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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)

SUMMARY

This document transmits to the General Conference for its examination summaries of reports forwarded by Member States and one non-Member State as at 20 June 1987 on the action taken by them to implement the above-mentioned Convention. The comments of the Executive Board on this question will be distributed later as an Addendum to this document.

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## PART I

### INTRODUCTION

1. The Convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property 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 June 1987, 60 States had ratified or accepted the Convention. The list of these States is given in the Annex to this document.
2. At its twentieth session, the General Conference examined first reports submitted by Member States on the action taken by them to implement the Convention and decided, by resolution 4/7.6/4 'that Member States will be invited to forward a second report on the action they have taken to implement the Convention for examination by the General Conference at its twenty-fourth 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 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 4/7.6/4 adopted by the General Conference, Member States were invited by circular letter 3004 dated 26 May 1986 to transmit their reports concerning the implementation of the Convention to the Organization, if possible, by 15 December 1986. The United States of America, 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. States were called upon to provide information, in particular, on the national services responsible for the protection of cultural property, the legislative and administrative measures taken in relation to the protection, export, import and trading of cultural property and to the state of preparation of any relevant inventories. States were also invited to bear in mind the proposals for the implementation of the Convention which were adopted by the General Conference at its twenty-second session, by resolution 11.4. Finally, those Member States which had not yet ratified or accepted the Convention were requested to let the Organization know whether the process leading to ratification or acceptance was underway and, if not, to provide as much information as possible on the obstacles which still impeded this.
4. In February 1987, a reminder was sent to those Member States from which the Secretariat had not yet received replies.
5. As at 20 June 1987, the Secretariat had received replies from the following 25 States Parties to the Convention: Algeria, Burkina Faso, Canada, Cuba, Dominican Republic, El Salvador, German Democratic Republic, Guatemala, Hungary, India, Iran, Jordan, Mali, Mexico, Pakistan, Panama, Poland, Portugal, Qatar, Saudi Arabia, Spain, Syrian Arab Republic, Turkey, United States of America and Yugoslavia; and from the following 12 States not Parties to the Convention: Australia, Barbados, Chile, Japan, Luxembourg, Madagascar, New Zealand, Rwanda,

Suriname, Switzerland, USSR and Zimbabwe. Summaries of these reports are given in Part III of this document. Part II contains analytical notes on the reports.

6. In pursuance of the above-mentioned resolution 4/7.6/4, 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 report received from the United States of America is also submitted to the General Conference. The General Conference is, in accordance with the Rules of Procedure concerning Recommendations to Member States and International Conventions, to embody its comments on the action taken by Member States in pursuance of the Convention 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 IIANALYTICAL NOTES ON THE REPORTS RECEIVED FROM MEMBER STATES AND  
FROM ONE NON-MEMBER STATE

7. In order to facilitate examination of the reports of States, brief analytical notes have been prepared on the information provided by States on certain aspects that appear to be of particular relevance for assessing action taken to implement the Convention. The notes that follow are grouped under five main headings, namely:

- A. Measures relating to the export of cultural property.
- B. Measures relating to the import of cultural property.
- C. Measures relating to trade in cultural property.
- D. Other measures.
- E. Information concerning ratification of the Convention provided by States not Parties thereto.

A. Measures relating to the export of cultural property

8. The vast majority of States indicate that they have adopted legislative measures concerning the export of cultural property. In most cases, the legislation has been promulgated in the 1970s or 1980s or has been amended during that period to extend export control to other categories of cultural property or to make legislation more effective.

9. With respect to the definition of cultural property subject to export control, the legislation of the majority of States stipulates that all cultural property as defined by the law is subject to export control whereas in some States the definition adopted for export control is more restrictive than that adopted for general protection purposes. Thus in States which have adopted a classification system, export control may be limited to classified objects. This is the case for instance in Algeria and Mali. Under Australian law, export control will be limited to categories of objects included in the National Cultural Heritage Control list. A similar system is in force in Canada. Other examples of limited export control are to be found in legislations in force in Japan and Spain which restrict the export of certain cultural property declared important and in Luxembourg where it is an offence to export objects more than 100 years old or whose authors died more than 50 years ago.

10. Inventories of cultural property can constitute a useful tool for controlling export. In this connection, Portugal draws attention to the importance of drawing up, on the basis of a national inventory of protected property, a list of important public and private movable cultural property whose export would constitute an appreciable impoverishment of the national cultural heritage, as foreseen in Article 5(b) of the Convention. Turkey holds that inventories should be made of objects held in museums and by collectors and that access thereto should be facilitated to requesting countries. Several States including the Dominican Republic, El Salvador, Mali, Panama, Turkey, the United States of America and Yugoslavia report on the state of preparation of inventories in their respective countries.

11. In almost all States, the legislation prohibits the export of cultural property unless authorization is given. Export may exceptionally be permitted for exhibition or exchange purposes. As pointed out by Poland, the obligation to request authorization to export gives the State authorities an opportunity to examine the objects in question.

12. A number of States have reported on the technical and administrative measures adopted for controlling the export of cultural property. In certain countries, such as the German Democratic Republic, special regulations have been issued setting out in detail the procedure for granting authorization to export, and in others, including Burkina Faso, Japan and Yugoslavia, standard forms have been issued for the export of cultural property. Yugoslavia also draws attention to the importance of ensuring that export permits accompany cultural property exported. Information on action taken by the customs organizations is provided in some cases: in the USSR, groups of experts help customs officials in preventing illicit traffic; in Cuba, shipments are suspended if there is any reason to suspect that any item of cultural property is being illegally exported; customs checks are also made in Pakistan. The importance of adequate training of customs officials is underlined in the reports of El Salvador and Yugoslavia which both organize specialized instruction.

13. Illicit export of cultural property is very often linked with theft and with clandestine excavations of archaeological sites and the majority of States who refer to this question indicate that they have taken measures to assure the security of public collections and to protect archaeological sites. Adequate security in museums is an important question for Pakistan and Mexico; the latter reports that security regulations have been drawn up for each museum in the country. Several reports state that, in the case of theft, Interpol is notified and in at least two States, India and Spain, special units have been set up within the security services to deal with offences against the cultural heritage. Mali reports that co-ordination is assured between police and customs services in the fight against illicit traffic. In almost all States, authorization is necessary to undertake archaeological excavations; other measures foreseen for the protection of archaeological sites and objects include the obligation to report chance finds, the recording of archaeological sites, the declaration as property of the State of all archaeological objects. Despite the measures taken, however, clandestine excavations continue unabated in many countries. The report of the Dominican Republic is particularly eloquent on the damage to the cultural heritage from the organized looting of archaeological sites.

14. In a number of reports, references are made to fiscal measures taken to retain cultural property. Canada refers to the possibility of tax incentives to individuals who donate or sell cultural property to Canadian institutions, and to the availability of grants to institutions to purchase objects denied export permits. Similarly, under Australian law a fund has been established for the purchase by public institutions of objects which have been refused on export permit. Pakistan also reports on the availability of funds for the acquisition of cultural property and the USSR mentions the establishment of a fund which supports government action, inter alia for the acquisition of cultural property for public collections.

