culture or civilization (b) the record of which is in jeopardy from pillage, dismantling, dispersal, or fragmentation (c) which is, or threatens to be, of crisis proportions.

A practical approach to providing supporting information for any of the three emergency conditions above, is to segment each into its subparts (a, b, c, etc. as shown above) and provide relevant supporting information for each subpart.

In addition, the requesting state should show how the applicatin of U.S. import restrictions on a temporary basis would, in whole or in part, reduce the incentive for such pillage, dismantling, dispersal or fragmentation.

### D. Submission of an Article 9 Request

A request under Article 9 of the Convention and in accordance with Section 303 of the Act is made by the requesting State Party to the Director of USIA through diplomatic channels. United States Information Service (USIS) posts at American embassies throughout the world may facilitate the submission. The requesting state should contact the USIS Cultural Affairs Officer for facilitative assistance.

#### E. Requests Submitted to Date

Seven States that are party to the 1970 UNESCO Convention have submitted cultural property for U.S. import restrictions under Article 9 of the Convention and in accordance with Section 303 of the Act. They are :

1. *Bolivia* (Aymara textiles from Coroma - emergency important restriction granted and extended; now expired)
2. *Canada* (action pending)
3. *El Salvador* (Pre-Hispanic archaeological sites in the country - under a bilateral agreement with the United States; continues protection of the Cara Sucia region previously protected on emergency basis).
4. *Guatemala* (Maya Archaeological Material from the Peten Region - emergency import restriction granted and extended).
5. *Mali* (Archaeological material originating in the Region of the Niger River Valley and the Bandiagara Escarpment - emergency import restriction granted ; bilateral agreement to be negotiated).
6. *Peru* (Moche Archaeological Region of Sipan - emergency import restriction granted and extended).
7. *Nicaragua* (Pre-Hispanic archaeological material; favorable decision made, agreement to be negotiated).

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*Cultural Property*

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## UNESCO - *Information Notes*

As part of its networking and information dissemination activities UNESCO publishes and distributes an occasional series of *Information Notes* on issues of relevance to the protection of cultural heritage - among these especially an occasionally series *Notices on Stolen Objects*. On the following pages are some examples of these *Notes*, selected with special reference to the topics covered in this handbook.



united nations educational, scientific and cultural organization  
organisation des nations unies pour l'éducation, la science et la culture

March 1989  
1970/7

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## INFORMATION NOTE

référence :

### National Laws and Regulations Governing the Protection of Movable Cultural Property

Since its foundation UNESCO has been constantly engaged in an effort to protect cultural property against the dangers of damage and destruction by which it is threatened and, in particular, against those resulting from theft, clandestine excavations and illicit traffic. The work carried out in this field has shown that national laws and regulations governing the protection of movable cultural property are little known abroad. This has prompted UNESCO to embark upon the publication of legislation in force in Member States.

Two volumes of a compendium containing extracts from the legislation governing the protection of movable property in force in 45 Member States<sup>(1)</sup> have already been published by UNESCO under the English title "The Protection of Movable Cultural Property - Compendium of Legislative Texts" and under the French title "La protection du patrimoine culturel mobilier - Recueil de textes législatifs".

The publication of national laws and regulations in this field is being pursued in the form of a series of booklets. Each booklet will, as far as possible, present the full text(s) of the legislation in force in one Member State which specifically concerns the protection of movable cultural property.

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1/ Namely: Algeria, Austria, Bahrain, Belgium, Bolivia, Bulgaria, Byelorussian Soviet Socialist Republic, Canada, Chile, China (People's Republic of), Czechoslovakia, Federal Republic of Germany, France, German Democratic Republic, Ghana, India, Indonesia, Iraq, Japan, Jordan, Kuwait, Lebanon, Libyan Arab Jamahiriya, Madagascar, Malawi, Mauritania, Mongolia, Nepal, New Zealand, Nigeria, Pakistan, Philippines, Poland, Saudi Arabia, Senegal, Sierra Leone, Sri Lanka, Sudan, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, United Arab Emirates, Venezuela, Yugoslavia and Zaire.

## SUMMARY OF PUBLISHED BOOKLETS

## BOOKLETS IN FRENCH

Belize	CLT-85/WS/53	Kenya	CC-86/WS/11
Brésil	CC-86/WS/8	Lesotho	CC-86/WS/20
Burkina Faso <sup>(1)</sup>	CC-88/WS/15	Mali <sup>(1)</sup>	CC-88/WS/18
Cameroun <sup>(1)</sup>	CC-88/WS/17	Maroc	CC-87/WS/16
Chypre	CLT-85/WS/57	Mexique	CC-86/WS/21
Egypte	CC-86/WS/9	Nicaragua	CLT-85/WS/58
Equateur	CC-86/WS/17	Panama <sup>(1)</sup>	CC-88/WS/14
Espagne	CC-88/WS/16	Qatar	CC-86/WS/12
Haïti	CC-87/WS/24	Rép. de Corée	CLT-85/WS/54
Honduras	CC-86/WS/18	Tanzanie (R. Unie)	CLT-85/WS/55
Hongrie	CC-86/WS/19	Tchad <sup>(1)</sup>	CC-87/WS/13
Iran (R. islamique)	CC-87/WS/15	Tunisie	CC-87/WS/14
Irlande	CC-86/WS/10		

## BOOKLETS IN ENGLISH

Belize	CLT-85/WS/20	Ireland	CLT-85/WS/24
Brazil	CLT-85/WS/21	Kenya	CLT-85/WS/29
Cuba <sup>(2)</sup>	CLT-85/WS/26	Lesotho	CLT-85/WS/30
Cyprus	CLT-85/WS/22	Mexico	CC-87/WS/12
Dominican Rep. <sup>(2)</sup>	CC-88/WS/3	Morocco	CC-87/WS/6
Ecuador	CLT-85/WS/23	Nicaragua	CLT-85/WS/35
Egypt	CLT-85/WS/27	Norway <sup>(2)</sup>	CC-87/WS/7
Gambia (The) <sup>(2)</sup>	CLT-85/WS/33	Qatar	CLT-85/WS/36
Greece <sup>(2)</sup>	CC-87/WS/5	Rep. of Korea	CLT-85/WS/37
Haiti	CC-88/WS/4	Spain	CLT-88/WS/6
Honduras	CLT-85/WS/28	Tanzania (United R.)	CLT-85/WS/25
Hungary	CLT-85/WS/34	Tunisia	CC-88/WS/2
Iran (Islamic Rep.)	CC-88/WS/5	Uruguay <sup>(2)</sup>	CC-87/WS/8

## BOOKLETS IN SPANISH

Ecuador	CC-88/WS/41	México	CC-88/WS/38
España	CC-88/WS/39	Nicaragua	CC-88/WS/42
Honduras	CC-88/WS/40		

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1/ Exists only in French.

2/ Exists only in English.



united nations educational, scientific and cultural organization  
organisation des nations unies pour l'éducation, la science et la culture

7, place de Fontenoy, 75700 Paris  
1, rue Miollis, 75015 Paris

January 1993

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270602 Paris  
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## INFORMATION NOTE

référence : 1970/6

### Handbook of National Regulations Concerning the Export of Cultural Property

Since its foundation UNESCO has been constantly engaged in an effort to protect cultural property against the dangers of damage and destruction by which it is threatened and, in particular, against those resulting from theft, clandestine excavations and illicit export. The work carried out in this field has shown that national laws and regulations governing the protection of movable cultural property are little known abroad.

