



United Nations
Educational, Scientific and
Cultural Organization



Convention for the fight
against the illicit trafficking
of cultural property

3 SC

C70/15/3.SC/7
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**Third Session of the Subsidiary Committee of the Meeting of States Parties to the
Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and
Transfer of Ownership of Cultural Property
(UNESCO, Paris, 1970)**

Third Session
Paris, UNESCO Headquarters, Room XI
28-30 September 2015

Provisional agenda item 7:

Proposals for the implementation of the Roadmap and
recommendations by the UNESCO Internal Oversight
Service (IOS)

This document includes proposals for the
implementation of the Roadmap for the fulfilment of
the functions of the Subsidiary Committee (adopted
by the first Extraordinary Session of Subsidiary
Committee) and the recommendations presented in
the IOS evaluation report.

Decision required: paragraph 37

I. BACKGROUND

1. The roadmap for the fulfilment of the functions of the Subsidiary Committee was adopted by the Subsidiary Committee during its extraordinary session held on 18 May 2015 at UNESCO Headquarters. This document further elaborated on each of the functions of the Subsidiary Committee specified in Section I of its Rules of Procedure:

- *promotion of the purposes of the Convention;*
- *national reports on measures taken in application of the Convention;*
- *exchange of best practices; recommendations that may contribute to the implementation of the Convention;*
- *problem areas arising from the implementation of the Convention, including issues relating to the protection and return of cultural property;*
- *coordination with the Intergovernmental Committee for promoting the return of the cultural property; and*
- *reporting to the meeting of States Parties.*

2. In line with its biennial evaluation plan for 2012-13, UNESCO's Internal Oversight Service (IOS) conducted an evaluation of the standard-setting work within the UNESCO Culture Sector, the second part of which concerns the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. Preliminary findings were presented to the Executive Board at its 194th session ([Document 194 EX/22](#)) which requested *"the Director-General to continue her efforts to ensure that all Internal Oversight Service recommendations are properly implemented within a reasonable time frame, in consultation with the governing bodies of the cultural conventions, as necessary, and without prejudice to the conclusions of the working group."*

3. The evaluation of the 1970 Convention aims to contribute to UNESCO's future efforts to strengthen its implementation, while feeding into the overall evaluation of standard-setting work of the Culture Sector. The IOS report, 'Evaluation of UNESCO's Standard-setting Work of the Culture Sector: Part II – 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property' also contains specific Recommendations¹ (hereafter "the Evaluation Recommendations") and is available online ([Document IOS/EVS/PI/133 REV.](#)).

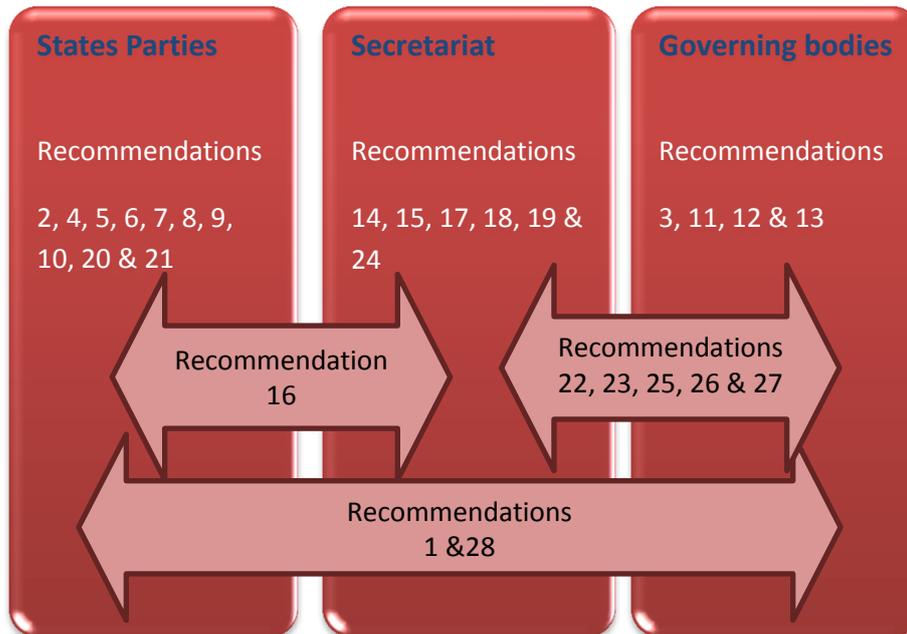
4. On the basis of the Resolution 3.MSP 8 adopted during the Third Meeting of States Parties which requested the Subsidiary Committee "in cooperation with the Secretariat, to prioritize the areas of work related to the implementation of the above mentioned recommendations, as well as the activities included in the roadmap, and to report on the status of their implementation at the next Meeting of States Parties", and on the two aforementioned documents which aim to improve the implementation of the Convention, and future standard-setting work, this document proposes an integrated and harmonized strategy, including concrete steps in terms of prioritization of work.

