



Item 7.2 of the provisional agenda

REPORTS OF MEMBER STATES ON MEASURES THEY HAVE
ADOPTED TO IMPLEMENT THE CONVENTION ON THE
MEANS OF PROHIBITING AND PREVENTING THE
ILLICIT IMPORT, EXPORT AND TRANSFER OF
OWNERSHIP OF CULTURAL PROPERTY (1970)

SUMMARY

This document transmits to the General Conference for its examination summaries of reports forwarded by Member States as of 31 May 1995 on the action taken by them to implement the above-mentioned Convention. Should additional information become available it will be distributed as an Addendum to this document.

PART I

Introduction

1. The Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of 1970 was adopted by the General Conference on 14 November 1970 at its sixteenth session. The objective of this instrument is to render more effective the protection of the cultural heritage which constitutes one of the basic elements of civilization and national culture by fostering close collaboration among Member States to prevent the illicit international movement of cultural property. As at 20 May 1995, 81 States were parties to the Convention. The list of these States is given in Annex I to this document.

2. At its twenty-fourth session, the General Conference first examined reports submitted by Member States on the action taken by them to implement the Convention and decided, by resolution 11.3, to 'invite Member States and other States Parties to the Convention to forward a further report on the action they have taken to implement the Convention for examination by the General Conference at its twenty-eighth session'. It will be recalled, in this connection, that both the Constitution of the Organization and the Rules of Procedure concerning Recommendations to Member States and International Conventions call for the submission of reports by Member States on the action they have taken in pursuance of conventions and recommendations adopted by the General Conference. Furthermore, Article 16 of the 1970 Convention stipulates that States Parties 'shall in their periodic reports submitted to the General Conference . . . give information on the legislative and administrative provisions which they have adopted and other action which they have taken for the application of [the] Convention, together with details of the experience acquired in this field'.

3. In conformity with resolution 11.3 adopted by the General Conference at its twenty-fourth session, Member States were invited by circular letters DG/4.6/01/7.2/001.1/078 and DG/4.6/01/7.2/001.1/079 dated 1 February 1995 to transmit their reports concerning the implementation of the Convention to the Organization, if possible by 30 March 1995. The United States, which is party to the Convention, was also invited to submit a report in accordance with Article 16 of the Convention referred to in paragraph 2 above. In June 1995, a reminder was sent to those Member States from which the Secretariat had not received replies.

4. As at 1 June 1995 the Secretariat had received replies from the following ten States party to the Convention: Canada, Colombia, the Czech Republic, Egypt, Greece, Jordan, Mauritius, Spain, Syrian Arab Republic and Tunisia. Turkey had submitted comments on the Convention by letter of 3 August 1989 which are also included in the report. Part II of this document contains analytical notes on the reports and summaries of them are given in Part III.

5. In pursuance of the above-mentioned 24 C/ Resolution 11.3, the reports of Member States on the action taken to implement the Convention in question are hereby submitted to the General Conference for its consideration. The General Conference shall, in accordance with the Rules of Procedure concerning Recommendations to Member States and International Conventions, embody its comments on the action taken by Member States in pursuance of a convention or recommendation in one or more general reports 'which the Conference shall prepare at such times as it may deem appropriate'. According to the same Rules of Procedure, the reports of the General Conference on this question 'shall be transmitted to Member States, to the United Nations, to National Commissions and to any other authorities specified by the General Conference'.

PART II

Analytical notes on the reports received from Member States

1. In order to facilitate examination of the reports of States Parties to the 1970 Convention, the Secretariat has prepared brief analytical notes regarding the information provided by the States on certain aspects that may be of particular relevance for assessing action taken to implement the 1970 Convention. The notes are presented as follows:

- A. Measures concerning the export of cultural property;
- B. Measures concerning the import of cultural property;
- C. Measures concerning trade in cultural property;
- D. Other measures.

A. Measures concerning the export of cultural property

2. Some of the States indicate that they have adopted legislative measures regarding the export of cultural property. In most cases, this legislation has been adopted in the late 1980s. The purpose of the new legislation is threefold:

to make existing sanctions for the infraction of the legislation for the protection of movable cultural property stricter;

to reinforce more effectively the observance of such legislation;

to improve the co-ordination and division of tasks among various bodies for the protection of movable cultural heritage.

3. Some national legislations set up a system of export permits which are required for any export of movable cultural property. Non-compliance with this requirement usually involves the confiscation of the object. The Tunisian Law of 1994 regarding the Protection of Archaeological and Historical Heritage and the Traditional Arts stipulates that every protected artefact whose export was attempted without the appropriate permission from the Ministry of Heritage shall be confiscated and the State may undertake legal proceedings against a person responsible for such a breach.

4. Export permits are usually issued by a specialized governmental body. In some States such bodies have already been established, in others, their creation is envisaged, as, for example, in Mauritius which plans to create the Mauritius National Trust Fund. One of the tasks of this Fund will be to control the export of cultural property and to impose a special export duty on cultural property to be exported.

5. One of the most effective means for combating the illicit export of cultural property is the elaboration of national inventories of movable cultural property. In case of theft or illicit traffic they play an important role and enable the law-enforcing bodies to start effective actions for their recovery. The Czech Republic in its report refers to the introduction of a data-processing system 'SEUD' containing information about stolen and found artefacts which is shared with other national or international bodies.

B. Measures concerning the import of cultural property

6. One State (Mauritius) informed the Secretariat that the Mauritius National Trust Fund, an administrative governmental body to be created, will be responsible for the purchase or other forms of acquisition of movable cultural property.

C. Measures concerning trade in cultural property

7. Since Jordan and the Syrian Arab Republic prohibit all trade of cultural property, both States expressly raised the question of licit trade in movable cultural property. In accordance with the Jordanian Law of Antiquities of 1988, the Department of Antiquities is in charge of the purchase of antiquities from art dealers and private collectors. Jordanian customs and police officers are instructed to confiscate any item of cultural property when there is an attempt to export it.

D. Other measures

8. A number of States has underlined the significance of international co-operation, especially among law-enforcing agencies. Greece mentioned in its report the co-ordination of activities between the Greek Ministry of Culture, Ministry of Security and INTERPOL for gathering information about the movement of cultural property. Egypt reports several cases of the recovery of stolen artefacts, for example: the return of the statue of the god Amun by INTERPOL in 1981, the restitution of a small ceramic statue of Basr from Germany in November 1981, the seizure of Egyptian antiquities in Canada in September 1989, the transfer of pharaonic statues found by the German police to Egypt in February 1995 and the recovery of Egyptian antiquities seized by Scotland Yard in the United Kingdom. As to other cases, Canada has informed the Secretariat that it is now negotiating with the authorities of Peru and Mexico the return of some artefacts from these countries which have been confiscated by the Canadian authorities and in May 1993 Spain returned several objects of art illegally exported from Colombia to the Colombian Embassy.

9. Another example of international co-operation is the conclusion of bilateral or multilateral agreements regarding the return of illicitly exported objects of art. In the case of Egypt, this kind of co-operation resulted in the return to the Egyptian authorities of all the Sinai antiquities seized by Israel during the Egyptian-Israeli conflict. Their restitution was completed by December 1994.