The enclosed handbook has been prepared in response to the need expressed for a quick reference guide on rules governing the export of cultural property. It is designed to provide indications to customs officials, museum curators, art and antique dealers, and private collectors of works of art, antiques and archaeological objects, as well as others concerned with the movement and acquisition of cultural property, on the objects which are subject to export control under national laws and on the type of export control exercised at the national level, in order to enlist their help in stemming the illicit international movement of cultural property.

UNESCO's concern in this field is to encourage co-operation between States. With this aim in view, the Organization adopted in 1970 the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

This handbook only contains summaries of the provisions of national laws and regulations concerning the export of cultural properties which are by no means exhaustive. For further information, the full legislative text should be consulted. UNESCO, as well as the authors have extensive collections of national laws and regulations, often in English translation, and would be ready to provide copies of available texts.

A French version of this handbook is also available. Additional copies of the handbook can be obtained on request free of charge from:

UNESCO Division of Physical Heritage





REF.: 1970/16

December 1994

*INFORMATION NOTE*

*Convention on the Means of Prohibiting and Preventing  
the Illicit Import, Export and Transfer of Ownership of Cultural Property  
(Paris, 1970)*

*Publication of notices of stolen cultural property  
General information*

As a service to the States Parties to the 1970 *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*, the Secretariat has since 1986, at the request of a State Party to this Convention, issued a notice of stolen cultural property.

To date, 21 notices of stolen cultural property have been published concerning thefts in Cambodia, Colombia, Cyprus, the Czech Republic, Ecuador, Greece, Mexico, Nigeria, Panama, Syria and Turkey.

Such notices contain in general two elements: a description of the stolen cultural object or objects and the full address (including telephone and fax number) of the Ministry of Culture or other institution which is to be informed in case of discovery of the missing objects and which can provide additional information relating to the theft. Notices are distributed to all States Parties to this Convention as well as to the international organizations concerned (INTERPOL, IFAR, ICOM etc.).

It is evident that such notices will only be effective if they are accompanied by a sufficiently detailed description to enable identification as well as by photographs or diagrams of the objects. The Secretariat regrets that in future notices will not be published unless the request for the issue of the notice is accompanied by:

- a detailed description of stolen artefacts in English or French;
- clear black and white photographs of stolen objects of art which can be easily reproduced, or adequate drawings or diagrams

For further information please contact:

*International Standards Section  
Division of Physical Heritage  
1, rue Miollis  
75732 PARIS CEDEX 15  
France*

*Tel : (33.1) 45.68.44.03  
(33.1) 45.68.44.30  
Fax : (33.1) 42.73.01.78*



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7, place de Fontenoy, 75700 Paris  
1, rue Miollis, 75015 Paris

téléphone : national (1) 45.68.10.00  
international + (33.1) 45.68.10.00  
télégrammes : Unesco Paris  
télex : 204461 Paris  
270602 Paris  
téléfax : 45.67.16.90

May 1994

référence : 1970/14

## INFORMATION NOTE

### **Convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property (Paris, 1970)**

#### **Import Restrictions on Archaeological Material from the Region of the Niger River Valley in MALI, imposed by the United States of America**

Archaeological sites in many countries of the world continue to be plundered, with disastrous results. Not only are countries deprived of valuable parts of their cultural heritage, but precious archaeological evidence for the study of the past is also destroyed. Most of the looted objects go abroad, where the laws of their countries of origin are ineffective.

The Convention of 1970 was adopted in order to build up co-operation among nations in the fight against illicit traffic in cultural property and clandestine excavations of archaeological objects. Article 9 of the Convention provides as follows:

"Any State Party to this Convention whose cultural patrimony is in jeopardy from pillage of archaeological or ethnological materials may call upon other States Parties who are affected. The States Parties to this Convention undertake, in these circumstances, to participate in a concerted international effort to determine and to carry out the necessary concrete measures, including the control of exports and imports and international commerce in the specific materials concerned. Pending agreement each State concerned shall take provisional measures to the extent feasible to prevent irremediable injury to the cultural heritage of the requesting State."

.../2

To the States Parties to the 1970 Convention

The Convention on Cultural Property Implementation Act (PL 97-446) adopted in the United States of America in 1983 in application of the Convention enables the United States, at the request of a State Party, to impose, under certain conditions, import restrictions on archaeological and ethnological materials when the cultural patrimony of the State concerned is in jeopardy from pillage. Such import restrictions have already been imposed four times: the first one applying to cultural artefacts from the southwestern region of El Salvador in 1987 (the original ban was extended on 12 March 1992 for an additional three years). A similar emergency import ban was imposed on antique Aymara textiles from Coroma, Bolivia, in 1989, and extended for an additional three years in May 1993; on Moche artefacts found in the Sipan region in Peru in 1990, as well as on Maya artefacts originating in the Peten region of Guatemala in 1991.

In response to a request from the government of Mali, the United States, as of 23 September 1993, are imposing emergency import bans on archaeological material from the region of the Niger River Valley and on material from the Tellem burial caves of the Bandiagara Escarpment in the Niger River region. **Mali is the first African country** to request and receive this form of protection from the United States of America. Until now, the four emergency import bans in place have been imposed only for Latin American countries.

Further details can be found in the attached News Release issued by the Cultural Property Advisory Committee (United States Information Agency) and distributed at the request of the United States of America. Lists of the objects as well as descriptions and photographs are also available from the USIA. All requests for information should be submitted to the USIA through diplomatic channels.

Other States that are parties to the 1970 Convention may, if their cultural heritage is in jeopardy from the pillage of archaeological or ethnological materials, wish to request the imposition of import restrictions by the United States of America. Those interested should contact the USIA Cultural Property Advisory Committee at the following address:

The Executive Director  
Cultural Property Advisory Committee  
United States Information Agency (USIA)  
301 Fourth Street SW (Room 247)  
Washington, D.C. 20547 (U.S.A.)  
Tel: (202) 619.4355  
Fax: (202) 619.6988

cc: Permanent Delegations, National Commissions and Ministries of Culture of States Parties, and International Organizations concerned.

# NEWS RELEASE

FOR IMMEDIATE RELEASE  
September 23, 1993  
Release No. 124-93

CONTACT: Cathy Stearns  
PHONE: (202) 619-4355

## MALI'S CULTURAL HERITAGE RECEIVES U.S. PROTECTION

Washington, D.C. -- Penn Kemble, Deputy Director of the United States Information Agency (USIA), announced today that in response to a request from the Government of Mali, the United States is imposing emergency import restrictions on archaeological material from the region of the Niger River Valley.

The action today follows a determination by USIA that the level of pillage from archaeological sites in this region is of crisis proportions and that Mali's cultural heritage is in jeopardy.

"The United States recognizes that such pillage results in the irretrievable loss of important information about the heritage of mankind," said Kemble. "This import restriction will protect Mali's heritage and promote access to it through cultural, educational and scientific means."