5. Beyond the roadmap and the Evaluation Recommendations clarifying the steps to be taken for an effective implementation, concrete proposals should be agreed upon to enable States Parties and other stakeholders to begin this process. The third session of the Subsidiary Committee provides an appropriate and timely opportunity to join the findings and recommendations contained in both documents, and will form the basis for possible future actions by the Committee.

¹ See document IOS/EVS/PI/133 REV., paragraph 284. Also Annex to Document C70/15/3.MSP/8.

II. GLOBAL OVERVIEW

6. The purpose of the evaluation of the 1970 Convention “is to generate findings and recommendations regarding the relevance and the effectiveness of the standard-setting work of the Convention with a focus on its impact on ratification, legislation, policies and strategies of Parties to it; and the implementation of the convention at national level.” It is therefore important to distinguish which recommendations fall under whose responsibility in order to establish a clear and coherent strategy for enhanced implementation of this treaty. These recommendations are addressed to the States Parties, the Secretariat, and the Governing Bodies, as follows:



III. NEEDS AND PROPOSALS

7. Upon examination of the roadmap and the Evaluation Recommendations, the following important themes emerge for consideration by the Subsidiary Committee with a view to setting a concrete strategy:

- i. capacity-building and awareness-raising
- ii. international cooperation
- iii. facilitating dialogue and developing partnerships
- iv. national reports
- v. identifying problem areas
- vi. reporting to State Parties

III.1 Capacity-building and Awareness-raising

8. For capacity-building initiatives, the roadmap proposes exploring ways and means to promote the development of institutional and human resources to support the implementation of the 1970 Convention and to strengthen and enhance the impact of UNESCO-driven media campaigns and relevant statements. The Recommendations 1, 14 and 15 of the Evaluation Report complement this approach, by focusing on how to improve ratification rates, especially in regions where they are low, through awareness-raising and capacity-building initiatives.

9. With a view to elaborating a consistent capacity-building and awareness-raising strategy over the long-term, the Secretariat is currently putting in place various needs assessment tools and procedures in order to identify priority areas, mechanisms and main target beneficiaries. Information provided in the States Parties National Reports is of utmost importance for the drafting of such a strategy. Moreover, in early July 2015 the Secretariat sent a questionnaire to UNESCO field offices (43 Field Office colleagues) taking into account the geographical balance to determine what areas need to be addressed in order of priority in terms of capacity-building and awareness-raising initiatives ². As of 31 of July, nearly 20 questionnaires had been received, but since the inputs by some Field Offices is expected the analysis of the questionnaire is ongoing at the time of the drafting of the present document. As a second step, an adapted questionnaire will be circulated to national authorities through Field Offices in the coming months.

10. Therefore the Secretariat is proposing the following timeframe in accordance with UNESCO Medium-Term Strategy (2014-2021) and four-year programme and budget cycle:

Short-term	Present-2017
Medium-term	2017-2021
Long-term	Post 2021

11. The graphics presented below summarize the outcomes of the analysis by the Secretariat of the questionnaires completed by the UNESCO Field Offices and related to (i) the modalities and mechanisms, (ii) topics to be tackled, (iii) beneficiaries of the activities, (iv) mechanisms to enhance follow-up in the frame of the capacity-building and awareness-raising and (v) comprehensive approach to awareness-raising.