10. Some reports dwelt upon the significance of educational and public information measures. In order to disseminate information about the national cultural heritage to the general public, a number of Colombian museums and churches have published books about their collections. In addition, the Colombian Institute of Culture organizes courses on the cultural heritage for customs officers.

PART III

Summaries of replies received from States to the request for reports on the implementation of the convention

CANADA

In its introduction, the Canadian report stresses the significance of the *Cultural Property Export and Import Act* of 1977 which is aimed at the preservation and protection of Canadian cultural heritage by administrative, fiscal and legal means.

The main part of the report is devoted to a number of cases of the import of cultural property which may be summarized as follows:

In July 1989 Canada customs officials intercepted a shipment of Egyptian antiquities that had originated in Switzerland and was destined for an Egyptian national living in Canada. The police then seized additional artefacts from the importer's home. Following consultations with various Egyptian authorities, the police tried unsuccessfully to obtain further information about the provenance of these artefacts before their arrival in Switzerland. In the end it was not possible to determine that there had been an illegal import of cultural property, Egypt then filed a suit against the importer challenging his ownership of the antiquities. To date, the suit is still unresolved.

In July and August 1988 the customs seized over 6,000 items of Bolivian and Peruvian origin. The preliminary inquiry was held from September to December 1990 and the judge ruled that the importer be committed to trial for the illegal import of the Bolivian artefacts only as the Peruvian law was not sufficiently specific in its definition of cultural property to meet the requirements of Canadian law. After numerous appeals the case went to trial from September to December 1994 and is still pending.

In 1985, an American national attempted to import into Canada approximately 170 Peruvian pre-Columbian ceramics and textiles destined for the United States. Customs officials seized the shipment and the importer initiated legal proceedings challenging the legality of the seizure, and seeking return of the shipment. A preliminary hearing took place in 1987, but no further legal action was taken by the importer. In 1995 the court dismissed the action and discussions are now under way with officials at the Embassy of Peru in Ottawa to arrange for the return of these artefacts to Peru.

In 1990, Canada Customs in Montreal seized a shipment of 53 antique mosaic tiles originating in Lebanon and being routed via Tripoli, Larnaca (Cyprus) and Antwerp to Montreal as there was a suspicion that they had been illegally exported from Lebanon. Given the fact that at that time Lebanon was not a party to the 1970 Convention and they had been exported at least 15 years earlier, it was not possible to begin an action for the illegal import of cultural property. With a view to verifying the origin of these objects of art, the Canadian authorities contacted INTERPOL and IFAR to obtain more information. However, no reply was received and the tiles, in the absence of any evidence of theft or illegal import, were released to the importer in January 1991.

In March 1990, Canada Customs in Quebec City seized a collection of 19 Mexican artefacts which might have been illegally exported from Mexico. The investigation has not proved that the importer had been guilty of illegal import. However, the importer refused to pay the fine for not declaring these objects to customs and they were forfeited to the Canadian Government. Officials of the Government of Canada are now working with officials at the Embassy of Mexico to facilitate the return of these objects to Mexico.

In 1991, an American national attempted to enter Canada with a collection of 47 artefacts of Mexican, Costa Rican, Guatemala, Colombian, Peruvian and Panamanian origin and was arrested for smuggling. INTERPOL was informed of the seizure and disseminated this information to its Member States. A reply was received from Colombia which requested their return. The artefacts were forfeited to the Canadian Government and arrangements are now being made to return all of the artefacts to their respective countries of origin.

COLOMBIA

Colombia pays particular attention to the protection of its vast cultural heritage. In addition to the adoption and enactment of numerous laws and regulations, the importance of inventories of cultural property may be pointed out as they assist in the recovery of stolen objects of art. Another very important activity is the awareness-raising campaign aimed at the general public as well as at target groups. A number of Colombian museums and churches have published books about their collections and the Colombian Institute of Culture organizes courses on the cultural heritage for customs officers.

CZECH REPUBLIC

The illicit traffic of cultural property is one of the main concerns for the Czech Republic as between 15,000 and 20,000 offences a year have been committed concerning the movable cultural heritage since 1989. This tendency leads not only to inestimable cultural impoverishment but also represents a great economic loss. As to the national legislation dealing with this problem, four laws in force may be mentioned, namely Law No. 54 on the Museums, Art Museums and Galleries of 1959, Law No. 20 on the Protection of Historic Monuments of 1987 with subsequent amendments, Law No. 71 on the Sales and Export of Cultural Objects of 1994 and Law No. 140 (Criminal Code) of 1961. Regarding the licit export of cultural objects, each such object must be accompanied by an export certificate delivered either by the Ministry of Culture or a competent organization which has a special permission from the Ministry of Culture to issue it. Art dealers are obliged to keep sale registers including the names and addresses of vendors. Registers maybe inspected by the police or other State bodies. The law-enforcement agencies have recently introduced a data-processing system 'SEUD' containing information about stolen and discovered artefacts which is shared with other national or international bodies. In addition, the Ministry of Culture is now arranging for the installation of security systems in museums, art museums, castles and churches belonging to the State and is developing a special register of valuable objects of art in churches. Mass media and, in particular, the public-owned television channel, regularly broadcast programmes about stolen art objects. The Ministry of Culture also published, together with the Czech police and the KODAK company, a leaflet addressed to owners of cultural objects describing how to make an inventory. In conclusion, the Czech Republic reiterates the significance of the forthcoming UNIDROIT Conference and expresses its wish for improved co-ordination among intergovernmental organizations in the search for stolen objects and requests the Director-General of UNESCO to take measures for the establishment of a data-processing system for activities under the 1970 Convention.

EGYPT

The relevant Egyptian authorities have drawn up inventories of cultural property which needs protection. The authorities have also widely disseminated information on stolen artefacts, together with their descriptions. Egypt reports several cases of the recovery of stolen artefacts, for example: the return of the statue of the god Amun by INTERPOL in 1981, the restitution of a small ceramic statue of Basr from Germany in November 1981, the seizure of Egyptian antiquities in Canada in

September 1989, the transfer of pharaonic statues found by the German police to Egypt in February 1995 and the recovery of Egyptian antiquities seized by Scotland Yard in the United Kingdom. The report also underlines the importance of bilateral and multilateral agreements for the restitution and return of stolen or illegally exported cultural property. In the case of Egypt, this kind of co-operation resulted in the return to the Egyptian authorities of all the Sinai antiquities seized by Israel during the Egyptian-Israeli conflict. Their restitution was completed by December 1994.

GREECE

Law No. 5351 of 1932 stipulates that no object of art originating before 1830 may be exported unless the Archaeological Council has approved it. The Greek Archaeological Service is requested to inquire with customs about the legality of any transfer of cultural property. In addition, the forthcoming legislation regarding the export of cultural property will set out severe sanctions for offenders. Greece also mentions the co-ordination of activities between the Greek Ministry of Culture, Ministry of Security and INTERPOL in case of gathering information about the movement of cultural property. Several successful cases of recovery of stolen artefacts are mentioned: the manuscripts of the Vatopedi Monastery of Mount Athos, the Roman mosaic of the Archaeological Museum of Sparta and the marble head of the Kouros of Kilkis of the Archaeological Museum of Kilkis.