In making the announcement, Kemble noted that the sites in the region of the Niger River Valley represent a continuum of civilizations from the Neolithic period to the 18th century, lending archaeological significance to the region. The material from these sites includes terracotta figures as well as copper, bronze and iron figurines. Also covered under the import restriction is material from the Tellem burial caves of the Bandiagara Escarpment in the Niger River region.

(more)

Kemble's decision is consistent with a recommendation of the Cultural Property Advisory Committee, a presidentially-appointed committee of experts in archaeology and the international sale of art, as well as representatives of the museum community and the general public.

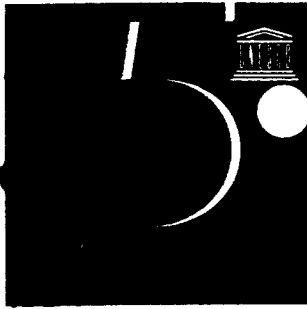
Mali, which yesterday celebrated its annual "National Day," is the first African country to request and receive this form of U.S. protection. In submitting its request, the Government of Mali stated that "the pillage and illicit traffic of cultural property of Malian patrimony continue with an intensity that constitutes a serious menace to an understanding of entire chapters of the history of Mali." Mali's request was submitted under Article 9 of the 1970 UNESCO Convention on the unauthorized movement of cultural property across international borders.

This is the fifth emergency import restriction imposed by the United States under the UNESCO Convention. Other restrictions are in place on certain pre-Columbian artifacts from El Salvador, antique Andean textiles from Bolivia, Moche artifacts from the Sipan region of Peru, and Maya artifacts from the Peten region of Guatemala.

# # #

The United States Information Agency, headed by Dr. Joseph Duffey, is an independent foreign affairs agency within the executive branch that explains and supports U.S. foreign policy and national security interests abroad through a wide range of information programs. The agency promotes mutual understanding between the United States and other countries through a series of educational and cultural exchange activities. USIA celebrates its 40th anniversary this year.

Assistant Director-General for Culture



fifty years

Reference

CLT/CH/01/7.2/196.3/708

15 July 1997

Madam / Sir,

The authorities of Turkey have informed UNESCO of the theft of a carved marble head of a woman of the Roman era and of 40 pages of parchment of an ancient Koran.

The Turkish authorities have requested UNESCO to provide help in tracing these objects which may eventually appear on the international art market. To this effect, the Secretariat has prepared the attached leaflet concerning the stolen objects for which descriptions and photographs have been provided by the Turkish authorities.

I have the honour, therefore, to bring this theft to the attention of all States Parties to the *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfert of Ownership of Cultural Property (Paris, 1970)* and would be grateful if they could render all possible assistance in locating and possibly recovering and returning the missing objects. In this connection, I should like to recall the following provision of the Convention:

**"Article 7**

The State Parties to this Convention undertake:

- (a) To take the necessary measures, consistent with national legislation, to prevent museums and similar institutions within their territories from acquiring cultural property originating in another State Party which has been illegally exported after entry into force of this Convention, in the State concerned. Whenever possible, to inform a State of origin Party to this Convention of an offer of such cultural property illegally removed from that State after the entry into force of this Convention in both States;

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**To:** *States Parties to the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfert of Ownership of Cultural Property.*

**cc:** *Permanent Delegations, National Commissions and Ministries of Culture of these States and international organizations concerned.*

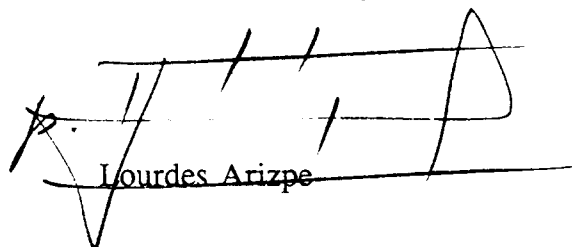
- (b) (i) to prohibit the import of cultural property stolen from a museum or a religious or secular public monument or similar institution in another State Party to this Convention after the entry into force of this Convention for the States concerned, provided that such property is documented as appertaining to the inventory of that institution;
- (ii) at the request of the State Party of origin, to take appropriate steps to recover and return any such cultural property imported after the entry into force of this Convention in both States concerned, provided, however, that the requesting State shall pay just compensation to an innocent purchaser or to a person who has valid title to that property. Requests for recovery and return shall be made through diplomatic offices. The requesting Party shall furnish, at its expense, the documentation and other evidence necessary to establish its claim for recovery and return. The Parties shall impose no customs duties or other charges upon cultural property returned pursuant to this Article. All expenses incident to the return and delivery of cultural property shall be borne by the requesting Party."

I should be obliged if information on this theft could be transmitted to all those in your country whose help could be enlisted in recovering the stolen painting, including customs and police services, as well as those who acquire cultural property, whether they be museums, antiques dealers or collectors. Any information that may be forthcoming concerning the stolen painting should be communicated to:

Ministry of Culture  
General Directorate for Monuments and Museums  
(Kültür Bakanlığı, Anıtlar ve Müzeler Genel Müdürlüğü)  
Eski Meclis Binası  
06100 Ulus  
ANKARA, Turkey  
Tel: (90-312) 310 49 60  
Fax: (90-312) 311 14 17

I sincerely hope that a collective effort by the international community will result in the recovery and return of these objects to Turkey.

Please accept, Madam, Sir, the assurances of my highest consideration.

  
Lourdes Arizpe

## UNESCO

### STOLEN OBJECTS / OBJETS VOLES

UNESCO has been informed by the Turkish authorities that a carved marble head of a woman of the Roman era and 40 pages of an ancient Koran have been stolen.

Any information concerning these stolen objects should be transmitted to:

**Ministry of Culture  
General Directorate for Monuments and  
Museums (Kültür Bakanlığı, Anıtlar ve  
Müzeler Genel Müdürlüğü)  
Eski Meclî Binası  
06100 Ulus  
ANKARA/Turkey  
Tel: (90-312) 310 49 60  
Fax: (90-312) 311 14 17**

The following information and photographs were provided by the Turkish authorities:

Les autorités turques ont informé l'UNESCO du vol d'une tête de femme sculptée en marbre de la période romaine et quarante pages d'un ancien Coran.

Tous renseignements concernant ces objets volés doivent être communiqués à l'adresse suivante :

**Ministère de la Culture  
Direction générale of des Monuments et  
Musées (Kültür Bakanlığı, Anıtlar ve  
Müzeler Genel Müdürlüğü)  
Eski Meclî Binası  
06100 Ulus  
ANKARA / Turquie  
Tél: (90-312) 310 49 60  
Fax: (90-312) 311 14 17**

Les renseignements et photographies ci-après ont été fournis par les autorités turques :



1970/TUR/29

Inventory No: 79-176

Designation of the object: *Carved marble head*

Place of excavation: Sebasteion

Period: Roman

Material: White marble

Measurement: Height : 24 cm

Width : 21 cm

Thickness : 10 cm

Location: Aphrodisias Museum, Aydin/Turkey

Description: Carved marble head with oval face and mouth slightly open. The wavy hair is dressed backwards with a parting in the middle. The face is intact. A small fragment of the hair on the left side is broken.