(i) Modalities and Mechanisms ³

Figure I



Figure II

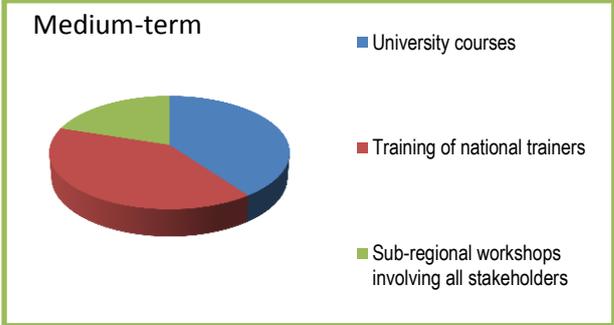
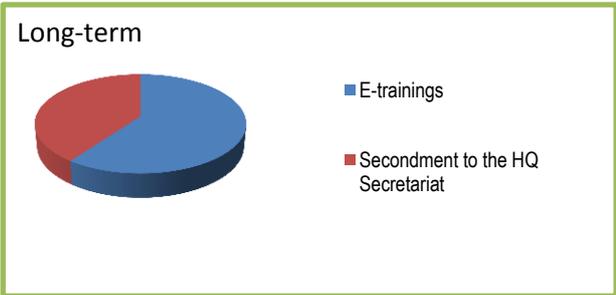


Figure III



² For information on the capacity-building and awareness-raising activities organized or participated by the Secretariat please see document C70/15/3.SC/4

³ Mid-term and Long-term modalities/mechanisms can happen in parallel with short term.

12. The Secretariat is periodically developing workshops and capacity-building activities for specific stakeholders depending on the financial resources (refer to document C70/15/3.SC/4). As the implementation of these activities appears to be a short-term priority, the Secretariat will continue to undertake workshops and training with the support of State Parties. While deciding on the country or the region the Secretariat will take into account:

- priority regions / countries, with specific attention to countries in a conflict situation;
- particular topics most related to the target country/region;
- the beneficiaries;

During a second phase, it is envisaged to train stakeholders who have previously participated in workshops, as well as to include the topic of the fight against the illicit trafficking in cultural property in university courses. E-training is also an option to be considered in the long-term.

13. As the Secretariat has already put in place a structure for short-term actions, for mid-term and long-term priorities **the Subsidiary Committee may wish to request the Secretariat** to explore ways to develop activities on these mechanisms (see Figure II and III).

14. In addition to the existing modalities, it was also proposed, as a matter of national security, to deal with high-level advocacy and awareness-raising on the prevention of illicit trafficking of cultural property.

(ii) Topics to be tackled

15. According to the information provided, issues such as ratification and implementation of the 1970 UNESCO and 1995 UNIDROIT Conventions, return and restitution procedures, role of national police corps and national custom units, awareness-raising and education mechanisms, digitization of inventories and risk assessment in museums/archaeological sites appear to be the top priorities for Field Offices. In this regard **the Subsidiary Committee may wish to invite States** with technical facilities and expertise to cooperate with other States wishing to improve their efforts on the above-mentioned topics. The Secretariat stands ready to receive applications from States expressing their interest in providing or receiving support in order to accelerate the process of establishing a cooperative framework for the countries concerned.

16. It is imperative to bear in mind that traffickers are introducing new means and innovative ways to commit crimes against culture. Therefore a response to effectively mitigate these new challenges is needed. Countries and regions should continually question the effectiveness and relevance of their existing national legislations, and amend and adapt them according to new developments in the field. Increased traffic on the Internet is one example of the evolving nature of this crime, and could be addressed through national legislation. Given the importance of these topics, **the Subsidiary Committee may wish to encourage States Parties** to pay close attention not only to their heritage legislation strictly speaking but also to consider revising their Internet-related, customs, transport regulations and possibly their anti-terrorism laws.