JORDAN

Jordan prohibits all trade in cultural property. In accordance with the Jordanian Law of Antiquities of 1988, the Department of Antiquities is in charge of the purchase of antiquities from art dealers and private collectors. Jordanian customs and police officers are instructed to confiscate any item of cultural property when there is an attempt to export it. A sign and a circular providing information about the prohibition of illicit traffic of cultural property have been posted at the entrance to major sites.

Mauritius

The Board of National Monuments operating under the auspices of the Ministry of Arts, Culture and Youth Development has been responsible, since 1988, for the protection of movable cultural property. This Ministry plans to create the Mauritius National Trust Fund. One of the tasks of this Fund will be to control the export of cultural property and to impose a special export duty on cultural property to be exported. It will be responsible for the purchase or other forms of acquisition of movable cultural property as well.

SPAIN

The Convention entered into force for Spain on 10 April 1986 and a report on its implementation was submitted in 1987 to the twenty-fourth session of the General Conference. The general policy of Law 1.987 has not changed. The Constitutional Court held, by its Decision 17/91 that the Law 16/85 on the Spanish Historic Heritage was consistent with the Spanish Constitution. The law had been challenged by the historic communities of Catalonia, Galicia and País Vasco as offending against the constitutional rules on the division of powers.

The most relevant legal modifications and innovations in the past eight years areas follows:

Real Decreto 64/94 modifying Real Decreto 111/1986 on the partial development of Law 16/85;

Law 36/94 of 23 December, embodying the CEE Council Directive 93/7/CEE of 15 March 1993, on the return of cultural objects unlawfully removed from the territory of a Member State.

The first of these laws, Real Decreto 64/94, was required by the decision of the Constitutional Court and concerned a change in the method of inventorying cultural objects. On the proposal of the Autonomous Communities, these procedures are, as a general rule, under their responsibilities, previously they were that of the State Administration. Law 36/94 put the CEE Directive into force in Spanish internal law.

To sum up, the basic Spanish law on cultural objects is contained in the following legal instruments: Law 16/85 on the Spanish Historic Heritage; Decision 17/91 of the Constitutional Court, Real Decreto 111/86, modifying Real Decreto 64/94 (this is in effect the regulations carrying the State Law into effect), Law 36/94 on the return of cultural objects within the European Union and laws on cultural heritage promulgated by the separate Autonomous Communities (these laws are consistent with the Federal Law).

In respect of the substantive implementation of the 1970 Convention, the inventory programme has been enlarged by extending for ten years until December 2004 the General Inventory of Movable Goods owned by the church, which was to have come out in 1995. Competence in respect of this inventory belongs to the various Autonomous Communities where the ecclesiastical objects are situated. Contacts and co-ordination between police and the customs service have been improved to avoid fraud, despoliation and clandestine export. For this purpose the Ministry of Culture has organized special courses for the Civil Guard and the National Police. The Autonomous Communities have done significant work publicizing the protective laws on cultural objects. Individual cases have proved the efficiency of the Civil Guard, the Judicial Police and the customs services. The Ministry of Culture is in permanent contact with the Crimes against Cultural Heritage Unit, with the Civil Guard and with the General Directorate of Customs. The latter has a representative in the Classification, Valuation and Export of Cultural Property Unit. Contact and co-ordination with the bodies of the Federal Administration with those of Autonomous Communities has been strengthened through an administrative body known as the 'Historic Heritage Council'. All the Autonomous Communities as well as the Federal Administration (Ministry of Culture) are represented on the Council. The Council acts as co-ordinating organ of these administrations and provides the largest administrative forum for debate on cultural heritage issues.

SYRIAN ARAB REPUBLIC

The trade in antiquities is prohibited in the Syrian Arab Republic. UNESCO notices of stolen cultural property as well as those of the International Council of Museums (ICOM) are distributed to all archaeological commissions in the Syrian Arab Republic. The law-enforcement agencies play a very important role in the fight against illicit traffic of cultural property.

TUNISIA

The Tunisian Government adopted by its Law No. 94-34 of 24 February 1994 the Code regarding the Protection of Archaeological and Historical Heritage and the Traditional Arts. Articles 49-55, 56-59, 73-76, 80-86 and 93-97 deal with the protective measures, namely with those prohibiting the illicit transfer of cultural property. In accordance with this Law, the relevant authorities at the frontiers check the objects leaving Tunisia. All objects seized by customs are

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submitted for an expert valuation by the Institute of National Heritage which then gives its opinion as to their value and provenance. If necessary, legal proceedings are undertaken.

TURKEY

By its letter of 28 June 1989 the Permanent Delegation of Turkey to UNESCO requested the Director-General to inform all States Parties to the 1970 Convention of the following Turkish observations related to Article 7b of the Convention. The Turkish position may be summarized as follows:

Article 7b(i) stipulates the prohibition of ‘... cultural property stolen from a museum or . . . secular public monuments or similar institution . . . provided that such property is documented as appertaining to the inventory of that institution. However, cultural property which is illegally exported from some countries, for example Turkey, originates in the majority of cases from illegal excavations. In consequence, this paragraph of Article 7 may not be applicable as in reality it is not possible to draw up an inventory of the illegal excavations. For this reason, it is advisable that Article 7 be revised. The revised version should not require the States Parties to draw up inventories. In addition, it should stipulate that ‘the authorities shall require the appropriate certificate of origin for each sale or purchase of an object of art’. Article 7b(ii) states that ‘... the requesting State shall pay just compensation to an innocent purchaser ...’. However, in Turkey, cultural objects discovered in illegal archaeological excavations and subsequently exported are considered to be State property. It is, therefore, impossible that any person or State may appropriate such cultural objects. In fact, in accordance with the Turkish opinion, Article 7b(ii) in its present form legalizes the purchase of stolen cultural objects.

ANNEX

**CONVENTION ON THE MEANS OF PROHIBITING AND
PREVENTING THE ILLICIT IMPORT, EXPORT AND
TRANSFER OF OWNERSHIP OF CULTURAL PROPERTY**

(Paris, 14 November 1970)

**List of the 81 States Parties
as at 30 April 1994**

States	Date of deposit Ratification (R) Acceptance (Ac) Accession (A) Succession (S)	Date of entry into force
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) ¹	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 ²	12.07.1993 (S)	Note 2
Brazil	16.02.1973 (R)	16.05.1973
Bulgaria	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
Côte d'Ivoire	30.10.1990 (R)	30.01.1991
Croatia (Republic of) ²	06.07.1992 (S)	Note 2
Cuba	30.01.1980 (R)	30.04.1980
Cyprus	19.10.1979 (R)	19.01.1980
Czech Republic ³	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	24.03.1971 (Ac)	24.04.1972
Egypt	05.04.1973 (Ac)	05.07.1973
El Salvador	20.02.1978 (R)	20.05.1978
Georgia (Republic of) ¹	04.11.1992 (S)	Note 1
Greece	05.06.1981 (R)	05.09.1981
Grenada	10.09.1992 (Ac)	10.12.1992

States	Date of deposit	Date of entry
	Ratification (R) Acceptance (Ac) Accession (A) Succession (S)	into force
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
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	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 ³	31.03.1993 (s)	Note 3
Slovenia (Republic of) ²	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) ¹	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

States	Date of deposit Ratification (R) Acceptance (Ac} Accession (A) Succession (S)	Date of entry into force
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
Yugoslavia	03.10.1972 (R)	03.01.1973
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 ratified on 6 December 1957.
- 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.