Inventaire N° 79-176

Dénomination de l'objet: *Tête de femme en marbre.*

Lieu des fouilles: Sebasteion

Période: Romaine

Matériau: Marbre blanc

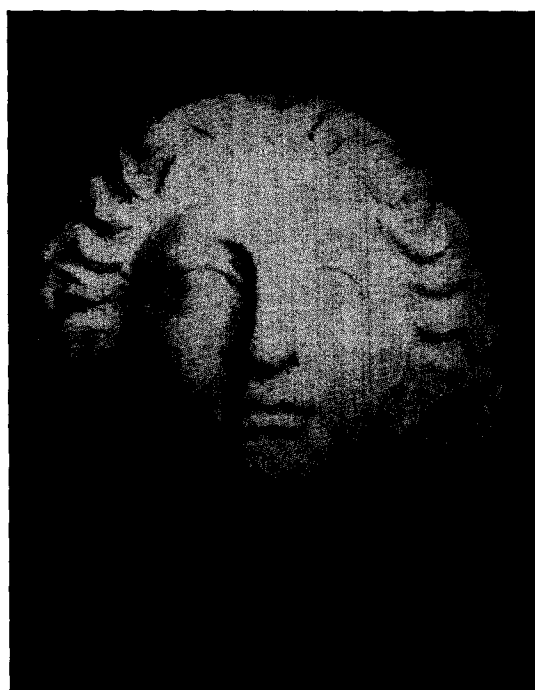
Dimensions: hauteur : 24 cm

largeur : 21 cm

épaisseur: 20 cm

Emplacement: Musée d'Aphrodisias, Aydin/Turquie

Description : Tête de femme sculptée en marbre cristallin avec un visage oval, la bouche légèrement ouverte. Les cheveux ondulés sont coiffés en arrière. Le visage est intact. Un petit fragment de cheveux du côté gauche est cassé.



1970/TUR/29

Designation of the object: *40 pages of Koran on parchment.*

Period: 9th century

Measurement: Height: 25 cm  
Width : 17,6 cm

Place: Nuruosmaniye's library, Istanbul

Date of theft: unknown (probably 1990)

Description: 40 pages of parchment from an ancient Koran written in black ink and consisting of seventeen lines. The diacritic lines between the verses are indicated by two concentric circles, and the vocalisation is shown by red points.

Dénomination de l'objet: *40 pages de parchemin d'un Coran*

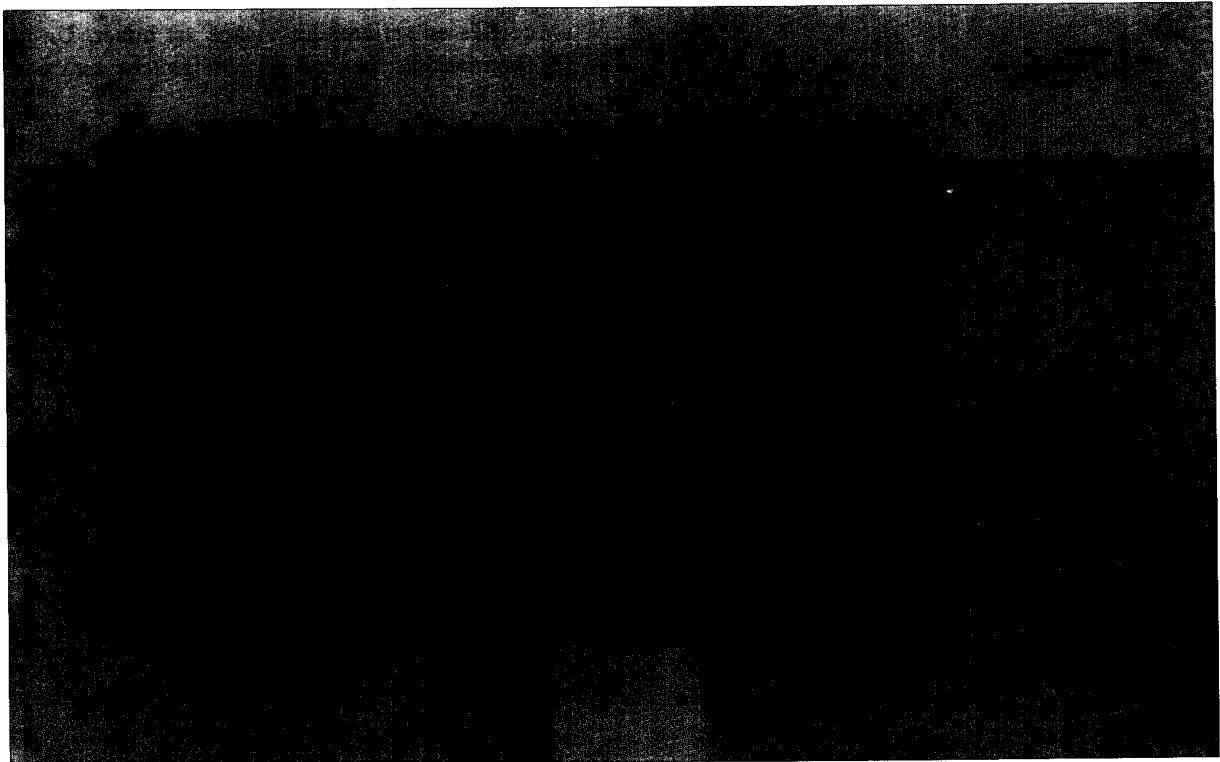
Période : 9ème siècle

Dimensions : hauteur: 25 cm  
largeur: 17,5 cm

Emplacement : Bibliothèque de Nuruosmaniye, Istanbul.

Date du vol : Inconnue (probablement 1990)

Description : 40 pages de parchemin provenant d'un Coran, écrites à l'encre noire en coufique et composées de dix-sept lignes. Les lignes diacritiques entre les versets sont indiquées par deux cercles concentriques, et la vocalisation est marquée par des points rouges.



## THE WORLD CUSTOMS ORGANIZATION<sup>28</sup>

The WCO (formerly known as the Customs Cooperation Council) is an intergovernmental organization established by a Convention which was signed in Brussels in December 1950 and which entered into force in November 1952.

The setting up of the Customs Cooperation Council was the culmination of the work by the Study Group on a European Customs Union which had concluded that, whatever the idea of a Customs union came to, the achievements in respect of a Customs nomenclature and the Customs valuation of goods should be given tangible form; similar achievements should also be sought in the various other fields of Customs technique.

Under the terms of the founding Convention, the WCO is instructed to secure the highest degree of harmony and uniformity in the Customs systems of its Member States and, more particularly, to study the problems inherent in the development and improvement of Customs technique and customs legislation related thereto.

Thus, the WCO is the only intergovernmental organization which deals exclusively, and systematically with the study of matters of Customs technique.

The WCO's executive arm is its Secretariat whose headquarters are in Brussels, Belgium. The Council is assisted by committees one of which, the Enforcement Committee, is of particular relevance to us here today.

Though its membership was initially European, the CCC is now a worldwide organization grouping the Customs administrations of 142 Member countries.