15. Certain States report that they are experiencing serious difficulties in enforcing the provisions of their legislation concerning the export of cultural property. Burkina Faso specifically refers to the problems raised by the lack of adequate qualified staff which leads to a situation in which officials responsible for controlling exports are unable to identify objects whose export is prohibited. For the Dominican Republic, the difficulties in controlling illicit traffic stem from the lack of specialized security services, with the result that the looters, antique dealers, tourists and other traffickers indulge in illicit traffic with total impunity.

B. Measures relating to the import of cultural property

16. Nine States, all Parties to the Convention, give information on the provisions of their national legislation governing the import of cultural property. One of these States, namely Turkey, indicates that the import of cultural property is authorized by Law. The legislation of the Syrian Arab Republic provides that the authorities will co-operate in efforts to return to their country of origin any foreign antiquities illicitly imported, provided that such co-operation is reciprocal.

17. Seven of these countries, namely, Canada, Cuba, the German Democratic Republic, Pakistan, Spain, the United States of America and Yugoslavia refer to the import control exercised by their authorities. Legislation in force in Cuba stipulates that cultural property imported into the country must be declared and cannot be re-exported without a customs certificate issued at the time of entry. It is the customs legislation which regulates the import of cultural property into the German Democratic Republic which furthermore states its readiness to facilitate the restitution of cultural property illegally imported, in conformity with the commitments it has contracted under international law. Similarly, in Yugoslavia, the import of cultural property is dealt with in customs legislation; the report from this country asserts that cultural property illegally imported is not in most cases destined for the art market but for household needs or is in transit. Under Spanish law, cultural property which has been legally imported is subject to protection under the law 10 years after its importation; its re-export is subject to authorization.

18. It is interesting to compare the form of import control foreseen in Canadian Law with that set out in legislation adopted in the United States of America in application of the Convention. The Canadian Cultural Property Export and Import Act stipulates that 'it is illegal to import into Canada any foreign cultural property that has been illegally exported from [a] reciprocating State'; no elaborate checks on imports at Ports of Entry have been established to enforce this law, but it is up to the importer to ensure that the cultural property being imported has legally left its country of origin and to obtain export permits when required; the Act, furthermore, provides only for action to be taken when a reciprocating State requests in writing the recovery and return of cultural property illegally imported into Canada; an action in the courts can be instituted for the recovery of the property and the court can arrange for compensation to be paid by the reciprocating State when it is satisfied that the possessor is a bona fide purchaser. The report from Canada describes the different requests for the return of cultural property which have been formulated by States Parties under this Act. It emerges from a study of one of these cases that it is essential that evidence be provided to the Canadian Court that the object whose return is requested was illegally exported from the requesting country after the Convention entered into force for the two countries. The system foreseen under the Cultural Property Implementation Act of the United States of America is quite different. On the one hand, it implements the provisions of Article 7(b) of the Convention which stipulates that States Parties will take appropriate steps to recover and return any cultural property stolen from a museum or similar institution, in another State Party, that is documented as appertaining to the inventory of that institution; it is the responsibility of the United States Customs Service to seize stolen cultural property, notify the Embassy of the State Party and arrange for its return. On the other hand the Act provides that the United States of America may, at the request of a State Party, impose import restrictions on certain archaeological and ethnological material of a State Party, in cases where the pillage of such material places the State Party's cultural patrimony in jeopardy; this provision has been adopted in application of Article 9 of the Convention. It will be the responsibility of United States Customs to prohibit entry of the material concerned into the United States of America once import restrictions have

been imposed. The first request for United States import restrictions under the Act has been submitted by the Government of Canada and is currently being examined by the Advisory Committee established by the Act. The report from El Salvador indicates that an emergency request for the imposition of import restrictions has also been forwarded to the United States Government.

19. In Australia, not yet party to the Convention, a recently adopted Act provides that it is unlawful to import into Australia an object which is part of the movable cultural heritage of another country. Action will be taken only when a foreign country requests the return of an object; similarities with the Canadian system described above will be evident.

20. Iran, a State Party to the Convention, informs that a draft Act is under preparation which will prohibit the import of foreign cultural property in accordance with the terms of the Convention. Poland, also a State Party, reports that museums do not acquire illegally imported cultural property.

21. Two other States not Parties to the Convention also provide information concerning the import of cultural property. The USSR indicates that measures are taken immediately to seize and return to the country of origin cultural property illegally imported into its territory. Japan states that, although no specific provisions have been made preventing museums from acquiring cultural property stolen abroad or illegally exported from foreign countries, no museum in Japan would wilfully acquire objects of such dubious origin.

#### C. Trade in cultural property

22. For several of the States, one of the main causes of illicit traffic in cultural property is the international art market where very high prices are attained by works of art and archaeological objects. As stated by the German Democratic Republic, illicit trade is one of the principal causes of impoverishment of the cultural heritage, particularly of the developing countries. Portugal holds that the regulation of trade in cultural property is essential for an effective policy aimed at preventing illicit export and transfer of ownership of cultural property.

23. A stricter control on trade in cultural property is evident from the reports of certain States. In some, such as Jordan, it is totally prohibited. In others, measures to regulate trade include the need for dealers to be registered, as in New Zealand, or to obtain permits, as in Turkey; the obligation for dealers to record transactions, as is the case in Japan, and Spain; the right of pre-emption of the Administration, as foreseen in Spain; and the obligation of dealers to ascertain the origin of any object offered, as in Poland.

#### D. Other measures

24. The importance of education and public information is stressed in many of the reports. El Salvador, India, Mali, Pakistan, Panama, Poland, Rwanda and USSR all draw attention to measures adopted in order to develop among the general public a greater awareness of the value and significance of the cultural heritage. These include the organization of meetings with local authorities, the preparation of publications and television programmes and the distribution of information leaflets on national legislation. In Yugoslavia, the text of the Convention has been translated into the languages of the country and widely disseminated.

25. The reports of certain States refer to special agreements concluded between countries concerning the return of cultural property which has been the object of illicit traffic. For instance, mention is made of bilateral treaties or agreements between the United States of America and a number of countries in Central and

Latin America. The USSR indicates that a mutual co-operation and assistance agreement for the return of illicitly exported cultural property has been signed by seven socialist countries.

E. Information concerning ratification of the Convention provided by States not Parties thereto

26. Four States, namely Barbados, Chile, New Zealand and Suriname indicate that the possibility of ratifying the Convention is under study and two other States, Madagascar and Zimbabwe, state that steps leading to its ratification are under way. Australia has announced its intention of ratifying and the USSR indicates that a solution should soon be found to this question. Luxembourg holds that ratification of the Convention should be done in conjunction with its partners in Benelux. Switzerland states that in the absence of appropriate legal bases and in view of more general considerations, ratification cannot be envisaged, although thought is being given to the subject.



PART III

SUMMARIES OF REPLIES RECEIVED FROM STATES TO THE REQUEST FOR REPORTS  
ON THE IMPLEMENTATION OF THE CONVENTION

(a) States Parties to the Convention

ALGERIA

The legislative provisions concerning the protection of cultural property against illicit import and export, and on trade are contained in Ordinance No. 67-281 of 20 December 1967 on excavations and the protection of historic and natural sites and monuments (and in particular, in Article 4) and in Decree No. 69-82 of 13 June 1969 concerning the export of objects of national interest from the point of view of history, art and architecture. Action taken to combat illicit traffic at the international level includes the alerting of police, customs and services for the protection of the heritage following the theft of objects from museums abroad and support for the adoption of the ICOM 'Code of Professional Ethics'.