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MEANS OF PROHIBITING AND PREVENTING THE
ILLICIT IMPORT, EXPORT AND TRANSFER OF
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SUMMARY

This document is an addendum to document 28 C/35. It contains information on the implementation of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property available as of 1 June 1995 as well as summaries of reports forwarded by States Parties to the Convention between 20 May 1995 and 15 August 1995 on the action taken by them to implement the Convention.

PART I

INTRODUCTION

1. On 3 July 1995 the Kyrgyz Republic deposited its instrument of accession to the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970). The Convention will enter into force for the Kyrgyz Republic on 3 October 1995, thus bringing the number of States Parties to this Convention to 82.
2. By 15 August 1995, the Secretariat had received replies from the following 18 States Parties to the Convention: Argentina, Australia, Belarus, Burkina Faso, Canada, Colombia, Croatia, Czech Republic, Egypt, Greece, Italy, Jordan, Lebanon, Mauritius, Spain, Syrian Arab Republic, Tunisia and the United States. Document 28 C/35, published on 11 July 1995, contained analytical notes and reports concerning ten States. In a letter dated 31 August 1989, Turkey had made some observations concerning the Convention which are also to be found in document 28 C/35. Part II of this document, 28 C/35 Add., contains analytical notes on reports received from the following States: Argentina, Australia, Belarus, Burkina Faso, Croatia, Italy, Lebanon and the United States; summaries of their reports may be found in Part III.
3. Inventories. UNESCO has been working on the development of international documentation standards since 1993 with the Getty Art History Programme, IFAR (the International Foundation for Art Research), ICOM (International Council of Museums) and especially its Documentation Committee (CIDOC), OCSE (Organization for Security and Co-operation in Europe) and the Cultural Property Advisory Committee of the United States Information Agency. The adoption of such a standard would facilitate the work of inventories, as required by the 1970 UNESCO Convention, and the interchange of information on the loss of movable cultural property. A preliminary survey has been released by the Getty Art History Information Programme in July 1995 and it is planned to follow this with a number of specialized 'round tables' and a conference which should result in the adoption of international standards. Copies of the preliminary survey are available from the Secretariat.
4. UNIDROIT Convention. On 24 June 1995 a Diplomatic Conference held in Rome at the invitation of the Italian authorities adopted the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects. This work was undertaken at the request of UNESCO in order to supplement the rules of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970) with rules of private law which would close loopholes in the international structure for the control of illicit traffic in cultural property. The new Convention has been signed by 11 States and will come into force six months after the deposit of the fifth instrument of ratification, accession acceptance or approval. The text of the UNIDROIT Convention appears in the Annex.
5. The UNIDROIT Convention has been drafted to supplement the UNESCO Convention. The principal points of comparison areas follows.
6. Definition of cultural objects. The categories of cultural objects listed in the UNIDROIT Convention are exactly the same as those in the 1970 UNESCO Convention. However, the UNESCO Convention requires cultural objects to have been 'designated' by the State requesting return. This left a private owner without recourse if the State had not

‘designated’ the object concerned. The UNIDROIT Convention does not require that a cultural object be ‘designated’ by the State before it is covered by the Convention.

7. Scope of Convention. The scope of the UNESCO Convention has been the subject of diverse interpretations. While some considered that Article 3 of that Convention implied a duty to return all stolen and all illicitly exported cultural objects, others felt that Articles 7 and 9 of the Convention imported substantial restrictions both as to stolen and as to illicitly exported cultural objects. The scope of the UNIDROIT Convention is clearly stated beyond any possibility of misinterpretation:

The possessor of a cultural object which has been stolen shall return it (Article 2(1)).

A special provision states that ‘a cultural object which has been unlawfully excavated or lawfully excavated but unlawfully retained shall be considered stolen’ (Article 3(b)). The provisions as to illegally exported cultural objects will apply to a more limited class of cultural objects, where the requesting State establishes that an object’s removal 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 (Article 5(3)).

8. Procedure for claims. The UNESCO Convention provides for action by a Contracting State ‘at the request of the State Party of origin’ and that requests for recovery and return should be made ‘through diplomatic offices’ (Article 7(b)(ii)). The UNIDROIT Convention provides for a claim to be brought before a court or other competent tribunal. This means that an owner may make use of the normal legal channels available in the country where the object is located in order to seek a court order for the return of the object.

9. Time limitation of claims. The 1970 UNESCO Convention includes no rule as to time limitation for claims. However, each State Party implements the Convention in its own way. For those States who have done so by establishing customs offences as to illegal import (Australia, Canada, United States), their own national rules as to time limitations on actions for customs offences would normally apply. The question of time limitation of claims was one of the most difficult issues during the negotiations for the UNIDROIT Convention. On the one hand, States which were losing cultural property, especially where it was regarded as State property and therefore as inalienable and imprescriptible, regarded it as unacceptable to exclude claims after a certain lapse of time. On the other hand, many States had a strong ideological commitment to time limitations on claims which they regarded as essential to ensure security of transactions and to avoid injustice in having to prove title many years after the original transaction, when documents have been lost and witnesses have died. A complex formula was finally reached after difficult and last-minute negotiations at the Diplomatic Conference. This can now be found in Article 3(3)-3(6) (stolen cultural objects) and Article 5(5) (illicitly exported cultural objects).

10. Duty to return. The 1970 UNESCO Convention requires a State Party to the Convention 'to take appropriate steps to recover and return any such cultural property' (Article 7). The UNIDROIT Convention provides that an owner (in the case of a stolen cultural object) or a requesting State (in the case of an illegally exported cultural object) may bring a claim before a court or other competent body for the return of the cultural object. This puts a responsibility on a Contracting State to provide for such a claim by legislation where it does not already exist and on the claimant to bring the necessary procedures for recovery.

11. Compensation and diligence. The 1970 UNESCO Convention provides that 'the requesting State shall pay just compensation to an innocent purchaser or to a person who has valid title' (Article 7(b)(ii)). For many legal systems, 'possession represents title'. Thus, even if goods were stolen, the original owner could not require that they be returned from a possessor in 'good faith'. Since 'good faith' was often presumed, this rule facilitated the transit of illegally trafficked cultural objects into the licit trade. The UNIDROIT Convention provides that compensation will only be paid on the return of stolen cultural objects where the possessor can prove that it used diligence in making the purchase to avoid acquiring stolen property. The effect of this rule should be to make dealers and collectors more careful to verify the provenance of cultural objects, since they will have the risk of losing them, and being uncompensated, if they prove to have been stolen. States where a good title cannot be acquired to stolen goods will retain that rule and compensation will not be required to compensate the purchaser of a stolen object (Article 10).