### *Relations with UNESCO*

Under the terms of its founding Convention, one of the WCO's functions is to cooperate with other intergovernmental organizations and to maintain relations with them designed to help achieve its objectives.

Thus, since its creation, the WCO has established close relations with many organizations (either directly or through its Committees), exchanging observers or co-operating even more directly in the examination of questions of common interest. UNESCO is one such organization.

UNESCO and WCO Secretariats have cooperated since 1957. Thus, it was with the assistance of UNESCO that the WCO drew up the following six Conventions:

1. *Customs Convention on the Temporary Importation of Professional Equipment;* (1-7-1962).
2. *Customs Convention Concerning Facilities for the Importation of Goods for Display or Use at Exhibitions, Fairs, Meetings or Similar Events;* (13-7-1962).

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28 Presented by Amadou Diagne (WCO) at a regional workshop on the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, held in Jomtien, Thailand, February 24-28, 1992.

3. *Customs Convention on the ATA Carnet for the Temporary Admission of Goods*; (30-7-1962).
4. *Customs Convention on the Temporary Importation of Scientific Equipment*; (5-9-1969).
5. *Customs Convention on the Temporary Importation of Pedagogic Material*; (30-6-1971).
6. And the last, the *Istanbul Convention on Temporary Admission* ;(1990).

In addition, at UNESCO's request, the WCO prepared measures to facilitate application of the 1950 *UNESCO Agreement Concerning Scientific Equipment (the so-called Florence Agreement)*.

In 1967, the WCO took part in the meeting of the governmental experts instructed to examine the application of Agreements on the importation of educational, scientific and cultural materials. Subsequently, the WCO examined the Customs-technique implications of the proposals made in a Secretariat study to define the types of art reproductions other than hand-made that might be granted exemption from duties under the Florence Agreement.

Finally, the WCO assisted UNESCO in the preparation of the *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*, adopted at the 16th Session of the UNESCO General Conference held in Paris in Autumn 1970.

### *WCO initiatives in respect of the combating of illicit traffic in cultural property*

WCO activities to combat the illicit traffic in cultural property fall in three categories:

1. activities to make Members more aware of the issue
2. drafting of legal instruments for co-operation
3. the setting up of an information pooling system.

#### WCO activities to make Members more aware of illicit traffic in cultural property

The first of these tasks involved the council adopting a Resolution concerning action against smuggling of works of art and antiquities, at its June 1976 Sessions.

That WCO Resolution draws Members' attention to the growth in cases of smuggling and theft involving cultural property, as well as the serious harm that countries suffer as a result of these offences with regard to the preservation of their artistic and cultural heritage; it also invites Members to accede to the UNESCO Convention on the Means of prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

#### Drafting of legal instruments for co-operation

As far as legal cooperation instruments are concerned, the WCO has been very active in providing its Members with several such instruments, the most important being the International Convention on Mutual Administrative Assisatance for the Prevention, Investigation and Repression of Offences (also known as the Nairobi Convention) of 9 June 1977.

More specifically, Annex XI of that Convention deals with assistance in action against the smuggling of cultural property. At Customs level., that Annex supplements the provisions of the 1970 UNESCO Convention. In fact, the Annex provides an important legal instrument which covers both the smuggling of cultural property and the financial operation undertaken in connection with such smuggling.

First of all, the mechanisms set in place by Annex XI allows for the exchange of information between Contracting Parties, on their own initiative, in respect of:

1. operations which are suspected of constituting or seem likely to give rise to, smuggling of cultural property;
2. persons known to be engaged in or suspected of being used for such operations;
3. new means or methods used for smuggling property.

Annex XI also provides a legal framework for assistance, on request, relating to surveillance. For example, a Customs administration may request another Customs administration:

- a) to maintain special surveillance for a specified period over:
  1. from the movements, particularly the entry into and exit from its territory, of particular persons reasonably believed to be professionally or habitually engaged in the smuggling of cultural property in the territory of the requesting Contracting Party;
  2. movements of cultural property which are reported by the Contracting Party as giving rise to important illicit traffic from the territory of that Contracting Party;
  3. means of transport reasonably believed to be use for smuggling cultural property from the territory of the requesting Contracting Party.
- b) and then to communicate a report thereon to the requesting Customs administration.

Annex XI also allows enquiries, on request, on behalf of another Contracting Party. In this context, the requested administration may:

1. make enquiries to obtain evidence concerning any smuggling of cultural property under investigation in the territory of the requesting Contracting Party;
2. take statements from any persons sought in connection with that smuggling or from witnesses or experts.

The requested administration may then communicate the results of the enquiry, as well as any documents or other evidence, to the requesting Customs administration.

Finally, Annex XI provides for action by Customs officials of a Contracting Party in the territory of another Contracting Party. Where it is not sufficient for evidence to be given solely in the form of a written statement, at the request of the Customs administration of a Contracting Party, the requested Party, to the extent of its ability, may authorize its officials to appear before a court or tribunal in the territory of the requesting Contracting Party as witnesses or experts in the matter of smuggling of cultural property.

It is further provided that, at the written request of a Contracting Party, the requested administration may, to the extent of its competence and ability, authorize officials of the requesting administration to be present in its territory in connection with enquiries into or of the official reporting of smuggling of cultural property of concern to the requesting Contracting Party.

Where deemed appropriate by both Contracting Parties and subject to the laws and regulations in force in their territories, the officials of a Contracting Party may, at the request of another Contracting Party, participate in investigations carried out in the territory of that other Contracting Party.

### Setting up of an information-pooling system

The setting up of an information-pooling system constitutes the WCO's third major initiative in this field. In fact, various WCO instruments provide for the setting up of a central index covering the various types of Customs fraud. For several years now, the Secretariat has been equipped with a computerized database, the Central Information system (CIS), whose purpose is to provide information and intelligence backup to the enforcement services of Member administrations.

The data base contains details communicated by Members about cases of trafficking in cultural property, as well as of information furnished by UNESCO and ICPO/Interpol. The data held are used to prepare summaries and studies on new or well-established trends in the smuggling of cultural property. That information is then circulated to Members, as well as to UNESCO and ICPO/Interpol via the *WCO Enforcement Bulletin*.

Whenever operational information requires urgent circulation, WCO send out a special 'alert' to its Members. This is generally the case for thefts of cultural property notified to the Secretariat by UNESCO and ICPO/Interpol.

To increase its efficiency, WCO has adopted a new policy of decentralization to allow faster and more efficient exchange of information between Customs Administrations and established a number of regional offices. By the end of 1996, nine regional offices had been established as follows:

- Hong Kong covering all of Asia;
- Warsaw, Poland, covering Eastern and Central Europe;
- Valparaiso, Chile, covering South America;
- Puerto Rico, West Indies, covering the Caribbean;
- Nairobi, Kenya, covering Southern Africa;
- Dakar, Senegal, covering Western Africa;
- Casablanca, Morocco, covering Northern Africa;
- Douala, Cameroon, covering Central Africa;
- Riyadh, Saudi Arabia, covering the Near- and Middle East.