(iii) Beneficiaries

Figure IV

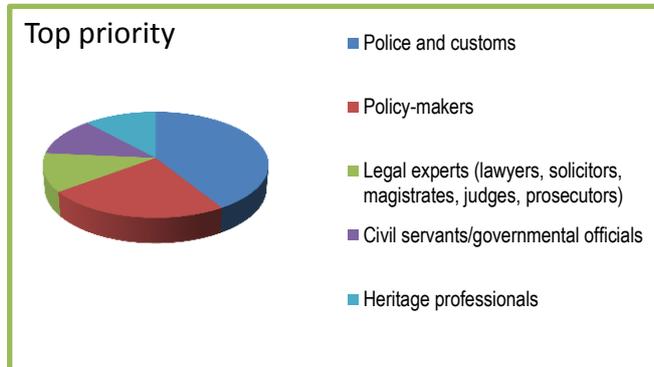


Figure V

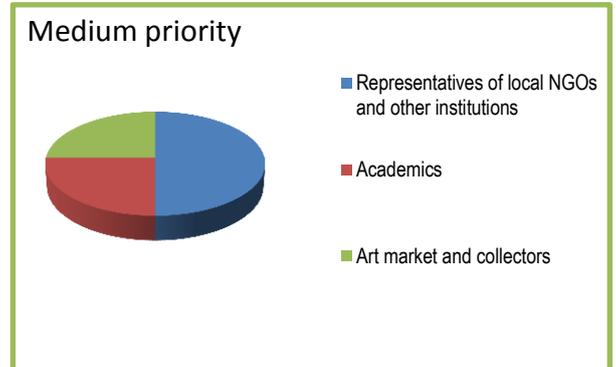
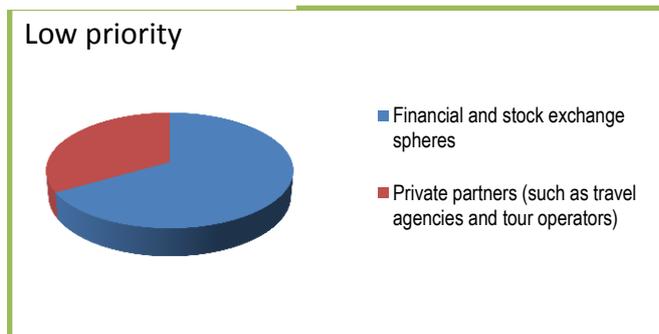


Figure VI



17. Policy-makers, police and customs followed by legal experts, civil servants and heritage professionals are considered to be the priority beneficiaries. The Secretariat will continue focusing-on these beneficiaries while developing future activities. Moreover, art-market professionals and private collectors also need to be involved for an effective and comprehensive strategy against illicit trafficking of cultural property and the Secretariat will continue its awareness-raising efforts, especially in art market countries.

(iv) Mechanisms for enhanced follow-up to the capacity-building strategy

Figure X

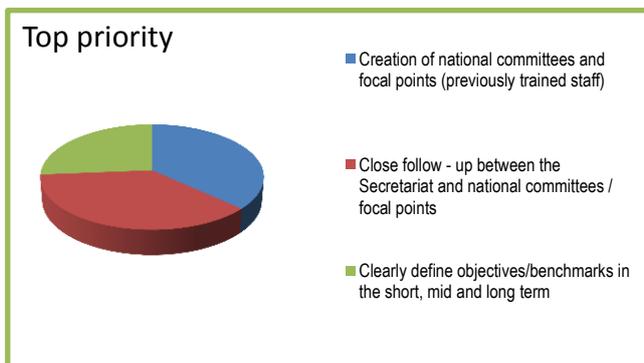
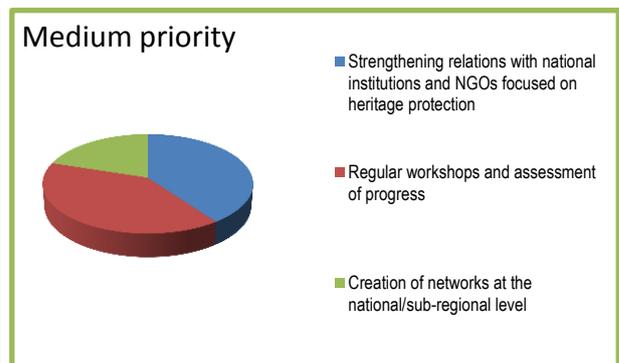


Figure XI



18. The mechanisms for enhanced follow-up to the capacity-building strategy includes creation of committees and focal points, close cooperation between the Secretariat and national committees/focal points, clearly defined objectives/benchmarks in the short, mid and long term.