BURKINA FASO

A number of legislative and regulatory measures have been taken to protect cultural property, including the ordinance of 29 August 1985 concerning the protection of the cultural heritage, the decree of the same date regulating the export of art objects and the decree of 2 April 1987 concerning the certificate of origin and export certificate. Difficulties have arisen with respect to the effective application of the provisions of the Convention which stem essentially from the lack of adequate qualified staff. Existing staff is not able to ensure the collection nor conservation of objects nor to draw up an exhaustive inventory of the collections. Due to lack of adequate training, the officials responsible for controlling export at frontier posts are unable to identify objects whose export is prohibited. Efforts are being made to remedy this situation with the help of international specialized institutions. The report concludes by expressing the readiness of the authorities to co-operate in the implementation of the Convention.

CANADA

The report received from Canada deals essentially with cases of import of cultural property and with tax incentives and grants available under Canadian Law. With respect to import, it is recalled that the Canadian Cultural Property Export and Import Act (1975) provides that 'it is illegal to import into Canada any foreign cultural property that has been illegally exported from [a] reciprocating State' (Article 31.2). In March 1981 the Government of Mexico asked for the return to Mexico of two pre-Columbian statuettes which had been illegally exported from Mexico and were being held by Canada Customs in Montreal. The two statuettes were given to the Embassy of Mexico in Ottawa for return to Mexico. At the request of the Government of Nigeria in December 1981 a Nok terracotta sculpture was seized when it was brought into Canada from the United States. Three individuals were charged under the Canadian Act with illegally importing a cultural object. In June 1983 a provincial court judge dismissed the charges against all three, ruling that the Unesco Convention specifically stated that the export of a protected cultural object became illegal only after the signatories entered into the agreement. Evidence presented at the hearing showed that the sculpture had been

exported prior to 1970. This judgement was upheld in the Court of Appeal. In June 1983 a request was received from the Government of Peru for the return of five pre-Columbian ceramics and a stone sculpture which had been seized by Canada Customs in Toronto. The request was dealt with through the forfeiture provisions of the Customs Act and the objects were returned to the Peruvian Consulate. A collection of Peruvian artefacts was seized by Canada Customs in Vancouver after being exported from Bolivia and imported into Canada by a foreign citizen. Peru formally requested that the artefacts be returned but the importer appealed the seizure and the matter had not gone to court at the end of the fiscal year 1985-1986. Tax incentives are provided to individuals who donate or sell cultural property to Canadian institutions. Cultural property grants are available to Canadian institutions to purchase cultural property for which export permits have been denied or for objects located outside of Canada which are of significance to the history of Canada. An average of between 20 and 25 grants are awarded each year. Canada became the first nation to request a bilateral agreement concerning cultural property with the United States of America under the terms of the U.S. Cultural Property Implementation Act. The U.S. Cultural Property Advisory Committee began its consideration of the request in March 1986.

#### CUBA

By adopting in 1976 Law No. 1 for the Protection of the Cultural Heritage and by organizing the National Register of Cultural Property, the authorities have established a system for the control of the cultural property of the nation. Later, in 1983, the National Assembly approved Decree No. 118 in application of the Law which takes account of the provisions of the 1970 Convention. The main provisions of the two texts attached to the report which concern the export and import of cultural property can be briefly summarized as follows. Cultural property can only be exported with the express authorization of the Ministry of Culture and for the period of time set by it. The processing of shipment applications is to be suspended if there is reason to suspect that they involve the removal of any item of cultural property. Cultural property brought into the country must be declared to the customs officials who will issue a certificate and its re-export will not be allowed without that certificate.

#### DOMINICAN REPUBLIC

Since the beginning of the century, the Dominican Republic has promulgated laws and decrees to prevent illicit export and transfer of ownership of cultural property. Already in 1903 decree No. 4347 was adopted, declaring archaeological objects to be the property of the State, and prohibiting its export and ownership by private individuals. Later legal texts adopted prohibited the export of other categories of cultural property, and stipulated the conditions for temporary export for exhibition and study purposes. A centre has been created in the office of cultural heritage for the inventorying of cultural property. Notwithstanding all these legal provisions and administrative structures, not only has illicit traffic not been eradicated, but also it has not been possible to prevent the illicit acquisition of archaeological and ethnological objects in the territory of the Dominican Republic. Illicit traffic in the whole region of the Antilles is very prevalent, due to the clandestine activities of the 'huaqueros' (looters of archaeological sites), antique dealers, tourists and other traffickers who act with total impunity, because of lack of surveillance, and the inexistence of specialized police services at ports and airports. Furthermore, the looting of archaeological sites is organized by foreign collectors or archaeologists who act with the complicity of local authorities. Most of the objects looted leave via Puerto Rico to the art markets in North America and Europe; with the rising number of tourists this phenomenon has increased. Illicit traffic and the destruction of

archaeological treasures have been denounced in the media in the Dominican Republic. The Museo del Hombre Dominicano is waging a campaign to control and eradicate illicit traffic but has not achieved the results hoped for because of the lack of enforcement of national legislation prohibiting illicit export. However, recently the postal authorities in Puerto Rico confiscated a crate full of archaeological objects being imported from the Dominican Republic and arrangements were made for their return.

#### EL SALVADOR

As regards legislative action, a law has been in force in El Salvador since 1903 which prohibits the export of antiquities, including archaeological objects. More recently other measures have been adopted in conformity with the provisions of the 1970 Convention, including the Penal Code of 1973 which prohibits and penalizes illicit traffic in cultural property. The law for the Protection of Cultural Heritage is under revision and its approval is expected this year. Action to revise the legislation is being co-ordinated with other countries in Central America. The Directorate of Cultural Heritage maintains a national register of archaeological sites and historic monuments and an inventory of movable cultural property. It has circulated three publications aimed at educating and increasing the awareness of the public of the cultural heritage, has organized conferences in schools, prepared television programmes and given specialized instruction to customs officials to help them identify cultural traffickers and thus prevent illicit export. An emergency request for the imposition of import restrictions under the U.S. Cultural Property Implementation Act has been forwarded to the U.S. Government. El Salvador is also preparing documentation in view of a bilateral agreement with the United States of America concerning cultural property.

#### GERMAN DEMOCRATIC REPUBLIC

By adopting the law concerning the protection of cultural property of 3 July 1980 and the four decrees for its application, the German Democratic Republic has fulfilled the commitments it made by accepting the Convention. The German Democratic Republic expresses the hope that many more States will become Parties to the Convention, for international co-operation constitutes one of the most effective means of protecting the cultural heritage of countries against the danger of illicit trade, one of the principal causes of impoverishment of the cultural heritage, particularly of the developing countries. The law stipulates that the export of any cultural property is subject to authorization by the State and the decree of 1982 sets out the principles and the procedure for the issuing of an authorization to export. The import of cultural property is dealt with in customs legislation; the German Democratic Republic states its readiness to facilitate the restitution of illegally imported cultural property, in accordance with the commitments it has contracted under international law. With respect to the resolutions adopted by the General Conference concerning the Convention, the German Democratic Republic states that it endeavours to insert into agreements concluded with other States clauses concerning mutual help for the return of cultural property which had left countries during the Second World War. Claims for the restitution of stolen objects have been dealt with without reference to the Convention. The German Democratic Republic has taken measures to combat illicit traffickers in cultural property and speculators and to ensure that its diplomats respect the legislation of their host countries concerning the protection of cultural property. Illicit trade in cultural property is contrary to the cultural policy of the State and it is not possible to acquire in the German Democratic Republic objects which have been illegally obtained. It is towards the capitalist countries, where the art markets have developed, that illegally exported objects are transferred. The German Democratic Republic is itself a victim of the

operations of the capitalist art dealers and the chances of recovering objects have proved to be minimal given the legal situation prevailing in those countries. The authorities state their readiness to help train qualified staff for the preparation of legislative texts and to aid in preparing national inventories of cultural property.