12. Retroactivity. The 1970 UNESCO Convention is not retroactive. The UNIDROIT Convention specifies that the Convention will not apply to cases arising before the Convention enters into force; Article 10(3) makes it clear that the status of prior illegal transactions has not been changed by the adoption of the new Convention.

13. On 31 July the Director-General issued a press release in which he welcomed the adoption of the UNIDROIT Convention as a further contribution to and strengthening of the fight against illicit trade in cultural objects. He called on Member States to become Party to the new Convention and assured them that UNESCO will continue to co-operate closely with UNIDROIT for its implementation.

PART II

ANALYTICAL NOTES ON THE REPORTS RECEIVED FROM STATES PARTIES TO THE CONVENTION

1. In order to facilitate examination of the reports of States Parties to the 1970 Convention, the Secretariat has prepared brief analytical notes regarding the information provided by the States on certain aspects that may be of particular relevance in assessing action taken to implement the 1970 Convention. These notes are set out under the following heads:

- A. Measures concerning the export of cultural property;
- B. Measures concerning the import of cultural property;
- C. Measures concerning trade in cultural property;
- D. Other measures.

A. MEASURES CONCERNING THE EXPORT OF CULTURAL PROPERTY

2. In most States, legislation concerning the export of cultural property was adopted in the 1980s or thereabouts. Belarus has recently, in 1993, enacted a law on the heritage. Special regulations on export permits are in preparation. The Republic of Croatia has informed UNESCO that a new text on the heritage is being prepared, with the 1967 law still in force at present.

3. Certain States indicate that they have taken special steps concerning the export of cultural property. As a whole, these regulations draw a distinction between cultural property authorized to leave the country - under certain conditions - and cultural property that may in no circumstances be transferred outside national frontiers.

4. For example, Australia has incorporated in its legislation one list setting out the various categories of property that may be exported and another list of property whose export is prohibited.

5. Similarly, Burkina Faso has a blanket prohibition on the export of cultural property that has been listed or proposed for listing, but authorizes such export in exceptional cases. This prohibition also concerns objects recognized as authentic specimens. For this country, the prohibition on export applies also to works of art that did not originate in Burkina Faso. Such works must have been accorded the right of transit.

6. The legislation of the Republic of Belarus distinguishes between cultural property subject to the law of 1993 and cultural property whose export is governed by customs legislation.

7. Most States require an export permit. In many cases, this is issued by a special body, which may be empowered to check the legitimacy of ownership of an item subject to an export permit. This is so in the legislation of Burkina Faso.

8. These laws have set up bodies with a variety of titles: National Cultural Heritage Committee for Australia, National Inspectorate for Protection of the Historical Heritage for Belarus, and the Administration for the Protection of the Cultural and Natural Heritage in the case of Croatia. All these bodies issue export permits or authorizations.

9. Special attention is paid to customs surveillance, one of the most effective means of combating the illicit export of cultural property. In Croatia, for example, the customs services monitor, as far as possible, the possessions of passengers leaving the territory. The Italian police and customs are also extremely active in inspecting cultural property being exported.

10. Failure to comply with the obligation to obtain an export permit is severely punished. One State, Croatia, punishes with a term of imprisonment any person who attempts to export or who exports illicitly an item of cultural property.

B. MEASURES CONCERNING THE IMPORT OF CULTURAL PROPERTY

11. A number of countries impose special rules. Lebanon, for example, requires all imported items to be accompanied by a customs document issued by the authorities of the country of origin.

12. Import restrictions, at the request of the countries concerned, may limit the pillage of the cultural heritage of certain countries. In this connection, the United States stresses that accession to the Convention and the implementation of such restrictions constitutes one way of combating illicit transfer. That country mentions the adoption of import restrictions on objects originating from El Salvador, Peru, Guatemala, Bolivia and Mali. At present, a request for an agreement with Canada is still under review. Italy informs UNESCO that an agreement on the restriction of imports into the United States is under negotiation.

13. The Republic of Croatia has indicated that the present law contains no provision on the subject of importation but that a bill provides for special measures.

C. MEASURES CONCERNING TRADE IN CULTURAL PROPERTY

14. Lebanon forbids the marketing of cultural property. No permits are issued (decision by the Ministry of Tourism dated 27 February 1990).

15. Other States are proposing to take urgent measures. This is so in the case of Croatia, where a law will specify rights and obligations relating to domestic trade in cultural property. However, this State requires any person who acquires or disposes of a work of art to inform the government department responsible for the protection of cultural property.

16. To provide more effective supervision of movements of cultural property, the authorities of Burkina Faso oblige persons (whether private collectors, researchers or representatives of foreign museums) acquiring art objects or traditional artefacts for a commercial purpose from private individuals not normally engaged in such trading to make a declaration to the administrative authority.

D. OTHER MEASURES

17. Certain reports emphasize the importance of museum records or inventories. Argentina is endeavoring to set up a national system of registration for its heritage. Thanks to documents and photographs, an object that disappeared from the Tucuman Museum was quickly recovered. Argentina mentions that a single register of cultural property is being prepared.

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18. Italy also gives prominence to inventories; this task has been entrusted to the 'Istituto Centrale de Catalogo'.

19. With the purpose of developing activities to safeguard their heritage, some States set up funds for the protection of the cultural heritage. This is so in Australia. However, the Australian report notes that the Fund in that country is not yet fully operational.

20. Other countries set up specialized committees responsible for issuing directives concerning security in museums and during the transport of works of art.

21. Several States stress the importance of bilateral or international co-operation in regard to the return of illicitly exported art objects. The ICOM National Committees of Argentina and France, working with INTERPOL, helped to secure the return of an object which had disappeared from the Tucuman Museum in Argentina.

22. Italy encourages co-operation agreements within the framework of bilateral relations with other States. The Ministry of Cultural Property often includes a clause to the effect that 'the two parties shall co-operate for the purpose of preventing the illicit import, export and transfer of works of art or other cultural property'. Italy informs UNESCO that more than 7,000 illicitly exported works of art have been recovered and 400 illicitly imported works have been returned. Diplomatic steps are also being taken to secure the return to the country of origin of illicitly exported cultural property.

23. Belarus cites the return to the Russian Federation of 81 icons intercepted by its customs services. For its part, Croatia informs the Secretariat that, as a result of direct negotiations with the Ministry of Culture of Montenegro, 112 paintings and 465 canvases by contemporary Croatian painters have been returned.