## ICPO/ INTERPOL<sup>29</sup>

The International Criminal Police Organization, INTERPOL, is a governmental organization currently consisting of 176 member countries. The organization was created in the early part of this century in Europe, initially to encourage a greater liaison between police forces especially with regards to the exchange of criminal intelligence of an international nature. It was also created in an effort to streamline extradition procedures. The information exchanged also includes details of stolen property, criminal trends and details of modus operandi.

To exchange this information between countries each member country has a central point in the country where communications are handled. This central point is known as the NCB (National Central Bureau).

### Finance

The organization is financed by contributions from member countries and is managed by an Executive Committee elected by the Member Countries. This Committee is made up of senior law enforcement officers of the Member Countries. The second tier of management is that of the General Assembly of the membership who meet each year, usually in a different country. Last year the Assembly was held in Beijing, China and this year it will be held in Antalya, Turkey. The organization is purely voluntary and the management have no control over the actions of a specific country. The Executive Committee control the budget and can make recommendations as to action. In the same manner the General Assembly can also by resolution make recommendations on specific action.

### The Secretary General

The Organization also employs a full time Secretary General to carry out the instructions of the Executive Committee and to supervise the staff employed at the General Secretariat. He is an elected official and is usually a senior police officer from a member country. The current holder of this post is Mr. R. B. Kendall, a former senior British police officer. Currently the General Secretariat is situated in the city of Lyons in France, it having moved from Paris in 1989 to a new building designed for the purpose.

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<sup>29</sup> Presented by Romeo Sanga during the Regional Workshop on the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property - held in Jomtien, Thailand, February 24-28, 1992

## The General Secretariat

The General secretariat employ approximately 315 police officers and civilians. The staff are divided into four divisions as follows

**Division I - Secretariat.** Administration, translation service and document production, printing and mailing.

**Division II - The Police Division.** This is made up of approximately 80 police officers seconded or detached from about 40 Member Countries and performing different roles or special tasks. Their role will be dealt with later.

**Division III - Legal Division.** This consists of a number of international lawyers who advise the Secretary General and the Member Countries. This division is also responsible for the library and publications of the International Criminal Police Review.

**Division IV - Communications and Technical Support.** This division is responsible for all the communications of the organization, the installation and maintenance of the computer system and for the introduction of new technology where appropriate.

## Division II - The Police Division

This Division is divided into four sub-divisions, each with a special responsibility and is as follows:

- SD1.** Offenses against persons and property including an anti-terrorism group, a group dealing with money laundering and a group dealing with organized crime matters.
- SD2.** International Fraud and Counterfeit Currency, including a group dealing with money laundering.
- SD3.** Drug Trafficking.
- SD4.** Message research/response, automated search, international notices, fingerprint section and the Analytical Criminal Intelligence Unit.

## The police officers employed in the police division

These are either seconded by Member Countries to perform a specialist task for a limited period or detached to perform a specific police role. A number of the officers have a liaison responsibility for a particular region. In the main this concerns drug trafficking but other types of criminality are also covered. In my case, I am a regional liaison officer for Asia. The majority of the officers however are employed in an intelligence gathering and analytical role. Obviously, we do not have jurisdiction as a police officer outside of our own country.

## Monitoring of information flow

Information passed between Member Countries is monitored by the police officers and entered onto the data base at the General Secretariat in Lyons. Certain information is passed direct enabling the criminal records of active international criminals to be updated. A database is also maintained of Antiques and cultural property. It links descriptive criteria with the photographs of stolen items. Known as the ASF (Automated Search Facility), member countries will be granted direct access to this centralized data base during the second half of 1996. The same technology has already been



successfully established for data on criminal individuals (including their fingerprints and photograph) and is under preparation for other crime areas as well.

### Stolen art, antiques and cultural property trafficking

Specialist officers in the General Crime Group of SD1 deal with all matters of an international nature regarding this subject. Perhaps the best way to explain our action in this field is to give an example of a hypothetical case of theft. In matters of this kind the theft could be from a museum, a public monument, a religious building or even from a private person. Let us say that a Buddhist temple on the outskirts of Bangkok is entered during the hours of darkness and a valuable golden statue stolen. The police are called and they commence inquiries in the normal way. Let us say that they obtain some evidence which indicates that some foreigners were seen in the area of the temple during the material times. This therefore indicates to the police that there is a likelihood that the property would be removed from Thailand.

This is the essence of the involvement of Interpol. The organization assists only in matters of international significance. In the particular case that was described the matter appears to have international ramifications and is not purely a national matter. It is very difficult to really state that a matter is international but Interpol generally recommend to treat a case as international if there is doubt

#### Investigating Officers' Tasks.

The prime tasks of the investigating officers is to try and recover the property and to arrest the offenders. The two are often linked. In most cases of this nature a telegram is formulated giving details of the property stolen and where available details of the suspects. This enables police and customs on duty at airports, seaports or land frontiers to be aware of recent offenses very quickly. With modern transport, criminals travel out of one country and into another within hours.

As soon as possible a more detailed description should be submitted to Interpol. to assist the national officers in providing the information necessary to identify the stolen object(s), Interpol has developed a series of forms - the CRIGEN ART forms. The NBC of the country concerned may request the publication of an international stolen art notice. On the basis of the information provided in the CRIGEN ART forms, these notices regularly contain information on the offence (place and date of crime). along with a description and photographs of the stolen items. Published by the General secretariat, they are then distributed to all NBCs with a view to further dissemination to local police services, customs authorities, museums, auction houses and art galleries. The information is supplied directly to UNESCO and ICOM by the Interpol headquarters.

#### Specific Cases of Interest.

Probably one of the largest thefts to be reported to Interpol General Secretariat occurred on the 15th November 1983 when seven paintings, two by Raphael, were stolen from the Fine Arts Museum in Budapest, Hungary. The paintings were valued at approximately 35 million US Dollars. The alert was given immediately through Interpol channels and the relevant notice published and circulated. Subsequently, close cooperation between the Hungarian, Greek and Italian police resulted in the arrest of the offenders. A total of ten persons were involved. All of the paintings were recovered in 1984.

Other Activities in this Field. Another aspect of our work is that of the identification of trends. Again this analysis is only based on offenses of an international nature. Often we are able to identify trends owing to the fact that if one country communicates with another a copy of the message is in most cases received at the General Secretariat. The messages which are received can be in any one of the four languages used by the organization, be it French, English, Spanish or Arabic.

The messages received at the Secretariat are distributed to the police officers according to his or her specialty. One example identified, was when it was discovered that a number of libraries situated at

universities and similar institutions were being forcibly entered and extremely valuable books stolen. The books were in the main of a religious nature and published in the Hebrew and Latin languages. It was therefore necessary to organize a working group to study the problem and to attempt to identify any common pattern. In this instance we identified the place of disposal.

### Offences other than theft

Persons responsible for museums and similar exhibitions involving cultural property should also be aware of other offenses likely to be committed. Criminal malicious damage for example. These offences can be committed for a particular reason albeit distorted. For example political, religious or racial objection to the exhibit.

In most cases however the damage is of a mindless destructive nature and currently these days amounting to the spraying of graffiti. Many police forces of the world are able to offer crime prevention advice on this and similar matters. Another aspect so far as security is concerned relates to the transport of valuable works of art for exhibitions. Again the police in many countries will facilitate an escort for those items being transported where a risk exists.