#### GUATEMALA

National legislation in force in Guatemala reflects the spirit of the Convention, in particular, Articles 59 and 60 of the Political Constitution of the Republic of 31 May 1985 and Articles 4, 9 and 21 of Decree No. 425 of the Congress of the Republic of 25 September 1947, as amended on 24 March 1966. In addition, Guatemala has concluded bilateral agreements with Mexico and the United States of America.

#### HUNGARY

Hungary attaches great importance to the issues dealt with in the 1970 Convention. The prevention of illicit traffic of cultural property is one of the basic objectives of Hungarian cultural policy and the relevant legislation takes into consideration the ideas of the Convention.

#### INDIA

Since its first report, India has amended its Antiquities and Art Treasures Rules 1973 to facilitate the identification and acquisition of art treasures for public collections. Amendments to the Antiquities and Art Treasures Act, 1972, to render it more effective in preventing illicit traffic are being considered. Compulsory registration has been extended to sculptured figures in wood and the works of art of five artists have been declared as art treasures so that their export can be regulated. A special unit has been created in the Central Bureau of Investigation to deal with offences concerning antiquities and art treasures and similar units have been created in some State police departments. Information leaflets on the 1972 Act have been distributed to the public. Financial assistance can be provided for photographing for registration purposes.

#### IRAN

A law on the prohibition of the export of antiquities was adopted in 1979. A draft act is being prepared prohibiting the unauthorized import of foreign cultural property into Iran, in accordance with the terms of the Convention. Foreign cultural property is examined at the point of import to ascertain its legal ownership and whether an export permit was issued. Official requests for the return of cultural property illegally removed from Iran and transferred to Turkey and to the United Arab Emirates have been made. A claim has also been introduced before the Court in Brussels for the repatriation of antiquities illegally exported from Iran.

#### JORDAN

The Antiquities Law (Provisional Law No. 12 of 1976) and the Rules of Excavation adopted in Jordan enable the Department of Antiquities to control the movement of cultural property and to prevent its illegal transfer. The main provisions of these texts which deal with this question can be summarized as follows.

Owners of antiquities are obliged to register them. It is forbidden to export movable archaeological property without authorization. Trade in antiquities is prohibited in the kingdom. Archaeological excavations may not be undertaken without special authorization. Penalties have been foreseen in the case of infringements of the law.

#### MALI

The 'Direction nationale des Arts et de la Culture' established in 1976 has responsibility for the protection and safeguarding of the cultural heritage; seven technical units have been created within that organization to respond to the need to make the cultural heritage better known and to prevent speculation. An experimental project for the inventorying of cultural property was undertaken in 1982-1983 and a plan for a national inventory is being prepared. In addition, separate inventories are being drawn up of archaeological sites and historic monuments. Co-ordination is assured between the police and customs services and the gendarmerie in the fight against the pillage of sites and illicit export and import. Four legal texts have been adopted to ensure a better protection of the national cultural heritage. Law No. 85-40 concerns the protection and promotion of the national cultural heritage and foresees, inter alia, that classified objects cannot be exported. Decree No. 203 establishes a National Commission for the safeguarding of the cultural heritage. Decree No. 275 regulates archaeological excavations and Law No. 86-61 regulates trade in cultural property.

#### MEXICO

Bilateral agreements or treaties have been concluded with eight countries concerning illicit traffic in cultural property. Under the treaty with the United States, 1,218 archaeological objects have been returned to Mexico and three objects have been returned to Guatemala under the agreement with that country. Various measures have been undertaken to prevent illicit traffic, including the adoption of regulations establishing security standards for museums (texts annexed to report). With a view to contributing to a better application of the Convention several proposals are made: (1) that the measures adopted by Mexico under the Convention should be widely circulated; (2) that all States Parties should prepare a catalogue of all objects which have illicitly left their territory to be circulated by Unesco; (3) that all Member States sign an agreement obliging customs services to carry out inspections in order to detect objects illicitly trafficked and to provide for the return of the objects; (4) that computerized X-ray systems be established at all customs points in States Parties for the checking of luggage; (5) that police teams assigned to the control of drug traffic also search for traffickers in cultural property; (6) that severe sanctions be taken by States Parties against their diplomats who carry out illicit traffic; (7) that Unesco encourage States Parties to adopt legal measures to prevent trade in illicitly trafficked material; (8) that Unesco circulate to States Parties a list of the cultural property of each State which it is illegal to export and trade in.

#### PAKISTAN

The Department of Archaeology and Museums, Ministry of Culture and Tourism is mainly responsible for the implementation of the Convention. Most of the provisions of the Convention are reflected in the Antiquities Act, 1975. The export of antiquities is totally banned except under licence; certain exceptions are made in the case of temporary export, antiquities presented to foreign excavators, and for exchange purposes. Customs checks are made to control export and antiquities being illegally exported may be confiscated. Similar action is taken in the case

of import. Funds are available for the acquisition of antiquities by the Department of Archaeology; the origin of objects is verified before acquisition. Salvage work is undertaken when information is received on the discovery of antiquities or on clandestine excavations. In addition, regular excavations are carried out throughout the country. Measures are taken to ensure the safety of antiquities exhibited and stored in museums. Efforts are being made to make the public aware of the importance of cultural property and to encourage them to help in its safeguarding.

#### PANAMA

The Government of Panama has adopted legal provisions which enable it to fulfil its commitments under the Convention. Thus, it promulgated Law No. 14 of 5 May 1982 providing for the safeguarding, conservation and administration of the historic heritage of the nation and Cabinet Decree No. 77 of 17 November 1970 creating a co-ordinating National Commission for the preservation and utilization of the Monumental, Historic and Artistic Heritage. Furthermore, the Penal Code provides for specific sanctions in the case of theft of cultural property. In the field of education, seminars and conferences have been organized and publications prepared with the purpose of promoting a better awareness of the value of the heritage. A special department has been established in the National Directorate of Historic Heritage to carry out inventories of the cultural heritage of the country. The report refers to four cases of return of cultural property from Costa Rica, the United States, Nicaragua and Guatemala; the last two cases concerned items illegally removed from Panama by European officials. There has also been one case of return of archaeological objects by Panama to Peru.

#### POLAND

The Law on the Protection of Cultural Property and on Museums of 15 February 1962 and regulations on the subject include all the necessary provisions for the implementation of the Convention. The authorities ensure that no museum acquires cultural property illegally imported. Trade in works of art is regulated; trading enterprises ascertain the origin of any object offered. Export of cultural property is prohibited without a permit. Objects are examined before permits are issued; this is done by a central body in order to standardize the criteria and limit export. Claims concerning cultural property stolen or missing from another country can be introduced before the civil courts in Poland. The State provides substantial funds for the protection of cultural property and for training purposes. The report lists works of art stolen, and illegally exported from Poland and imported into three States not Parties to the Convention. Examples are given of actions taken by Poland to implement the provisions of the Convention in respect of States which have not ratified it. The authorities are introducing severe penalties in certain cases of illicit import of cultural property, as well as provisions obliging conservation services to render assistance for the recovery of art objects stolen from a museum or similar institution. Plans are also under way to oblige antique dealers to document the source of objects they trade in. The number of museums has doubled since the adoption of the Convention and by informing the public its implementation is facilitated.