PART III

SUMMARIES OF REPLIES RECEIVED FROM STATES ON THE IMPLEMENTATION OF THE CONVENTION

ARGENTINA

1. Argentina has been endeavoring for several years to setup a national system of museum records.
2. With considerable support from private contributions, the projects of many museums, such as the purchase of computer equipment or video recording of the heritage, are going ahead. The achievement of some objectives, such as the circulation of studies and research to 517 museums and the training of specialized human potential, is in sight.
3. At the same time, the city council of Buenos Aires has provided full funding for the project for a 'single register of cultural objects' (Decree No. 21/94 of 20 December 1994); the details of this programme, which aims at registering all cultural property on a single data base, have still to be settled.
4. A large part of the report as a whole is devoted to recounting a case of restitution in 1990-1991 and highlighting the importance of museum records in the prevention of illicit traffic in cultural property.
5. Having noted the disappearance of a seventeenth-century silver jar belonging to the Nicolas Avellaneda Museum in the city of Tucuman, Argentina, effective co-operation between the competent authorities in the country of origin and the country in which the stolen object was located resulted in its restitution to the Tucuman Museum. When the object featured in a Spanish review on antiques, the fact was noticed by a professional. Immediately informed, the Tucuman Museum's management embarked on a series of necessary measures to secure the return of the stolen object. The ICOM-Argentina Committee, the ICOM-France Committee and the local INTERPOL services, which took up the case, succeeded in identifying the object in a Madrid antique shop thanks to photographs reproduced in the Spanish magazine and to the documents held by the Tucuman Museum.
6. The conclusions of the report reiterate that such speedy restitution was possible only because the Museum had inventoried and photographed the object, so giving the specialists in Latin American art the possibility of comparing the cultural object found in the Madrid shop with the Museum's records. The report also emphasizes that the return of an illicitly exported cultural object depends largely on implementation of the recommendations made by ICOM and UNESCO.

AUSTRALIA

7. A 1986 law regulates the movable heritage. Adopted by the Parliament in 1988, the year in which it came into force, it constitutes the implementation act of the 1970 Convention.
8. The Australian report states, with respect to protected cultural objects, that an export permit must be applied for. Such protected cultural objects are accordingly itemized and described in the country's cultural heritage checklist. A distinction is drawn between objects belonging to the 'Australian Aboriginal Heritage', which may not be exported in any

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circumstances, and objects that may be exported: archaeological objects, archaeological and ethnographic objects from the 'Aboriginal Heritage' which are not of Australian origin, natural science objects of Australian origin, objects relating to applied science or technology, military objects, decorative art and fine art objects, and documents, recordings, coins, philatelic objects and objects of social history.

9. The National Cultural Heritage Committee was set up in 1988. Its function is, among other things, to advise the minister responsible for communication and the arts but also to assess applications for export. To that end, the regulations lay down a procedure whereby a committee of experts makes an evaluation and sends a report to each member of the National Cultural Heritage Committee; the minister takes note of the Committee's recommendations authorizing the export of cultural property.

10. If the Committee refuses to authorize transfer abroad, the case is considered at the next session of that body. As a last resort, the authorized Minister decides whether to grant or refuse the permit if, for a second time, the Committee recommends that export be prohibited. The report gives examples of objects for which permits have been refused: six objects of technological importance (aircraft, railway engines) and two historical paintings.

11. Some other special measures have been taken, such as the establishment by the 1986 law of a Cultural Heritage Fund, which, however, it has not been possible to expand for lack of resources. Secondly, a system of incentives currently in preparation seeks to involve a broad sector of the public in the purchase of cultural objects whose export is forbidden.

BELARUS

12. A law, which came into force on 1 May 1993, regulates the historical and cultural heritage. The report received from Belarus stresses that its legislation takes account of the international conventions and agreements to which the Republic of Belarus is party.

13. Under the new law, a National Inspectorate for the Protection of the Historical and Cultural Heritage, the competent State authority, has been set up.

14. Article 39 of the law regulates the transfer of cultural property covered by this law; the transfer of other cultural property is regulated by Belarus's customs legislation.

15. Secondly, a set of regulations concerning the authorization of the export of cultural property beyond the frontiers of the Republic of Belarus is being prepared by the ministers concerned. Today, and until those regulations are adopted, the regulatory instruments of the previous period, which are in conformity with international conventions and agreements, remain in force. Under these texts, the transfer of cultural property outside the national territory is forbidden without a special permit, and confiscated property is deposited in the museums until the owner has been identified.

16. Lastly, the report stresses that the Republic of Belarus has handed over to the representatives of the Russian Federation 81 icons intercepted by its customs services during an attempt at illegal transfer across the frontier. The icons were restored in accordance with the Convention after the Russian Federation had proved that they belonged to individuals and legal entities in the Federation.

BURKINA FASO

17. Ordinance No.85-049 of 29 August 1985 concerning the protection of the cultural heritage stipulates that no listed object, or object awaiting listing, may be exported. However, in exceptional cases the above-mentioned objects” may be authorized for export, on loan or for the duration of an exhibition organized by another State.

18. Two specific texts (Decree No, 85.493 of 29 August 1985 and a ministerial decree of 2 April 1987) regulate the export and import of art objects in Burkina Faso.

19. There is a list of the art objects, ancient traditional craft objects and ancient relics of the cultural heritage of Burkina Faso which are subject to prior verification by the Directorate of Artistic and Cultural Heritage. An export restriction authorizes the competent authorities to prevent the transfer abroad of any object recognized as an authentic specimen of great cultural value. Furthermore, a supplementary measure stipulates that any individual wishing to export an object on the list contained in Decree No. 85.493 must be able to prove legitimate ownership.

20. In addition, current regulations prohibit the export of art objects which do not come from Burkina Faso. This provision obliges any legal individuals or entities to apply to the relevant authorities for the right of transit, which is granted only on presentation of an export certificate from the country of origin.

21. Lastly, the procedure makes the export of art objects conditional upon the prior approval of the Ministry of Culture, which delegates authority for monitoring the objects and granting export certificates to the Cultural Heritage Directorate. All export licences must be signed by the Minister of Culture.

22. The authorities of Burkina Faso, with the aim of monitoring the internal movement of art objects, require individuals (whether private collectors, researchers or representatives of foreign museums) who have acquired traditional art objects for commercial purposes from individuals who are not professional dealers to make a declaration to the administrative authority.

23. Moreover, in order to combat illicit traffic in cultural property, the Heritage Directorate works with the police to monitor the movement of art objects within the national frontiers.

CROATIA

24. The introduction to the report by Croatia recalls that Croatia became a Member State of UNESCO in June 1992, and that it is thus bound by the 1970 Convention as a successor State.

25. Consequently, in accordance with its national legislation and international regulations, Croatia undertakes to promote a system of protection by doing everything in its power to foster international co-operation in the fight against illicit trade and theft.

26. The report also states that the 1967 law on the protection of cultural treasures, adopted by the former Yugoslavia, is still in force. Some of its provisions are not in conformity with the 1970 Convention.

27. The bill currently being drafted (according to the report, the new law is scheduled for 1996) will remedy shortcomings in present legislation, in particular by introducing other

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measures concerning the monitoring of imports of works of art into Croatia and the organization of domestic trade in cultural property.