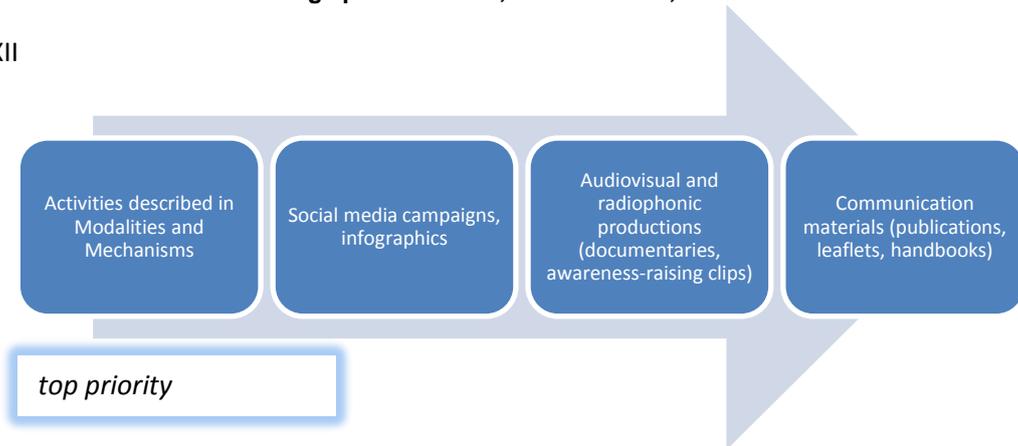
(v) Comprehensive approach to awareness-raising

19. Raising awareness among the public at large is decisive for preserving cultural heritage in the long-term. In recent years, the Secretariat has implemented several outreach and awareness-raising activities targeting different segments of the population (see document C70/15/3.SC/4) including stakeholders involved in the fight against illicit trafficking, students, children and the youth, local communities and the general public in art market countries.

20. In the near future, the Secretariat is planning to strengthen in particular its action regarding outreach activities for the general public through a multidirectional and awareness-raising campaign, using different means of communication and tapping into the network of high-visibility museums, auction houses, as well as national and international media.

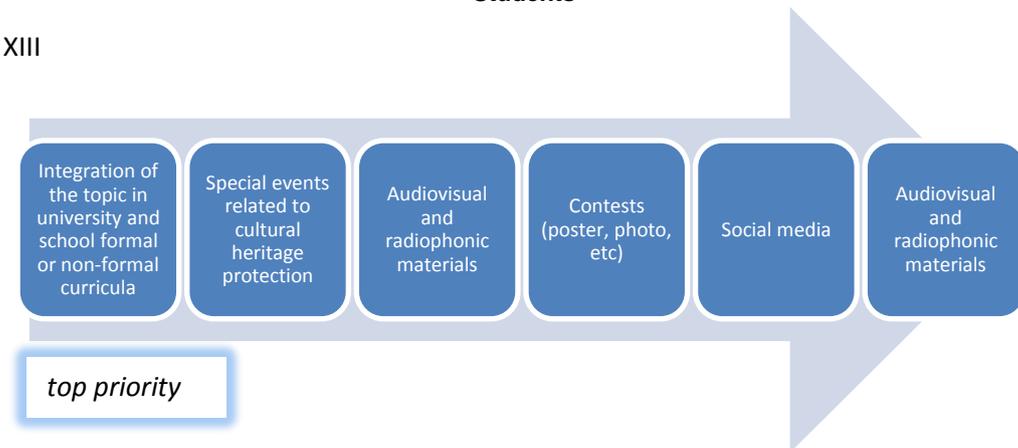
**Governmental officials, policy-makers, legal experts, police and customs,
heritage professionals, museum staff, academics**