#### PORTUGAL

Ratification of the Convention was approved by governmental decree No. 26/85 of 26 July 1985. Portuguese legislation concerning cultural property was at the same time modified with the promulgation of Law No. 13/85 of 6 July 1985 on the Portuguese cultural heritage. Innovations in the law concerning movable cultural property relate to export and to penal and administrative sanctions concerning regulated protection standards. Another important legislative innovation is to be found in paragraph 1 of Article 31: 'the Government should encourage the regulation of the purchase, sale and trade in antiquities and other movable cultural property and supervise its application'. This innovation is important because it fills a gap and is essential for an effective policy aimed at preventing illicit export and transfer of ownership of cultural property. The report underlines the interest of drawing up on the basis of a national inventory of protected property, a list of important public and private movable cultural property, whose export would constitute an appreciable impoverishment of the national cultural heritage.

#### QATAR

The authorities report that measures are being taken to speed up the implementation of the Convention. The connection with other international conventions in the cultural field is underlined and a proposal is made concerning the establishment of a standing committee to implement these conventions.

#### SAUDI ARABIA

The authorities have provided the texts of the Regulations for antiquities (Royal Decree of 1972) and the Regulations concerning the export of antiquities. The main provisions of these texts which relate to illicit traffic in cultural property are briefly summarized as follows. All movable antiquities located in Saudi Arabia are the property of the State, with the exception of those which have been registered at the Department of Antiquities. All owners must declare their antiquities to the competent authorities for registration. If they fail to do so, the antiquities in question are confiscated. Registered antiquities may not be removed without the authorization of the competent authorities. Trade in antiquities is regulated and controlled. No antiquities may be exported without authorization. All fortuitous discoveries are to be reported as soon as possible. In principle, the Department of Antiquities has the exclusive right to carry out archaeological excavations; however, special permission to carry out excavations may be granted to scientific organizations or archaeological expeditions.

#### SPAIN

A new law No. 16/85 concerning the Spanish historic heritage entered into force on 19 July 1985, and was partially developed in Decree No. 111/86 of 10 January 1986. Its preparation was necessary, *inter alia*, to adapt legislation to take account of the provisions of Conventions ratified by Spain and of the new distribution of competences between the State and autonomous regions. The application of the Law is the responsibility of the autonomous communities but the State itself is competent in questions concerning the protection of the cultural heritage against illicit export and pillage, and the recuperation of cultural property illegally exported. A special unit has been set up in the police force to investigate offences to the Spanish cultural heritage. The new law provides for a 'fiscal amnesty' for owners of works of art which declared them to the authorities before 19 July 1986, as a result of which approximately 30,000 historic objects have been declared. Trade in cultural property is free but subject to a series of

rules and restrictions, including the obligations to report transfers and to record transactions and the right of pre-emption of the Administration. Cultural property imported legally is subject to the terms of the law after ten years following its importation; its re-exportation is subject to a licence from the State administration. The law provides that historic objects more than 100 years old or those included in the General Inventory of Movable Property cannot be exported without authorization from the State administration. It is prohibited to export objects declared to be of cultural interest as well as those declared by the State Administration to be non-exportable. The objects exported without this authorization belong to the State and are inalienable and imprescriptible. Furthermore, the law foresees several measures to promote the protection of the cultural heritage including the obligation to include in the budget of all public works the equivalent of at least 1 per cent to finance works for the conservation and enrichment of the Spanish Cultural Heritage. Substantial penalties for offences have been foreseen in the law.

#### SYRIAN ARAB REPUBLIC

The Decree-Law No. 222 of 26 October 1963 on the treatment of antiquities contains provisions concerning the illicit import, export and transfer of ownership of cultural property which correspond to the main provisions of the 1970 Convention and, in particular, Articles 12 and 33. Article 12 provides that 'Within the limits laid down in the agreements, treaties and recommendations of international organizations, the Antiquities Authority shall take the measures to secure the return of antiquities illicitly exported from the territory of the Syrian Arab Republic; they shall also co-operate in efforts to return to their country of origin any foreign antiquities illicitly imported, provided that such co-operation is reciprocal'. Article 33 stipulates that 'The customs services must hand over to the Antiquities Authority any imported antiquities with a view to ensuring the registration of any important items among such antiquities, which shall, if they are movable antiquities, be governed by the provisions of this law'.

#### TURKEY

The Law No. 2863 concerning the protection of cultural and natural property entered into force in 1983. It prohibits the export of cultural property, but the temporary export is allowed for exhibition purposes, in accordance with the provisions of regulations drawn up on the question. The inventorying of cultural property is carried out in accordance with specific regulations. The import into Turkey of cultural property is authorized by Article 33 of Law No. 2863. Trade in certain cultural property is authorized subject to the provisions of the regulations on trade and trading bodies; permits to trade must be obtained from the Ministry of Culture and Tourism. The protection of archaeological sites is foreseen in Law No. 2863. Archaeological sites are divided into three categories, each with a different level of protection. The Turkish authorities consider it desirable to make certain amendments to the Convention: to provide for the return of objects regardless of the date of their export; to extend Article 7(b) to objects exported illicitly following clandestine excavations and to omit the provision for the payment of compensation to an innocent purchaser. The report proposes that sanctions be applied also to States not Parties to the Convention by limiting international relations. Measures should also be taken to ensure that collectors and museums which are offered objects from other countries request a certificate authorizing the sale of the objects, and that inventories are made of objects held in museums and by collectors and that access is facilitated thereto to requesting countries. Co-operation should also be improved for the exchange of



information between countries concerning illicit traffic, in order to discover more information about the destination of objects, the markets and the intermediaries.

#### UNITED STATES OF AMERICA

With the passage of the Cultural Property Implementation Act (P.L. 97-446), the United States became the first major art importing nation to implement the Convention. The Act implements Article 7(b) by denying entry into the United States of articles of stolen cultural property that are documented as appertaining to the inventory of a museum or similar institution. It is the responsibility of the United States Customs Service to seize stolen cultural property, notify the embassy of the State party, and arrange for its return. The United States has an effective mechanism for reporting and recovering art stolen abroad under Article 7. U.S. INTERPOL receives and routinely distributes stolen art notices issued by the INTERPOL Secretariat General in Saint Cloud, Paris. A major resource in the United States on art theft and art forgery is the International Foundation for Art Research (IFAR) with headquarters in New York City and offices in Lausanne, Switzerland and Rome, Italy. Established in 1970, IFAR maintains a stolen art archive in liaison with INTERPOL and the FBI but is unique in that it shares information on art thefts with the art community. The Act implements Article 9 of the Convention by providing that the United States may impose import restrictions on certain archaeological and ethnological material of a State party, in instances where the pillage of such material places the State party's cultural patrimony in jeopardy. Such import restrictions may be imposed only if requested in writing by a State party. Depending on the circumstances of such a request, the United States may impose emergency unilateral import restrictions; negotiate a bilateral agreement with the requesting country; or seek a multilateral arrangement in which other art-importing countries agree to impose similar import restrictions. Since the Act is not retroactive, it does not provide for the repatriation of objects that entered the United States before the effective date of import restrictions. The only cultural property request for U.S. import restrictions on archaeological and ethnological material so far received was submitted in 1985 by the Government of Canada. At present the Canadian Government is collecting additional information for consideration by the Cultural Property Advisory Committee. An emergency request is expected soon from another State party. There have been discussions with several other countries that have expressed interest in submitting formal requests. States parties that are experiencing continued pillage and illegal export of their cultural patrimony are urged to take this step as soon as possible by contacting their USIS post or the USIA Cultural Property staff in Washington, D.C. The report also refers to bilateral agreements concluded with Mexico, Peru, Ecuador and Guatemala for the recovery of stolen cultural property and describes the provisions of other relevant U.S. laws. It concludes by referring to the adoption by professionals in the archaeology and museums fields of codes of ethics and to measures taken for the protection of U.S. cultural property.