28. Apart from the general law on the protection of cultural treasures, the cultural heritage of the Republic of Croatia is governed by certain specific texts (Customs Code, Penal Code).

29. Part of the report is devoted to describing the organization of the services responsible for safeguarding the cultural heritage.

30. Since October 1994, a government department independent of the Ministry of Culture has been responsible for the protection of the cultural and natural heritage. Its duties include registering cultural property, drawing up a programme of conservation and granting or refusing applications for export permits.

31. The report states that the structures of the department will be established in 1995 and that it will be jointly responsible with other specialized departments for safeguarding the cultural heritage.

32. At present, research workshops on cultural property, museums, galleries, customs services and municipal authorities are co-operating closely with this government department.

33. The current regulations dealing with the export of cultural property forbid the transfer of property designated as cultural treasures. Under the law, a cultural treasure may be exported only in exceptional circumstances (for temporary exhibitions abroad or for purposes of research).

34. Export permits are required and special recommendations with respect to applications specify the administrative procedure to be followed.

35. The report of Croatia states that illegal export or attempted export are severely punished, with the Penal Code stipulating a term of imprisonment.

36. Today it is becoming difficult to keep a check on stolen cultural property that is exported illicitly, particularly from areas affected by warfare.

37. The report also raises the problem of the export of cultural property belonging to private individuals which has not been inventoried and cannot therefore be subject to proper verification.

38. To cope with this situation, the authorities responsible for protection co-operate closely with the customs services. According to the report, the inspection of the luggage of passengers leaving the national territory has led to the interception of a considerable number of works of art threatened with illegal export.

39. As regards the importing of cultural property into Croatia, the present law contains no special provisions. The bill will provide for specific measures dealing with importation. A few rare cases of imported paintings have been noted. If the countries of origin are immediately identified, the property confiscated is either returned to its owner or held by the police to assist in the identification of its rightful owner.

40. The report of the Republic of Croatia devotes a large section to the numerous thefts of works of art that took place during the armed conflict. From the start of the conflict, the national authorities took measures based on the 1970 UNESCO Convention: removal of

objects, stricter controls among antique dealers and at customs checkpoints. At the same time, the Republic of Croatia has kept organizations such as ICOM, the INTERPOL Secretariat and UNESCO informed about objects which have disappeared or been stolen from the region of Vukovar. The report states that direct negotiations with the Ministry of Culture of Montenegro have led to the return of 112 paintings and 465 canvases by contemporary painters.

41. In regard to the legislation on the domestic trade in cultural property, the report stresses the need to adopt special regulations as quickly as possible that will define the rights and obligations of antique dealers and other art dealers. Such measures are made even more urgent by the large number of art dealers who have setup in business during the last four years. At present, the law on the heritage requires any person who acquires or disposes of a work to report the transaction to the government department responsible for the protection of the heritage.

UNITED STATES

42. For the United States, the Convention entered into force in 1983 (Cultural Property Implementation Act, Public Law 97-446, 12 January 1983).

43. The introduction to that country's report emphasizes that accession to the Convention and the enforcement of restrictions on imports help to limit the looting of the cultural heritage in other countries. For the countries of origin of cultural property, such restrictions constitute an effective way of fighting against the smuggling out of their archaeological and ethnological riches, which are generally not inventoried and are vulnerable to pillage and unauthorized export. However, the report states that the United States legislation does not afford total protection to all the States Parties to the Convention, as each particular case is examined separately. In consequence, each State Party may request the United States to restrict the import of certain categories of cultural property.

44. The Cultural Property Advisory Committee, appointed by the President of the United States, has the task of considering requests for assistance and making recommendations.

45. A favourable answer from the Director of the United States Information Agency (USIA), in consultation with the State Department and the Treasury Department, is required for the establishment of controls on imports into the United States.

46. The report states that requests for import restrictions have been received from Canada, El Salvador, Bolivia, Guatemala, Peru and Mali, and gives these various examples.

47. The first restriction, in pursuance of the 1970 Convention, was adopted on 11 September 1987. It concerns the protection of the Cara Sucia archaeological sites in El Salvador. The measure was renewed for a period of three years on 12 March 1992.

48. The United States has also signed, with El Salvador, the first agreement on the cultural heritage under the implementation act for the 1970 Convention. The report stresses the desire of the Salvadorian authorities to protect their heritage and to open the eyes of Salvadorian to its uniqueness.

49. Another import restriction, dated 14 March 1989, concerns ancient Aymara woven fabrics from the region of Coroma in Bolivia. It has reduced pillage and facilitates the return to

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Bolivia of these fabrics, which were brought into the United States without authorization prior to the import restrictions.

50. At the request of the Bolivian Government, the same restrictive measures were extended for a period of three years from 6 May 1993.

51. Other restrictions on imports concern Maya cultural property from the region of Peten in Guatemala. From 15 April 1991, import restrictions ensure that relics of the pre-Hispanic civilization are kept in the country of origin. This restriction was extended for three more years from 30 September 1994.

52. The United States report also observes that Peru benefits from such measures. Moche cultural property from the Sipan region has been protected since 7 May 1990 against smuggling out on a massive scale, and a new, similar restriction requested by the Peruvian Government was accepted on 4 June 1994 for a period of three years. The report states that all these measures ensure protection against systematic pillage. At the same time, they help Peru to continue its efforts to safeguard its historic treasures.

53. Lastly, the report cites the example of the first restriction on the importing of cultural property from an African country, Mali. The authorities of that State, disturbed that the archaeological and ethnological heritage was being plundered and made the subject of illicit international traffic, have requested and obtained import restrictions on movable archaeological property originating from the Valley of the Niger in Mali.

54. At present, a request for an agreement submitted by Canada is still under review.

55. The report mentions a number of other special measures taken.

56. The US Customs Service enforces all import restrictions. Even if restricted objects pass a port undetected, the Customs Service may seize the objects after the fact thereby enabling recovery by the country of origin. During the period of United States import restrictions, an object may not be imported from a third country unless it has an export certificate issued by the country of origin. Since 1993 the Cultural Property Implementation Act has been cited by the Customs Service in 150 recorded seizures of cultural objects.

57. Thus far, throughout the period of United States implementation of the 1970 UNESCO Convention, USIA as the United States Government Agency most responsible for the protection of international cultural heritage, has supported international projects that address overriding policy issues concerning all threats to the protection of cultural property. This supports the objective of seeking long-term solutions to cultural resource management through approaches that link economic development and cultural tourism to the need to protect and preserve mankind's fragile and non-renewable cultural heritage.

58. In a move that recognizes United States efforts to implement the 1970 UNESCO Convention and serves to increase regional co-operation for the protection of cultural heritage in the Western hemisphere, the Summit of the Americas recently adopted a Plan of Action for promoting cultural values that encourages the submission of cultural property protection requests to the United States.

ITALY

59. The report stresses the importance of protective measures for cultural property with the recent setting up of a committee for the protection of the cultural heritage responsible, among other things, for issuing directives on museum security and the transport of works of art.