Figure XII



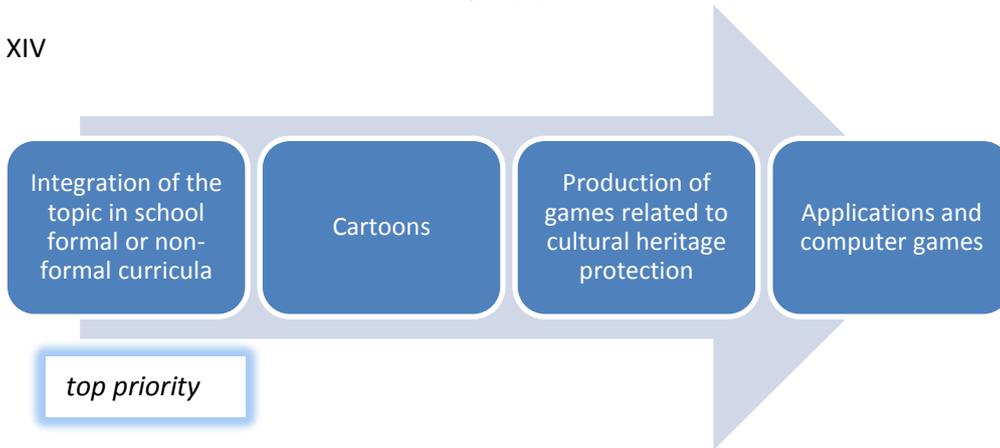
Students

Figure XIII



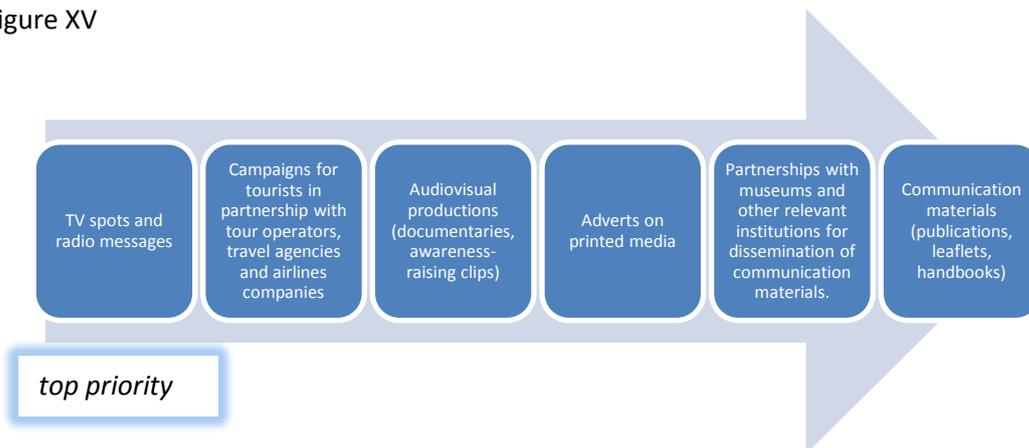
Children

Figure XIV



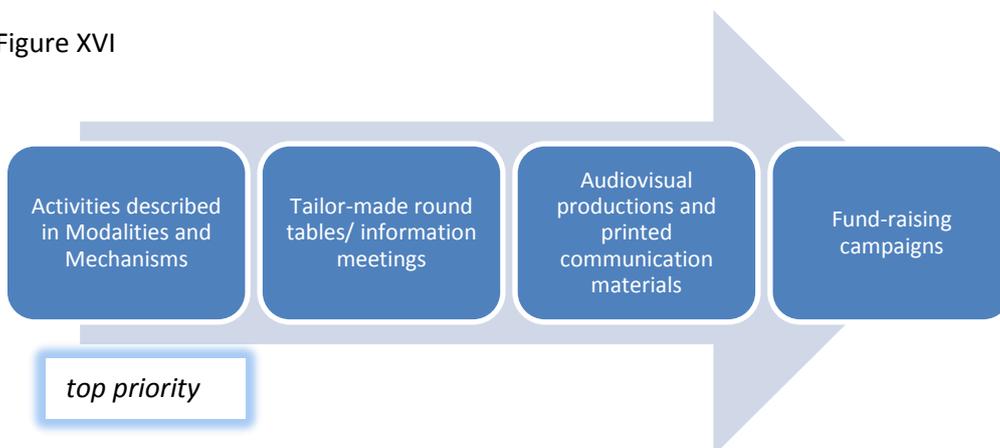
Local communities and general public in art market countries