#### YUGOSLAVIA

In Yugoslavia which is a federal State, the direct application of the Convention falls under the jurisdiction of the Socialist republics and autonomous provinces, but at the federal level a working group ensures the co-ordination and application of international conventions and recommendations concerning the protection of cultural property. The services for protecting cultural monuments are adequately staffed to successfully carry out the tasks listed in Article 5 of the Convention; they ensure inter alia the control of archaeological excavations,

taking action to prevent illicit excavations and have advanced well in drawing up the inventory of archaeological sites. The protection of cultural property is regulated by special republican and provincial laws adopted for the most part after ratification of the Convention and constituting a sound basis for the effective protection of cultural property. The issue of regulations for conservators, collectors, antique dealers and other persons concerned has not been dealt with equally in all the republics and provinces. The protection services register collectors to ensure that their collections are based on generally recognized moral principles. Trade in cultural property is governed by general regulations concerning trade in goods and services in private shops. All professional organizations maintain adequate inventories of cultural property. The preparation of lists of non-exportable objects, as foreseen in Article 5 of the Convention, is one of the priorities of the protection services. The republican and provincial laws prohibit the export of protected cultural property, but allow its export exceptionally on the basis of a permit. In addition, the export of movable cultural property which is not protected is also subject to authorization. A uniform export permit applied to the whole country has been introduced. The report stresses the importance of each item of cultural property being accompanied by a permit from the exporting country. Penalties have been introduced for the illegal export of cultural property. It is assessed that the obligations foreseen in Article 6 of the Convention are satisfactorily fulfilled. With respect to the import of cultural property, amendments made to the customs law provide that seized cultural property will be ceded without compensation, which means that such objects may be returned to the previous owners or turned over for custody and use to appropriate institutions. There have so far been few occasions of meeting the obligations under Article 7(a) of the Convention. Foreign cultural property illicitly imported into Yugoslavia is not, in most cases, destined for sale in Yugoslavia but for household needs or for sale in other countries. Interpol is notified when objects stolen from abroad are found. Work is in progress on preparing an inventory of stolen movable cultural property. During the period 1981-1986, 1,627 offences involving cultural property were registered, including 71 acts of smuggling. Security is a problem at archaeological sites, particularly those so far little explored. In order to popularize the Convention, the text was published in the languages of Yugoslavia and articles have been published and seminars organized. Lectures for customs authorities and law enforcement bodies are organized regularly.

(b) States not parties to the Convention

AUSTRALIA

Australia has announced its intention to become party to the 1970 Convention. The Protection of Movable Cultural Heritage Act is not yet in force pending the preparation of a control list for export purposes and regulations but is expected to come into force in the course of 1987. The Control List will establish the categories of cultural material which will require an export permit. A permit will not be granted if the object is of such importance to Australia that its loss would significantly diminish Australia's cultural heritage. Some materials, such as aboriginal sacred and secret objects, may not be exported. The Act makes it unlawful to import an object which is part of the movable cultural heritage of another country and whose export is prohibited by that country. Such an object is liable to forfeiture. No action will be taken under these provisions, however, unless a foreign country requests return of the object concerned. No search will be made at the point of import but it will be for the importer to satisfy himself that the object he is importing is not subject to the export control of another country. The Act establishes a National Cultural Heritage Fund which will enable assistance to be given for the purchase by public institutions of objects which have been refused an export permit. A National Cultural Heritage Committee has

been established to advise on matters relating to the administration of the Act and other relevant matters. A Regional Seminar on the Protection of Movable Cultural Property was held in Australia in December 1986 to review the problems of illicit traffic in the region.

#### BARBADOS

The Government of Barbados informs that it is currently examining the Convention with a view to becoming party to it.

#### CHILE

The authorities inform that the Ministry of Public Education has manifested interest in ratifying the Convention.

#### JAPAN

The Law for the Protection of Cultural Property of Japan, No. 214 of 1950, restricts the export of certain important cultural property, although exceptions may be made, *inter alia*, for purposes of international exchange. The Customs Law stipulates that customs services should examine cultural properties so protected, and should prevent their export unless permission or an export certificate has been granted. No regulations are in force concerning the illicit import of cultural property. Although there are no specific provisions preventing museums from acquiring cultural property stolen abroad or illegally exported from foreign countries, no museum wilfully buys such objects. According to the Law concerning Secondhand Business (Law No. 108 of 1949) which governs the transactions of art and antique dealers, a register must be maintained by a dealer, recording the characteristics of the objects and the date of the transaction and identifying the supplier or purchaser in the case of each transaction. Dealers must co-operate with the police for the discovery of stolen goods and if an object is found to be stolen, the dealer must return it to the original legitimate owner free of charge if a request is made within a period of one year following the offence.

#### LUXEMBOURG

Luxembourg reports that, from a cultural point of view, nothing prevents ratification of the Convention, although it would bring about little change to practices already existing, and it would have to be done with its partners in Benelux. The customs authorities have indicated that provisions concerning import and export control would have to be introduced into national legislation. At the moment, the customs authorities have the authority to report offences concerning the export of objects more than 100 years old or whose authors deceased more than 50 years ago.

#### MADAGASCAR

The authorities of Madagascar inform that steps are under way in view of ratification of the Convention..

## NEW ZEALAND

Under the New Zealand Historic Places Amendment Act 1975, no one can damage or destroy an archaeological site without the permission of the Historic Places Trust which is also required to record all archaeological sites. In addition, the Antiquities Act 1975 further protects historic articles by defining ownership, requiring registration of collectors and dealers and imposing controls over export. These provisions indicate New Zealand's accord with the general provisions of the Convention, but the various relevant provisions in New Zealand law still fall far short of full compliance with the articles of the Convention. New Zealand is, however, looking to incorporate ratification of the Convention in the context of a current review of the Antiquities Act, 1975.

## RWANDA

Although not yet party to the 1970 Convention, Rwanda is aware of the need to ensure the international protection of cultural property and has already taken certain educational and legal measures at the national level. These include the organization of meetings and other manifestations to promote a greater awareness among the population of the need to conserve the cultural heritage, and the preparation of draft legal texts on the protection of the heritage and on the National Museum and National Library. Rwanda draws attention to its needs in training and to the lack of training courses in conservation available for French-speaking students.