### Offenders

Offences relating to art, antiques and cultural property in common with other types of criminality, have their specialist offenders. If identified by Member Countries Interpol does have the means to circulate the description of these offenders. Interpol regularly circulates 'Notices' to Member Countries. In the main they relate to persons wanted for a specific offense and where extradition would be sought. Secondly where information is sought as to a suspected person, and thirdly where a warning is given as to the activities of a particular criminal. Interpol also circulates a notice relating to a particular 'Modus operandi'. This is often of a forensic nature and offers advice to Member Countries.

### Other Activities

In addition to the matters referred to above, the staff at the General Secretariat are also responsible for organizing symposia, conferences and working groups on all types of criminal offences.

In June 1995, the General Secretariat organized a conference on the illicit traffic in works of art with a particular emphasis on the problems encountered in Central and Eastern Europe. The meeting was held in Prague, the Czech Republic. Police representatives from 20 countries attended the meeting together with experts from UNESCO, ICOM (International Council of Museums) and other institutions involved in the safeguarding of cultural Property.

In September 1996, the General Secretariat will host the '3rd International Symposium relating to Illegal Trafficking and Theft of Works of Art, antiques and Cultural Property' with worldwide participation from law enforcement and non-police bodies.

In close cooperation, the General Secretariat also supports the regional conferences and workshops on the subject jointly organized by UNESCO and ICOM, so in Bamako, Mali, in October 1994, in Cuenca, Ecuador, in September 1995, and in June 1996 in Kinshasa, Zaire. The common approach of experts from different fields appears to be the only promising way to successfully fight the illicit traffic in stolen art.

## THE INTERNATIONAL COUNCIL OF MUSEUMS

Created in 1946 by Chauncey J. Hamlin, President of the American Association of Museums, the International Council of Museums (ICOM) is devoted to the promotion and development of museums and the museum profession at an international level.

ICOM's goal is to respond to the problems and needs of the museum profession. ICOM's activities are focused around the following themes:

- reinforcement of regional co-operative networks;
- professional training and exchange;
- promotion of professional ethics;
- fight against illicit traffic of cultural property;
- protection of cultural heritage of mankind.

ICOM is associated with UNESCO as a category A non-governmental organization with consultative status to the United Nations' Economic and Social Council. ICOM is a non-profit association, primarily financed by membership fees and supported by various public and private organizations. It maintains close links with UNESCO and carries out part of its programme for museums. Based in Paris (France), the ICOM headquarters maintains a Secretariat incorporating the UNESCO-ICOM Museum Information Centre. The Secretariat is in charge of the organization's general administration and coordinates its activities and programme.

The 12,000 members of ICOM in 144 countries represent an active network of international co-operation. They collaborate in the regional or international activities of the Organization: workshops, publications, training, twinning and promotion of museums through International Museum Day on May 18th.

### ICOM's organization

#### national committees

ICOM's National Committees are the fundamental units of ICOM and the principal instruments of communication between ICOM and its members. ICOM has 108 National Committees around the world. Members join ICOM through their National Committee. A National Committee represents ICOM's interests at a national level, as well as the interests of its members within ICOM and contributes to the fulfillment of ICOM's programmes.

#### regional organizations

Some National Committees have come together in regional organizations to coordinate and reinforce their activities.

ICOM has seven such regional organizations: the Asia-Pacific Regional Organization (ASPAC), the Latin America and the Caribbean Regional Organization (LAC), the West Africa Regional

Organization (CIAO) and the North Africa Regional Organization (ICOM/Maghreb), the European Organization (ICOMEUROPE), the Arab Organization (ICOMARAB), and the Central African Organization (ICOMAC) .

#### International committees

The members of ICOM participate in the work of 25 international committees, which embody the principal action of the organization:

- international exchange of scientific information;
- development of professional standards;
- adoption of common rules and recommendations;
- participation in joint projects.

These international committees provide a forum for museum professionals to work together in the development of special interests. The members of the international committees meet annually and regularly publish the results of their efforts.

#### Affiliated organizations

Ten international organizations work closely with ICOM.

#### Publications

ICOM publishes a number of titles of relevance to the work of the organization. In addition, the "ICOM News" bulletin is published four times a year and is distributed to all ICOM members. Its column "Protecting Heritage" publicizes information on stolen or looted objects.

#### Action in the fight against illicit traffic

ICOM has taken a wide range of actions in the fight against illicit traffic. These measures are based mainly on the 1970 UNESCO Convention and on the ICOM Professional Code of Ethics which was adopted in 1986. The Professional Code, which is adopted by all persons on becoming members of ICOM, is particularly attentive to the problems of illicit traffic and sets down precise ethical rules for acquiring and transferring collections, for co-operation between museums and for making inventories of collections. These general rules are complemented by the work being done by ICOM international committees for the establishment of professional standards within each committee's field. It is the case in particular for the International Committee for Documentation (CIDOC), the International Committee for Museum Security (ICMS), the International Committee for Education and Cultural Action (CECA), and the International Committee for Training of Personnel (ICTOP).

Within the framework of its activity programme (adopted every three years at the General Conference, ICOM has implemented many projects aimed specifically at preventing illicit traffic in cultural property. From 1993-1995, ICOM in collaboration with UNESCO, organized two regional workshops for the fight against illicit traffic: one in Tanzania in 1993 for Southern Africa and another in Mali in 1994 for North and West Africa. The workshops gathered museum, police and customs professionals, and offered an opportunity to create national task forces, develop regional co-operation, and in general mobilize international public awareness.

ICOM has initiated the publication of a series entitled "One Hundred Missing Objects". Between 1993 and 1995 two volumes were issued, one devoted to Cambodia, the other to Africa. Other

editions of this series are being prepared, focusing on Latin America and Europe respectively. Following the publication of these books, several objects were retrieved from the art market and returned to their countries of origin.

A "*Handbook of Standards. Documenting African Collections*" was published by ICOM in September 1996 under its "AFRICOM Programme". Representing a significant advance in the use of computerized inventories and documentation of collections it will facilitate and foster exchange of information between English-speaking and French-speaking Africa (for more information please see p. 24 and Section 3: Reference Document 19).

These activities have initiated important and successful press campaigns which no doubt has increased international public awareness of the problem of illicit traffic in cultural property.

Due to the success of ICOM's professional network in assisting museums and countries requesting the restitution of stolen or illicitly exported objects, ICOM has become a major partner not only for heritage services but also for INTERPOL and for all actors in this field.

ICOM's role is likely to become even more important in the years to come as the fight against illicit traffic in cultural property is a priority in the 1996-1998 programme. In consonance with the recommendations of museum professionals and the UNESCO Intergovernmental Committee for Return or Restitution, ICOM is, perhaps most importantly, considering the creation of a fund that would provide financial assistance to museums and countries seeking the restitution of cultural objects through legal proceedings.

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## PROTOCOL

### *to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict*

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The High Contracting Parties are agreed as follows:

#### I

1. Each High Contracting Party undertakes to prevent the exportation, from a territory occupied by it during an armed conflict, of cultural property as defined in Article 1 of the Convention for the Protection of Cultural Property in the Event of Armed Conflict, signed at The Hague on 14 May, 1954.