Figure XV



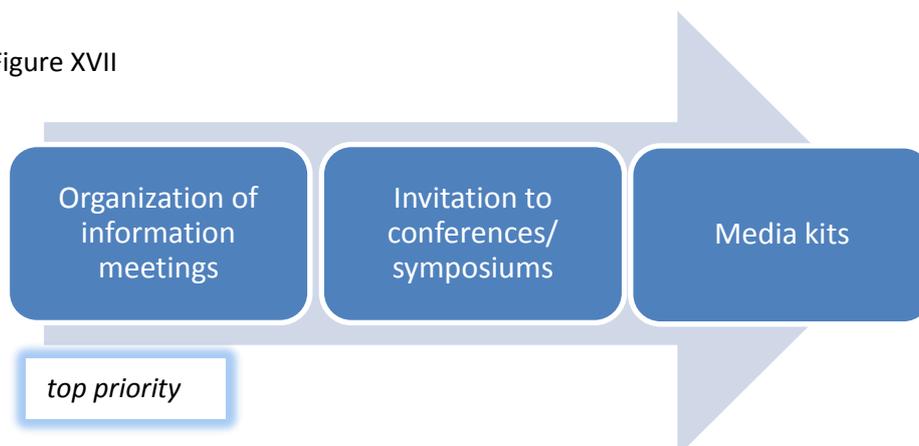
Art market, collectors, stock exchange spheres

Figure XVI



Press

Figure XVII



III.2 International Cooperation

21. Recommendation 11 of the Evaluation Report highlights the need to clarify procedures for return/restitution at the national level by designating focal points that can be contacted by other State Parties. This recommendation, addressed to the Subsidiary Committee and to the States Parties, complements paragraph 12 of the roadmap which refers to Article 9 of the Convention on international cooperation, in particular concerning the protection of cultural patrimony in jeopardy from pillage of archaeological and ethnological material.

22. In order to strengthen international cooperation among States Parties to the 1970 Convention, the Secretariat provides necessary support, platform, networks, legal and practical tools, to establish dialogue between concerned States, within the limits of its duty of neutrality. In addition to providing the required means for negotiations when requested, the Secretariat also calls on States Parties to cooperate by taking all necessary actions and measures, especially to prevent the illicit trafficking flowing through countries in times of conflict.

23. **The Subsidiary Committee may wish to encourage State Parties to:**

- strengthen international cooperation by developing regional and bilateral agreements to better respond to situations related to illicit trafficking, notably through the exchange of information and sharing past experiences.
- consider submitting relevant national laws and regulations to the UNESCO Database of National Cultural Heritage Laws in order to promote and clarify the procedures for return and restitution cases;
- use the Model Export Certificate, jointly developed by UNESCO and the World Customs Organization (WCO) as a tool to track information on the provenance of cultural property. The dissemination of this type of tool can facilitate the distinction between legally and illegally exported cultural artefacts, and help determine good faith and due diligence requirements.

III.3 Facilitate dialogue and develop partnerships

24. As mentioned in the roadmap and in the evaluation report, strengthening dialogue among all stakeholders, including intergovernmental organizations and non-governmental organizations as well as art-market professionals and Internet service providers is essential to reduce risks of illicit trafficking. The Secretariat already invites representatives of auction houses to participate in key events to forge links and cooperation with the Secretariat's efforts. The level of awareness of art-market professionals has improved but this cooperation should be further developed on a more institutionalized basis to increase its impact and achieve more effective outcomes.

25. **The Subsidiary Committee may wish to draw up** a list of recognized confederation of institutionalized associations or organizations of art dealers, museum professionals and private collectors, to be invited to participate in its sessions and/or events. These bodies should be encouraged by the Committee to keep their members informed about any legislative developments taking place in States Parties or international discussions, and should also commit to raising awareness in the private sector on illicit trafficking, and strengthen cooperation among all stakeholders.

26. The Secretariat is planning to organize a roundtable involving art-market professionals, including auction houses, private collectors, Internet service providers and online marketplace operators, at UNESCO Headquarters, in order to bring to the attention of the private sector the issue of illicit traffic of cultural objects.

27. **The Subsidiary Committee may wish to encourage States Parties** to better promote and broadly circulate the **International Code of Ethics for Dealers in Cultural Property**⁴ among the representatives of the art market, museums and cultural institutions, and to strengthen existing national legislations and regulations on trade of cultural objects. As part of their awareness-raising strategy, the States Parties may decide to create national contact lists of auction houses to:

- send alerts concerning stolen protected cultural objects, particularly in conflict situations;
- share information on new legal provisions;
- provide training to art market professionals; and
- invite them to relevant conferences/symposiums.

Such initiatives can strengthen relations with other stakeholders involved in the fight against illicit trafficking and, therefore, facilitate the exchange of information.

28. All these initiatives, actions and responsibilities, once undertaken, can considerably contribute to more effectively fight against the illicit trafficking of cultural property which in turn, may have an impact on other criminal activities, including reducing revenue for terrorist organizations.