## SURINAME

The authorities have informed that they are undertaking the necessary preparations for the ratification of several international conventions and will inform the Secretariat as soon as these preparations have been completed.

## SWITZERLAND

In the letter received in reply to the invitation for a report on implementation of the 1970 Convention, the Federal Department of Foreign Affairs states that 'In the absence of appropriate legal bases and in view of more general considerations, ratification of the above-mentioned Convention cannot be envisaged by the Swiss authorities. However, thought is being given to the subject and it could lead Switzerland to sign and ratify the Convention of the Council of Europe on offences relating to cultural property'.

## USSR

In 1976, the USSR adopted a law on the protection and use of historic and cultural monuments, and in 1982 adopted regulations in application of the law. The import and export of cultural property is permissible on an exceptional basis, but is subject to authorization of the official cultural organizations. The sale, donation or other transfer of cultural property is subject to prior notification to the national conservation bodies. In 1986, the USSR signed a mutual co-operation and assistance agreement with a number of countries concerning the restitution of cultural property illegally exported from its country of origin. The Ministry of Culture has placed groups of experts in works of art at customs control points to help the customs services to prevent illicit traffic in cultural property. The USSR takes immediate steps to seize and return to its country of

origin cultural property which has been illegally imported. Thus, in 1987 objects from Afghanistan which were discovered by Soviet customs officials crossing the USSR en route for Western Europe were returned to that country. At the same time, the USSR is in contact with other countries with a view to seeking the restitution of cultural property which has illegally left its own territory. Particular importance is placed on the education of the public to develop an awareness of the significance of the cultural heritage. A fund for culture, created in 1986 on the initiative of a number of cultural organizations, supports government action in the field of museums, for the registration of cultural property, for acquisition of cultural objects for public collections and also contributes to the development of international cultural collaboration. The practical conditions necessary for ratification of the Convention have now been met and efforts are being made to settle this matter.

#### ZIMBABWE

The authorities inform that Zimbabwe will soon ratify the Convention and that the Act dealing with the protection of cultural property was enacted in April 1986.

ANNEX ICONVENTION ON THE MEANS OF PROHIBITING AND  
PREVENTING THE ILLICIT IMPORT, EXPORT AND  
TRANSFER OF OWNERSHIP OF CULTURAL PROPERTY

(Paris, 14 November 1970)

List of States having deposited an instrument  
of ratification, acceptance or accessionas at 20 June 1987

<u>STATES</u>	Date of deposit of ratification (R) acceptance (Ac) or accession (A)	Date of entry into force
ALGERIA	24. 6.1974 (R)	24. 9.1974
ARGENTINA	11. 1.1973 (R)	11. 4.1973
BOLIVIA	4.10.1976 (R)	4. 1.1977
BRAZIL	16. 2.1973 (R)	16. 5.1973
BULGARIA	15. 9.1971 (R)	24. 4.1972
BURKINA FASO	7. 4.1987 (R)	7. 7.1987
CAMEROON	24. 5.1972 (R)	24. 8.1972
CANADA	28. 3.1978 (Ac)	28. 6.1978
CENTRAL AFRICAN REPUBLIC	1. 2.1972 (R)	1. 5.1972
CUBA	30. 1.1980 (R)	30. 4.1980
CYPRUS	19.10.1979 (R)	19. 1.1980
CZECHOSLOVAKIA	14. 2.1977 (Ac)	14. 5.1977
DEMOCRATIC KAMPUCHEA	26. 9.1972 (R)	26.12.1972
DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA	13. 5.1983 (R)	13. 8.1983
DOMINICAN REPUBLIC	7. 3.1973 (R)	7. 6.1973
ECUADOR	24. 3.1971 (Ac)	24. 4.1972
EGYPT	5. 4.1973 (Ac)	5. 7.1973
EL SALVADOR	20. 2.1978 (R)	20. 5.1978
GERMAN DEMOCRATIC REPUBLIC	16. 1.1974 (Ac)	16. 4.1974
GREECE	5. 6.1981 (R)	5. 9.1981
GUATEMALA	14. 1.1985 (R)	14. 4.1985
GUINEA	18. 3.1979 (R)	18. 6.1979
HONDURAS	19. 3.1979 (R)	19. 6.1979
HUNGARY	23.10.1978 (R)	23. 1.1979

INDIA	24. 1.1977 (R)	24. 4.1977
IRAN	27. 1.1975 (Ac)	27. 4.1975
IRAQ	12. 2.1973 (Ac)	12. 5.1973
ITALY	2.10.1978 (R)	2. 1.1979
JORDAN	15. 3.1974 (R)	15. 6.1974
KUWAIT	22. 6.1972 (Ac)	22. 9.1972
LIBYAN ARAB JAMAHIRIYA	9. 1.1973 (R)	9. 4.1973
MALI	6. 4.1987 (R)	6. 7.1987
MAURITANIA	27. 4.1977 (R)	27. 7.1977
MAURITIUS	27. 2.1978 (Ac)	27. 5.1978
MEXICO	4.10.1972 (Ac)	4. 1.1973
NEPAL	23. 6.1976 (R)	23. 9.1976
NICARAGUA	19. 4.1977 (R)	19. 7.1977
NIGER	16.10.1972 (R)	16. 1.1973
NIGERIA	24. 1.1972 (R)	24. 4.1972
OMAN	2. 6.1978 (Ac)	2. 9.1978
PAKISTAN	30. 4.1981 (R)	30. 7.1981
PANAMA	13. 8.1973 (Ac)	13.11.1973
PERU	24.10.1979 (Ac)	24. 1.1980
POLAND	31. 1.1974 (R)	30. 4.1974
PORTUGAL	9.12.1985 (R)	9. 3.1986
QATAR	20. 4.1977 (Ac)	20. 7.1977
REPUBLIC OF KOREA	14. 2.1983 (Ac)	14. 5.1983
SAUDI ARABIA	8. 9.1976 (Ac)	8.12.1976
SENEGAL	9.12.1984 (R)	9. 3.1985
SPAIN	10. 1.1986 (R)	10. 4.1986
SRI LANKA	7. 4.1981 (Ac)	7. 7.1981
SYRIAN ARAB REPUBLIC	21. 2.1975 (Ac)	21. 5.1975
TUNISIA	10. 3.1975 (R)	10. 6.1975
TURKEY	21. 4.1981 (R)	21. 7.1981
UNITED REPUBLIC OF TANZANIA	2. 8.1977 (R)	2. 11.1977
UNITED STATES OF AMERICA	2. 9.1983 (Ac)	2.12.1983
URUGUAY	9. 8.1977 (R)	9.11.1977
YUGOSLAVIA	3.10.1972 (R)	3. 1.1973
ZAIRE	23. 9.1974 (R)	23.12.1974
ZAMBIA	21. 6.1985 (R)	21. 9.1985



General Conference  
Twenty-fourth Session, Paris 1987

24 C

24 C/24 Add.1  
10 September 1987  
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ADDENDUM

Item 8.4 of the provisional 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)

SUMMARY

This document transmits to the General Conference for its examination the summary of a report forwarded by a Member State on the action taken to implement the above-mentioned Convention and received after 20 June 1987.