2. Each High Contracting Party undertakes to take into its custody cultural property imported into its territory either directly or indirectly from any occupied territory. This shall either be effected automatically upon the importation of the property or, failing this, at the request of the authorities of that territory.

3. Each High Contracting Party undertakes to return, at the close of hostilities, to the competent authorities of the territory previously occupied, cultural property which is in its territory, if such property has been exported in contravention of the principle laid down in the first paragraph. Such property shall never be retained as war reparations.

4. The High Contracting Party whose obligation it was to prevent the exportation of cultural property from the territory occupied by it, shall pay an indemnity to the holders in good faith of any cultural property which has to be returned in accordance with the preceding paragraph.

#### II

5. Cultural property coming from the territory of a High Contracting Party and deposited by it in the territory of another High Contracting Party for the purpose of protecting such property against the dangers of an armed conflict, shall be returned by the latter, at the end of hostilities, to the competent authorities of the territory from which it came.

#### III

6. The present Protocol shall bear the date of 14 May, 1954 and, until the date of 31 December, 1954, shall remain open for signature by all States invited to the Conference which met at The Hague from 21 April, 1954 to 14 May, 1954.

7. (a) The present Protocol shall be subject to ratification by signatory States in accordance with their respective constitutional procedures.

(b) The instruments of ratification shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

8. From the date of its entry into force, the present Protocol shall be open for accession by all States mentioned in paragraph 6 which have not signed it as well as any other State invited to accede by the Executive Board of the United Nations Educational, Scientific and Cultural Organization. Accession shall be effected by the deposit of an instrument of accession with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

9. The States referred to in paragraphs 5 and 8 may declare, at the time of signature, ratification or accession, that they will not be bound by the provisions of Section I or by those of Section II of the present Protocol.

10. (a) The present Protocol shall enter into force three months after five instruments of ratification have been deposited.

(b) Thereafter, it shall enter into force, for each High Contracting Party, three months after the deposit of its instrument of ratification or accession.

(c) The situations referred to in Articles 18 and 19 of the Convention for the Protection of Cultural Property in the Event of Armed Conflict, signed at The Hague on 14 May, 1954, shall give immediate effect to ratifications and accessions deposited by the Parties to the conflict either before or after the beginning of hostilities or occupation. In such cases, the Director-General of the United Nations Educational, Scientific and Cultural Organization shall transmit the communications referred to in paragraph 14 by the speediest method.

11. (a) Each State Party to the Protocol on the date of its entry into force shall take all necessary measures to ensure its effective application within a period of six months after such entry into force.

(b) This period shall be six months from the date of deposit of the instruments of ratification or accession for any State which deposits its instrument of ratification or accession after the date of the entry into force of the Protocol.

12. Any High Contracting Party may, at the time of ratification or accession, or at any time thereafter, declare by notification addressed to the Director-General of the United Nations Educational, Scientific and Cultural Organization, that the present Protocol shall extend to all or any of the territories for whose international relations it is responsible. The said notification shall take effect three months after the date of its receipt.

13. (a) Each High Contracting Party may denounce the present Protocol, on its own behalf, or on behalf of any territory for whose international relations it is responsible.

(b) The denunciation shall be notified by an instrument in writing, deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

(c) The denunciation shall take effect one year after receipt of the instrument of denunciation. However, if, on the expiry of this period, the denouncing Party is involved in an armed conflict, the denunciation shall not take effect until the end of hostilities, or until the operations of repatriating cultural property are completed, whichever is the later.

14. The Director-General of the United Nations Educational, Scientific and Cultural Organization shall inform the States referred to in paragraphs 6 and 8, as well as the United Nations, of the deposit of all the instruments of ratification, accession or acceptance provided for in paragraphs 7, 8 and 13 and the notifications and denunciations provided for respectively in paragraphs 12 and 13.

15. (a) The present Protocol may be revised if revision is requested by more than one-third of the High Contracting Parties.

(b) The Director-General of the United Nations Educational, Scientific and Cultural Organization shall convene a Conference for this purpose.

(c) Amendments to the present Protocol shall enter into force only after they have been unanimously adopted by the High Contracting Parties represented at the Conference and accepted by each of the High Contracting Parties.

(d) Acceptance by the High Contracting Parties of amendments to the present Protocol, which have been adopted by the Conference mentioned in subparagraphs (b) and (c), shall be effected by the deposit of a formal instrument with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

(e) After the entry into force of amendments to the present Protocol, only the text of the said Protocol thus amended shall remain open for ratification or accession.

In accordance with Article 102 of the Charter of the United Nations, the present Protocol shall be registered with the Secretariat of the United Nations at the request of the Director-General of the United Nations Educational, Scientific and Cultural Organization.

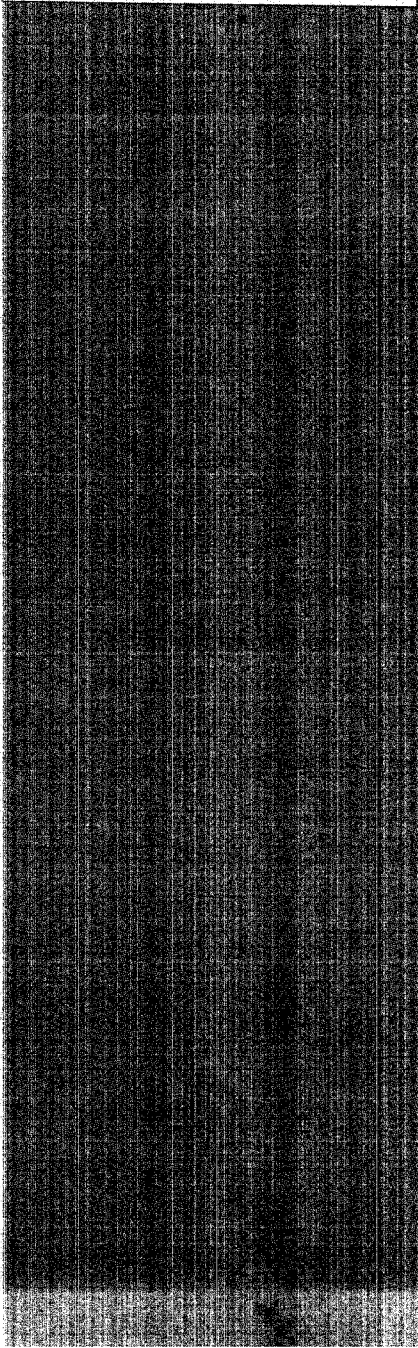
In faith whereof the undersigned, duly authorized, have signed the present Protocol.

Done at The Hague, this fourteenth day of May, 1954, in English, French, Russian and Spanish, the four texts being equally authoritative, in a single copy which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization, and certified true copies of which shall be delivered to all the States referred to in paragraphs 6 and 8 as well as to the United Nations.

*Preventing  
the  
Illicit Traffic  
in  
Cultural Property*

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# *Appendices*



*photo overleaf:*

*Museums have been established in many countries in Africa with collections of traditional objects that represent a wide variety of cultural traditions.*

*(Photo © E. Clément, UNESCO, Paris)*

*Some Useful Addresses*

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**World Customs Organization**

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