60. At the same time, special attention is being paid to inventories. The 'Istituto Centrale de Catalogo' has been given this task and a scientific co-operation agreement has been signed between the Institute and the French Heritage Directorate in order to continue the survey of cultural property.

61. Italy strongly encourages co-operation agreements within the framework of bilateral relations with other States; the Ministry of Cultural Property includes in cultural protocols a clause to the effect that 'the two parties shall co-operate for the purpose of preventing the illicit import, export and transfer of works of art or other cultural property'.

62. The Italian police and customs are extremely active in implementing the 1970 Convention. More than 7,000 works of art illicitly exported from Italy have been recovered from abroad and more than 400 works of art illicitly transferred from abroad have been returned. Other diplomatic steps are also being taken to secure the return to their country of origin of works of art illicitly exported after clandestine excavations.

63. With regard to the export of cultural property from Italy, an agreement is being negotiated concerning the limits on import restrictions to the United States.

64. The Italian report emphasizes that the necessary steps are being taken to ratify the European Convention on the Protection of the Archaeological Heritage, signed in La Valletta in 1992.

65. Lastly, the report mentions that the Italian authorities contributed actively to the organization of the diplomatic conference (Rome, 7-24 June 1994) which led to the adoption of the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects.

LEBANON

66. In Decision No. 8 of 6 February 1988, the Minister of Tourism prohibited the export of cultural property.

67. The Lebanese authorities also enforce strict rules concerning the import of antiques. For example, such items imported into Lebanon must be accompanied by a customs document and an export permit issued by the relevant authorities of the country of origin.

68. Lastly, the report emphasizes a decision by the Minister of Tourism, Decision No. 8 of 27 February 1990, which suspends all permits and the buying or selling of cultural property.

ANNEX

**UNIDROIT CONVENTION ON STOLEN OR ILLEGALLY EXPORTED
CULTURAL OBJECTS**

THE STATES PARTIES TO THIS CONVENTION,

ASSEMBLED in Rome at the invitation of the Government of the Italian Republic from 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 civilisation,

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,

EMPHASISING 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 or 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:

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CHAPTER - 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 but 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 belonging to a public collection, shall not be subject to time limitations other than a period of three years from the time when 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 unessentially cultural, educational or scientific purpose in a Contracting State and is recognised in that State asserting 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, pay 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 all 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.

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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 to order the return of a cultural object illegally exported from the territory of the requesting State.

(2) A cultural object which has been temporarily 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 that 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 cultural 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 2 of this article.

Article 6

(1) The possessor of a cultural object who acquired 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 at the time of acquisition that the object had been illegally exported.

(2) In determining whether the possessor knew or ought reasonably to have known 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 a 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 traditional or ritual use by that community and the object will be returned to that community,

CHAPTER IV - GENERAL PROVISIONS

Article 8

(1) A claim under Chapter H and a request under Chapter 111 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.

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Article 9

(1) Nothing in this Convention shall prevent a Contracting State from applying any rules more favorable to the restitution or the return of stolen or illegally exported cultural objects than provided for by this Convention.

(2) This article shall not be interpreted as creating an obligation to recognise 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 legitimise 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 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 of ratification, 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 organisations of economic integration or regional bodies may declare that they will apply the internal rules of these organisations or bodies and will not therefore apply as between these States 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.

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(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 8 (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 a 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 authorised 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.

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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 Republic.
- (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 authorised, have signed this Convention.

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

Annex

- (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.



General Conference
Twenty-eighth Session, Paris 1995

28 C

28 C/35 Add.2
4 November 1995
Original: English

Item 7.2 of the agenda

**REPORTS OF MEMBER STATES ON THE ACTION TAKEN BY THEM
TO IMPLEMENT THE CONVENTION ON THE
MEANS OF PROHIBITING AND PREVENTING THE
ILLICIT IMPORT, EXPORT AND TRANSFER OF
OWNERSHIP OF CULTURAL PROPERTY (1970)**

ADDENDUM

SUMMARY

This document transmits to the General Conference for its examination summaries of reports forwarded by Member States since 15 August on the action taken by them to implement the above-mentioned Convention.

Decision required: paragraph 3.

1. POLAND

Poland takes a particular interest in all international or regional actions to prevent damage in poor or less culturally conscious countries by the illicit alienation of cultural heritage objects but also draws attention to the problems caused by political and economic change in Poland and other central and eastern European countries. Only part of the cultural heritage is subject to legal protection in the strict sense in the Polish Law on cultural objects and museums of 15 February 1962 as amended: the Register does not include items inventoried in museums and only exceptionally private collections. A new law is being drafted to prevent the loss of any more objects of Polish history and art following the incredibly high losses already made by devastation and war damage.

Legal export is subject to customs duties. Dealers are subject to trade licensing under an instruction of the Minister of Culture and Art of 30 June 1965. Excavation is controlled by an instruction of 11 January 1994.

There is a rising tide of theft and illicit export, which is of great concern. The UNIDROIT Convention is welcomed. Poland is also very concerned with the problems of retrieval and restitution of art treasures stolen, displaced or damaged during World War II. The Commissioner for the Polish Cultural Heritage Abroad, established in 1990 makes efforts to retrieve such heritage once owned by Polish national collections.

Poland emphasizes the fundamental right of civilized society to its own history. The loss of cultural heritage should not be passed unnoticed.

2. TRINIDAD AND TOBAGO

Trinidad and Tobago has decided to become a party to the *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970)* and is in the process of reviewing its domestic legislation which will give effect to the Convention in Trinidad and Tobago, After the proclamation of the necessary act it will be in a position to lodge its instrument of acceptance.

3. In view of the information given in documents 28 C/35, 28 C/35 Add. and this document 28 C/35 Add.2, the General Conference may wish to take the following draft resolution:

The General Conference,

Having examined the reports of States on the action taken by them to implement the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970),

Recognizing the importance and value of the action taken on the implementation of the Convention as described in the reports received,

Noting however that, as at 1 November 1995, only 82 States had deposited their instrument of ratification or acceptance of the Convention, a fact which limits its effective impact,

Noting the activities undertaken by the Director-General in training, preparation of publications and encouragement of more effective international collaboration,

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Considering that action against illicit traffic in cultural property urgently needs to be strengthened at the national as well as international levels,

1. Reiterates the invitations which it addressed to States in 22 C/Resolution 11.4 and 24 C/Resolution 11.3, concerning measures to be taken to strengthen action against illicit traffic of cultural property at the international and national levels;
2. Calls the attention of all States not yet party to the Convention to the Director-General's appeal of 30 December 1990 to become parties to the Convention and invites them to respond to that appeal;
3. Invites States and the Director-General to pursue activities aimed at strengthening regional co-operation in this field;
4. Recommends that States consider the possibility of concluding bilateral agreements for the restitution of illicitly exported cultural property;
5. Further recommends that States consider becoming party to the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects which was opened for signature at Rome on 24 June 1995 and which complements the 1970 UNESCO Convention;
6. Invites Member States and other States Parties to the 1970 UNESCO Convention to forward a further report on the action they have taken to implement the Convention for examination by the General Conference at its thirty-second session.