FINLAND

Although Finland has not yet ratified the Convention, legislation restricting the export of cultural property has been in force since 1978. So far, national legislation restricting the illicit import and transfer of ownership of cultural property has not been deemed necessary. Ratification of the Convention is not considered possible without national legislation covering the entire convention, which would entail special legislation. As a prerequisite for ratification of the Convention it is necessary to study further some legal aspects. First of all, the definition of cultural property in the Convention differs somewhat from the definition used in Finnish legislation. Secondly, there is some incompatibility between Finnish legislation and the Convention as regards the provisions on a bona fide purchaser. Notwithstanding these difficulties, attitudes towards the ratification of the Convention have grown favourable. In practice Finnish museums have started to follow the provisions of the Convention in their everyday dealings. The Nordic countries have jointly started to study the possibility of ratifying the Convention.





24 C/24 Add.2  
26 October 1987  
Original: English

Item 8.4 of the provisional 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 2

SUMMARY

Part A of this document contains the report of the Committee on Conventions and Recommendations concerning 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).

Part B contains the decision adopted by the Executive Board at its 127th session on this question.

Part AREPORT OF THE COMMITTEE ON  
CONVENTIONS AND RECOMMENDATIONS

1. The Executive Board's Committee on Conventions and Recommendations met on 24 September 1987, with Mrs Gisèle Halimi (France) in the chair, in the course of the Board's 127th session, to examine the reports submitted by States on the action taken to implement the Convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property in pursuance of resolution 4/7.6/4 adopted by the General Conference at its twentieth session. For this purpose the Committee had before it, on the one hand, document 24 C/24 and Add.1 containing summaries of reports received from 37 Member States and from one non-Member State and, on the other hand, document 127 EX/13 by which the Director-General transmitted to the Executive Board his preliminary observations and suggestions concerning the implementation of the Convention drawn up in the light of the reports of States.
2. After opening the meeting, the Chairperson recalled that the Committee on Conventions and Recommendations had on two previous occasions dealt with questions relating to the implementation of the 1970 Convention: in 1978 when it had examined first reports of States on action taken in application of the Convention and in 1983 when it had drawn up proposals for the implementation of this instrument. In both cases, the General Conference had endorsed the recommendations formulated by the Committee.
3. The Assistant Director-General for Culture and Communication presented documents 127 EX/13 and 24 C/24 and Add.1, noting that 38 responses had been received to the invitation to States to present reports, as compared with 29 when first reports on implementation were examined in 1978. The main problem with respect to the implementation of the Convention stemmed from the fact that, of the 60 States Parties to the Convention, most were victims of illicit traffic. To render this instrument more effective, it would be necessary for more States to participate in the system of international co-operation it established and furthermore, for countries victims of illicit traffic to strengthen the protection of their cultural heritage and in particular to reinforce export control and for the so-called 'importing' countries to take complementary measures, in the name of international solidarity, to regulate the import of cultural property. The suggestions made by the Director-General on future action had been formulated to this end.
4. In the ensuing debate in which ten members of the Committee took part, the importance attached by States to the system of international co-operation established by the Convention was underlined. The Committee emphasized that it was only through closer co-operation among States that effective action could be taken to combat the illicit international movement of, and illicit trade in, cultural property. The impoverishment of the cultural heritage of nations, particularly of the developing countries, as a result of illicit traffic which continued to prevail despite the protection measures taken by States, was a cause of concern to the Committee.
5. Two members of the Committee, both from States Parties to the Convention, referred to the situation in their respective countries. One member, after describing the legislative provisions adopted to regulate the export and import of cultural property, drew attention to the plundering of cultural property in a part of his country occupied by a foreign State. Another member informed the Committee

of four ordinances adopted in application of the Convention and stated that his country was victim of the machinations of the art trade which had developed in several countries according to free market principles. This member inquired as to the position concerning the revision of the Convention which his country considered desirable.

6. Three members indicated that, although their countries were not parties to the Convention, they supported its objectives and were interested in participating in the system it established. However, one of these members informed the Committee that certain of the control measures foreseen in the Convention ran counter to the provisions of the legislation of his country and he drew attention to the fact that these measures no doubt also gave rise to difficulties for other countries with a similar free market economy. He added that his country was reconsidering its position and that it might be possible for it to ratify the Convention with reservations. Another of these members stated that her country also had reservations concerning certain of the provisions of the Convention, and she felt that a revision of the Convention might perhaps meet some of her country's concerns. She indicated that the question of ratification of the Convention was being considered by the Nordic group of countries and that hopefully a joint approach could be worked out.

7. The majority of members who took the floor expressed their support of the text of the draft resolution set out in paragraph 15 of document 127 EX/13. One member underlined the importance of the invitation to States to draw up national inventories of cultural property which were an essential tool in the fight against illicit traffic. Several amendments were proposed to the draft text. One member, referring to the recommendations formulated by the Intergovernmental Committee for promoting the return of cultural property to its countries of origin or its restitution in case of illicit appropriation at its fifth session, some of which were reflected in the draft resolution, proposed that two other recommendations be included in the draft text: the first concerning the preparation by States of lists of illicitly exported cultural property and their circulation by the Director-General and the second relating to the conclusion of bilateral agreements for the restitution of illicitly exported cultural property. Other amendments to the text were proposed, to draw attention in the preamble to the limited effectiveness of the Convention due to the reduced number of States Parties; to underline the importance of action by Member States to strengthen regional co-operation, and to reduce the periodicity of reporting from ten to eight years.

8. In his reply to the points raised during the debate, the Assistant Director-General for Culture and Communication expressed his appreciation for the information provided on the process underway in some countries which might lead to ratification of the Convention. As regards a possible revision of the Convention, he referred to the conclusions reached by the Committee on a previous occasion, as well as by a group of experts, namely that a revision was not considered desirable. He welcomed the amendments proposed to the draft resolution which sought to strengthen bilateral and regional co-operation among States and had no objection to the proposed reduction in the periodicity of reporting.

9. After reviewing the different amendments put forward, the Committee approved a draft decision which it unanimously recommended for adoption by the Executive Board:

Part B

DECISION ADOPTED BY THE  
EXECUTIVE BOARD

10. At its 127th session, the Executive Board examined the report of the Committee on Conventions and Recommendations concerning the reports received from 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 (document 127 EX/39) and adopted the following decision:

'The Executive Board,

1. Having examined the reports received from 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,
2. Recommends that the General Conference adopt 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,

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 24 September 1987, only 60 States had deposited their instrument of ratification or acceptance of the Convention, a fact which limits its effective impact,

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 by resolution 11.4 adopted at its twenty-second session and which concern measures to be taken to strengthen action against illicit traffic of cultural property at the international and national levels and, in particular, its invitation to States to become parties, if they are not so already, to the Convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property;
2. Calls the attention of all States to the importance of drawing up national inventories of cultural property and of training of specialized personnel to ensure the adequate protection of the cultural heritage and invites the Director-General to provide all possible assistance to States to this end;

3. Invites States to which illegally exported cultural property is often conveyed and which have not yet ratified the Convention to examine the systems adopted by certain States Parties to regulate the import of cultural property;
4. Invites each State to facilitate the rapid circulation, where appropriate through the relevant international organizations, of all useful information which could contribute to the suppression of illicit traffic of cultural property, and in particular, so far as is possible, of lists of stolen objects;
5. Invites States and the Director-General to pursue activities aimed at strengthening regional co-operation in this field;
6. Recommends that States consider the possibility of concluding bilateral agreements for the restitution of illicitly exported cultural property;
7. Invites 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.'