III.4 Identification of problem areas

29. One of the functions of the Subsidiary Committee is 'to identify problem areas arising from the implementation of the Convention including issues relating to the protection and return of cultural property'. According to the roadmap, the Subsidiary Committee will discuss

⁴ <http://unesdoc.unesco.org/images/0012/001213/121320M.pdf>

issues raised by States Parties and examine national reports, identify new challenges that arise from the implementation of the Convention and propose solutions.

30. Since States Parties face different challenges at different times, it is necessary to conduct a comprehensive study to identify specific problem areas and propose tailor-made recommendations to address these issues. Such a study has already been undertaken through the evaluation report and the adoption of the Operational Guidelines⁵.

31. As the main problem areas can be extracted from the above-mentioned documents, supported by several academic studies, such as the study presented by Professor Lyndel Prott⁶ during the Second Meeting of the States Parties, **the Subsidiary Committee may wish to select at each of its sessions specific topics or problems to be addressed** to be further and discussed at the following session. The Committee, with the support of the Secretariat, would then prepare concrete recommendations on those topics to be submitted to the next session of the Meeting of States Parties.

32. The Subsidiary Committee may wish to choose the “online sales of illicitly trafficked cultural property” as the first topic to be examined during its fourth session. The Secretariat will also identify renowned experts on this topic to make presentations to the Subsidiary Committee during its fourth session.

III.5 Reporting to State Parties

33. In order to identify lessons learnt, evaluate and measure progress made in the implementation of the 1970 Convention, the Committee has to examine the National Reports before submitting its proposals to the Meeting of States Parties, as stated in the Roadmap of the Subsidiary Committee.

34. Furthermore and in order to enable the Subsidiary Committee to better monitor the implementation of the Operational Guidelines at the national level the Secretariat will integrate, in the next evaluation in 2019 specific questions in this regard into the National Reports' questionnaire.

35. As of 31 July 2015 the Secretariat received only 40 reports. In order to enable the Committee to fulfil its function more effectively, the States Parties' commitment to submitting their reports is essential. Taking into account Recommendation 27 of the Evaluation Report, the Subsidiary Committee and the Secretariat were tasked with improving periodic reporting by revisiting the reporting format and introducing an online system for submission and analysis of periodic reports based on in-house best practices.

36. **The Subsidiary Committee may wish to request the Secretariat** to establish an online system, which would be operational by the next reporting cycle. The online system developed by the World Heritage Centre related to the periodic reports under the 1972 Convention could be considered as a model to follow.

37. Taking into account the above-mentioned analysis, information and proposals, the Subsidiary Committee may wish to adopt the following decision:

⁵ http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/OPERATIONAL_GUIDELINES_EN_FINAL.pdf

⁶ http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/Prott_2_en.pdf

DRAFT DECISION 3.SC 7

The Subsidiary Committee,

1. Having examined Document C70/15/3.MSP/8,
2. Supports the Secretariat to continue capacity-building and awareness-raising activities in accordance with the priorities following consultation with UNESCO Field Offices;
3. Requests the Secretariat with the support of State Parties to prepare a non-exhaustive list of interregional and international associations representing art-dealers and private collectors, as well as museum professionals, and invite their representatives to future sessions of the Subsidiary Committee in order to strengthen ties with private sector;
4. Invites the Secretariat to present the outcomes of the roundtable involving the art-market professionals, including auction houses, private collectors and internet service providers at its next session;
5. Urges State Parties to use already existing tools to strengthen measures against illicit trafficking of cultural property, in particular on the internet, and reinforce national and international cooperation;
6. Calls upon State Parties to better promote the Code of Ethics for Dealers and encourages State Parties to create and maintain up to date national lists of auction houses, and galleries as an integral part of national awareness-raising strategies, in order to:
 - i. keep auction houses informed on recent national and international priorities,
 - ii. provide training on the topic, and
 - iii. invite their representatives to relevant conferences/symposiums;
7. Decides to identify problem areas that need to be addressed and will be discussed at the next session of the Subsidiary Committee, Recommendations being then submitted to the Meeting of States Parties;
8. Also decides to choose, as first priority topic, the online sales of illicitly trafficked cultural property to be examined at its fourth session.